

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
01-6	June, 2001	April 18, 2001	June 6, 2001	June 27, 2001
01-7	July, 2001	May 23, 2001	July 4, 2001	July 25, 2001
01-8	August, 2001	June 20, 2001	August 1, 2001	August 22, 2001
01-9	September, 2001	July 18, 2001	September 5, 2001	September 27, 2001
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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DOCKET NO. 24-0101-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-312, Idaho Code.

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

Insert rules for Administrative Appeals, Incorporation by Reference; add Bureau contact information; add Public Records section; define Bureau; update and clarify board organization; replace reference to "Executive Secretary" with "Bureau"; clarify the qualification of applicants; provide rules for architect intern.

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: Revise rule format to comply with Department of Administration; delete confusing terms and language; insert clarifying language; address July 2001 law changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Budd A. Hetrick, Jr. (208) 334-3233.

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

DATED this 17th day of August, 2001.

Budd A. Hetrick, Jr.
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0101-0101

~~002. (RESERVED).~~

0032. WRITTEN INTERPRETATIONS (Rule 32).

The board may have written statements ~~which~~ that pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. ~~(7-1-93)~~(7-1-01)T

003. ADMINISTRATIVE APPEALS (RULE 3).

Administrative appeals shall be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (7-1-01)T

004. INCORPORATION BY REFERENCE (Rule 4).

The document titled ~~20001-20042~~ NCARB Handbook for Interns and Architects, dated ~~September~~ July 20001, referenced in Subsection ~~30250.01.e~~, is herein incorporated by reference, ~~and~~ The document titled NCARB Rules of Conduct as published by the National Council of Architectural Registration Boards, Dated July 2001, referenced in Section 750, is hereby incorporated by reference. All documents incorporated by reference can be obtained at the office of the Bureau and on the Board web site. ~~(3-30-01)~~(7-1-01)T

005. ADDRESS OF THE IDAHO BOARD OF ARCHITECTURAL EXAMINERS (Rule 5).

The office of the Board of Architectural Examiners is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ibol@ibol.state.id.us. The Board's official web site is at www2.state.id.us/ibol/arc. ~~(3-30-01)~~(7-1-01)T

006. PUBLIC RECORDS (Rule 6).

The records associated with the Board of Architectural Examiners are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (7-1-01)T

~~0067. -- 009. (RESERVED).~~

010. DEFINITIONS (Rule 10).

01. Board. The Board of Architectural Examiners as prescribed in Section 54-312, Idaho Code. (7-1-93)

02. Bureau. The Bureau of Occupational Licenses as prescribed in Sections 54-605 and 67-2602, Idaho Code. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

100. ORGANIZATION (Rule 100).

01. Organization Of The Board. At the last meeting of each year, the Board shall organize and elect from its members a Chairman, ~~and~~ Vice Chairman, ~~and Secretary~~ who shall assume the duties of their respective offices immediately upon such selection. ~~(7-1-93)~~(7-1-01)T

02. Board Members And Duties. (7-1-93)

a. **Chairman.** The Chairman shall be a voting member of the Board, and when present preside at all meetings, appoint with the consent of the Board, all committees, and shall otherwise perform all duties pertaining to the office of Chairman. The Chairman shall be an ex-officio member of all committees. (7-1-93)

b. **Vice Chairman.** The Vice Chairman shall, in the absence or incapacity of the Chairman exercise the duties and possess all the powers of the Chairman. (7-1-93)

~~e. Secretary. The Secretary of the Board shall keep an accurate record of the proceedings at the meetings of the Board, he shall cause a copy of the minutes of the previous meeting to be sent to all members of the Board at least fifteen (15) days prior to the next regular meeting of the Board, he shall receive correspondence directed to the Board, and he shall cause answers to be written in behalf of the Board. (7-1-93)~~

~~d. Executive Secretary Bureau Chief. The Chief of the Bureau of Occupational Licenses shall be the acting Executive Secretary act as an agent of the Board and shall be the official keeper of all records of the Board shall be in the charge of the Executive Secretary. The office of the Executive Secretary Bureau shall provide such clerical assistance services as may be required authorized by Section 26, Title 67, Idaho Code, and as defined under contract between the Bureau and the Board. He shall be an advisor to the Board, without membership status. (7-1-93)(7-1-01)T~~

(BREAK IN CONTINUITY OF SECTIONS)

201. -- 2949. (RESERVED).

250. QUALIFICATIONS OF APPLICANTS (Rule 250).

01. ARE Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess the minimum qualifications required by the 2001-2002 NCARB Handbook for Interns and Architects, dated July 2001, where such Handbook for Interns and Architects does not conflict with Idaho law. All applicants for the ARE must have completed the Intern Development Program (IDP) requirements. (7-1-01)T

02. Experience In Lieu Of Degree Applicants. The Board may allow an applicant without an architecture degree to sit for the architecture examination upon determining that such applicant has attained the knowledge and skill approximating that attained by graduation from an accredited architecture curriculum including the submission of a record of eight (8) years or more of experience in architecture work of a character deemed satisfactory by the Board. Two (2) years of eight (8) or more years of experience may be accepted if determined that such experience is directly related to architecture under the direct supervision of a registered engineer (practicing as a structural, civil, mechanical or electrical engineer in the field of building construction) or a registered landscape architect. At least six (6) years of such experience must be obtained while working under the direct supervision of a licensed architect. (7-1-01)T

251. – 299. (RESERVED).

300. APPLICATION (Rule 300).

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

a. Application for examination shall be made on the uniform application form adopted by the Board and furnished to the applicant by the ~~Executive Secretary of the Board~~ Bureau. (3-18-99)(7-1-01)T

b. Applicants shall ~~secure and~~ furnish all information required by the uniform application form and shall include the following: (7-1-93)(7-1-01)T

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

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

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

- iv. A recent passport photograph taken within the previous year for identification purposes. (3-30-01)
- v. In addition to the above required information, an applicant having credits or a degree or degrees from any college or university shall furnish the Board a certified statement from each above institution stating by what accrediting group, if any, such credits or degree or degrees are accredited. (7-1-93)

c. Application shall not be ~~presented to the Board or evaluated~~ reviewed by the Board until all required information is furnished and the required fee is paid. (7-1-93)(7-1-01)T

d. To be considered by the Board, properly completed applications must be received by the ~~Executive Secretary~~ Bureau at least thirty (30) days prior to the first day of the month in which the Board will meet. (7-1-98)(7-1-01)T

~~e. *Qualifications of Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess the minimum qualifications required by the 2000-2001 NCARB Handbook for Interns and Architects, dated September 2000, where such Handbook for Interns and Architects does not conflict with Idaho law. After June 1, 1993, all applicants for the ARE must have completed the Intern Development Program (IDP) requirements. Qualification for examination based upon experience. The Board may allow an applicant without an architecture degree to sit for the architecture examination upon determining that such applicant has attained the knowledge and skill approximating that attained by graduation from an accredited architecture curriculum including the submission of a record of eight (8) years or more of experience in architecture work of a character deemed satisfactory by the Board. Two (2) years of the eight (8) or more years of experience may be accepted if determined that such experience is directly related to architecture under the direct supervision of a registered engineer (practicing as a structural, civil, mechanical or electrical engineer in the field of building construction) or a registered landscape architect. At least six (6) years of such experience must be obtained while working under the direct supervision of a licensed architect.*~~ (3-30-01)

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

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

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

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

ii. "I am registered in the State of _____ in 20____, where competence in seismic was a requirement for registration since _____, 20____." (7-1-93)

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

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

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

a. Application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the ~~Executive Secretary of the Board~~ Bureau. (7-1-97)(7-1-01)T

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

352. -- 39974. (RESERVED).

375. ARCHITECTURAL INTERN (Rule 375).

An individual may represent themselves as an architectural intern only under the following conditions: (7-1-01)T

01. Supervision. Each architectural intern shall be employed by and work under the direct supervision of an Idaho licensed architect. (7-1-01)T

02. IDP Enrollment. Each architectural intern shall be enrolled in the National Council of Architectural Registration Board's (NCARB) Intern Development Program (IDP) and shall maintain a record in good standing. (7-1-01)T

03. Record. Each architectural intern shall possess either: (7-1-01)T

a. A record with the NCARB establishing that IDP training units are being earned in any of the IDP training settings A, B, C, D or E; or (7-1-01)T

b. A record establishing completion of all IDP training regulations as specified by NCARB. (7-1-01)T

04. Prohibitions. An architectural intern shall not sign or seal any architectural plan, specification, or other document. An architectural intern shall not engage in the practice of architecture except under the direct supervision of an Idaho licensed architect. (7-1-01)T

05. Registration. Each architectural intern shall register with the Board on forms provided by the Bureau of Occupational Licenses that shall include the names and addresses of their employer, IDP supervisor, and IDP mentor. (7-1-01)T

376. -- 399. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

750. CODE OF ETHICS (Rule 750).

01. Rules Of Conduct. The NCARB Rules of Conduct are hereby adopted as the *Rules of Conduct Code of Ethics* for all Idaho licensed architects. (7-1-97)(7-1-01)T

02. Violation Of The Code Of Ethics. The Board will take action against a licensee under Section 54-305 (h), Idaho Code, who is found in violation of the Code of Ethics. (7-1-93)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS
DOCKET NO. 24-0201-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-521, Idaho Code.

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

Insert Administrative Appeals section; insert Incorporation by Reference section; update the Bureau contact information; insert public records section; define Bureau; amend first aid kit definition; clarify barbering practice definition; define barber, barber-stylist, student, barber instructor, barber shop, access, and supervision; clarify meeting and examination dates; provide for barber-stylist fees; delete temporary permits; clarify application requirements; insert legal resident requirement; clarify test fee responsibility; provide grandfather rights for barber-stylist license; clarify endorsement and examination requirements; clarify barber shop licensure requirements; clarify the requirements for barber colleges, instructors, and student registrations, and provide curriculums for barber and barber-stylist instruction.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The new fee rules will establish an original barber-stylist license fee of \$30 and a barber-stylist annual license renewal fee of \$50. These fee rules are necessary as a result of the adoption of House Bill 28, which added the barber-stylist license category to the Barber Act. The statute authorizing this fee is Section 54-518, Idaho Code.

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: Revise rule format to comply with Department of Administration; delete confusing terms and language; insert clarifying language; address July 2001 law changes allowing barber-stylist license.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Budd A. Hetrick, Jr. (208) 334-3233.

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

DATED this 17th day of August 2001.

Budd A. Hetrick, Jr.
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

FOLLOWING IS THE TEXT OF DOCKET NO. 24-0201-0101

~~002. (RESERVED).~~

0032. WRITTEN INTERPRETATIONS (Rule 32).

The board may have written statements ~~which~~ that pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. (7-1-93)(7-1-01)T

003. ADMINISTRATIVE APPEALS (Rule 3).

Administrative appeals shall be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (7-1-01)T

004. INCORPORATION BY REFERENCE (Rule 4).

These rules do not incorporate by reference any document other than those sections of Idaho Code so referenced. (7-1-01)T

0045. ADDRESS OF IDAHO BOARD OF BARBER EXAMINERS (Rule 5).

The office of the Board of Barber Examiners is located within the Bureau of Occupational Licenses, ~~Carmen Westberg, Chief~~ Owyhee Plaza, 1109 Main Street, Suite 2030, Boise, Idaho 83702. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ibol@ibol.state.id.us. The Board's official web site is at www2.state.id.us/ibol/bar. (7-1-93)(7-1-01)T

006. PUBLIC RECORDS (Rule 6).

The records associated with the Board of Barber Examiners are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (7-1-01)T

~~0057. -- 009. (RESERVED).~~

010. DEFINITIONS (Rule 10).

01. Approved Or Approval. Approved by or approval of the Board as evidenced by formal action of the Board by a written instrument signed by the ~~secretary~~ chairman of the Board or its agent. (7-1-93)(7-1-01)T

02. Barber College. A school or college approved by the Board to teach the practice of barbering as required by Section 54-507, Idaho Code, and these rules. (7-1-93)(7-1-01)T

03. Board. The Board of Barber Examiners as prescribed in Section 54-521, Idaho Code. (7-1-93)

04. First Aid Kit. First-aid kit means ~~a commercially packaged and~~ identifiable assortment of medical supplies, including adhesive bandages, skin antiseptic, ~~approved bio-hazard disposable container,~~ disposable gloves, and gauze, which may be used for cleaning and protecting minor emergency traumas of the human body. (7-1-98)(7-1-01)T

~~05. General Barbering Practice. Practicing barbering under the supervision of an instructor as provided in Section 54-507, Idaho Code. (7-1-93)~~

065. Hospital Grade. Hospital Grade means a sanitizing agent registered by the Environmental Protection Agency as an effective germicidal/bactericidal, fungicidal, and virucidal disinfectant when used in accordance with the manufacturer's instructions. (7-1-98)

~~07. Idaho Code. Idaho Code of 1947 with additions and corrections thereto. (7-1-93)~~

~~08. Masculine Gender. Masculine gender includes the feminine gender. (7-1-93)~~

- 096. Practice Of Barbering.** Practice of barbering as defined by Section 54-502(2), Idaho Code. (7-1-93)(7-1-01)T
- 07. Practice Of Barber-Styling.** Practice of Barber-Styling as defined by Section 54-502(1), Idaho Code or under the supervision of an instructor as provided in Section 54-507, Idaho Code. (7-1-01)T
- 108. Registered Barber.** Any person who holds a valid ~~certificate~~ license authorizing ~~him~~ said person to practice as a ~~registered~~ barber pursuant to Section 54-501~~2~~, Idaho Code. (7-1-93)(7-1-01)T
- 09. Barber-Stylist.** Any person who holds a valid license authorizing said person to practice as a barber-stylist pursuant to Section 54-501, Idaho Code. (7-1-01)T
- 110. Scientific Student Barbering Practice.** ~~Practicing under the supervision of an instructor~~ Any person who is registered pursuant to Section 54-529, Idaho Code, to receive instruction in any or all phases of the practice of barbering ~~other than cutting hair and shaving~~ or barber-styling while under the direct personal supervision of an Idaho licensed instructor in an approved school. (7-1-93)(7-1-01)T
- 121. Barber Teacher Or Instructor.** Any person who holds a valid license pursuant to Section 54-528, Idaho Code, authorizing said person to teach barbering and barber-styling. The words "Teacher" and "Instructor" mean the same and are used synonymously. (7-1-93)(7-1-01)T
- 132. Theoretical Scientific Study.** The study of theoretical subjects of instruction in the practice of barbering which shall include the subjects set forth in Section 54-507, Idaho Code. (7-1-93)
- 13. Barber Shop.** Any establishment licensed pursuant to Section 54-501, Idaho Code, in which barbering or barber-styling is practiced. (7-1-01)T
- 14. Access.** For the purpose of licensed establishments, access shall be defined as a minimum three (3) foot wide unobstructed path within a primary establishment that allows passage to and from entrances, common areas, water sources, restrooms, and contiguous establishments and does not encroach on or overlap any contiguous establishment. (7-1-01)T
- 15. Direct Personal Supervision.** Direct personal supervision shall be defined as supervision by a properly licensed person who is physically present within the licensed area of a school or shop. (7-1-01)T
- 16. Bureau.** The Bureau of Occupational Licenses as prescribed in Sections 54-605 and 67-2602, Idaho Code. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

100. EXAMINATIONS-BOARD MEETINGS AND EXAMINATIONS - DATES - PLACES - TERMINATION OF RECORDS (Rule 100).

- 01. Board Meetings.** Regular Board of Barber Examiners meetings shall be ~~the day prior to and the day of the examinations~~ held at the office of the Bureau of Occupational Licenses on the second Monday of each July and at such other times and places as may be determined by the Board. (7-1-93)(7-1-01)T
- 02. Examinations.** Examinations for license to practice as a barbering or a barber-stylist in Idaho are to be held at the office of the Bureau of Occupational Licenses on the second Monday of ~~March~~, July and ~~November in Boise~~ at such other times and places as may be determined by the Board. ~~The dates are subject to change.~~ (7-1-93)(7-1-01)T
- 03. Records.** All records in the office of the Bureau of Occupational Licenses of applicants who have

not qualified for reexamination within five (5) years of notification of failure in any examination under the Barber Law will be terminated and destroyed. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

150. FEES (Rule 150).

- 01. Examination/Reexamination Fee.** Examination/Reexamination fee - seventy-five dollars (\$75). (7-1-96)
- 02. Endorsement Fee.** Endorsement fee - eighty dollars (\$80). (7-1-93)
- 03. Original ~~Registered~~ Barber And Barber-Stylist License Fee.** Original ~~Registered~~ Barber and Barber-Stylist License Fee - thirty dollars (\$30). (~~3-18-99~~)(7-1-01)T
- 04. Annual Renewal Fee For ~~Registered~~ Barber And Barber-Stylist License.** Annual renewal fee for ~~registered~~ Barber and Barber-Stylist license - fifty dollars (\$50). (~~3-18-99~~)(7-1-01)T
- 05. Original Barbershop License Fee.** Original barbershop license fee – fifty dollars (\$50). (3-18-99)
- 06. Annual Renewal Fee For Barbershop License.** Annual renewal fee for barbershop license – thirty dollars (\$30). (3-18-99)
- 07. Original License And Annual Renewal Fee For Barber College License.** Original license and annual renewal fee for barber college license – two hundred dollars (\$200). (~~3-18-99~~)(7-1-01)T
- 08. Teacher Certificate Examination.** Teacher certificate examination - one hundred dollars (\$100). (7-1-93)
- 09. Original Teacher License And Annual Renewal For Teacher License.** Original teacher license and annual renewal for teacher license - thirty dollars (\$30). (7-1-93)
- 10. Student Registration.** Student registration - twenty dollars (\$20). (7-1-93)
- ~~**11. Temporary Permit Fee.** Temporary permit fee – fifteen dollars (\$15). (7-1-93)~~
- 121. Renewal And Reinstatement Of Licenses.** See Sections 54-518 and 67-2614, Idaho Code. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

200. APPLICATIONS (Rule 200).

- 01. Complete Application For License.** All Applications for license shall be made on forms furnished by the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702, and received in that office at least thirty (30) days prior to the date of examination. All information requested on the application together with any required supporting documentation and the required fees must be received by the Bureau of Occupational Licenses before any application will be considered complete. (7-1-98)(7-1-01)T
- 02. Photographs Required.** ~~Two One (21) three by two inch (3" x 2") identical~~ passport photographs; ~~but only~~ taken within the six (6) months prior to submission of the application, shall be provided: ~~one (1) to be attached to the application, one (1) to the certificate.~~ (Section 54-509, Idaho Code). (7-1-98)(7-1-01)T

~~03. **Registered Barber Qualifications.** Applicants for license as a registered barber must qualify under the provisions of Section 54-505, Idaho Code. (7-1-93)~~

~~04. **Applicants For License From Other States.** Applicants for license from other states must qualify under the provisions of Section 54-512, Idaho Code. (7-1-93)~~

~~05. **Applicants For Barber Instructor License.** Applicants for barber instructor license under the provisions of Sections 54-527 and 54-528, Idaho Code, shall have satisfactorily completed a minimum six (6) month course of barber teaching as a student in a properly licensed barber college or had a minimum of three (3) years experience in practical barbering. (7-1-98)~~

~~a. Any person who makes application to obtain a certificate to teach barbering must pass satisfactorily the barber teacher examination to be conducted by the Board of Barber Examiners. (7-1-98)~~

~~03. **A Licensed Barber Instructor Continued Education.** Every licensed barber instructor must obtain twenty (20) hours of continued education approved by the board within the twelve (12) months preceding license renewal application. Twelve (12) hours must be in educational training and No more than eight (8) hours credit may be obtained in seminars, trade shows, etc. (7-1-98)(7-1-01)T~~

(BREAK IN CONTINUITY OF SECTIONS)

250. EDUCATIONAL REQUIREMENTS AND EQUIVALENCY (Rule 250).

01. High School Education. The Idaho law as amended by the 1959 Session of the Idaho State Legislature requires that an applicant for license under Sections 54-506 and 54-512, Idaho Code, show proof of having at least two (2) years of high school education. This provision has been interpreted as satisfactory completion of the tenth grade - with eligibility to commence the eleventh grade. (7-1-98)(7-1-01)T

02. Equivalent Tenth Grade Education. The Board will accept any test approved by the United States Department of Education for the purpose of determining equivalent tenth grade education. (4-5-00)

03. Test Fees. All fees ~~is~~ required for ~~the~~ any examinations to determine equivalence are the responsibility of the applicant. If an applicant takes the G.E.D. ~~tests~~ equivalence examination and receives an average cutting score of not less than thirty-five (35), with no category below a cutting score of thirty (30), he or she is considered to have the equivalent of a tenth grade education. (7-1-98)(7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

300. TEMPORARY PERMITS GRANDFATHER RIGHTS (Rule 300).

Any person who held a current Idaho barber license on July 1, 2001 shall be issued an Idaho barber-stylist license upon written request to the Board and without payment of additional fees until June 30, 2003. (7-1-01)T

~~01. **Requirements For Permit.** An applicant who has not previously been issued a permit under this rule and whose application and fees for licensure by examination or by endorsement as a Registered Barber are accepted by the Bureau of Occupational Licenses as being fully completed, in accordance with the requirements of the Idaho Barber Law and these rules, shall be eligible to receive a temporary permit. (7-1-93)~~

~~02. **Application For Permit.** An application for temporary permit must be submitted to the Bureau of Occupational Licenses together with the fee for a temporary permit as established by Section 54-518, Idaho Code. (7-1-93)~~

~~03. **Supervision Requirement.** Barber applicants working on a temporary permit must be under the immediate personal supervision of a Registered Barber currently licensed in Idaho. (7-1-93)~~

~~04. **Permit Expiration Dates.** Permits shall be dated and expire upon receipt of the results of the qualifying examination next given after issuance of the permit. Permits issued for endorsement applicants shall be dated and expire one (1) week after the next regularly scheduled board meeting. (7-1-93)~~

~~05. **Legal Authority Of Permit.** A temporary permit to work shall in no way bind the Idaho Board of Barber Examiners or the Bureau of Occupational Licenses to issue an Idaho Barber license to such applicant. (7-1-93)~~

(BREAK IN CONTINUITY OF SECTIONS)

350. ENDORSEMENT (Rule 350).

01. Requirements For Licensure ~~Without Examination~~ By Endorsement. (7-1-93)

a. Applicants for license by endorsement under the provisions of Section 54-512, Idaho Code, must make application on ~~Form B-37~~ the form provided by the Board and furnish proof of current license in another state or country, having requirements substantially equal to the requirements of Idaho, or who has ~~been licensed a current license~~ as a barber or barber-stylist in another state or country and has maintained that license for at least three (3) years immediately prior to making application in this state. ~~(7-1-98)(7-1-01)T~~

b. ~~Form Bar-53~~ Certification of licensure must be completed and signed by the licensing agency of such other state, or country, and ~~filed received~~ in the office of the Bureau of Occupational Licenses with the application for license directly from the licensing agency of such other state or country. ~~(7-1-98)(7-1-01)T~~

c. ~~Application for license by endorsement must be accompanied by proof~~ Each applicant must provide official documentation of applicant having met the education requirements as set forth in Section 54-506, Idaho Code; ~~proof of having satisfactorily completed at least two (2) years of high school (tenth grade), or equivalent education.~~ Documentation must be received in the office of the Bureau of Occupational Licenses directly from the school registrar or other certifying entity. ~~(7-1-98)(7-1-01)T~~

d. Applications for license by endorsement must be accompanied by the endorsement fee and the license fee. If the Idaho Barber Board finds that the applicant is ineligible for license by endorsement, but is eligible for license by examination, a refund may be made of the endorsement fee in excess of the required examination fee, and the applicant permitted to take the examination. (7-1-93)

e. The board shall require all applicants for endorsement to pass the Idaho jurisprudence examination as noted under Section 400 prior to licensure by endorsement. (7-1-01)T

02. Requirements For Licensure By Examination. Credit of fifty (50) hours of ~~training instruction~~ in an approved school of barbering, will be given for each three (3) months of practical experience as a licensed barber or a barber-stylist in another state, territory, possession or country. (Example: If a barber-stylist, is licensed in a state which does not have requirements equal to the requirements of Idaho, or for any other reason does not have endorsement with Idaho, such applicant is required to meet the educational requirements of Idaho.) If he has completed a course of one thousand ~~five six~~ hundred (15600) hours of training instruction in a licensed school in such other state and has one (1) year of practical experience as a licensed barber-stylist, he is considered to have completed two hundred (200) hours of ~~training instruction~~ in school, and is eligible to take the examination for Idaho barber-stylist license. ~~(7-1-93)(7-1-01)T~~

(BREAK IN CONTINUITY OF SECTIONS)

400. EXAMINATION (Rule 400).

01. Content And Passing Grade On Exam. The examination will consist of ~~two~~ three (23) portions: theory, Idaho Jurisprudence and practical. An applicant must obtain at least a seventy-five percent (75%) grade on each portion to pass the examination. ~~(7-1-93)~~(7-1-01)T

02. Subjects On Exam. The ~~following subjects will be included in the practical~~ examination for licensure as a barber or barber-stylist shall consist of a: ~~personal appearance and hygiene, shampoo, haircutting (includes blow dry and style), permanent waving, shave, and hair color.~~ ~~(7-1-98)~~(7-1-01)T

a. Practical demonstration of all or any combination of those services outlined in Section 54-502(2), Idaho Code, for barbers or Section 54-502(1), Idaho Code, for barber-stylists; and (7-1-01)T

b. Written theory examination covering those topics outlined in Section 54-507(2), Idaho Code, for barbers or Section 54-507(1), Idaho Code, for barber-stylists; and (7-1-01)T

c. Written jurisprudence examination covering Title 54, Chapter 5, Idaho Code and IDAPA 24.02.01 "Rules of the Board of Barber Examiners". (7-1-01)T

03. Failure Of Exam. An applicant who fails to obtain a grade of at least seventy-five (75%) percent in ~~either the practical or theoretical~~ any portion of the examination is considered to have failed that portion of the examination and is required to ~~comply with Sections 54-506 and 54-512, Idaho Code~~ file an application for reexamination and pay the required fee and be successfully reexamined on the failed portion(s) prior to licensure. Applicants who fail on their first examination attempt only will not be required to obtain additional training to be eligible for re-examination. ~~(7-1-98)~~(7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

450. BARBER SHOP REQUIREMENTS (Rule 450).

01. Primary Shop, Licensure And Operation Requirements. (7-1-93)

a. Application for a shop license shall be made on forms available from the Bureau and shall include Pplans and specifications complying with local ordinances and zoning requirements. All applications shall be submitted to the Idaho Barber Board for approval and a license must be issued before opening a new shop may open for business; ~~(7-1-93)~~(7-1-01)T

b. There is a clearly defined and designated working floor space of ~~not less than one hundred eight (108) square feet for a single station shop~~ adequate dimension to allow the safe and sanitary practice of barbering or barber-styling for all individual stations that may be in operation in addition to any restroom and access areas and an additional fifty (50) square feet of floor space for every station in excess of one (1); ~~(7-1-93)~~(7-1-01)T

c. Business other than cosmetology or barber shops, and living quarters shall be separated ~~and apart~~ by solid and immovable walls or partitions and solid closable doors; ~~(7-1-93)~~(7-1-01)T

d. There is an approved hot and cold running water source and drainage systems with the perimeters of the primary shop and separate from the toilet facilities that are is accessible and available also to any contiguous cosmetology or barber shop that may ~~exist~~ not have said facility within the defined area of the contiguous shop; and must be within the perimeters of the licensed establishment and separate from the toilet facilities. ~~(7-1-98)~~(7-1-01)T

e. The ~~license~~ primary shop area does not overlap any portion of a contiguous or other primary shop designated area; ~~(7-1-93)~~(7-1-01)T

- f. There is access to restrooms facilities from within the building in which the shop is located; and ~~(7-1-93)~~(7-1-01)T
- g. Home shops must provide a separate outside entrance directly into the shop. All doors to a shop from adjacent rooms shall be closed. (7-1-93)

02. Contiguous Shop, Licensure And Operation Requirements. (7-1-93)

a. Application for a shop license shall be made on forms available from the Bureau and shall include plans and specifications complying with local ordinances and zoning requirements. All applications shall be submitted to the Idaho Barber Board for approval and a license must be issued before opening a new shop may open for business. ~~(7-1-93)~~(7-1-01)T

b. The ~~licensed~~ area ~~is~~ licensed as a contiguous shop shall be contiguous by a minimum three (3) foot access to an area licensed as a primary cosmetology establishment or primary barber shop. ~~(7-1-93)~~(7-1-01)T

c. The licensed contiguous shop area ~~does~~ shall not overlap any portion of ~~a primary or another~~ contiguous shop designated area. ~~(7-1-93)~~(7-1-01)T

d. The licensed contiguous shop area shall provide a minimum of fifty (50) square feet of working floor space for each individual station adequate dimension to allow the safe and sanitary practice of barbering or barber-styling for all individual stations that may be in operation. ~~(7-1-93)~~(7-1-01)T

e. There is access to restrooms from within the building. (7-1-93)

03. Barber Shop Changes In Ownership - Or Location. ~~(7-1-93)~~(7-1-01)T

a. Whenever a change of ownership or location of a primary or contiguous barber shop occurs, an original registration fee must be paid and compliance with all rules concerning a new establishment met, before a new license will be issued. SHOP LICENSES ARE NOT TRANSFERABLE. ~~(7-1-93)~~(7-1-01)T

b. Deletion of an owner from multiple ownership does not constitute a change in ownership. (7-1-93)

c. Addition of an owner to multiple ownership constitutes a change in ownership. (7-1-93)

d. Whenever any shop ceases operation at the licensed location, the owner(s) shall notify the Board in writing that the shop is out of business and the establishment license shall be submitted to the Bureau. A new primary or contiguous establishment license will not be issued for any location that is currently licensed as an establishment at the time of application. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

500. SCHOOLS (Rule 500).

01. Barber College Instructor Requirements. A barber college must be under the direct, personal supervision of a registered barber instructor at all times. (7-1-93)

02. Out Of State Barber College Requirements. Barber colleges from out-of-state applying for approval must have licensed instructors in their schools as required by the Idaho Barber Law. If the states where the colleges are located do not require a license or an examination for their instructors, the applicants must have their instructors take the Idaho instructor's examination before colleges will be approved. This examination will not qualify successful applicant for an Idaho instructor's certificate, unless applicant is also an Idaho registered barber and provide a course of instruction in those areas required in Section 54-507, Idaho Code. ~~(7-1-93)~~(7-1-01)T

03. Barber College Maximum Student Enrollment. No barber college shall enroll more students than ten (10) students until the Board finds that such college has a sufficient number of patrons to provide the training for all students in general barbering practice required by these rules. No barber college shall increase its enrollment above the ten (10) student limitation without the approval of the Board may be adequately supervised, based on the requirements of Section 54-507, Idaho Code. Students enrolled for instructor training shall not count as instructors for the purpose of the instructor/student ratio. (7-1-93)(7-1-01)T

04. Identification. (7-1-93)

a. Each barber college shall advertise to the public that it is a barber college by displaying a sign which shall contain in letters not less than six inches (6") in height the words "Barber College" or "Barber School". (7-1-93)

b. Each barber college shall display in a conspicuous place on its premises a sign stating that the work done therein is done exclusively by students. (7-1-93)

c. Each barber college shall be separated completely from and have no connecting entrances with shops or other businesses other than licensed cosmetology schools. (7-1-01)T

05. Sanitation. (7-1-93)

a. Each barber college shall post in a conspicuous place on its premises a copy of these rules, and also for the public's information a copy of the rules governing sanitary conditions of barber shops and schools adopted by the Board. Each college shall require strict compliance by its students to the barber laws and rules governing barber shops. (7-1-93)(7-1-01)T

b. Any violation of Section 54-507, Idaho Code, or these rules by a barber college shall be cause for revocation disciplinary action against the school license or, the revocation of approval in the case of an out of state school, by the Board of its general approval of such college. Any action by the Idaho State Barber Board for the revocation of a barber schools license or approval shall be in accordance with the provisions set forth in Sections 54-507 and 54-521, Idaho Code. No barber college shall continue to engage in the business of or represent itself as being a barber college if its approval by the Board has been revoked. (7-1-93)(7-1-01)T

c. Each barber college shall have adequate space, ventilationg and lighting equipment to allow for the safe and sanitary instruction of all phases of barbering and barber-styling as approved by the Board. (7-1-93)(7-1-01)T

d. Each barber college shall provide one (1) toilet restroom for men and one (1) toilet restroom for women. Each restroom shall include a sink with hot and cold running water and approved drainage system. (7-1-93)(7-1-01)T

06. Practical Training Room. The floor of the practical training room shall be covered with tile or any type of first grade linoleum and shall have available the following equipment and facilities: (7-1-93)

a. One (1) lavatory for each three (3) chairs. (7-1-93)

b. One (1) cabinet for tools and linens for each chair. (7-1-93)

c. One (1) approved soiled towel container with hinged lid or door for each chair. (7-1-93)

d. One (1) sterilization solution container for each chair, adequate in size to accommodate all instruments to be used on each patron. (7-1-93)

e. One (1) mechanical hand vibrator for every ten (10) students or a fraction thereof. (7-1-93)

f. One (1) hair dryer. (7-1-93)

~~g. One (1) time clock. (7-1-93)~~

076. Space Required. Each barber college shall have within the premises in which it is located adequate space and facilities to safely accommodate all ~~facilities required by the Board~~ students, instructors, and customers.
(7-1-93)(7-1-01)T

087. Barber Chair Required. Each barber chair in each such college shall be of such construction that it may be readily cleaned and it shall be mechanically workable and in good working order. Space between barber chairs, and the workstand or wall, shall be adequate so that no student will be hampered in the performance of his work. Compliance with the requirements of this subsection shall be subject to the determination of the Board and its approval.
(7-1-93)

098. Equipment Requirements. Each barber college shall have, within the premises in which it is located, adequate equipment, materials, and facilities to provide a complete course of instruction in all phases of barbering and barber-styling.
(7-1-93)(7-1-01)T

a. Classroom and training areas - The classroom and training areas shall be equipped with sufficient seating capacity and work stations for all enrolled students, ~~attending the classroom and shall have the following equipment:~~
(7-1-93)(7-1-01)T

~~i. One (1) lavatory with hot and cold running water for every two (2) barber chairs to be approved for scientific barbering practice classes. (7-1-93)~~

~~ii. One (1) blackboard of not less than six feet by three and one-half feet (6 ft x 3 1/2 ft) in size. (7-1-93)~~

~~iii. One (1) chart of the skin and hair. (7-1-93)~~

~~iv. One (1) chart of the muscles of the head, face and neck. (7-1-93)~~

~~v. One (1) chart of the nerves of the head, face and neck. (7-1-93)~~

~~vi. One (1) chart of the bones of the head and face. (7-1-93)~~

~~vii. One (1) chart of the blood supply to the head and face. (7-1-93)~~

~~viii. One (1) standard dictionary. (7-1-93)~~

~~ix. One (1) medical dictionary. (7-1-93)~~

~~x. One (1) microscope for the study of bacteria. (7-1-93)~~

~~b. Student equipment requirements: (7-1-93)~~

~~i. Tools. (7-1-93)~~

~~ii. Two (2) clippers -- electric. (7-1-93)~~

~~iii. Four (4) brushes. (7-1-93)~~

~~iv. One (1) razor (ejector). (7-1-93)~~

~~v. Three (3) shears -- One of which must be a thinning shear. (7-1-93)~~

~~vi. One (1) smock. (7-1-93)~~

~~vii. Each barber college shall furnish each student upon enrollment, a copy of Section 54-507, Idaho~~

Code, and a copy of State of Idaho, Board of Barber Examiners, Bureau of Occupational Licenses, "Sanitary Rules for Barber Shops and Schools" the Barber Laws and Rules. (7-1-93)(7-1-01)T

409. Textbooks. Schools shall use texts that cover all phases of barbering and barber-styling. (7-1-93)(7-1-01)T

140. Curriculum - Hours - Theory - Work Inspected - Attendance - School Examination. (7-1-93)

a. Each barber college shall meet the requirements for admission of students as set forth in Sections 54-506 and 54-507, Idaho Code, and in these rules. (7-1-93)

b. Each barber college curriculum shall consist of not less than nine hundred (900) hours for barbers and seventeen one thousand eight hundred (1,7800) hours for barber-stylists. Barber Sstudents preparing for must document satisfactory completion of the entire barber curriculum and graduation from a licensed or approved school before being eligible for the Idaho Registered Barber examination-must complete seventeen hundred (1,700) hours within a period of ten and one half (10 1/2) months before graduating. Barber-styling students must document satisfactory completion of the entire barber-styling curriculum and graduation from a licensed or approved school before being eligible for the Idaho barber-styling examination. The average daily schedule of each student shall consist of the following: at least One (1) clock hour of theoretical study and/or one (1) hour of clinical demonstration in a classroom. Seven (7) hours of general barbering practice. (7-1-93)(7-1-01)T

c. Each barber college shall submit a daily schedule of its course of study complete curriculums for barbering and barber-styling and a school catalog on an annual basis with the application for license renewal to the Board for its approval-and shall post a copy of such approved schedule in its general clinic where same can be easily read by all students. If there are no changes in the curriculum or catalog during the previous year, the school may submit a letter of explanation to the Board in place of the curriculum or catalog. (7-1-93)(7-1-01)T

d. Each barber college shall require attendance in all subjects. No Patron shall be released from a chair after being served by a student until all the work performed by the student has been thoroughly inspected and approved by an instructor. (4-5-00)

e. Each barber college shall issue a certificate of graduation to each student after satisfactory completion of one thousand seven hundred (1,700) hours their course of instruction. (7-1-93)(7-1-01)T

f. Any student who fails to pass the examination conducted by the Board shall be required to complete a further course of study and training of three (3) months of not less than five hundred (500) hours in an approved school before being eligible to take the examination again. (7-1-93)

g. Persons who obtain training instruction in an approved school of barbering, but who did not complete the course of training instruction and/or did not obtain a license in Idaho, will lose credit for five hundred (500) hours after one (1) year has lapsed since the termination of such training instruction, and thereafter an additional two hundred fifty (250) hours for each additional year or portion thereof. (7-1-93)(7-1-01)T

12. Records Required Of Colleges Of Barbering. (7-1-93)

a. Schools shall maintain monthly progress records of training instruction for each student as established by school policy and procedures that will show daily attendance and academic grades of instructional progress. (4-5-00)(7-1-01)T

b. The aforementioned Progress records shall be signed and dated by the student and instructor a school official and be made available for inspection at any time a copy of the signed and dated record shall be provided to the student. The school shall maintain these records for a period of two (2) years following completion or termination of the student's instruction. These records are subject to inspection by the board or its agents at any time. (4-5-00)(7-1-01)T

c. The information shown on the monthly progress record forms is are to be transferred to Form Bar-41, a Student Record of Instruction,-to be form and filed with the board by the school. (4-5-00)(7-1-01)T

~~d. Schools must inform the Bureau of Occupational Licenses of the names of all instructors employed in said schools, and also notify said bureau any time such instructors are terminated. (7-1-93)~~

ed. Each school will be inspected periodically by an agent of the Bureau of Occupational Licenses. (7-1-93)

~~fe.~~ When a student's course of training instruction at a school has been completed or terminated, the completed operations, and number of classroom hours and practical training of instruction are to be ~~totated~~ recorded by the school on the Record of Instruction Form. This form ~~is to be filed with the board by the school within thirty (30) days of the completion or termination of training~~ or a letter of explanation as to why a student's record of instruction is not being filed with the board by the school as to why student's hours are not verified by the school, together with the student permit shall be filed with the Board within thirty (30) days of the completion or termination of each student's instruction. ~~(4-5-00)(7-1-01)T~~

~~gf.~~ When a student resumes training instruction after they have been terminated, they are required to file a new application, pay an additional fee and receive a permit become registered to practice as a student. ~~(7-1-93)(7-1-01)T~~

~~hg.~~ Records of training shall be maintained by the approved barber college wherein students are being trained. The number of required operations on the Monthly Record Form (Form Bar 40) and Student Record of Instruction (Form Bar 41) are as follows A record of the operations completed by each barber student shall be maintained and include all of the following: ~~(7-1-93)(7-1-01)T~~

- ~~i. Haircut. ~~Eight hundred (800)~~~~ ~~(7-1-93)(7-1-01)T~~
- ~~ii. Style/Blow dry (Does not include haircut) ~~Two hundred (200)~~.~~ ~~(7-1-93)(7-1-01)T~~
- ~~iii. Shampoo. ~~Two hundred fifty (250)~~~~ ~~(7-1-93)(7-1-01)T~~
- ~~iv. Permanent Wave ~~Thirty five (35)~~.~~ ~~(7-1-93)~~
- ~~iv. Shave or Beard Trim ~~Twenty five (25)~~.~~ ~~(7-1-93)(7-1-01)T~~
- ~~vi. Facial or Massage ~~Twenty (20)~~.~~ ~~(7-1-93)(7-1-01)T~~
- ~~vii. Color/Bleach/Rinse ~~Ten (10)~~.~~ ~~(7-1-93)~~
- ~~viii. Hair or Scalp Treatment ~~Twenty five (25)~~.~~ ~~(7-1-93)(7-1-01)T~~
- ~~ixvii. Curling Iron ~~Twenty (20)~~.~~ ~~(7-1-93)(7-1-01)T~~
- viii. Hygiene and Sanitation shall be taught on a continuing basis and indicated on the report form by a grade. (7-1-93)

h. A record of the operations completed by each barber-styling student shall be maintained and include all of the following: ~~(7-1-01)T~~

- i. Haircut. ~~(7-1-01)T~~
- ii. Style/blow dry (does not include haircut). ~~(7-1-01)T~~
- iii. Shampoo. ~~(7-1-01)T~~
- iv. Permanent Wave. ~~(7-1-01)T~~
- v. Shave or Beard Trim. ~~(7-1-01)T~~

- vi. Facial or Massage. (7-1-01)T
- vii. Color/Bleach/Rinse. (7-1-01)T
- viii. Hair or Scalp Treatment. (7-1-01)T
- ix. Curling Iron. (7-1-01)T
- x. Hygiene and Sanitation shall be taught on a continuing basis and indicated on the report form by a grade. (7-1-01)T

501. TEACHING STAFF (Rule 501).

01. Qualifications Of ~~Teacher~~ Instructor. No person shall teach or be employed to teach in any barber school within the state who at the time of rendering such service is not a holder of an ~~teacher's certificate~~ instructor's license. (7-1-93)(7-1-01)T

02. Scope Of Instruction. An instructor shall teach only those areas of practice for which the instructor is licensed. (7-1-01)T

023. Number Of Instructors Requirement. One (1) instructor must be employed and physically present in the school for each ~~one (1) to~~ fifteen (15) students or fractional part thereof. (7-1-93)(7-1-01)T

04. Licensed Instructors. Only those persons holding a valid instructors license shall count toward the instructor/student ratio. Persons holding cosmetology instructor licenses shall count toward the instructor student ratio only when teaching under the direct personal supervision of a licensed barber instructor. (7-1-01)T

502. STUDENT ~~PERMIT~~ REGISTRATION REQUIREMENTS (Rule 502).

Each barber college shall require each applicant for admission to enrollment to file with the college a written application ~~in on~~ a form ~~prescribed~~ approved by the Board. Each such application shall be accompanied by the following: (7-1-93)(7-1-01)T

01. Proof Of Character. Satisfactory proof in writing that the applicant is of good moral character. (7-1-93)

02. Educational Certification. A certificate verifying the completion of a tenth grade ~~or an equivalent~~ education or the equivalent as determined by a GED ~~or other approved equivalency examination.~~ (7-1-93)(7-1-01)T

03. Current Photograph. A current passport style photograph of the applicant, ~~head and shoulders only, three inches by two inches (3" x 2"), which bears his signature~~ taken within twelve (12) months prior to the application. (7-1-93)(7-1-01)T

04. Submission Of Required Documents By Barber College To Board. Schools are required to register all students with the Board within five (5) days of beginning instruction. Each barber college, before admitting any student to enrollment, shall send an application, together with all documents attached thereto, to the Board. If the Board finds that the applicant fails to meet its requirements, the Board shall at once notify the college and the applicant and state its reasons therefore. ~~If the Board finds that the applicant meets its requirements, the Board shall at once so notify the college and the applicant, and issue a student permit to the applicant. The college may then admit the applicant to enrollment and the student so enrolled shall thereafter display his student barber permit, together with his photograph. No barber college shall permit a student to engage in the practice of barbering in the college or attend any classes until after such student has presented the student barber permit issued to him by the Board.~~ (7-1-93)(7-1-01)T

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS
DOCKET NO. 24-0301-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-707, Idaho Code.

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

Insert rules for Administrative Appeals, Incorporation by Reference, Board office information, and Public Records; insert definition for Bureau; inactive status; retired status; delete application deadline and standardize the photo requirement; clarify that renewal must occur before July 1 each year; clarify the application and renewal process for inactive status; authorizes the Board to review and approve continuing education offerings that are not sponsored by a chiropractic college, require licensees to maintain continuing education documentation; define and restrict distance learning for continuing education; define the process for approval of continuing education courses; provide for further definition, supervision, and practice limitations for interns; provide for the application and conditions for issuance of a temporary permit; provide for training for peer review committee members.

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 health, safety and welfare of the public, by broadening availability of approved continuing education courses; providing for the registration and regulation of chiropractic interns per the amendment to Section 5-705.1.i., Idaho Code; and provide for the regulation of temporary practice for interns and licensure candidates per the amendment to Section 54-711, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Budd A. Hetrick, Jr., (208) 334-3233.

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

DATED this 22nd day of August 2001.

Budd A. Hetrick, Jr.
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0301-0101

~~002. (RESERVED).~~

003. WRITTEN INTERPRETATIONS (Rule 3).

The board may have written statements ~~which~~ that pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. ~~(7-1-93)~~(7-1-01)T

003. ADMINISTRATIVE APPEALS (Rule 3).

Administrative appeals shall be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (7-1-01)T

004. INCORPORATION BY REFERENCE (Rule 4).

These rules do not incorporate by reference any document other than those sections of Idaho Code so referenced. (7-1-01)T

005. ADDRESS OF IDAHO BOARD OF CHIROPRACTIC PHYSICIANS (Rule 5).

The office of the Board of Chiropractic Physicians is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ibol@ibol.state.id.us. The Board's official web site is at www2.state.id.us/ibol/chi. (7-1-01)T

006. PUBLIC RECORDS (Rule 6).

The records associated with the Board of Chiropractic Physicians are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (7-1-01)T

~~007. -- 009. (RESERVED).~~

010. DEFINITION (Rule 10).

01. Board. The State Board of Chiropractic Physicians as prescribed in Section 54-703, Idaho Code. (7-1-93)

02. Bureau. The Bureau of Occupational Licenses as prescribed in Section 67-2602, Idaho Code. (7-1-01)T

03. Inactive Status. The status of licensure that has been made inactive by compliance with Section 54-708(2) and Subsection 300.02. The holder of an inactive license may not practice chiropractic in Idaho. (7-1-01)T

04. Inactive Retired. The status of a licensee who is over sixty-five (65) years of age, has paid the inactive retired fee and is permanently retired from the practice of chiropractic. The holder of an inactive retired license may not practice chiropractic in Idaho. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

100. APPLICATIONS (Rule 100).

01. Application. Applications on forms furnished by the Bureau of Occupational Licenses must be ~~on file thirty (30) days before the date of examination, and must be~~ accompanied by an unmounted passport photograph; ~~size three inches by three inches (3" x 3"), bust only;~~ taken within the ~~year~~ twelve (12) months preceding the date of

~~examination~~ application.

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

- 02. Qualifications.** (7-1-93)
- a. New applicants will meet the following requirements: (7-1-93)
- i. National Boards Parts I, II, III, and IV. (7-1-99)
- ii. Graduation from a CCE approved college or university. (7-1-93)
- iii. Applicants will be required to sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Chiropractic Act, Title 54, Chapter 7, Idaho Code, and the Board's Rules, IDAPA 24, Title 03, Chapter 01, "Rules of the State Board of Chiropractic Physicians". (7-1-99)
- b. Endorsement applicants will meet the following requirements: (7-1-93)
- i. National Boards Parts I, II, III and Physiotherapy. (7-1-93)
- ii. If licensed prior to January, 1980, CCE approved college or university not required. If licensed after January, 1980, applicant must have graduated from a CCE approved college or university. (7-1-93)
- iii. Five (5) years of consecutive experience immediately prior to application and a valid, unrevoked, unsuspended license to practice chiropractic in another state. (7-1-93)
- iv. National Board Special Purposes Examination for Chiropractors (SPEC). (7-1-99)
- v. Applicants will be required to sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Chiropractic Act, Title 54, Chapter 7, Idaho Code, and the Board's Rules, IDAPA 24.03.01, "Rules of the State Board of Chiropractic Physicians". (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

250. RENEWAL OR REINSTATEMENT OF LICENSE (Rule 250).

01. Expiration Date. All chiropractic licenses expire on June ~~thirtieth~~ (30th) of each year and must be renewed annually ~~on or~~ before July ~~first~~ (1st). Licenses not so renewed will be canceled. ~~(7-1-97)~~(7-1-01)T

02. Reinstatement. Any license canceled for failure to renew may be reinstated upon payment of two hundred fifty dollars (\$250) together with all delinquent renewal fees and documentation of continuing education for the year of reinstatement. (7-1-97)

a. Provided further, that where a license has been canceled for a period of more than five (5) years, the person so affected shall be required to make application to the board, using the same forms and furnishing the same information as required of a person originally applying for a license and pay the same fee that is required of a person taking the chiropractic examination. Said applicant shall appear in person before the board at a regular meeting for an examination, the nature of which shall be determined by the board. If after an examination, the board is of the opinion that the person examined is the bona fide holder of the canceled license, is of good moral character and, if found capable of again practicing chiropractic in this state, the license shall be reinstated and the holder thereof entitled to practice subject to the laws of this state. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

300. RENEWAL REQUIREMENT (Rule 300).

- 01. Active Status.** Each renewal application must be accompanied by: (7-1-93)
- a. The established fee and; (7-1-93)
- b. Certification of having attended and completed a minimum of twelve (12) hours of scientific clinics, forums, or chiropractic study within the previous twelve (12) months, as approved by the Idaho Board of Chiropractic Physicians. (7-1-93)

02. Inactive Status. Each application for an Inactive status license must be accompanied by: (7-1-01)T

- a. The established fee; and (7-1-01)T
- b. A written request to change a current active license to an inactive license. (7-1-01)T

03. Waiving Continued Education Requirements. All ~~licentiates'~~ continued education requirements will be waived for any year or portion thereof ~~until the licentiate~~ that a licensee maintains an inactive license and is not actively ~~in~~ practicing in Idaho. ~~Where this waiver is granted, the licentiates'~~ Inactive license renewal ~~certificate notices and card licenses~~ will be marked "Inactive". When the licensee desires active status, he must show acceptable fulfillment of continuing educational requirements for the current year and submit a fee equivalent to the difference between the inactive and active renewal fee. The continuing educational requirement and the fees will not be prorated for a partial year. (7-1-93)(7-1-01)T

~~03. Definition Of Inactive Status. "Inactive" status means licensee is a holder of an Idaho chiropractic license which may be made active by fulfilling the continuing educational requirement for the current year and paying the additional fee required. Until he does meet this requirement, he may not practice chiropractic in Idaho.~~ (7-1-93)

~~04. Inactive Retired. "Inactive Retired" status means licensee is a holder of an Idaho chiropractic license, is over sixty five (65) years of age and permanently retired from the practice of chiropractic.~~ (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

350. CONTINUING EDUCATION (Rule 350).

In order to further protect the public health and to facilitate the administration of the Chiropractic Act, the board has formulated the following rules: (7-1-93)

01. Subject Material. The subject material of the continuing education requirement shall be germane to the practice of chiropractic and either: (7-1-01)T

a. Sponsored by an approved school of chiropractic. ~~(The above is limited to Section 54-709(1)(b), Idaho Code); or~~ (7-1-93)(7-1-01)T

b. Otherwise approved by the board. (7-1-01)T

c. "Germane to the practice of chiropractic" shall be limited to Section 54-704(1), Idaho Code. (7-1-01)T

02. Verification Of Attendance. It shall be necessary for ~~the applicant~~ each licensee to ~~provide~~ maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all ~~days~~ hours attended by the applicant. This verification ~~must shall~~ be ~~available~~ maintained by the licensee and provided to the Board upon the request ~~by~~ of the Board or its agent. (7-1-93)(7-1-01)T

03. Distance Learning And Home Study. The board shall not approve any course of study for continuing education credit that does not include the actual physical attendance of the applicant in a face-to-face setting with the course instructor. Correspondence or Home Study courses shall not be eligible for continuing education credits. (7-1-01)T

04. Requests For Approval. All requests for approval or pre-approval of educational programs must be made to the board in writing, and must be accompanied by a statement that includes the name of the instructor or instructors, the date and time and location of the course, the specific agenda for the course, the number of continuing education credit hours requested, and a statement of how the course is believed to be pertinent to the practice of chiropractic. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

551. CHIROPRACTIC INTERN (Rule 551).

01. Definition. A chiropractic intern is defined as any individual who is qualified to practice as an intern as established by the approved chiropractic college that the individual attends and who will function in a dependent relationship with a supervising chiropractic physician in the performance of chiropractic practice. (7-1-01)T

02. Chiropractic Physician Responsible And Liable. The chiropractic physician shall be responsible and liable for: (7-1-01)T

- a. Direct personal supervision of the intern; (7-1-01)T
- b. Any acts of the intern in the performance of chiropractic practice; (7-1-01)T
- c. Determining that the intern possesses sufficient training and capabilities before authorization is given to perform any chiropractic practice. (7-1-01)T

03. Chiropractic Intern Limitations. A chiropractic intern shall not: (7-1-01)T

- a. Perform any chiropractic practice independently, but must perform all such practice under the direct personal supervision of a licensed Chiropractic Physician; (7-1-01)T
- b. Provide diagnostic results or interpretations to the patient prior to consultation with the supervising Chiropractic Physician; (7-1-01)T
- c. Provide treatment advice to any patient without instructions from the supervising Chiropractic Physician. (7-1-01)T

552. TEMPORARY PRACTICE PERMITS (Rule 552).

When an original application for license or internship is accepted by the board as being fully completed, in accordance with the requirements of the Idaho Chiropractic Physician Law and these Rules, a temporary permit to practice may be issued. (7-1-01)T

01. Supervision Required. A permit holder may work only when under the direct personal supervision of a chiropractic physician currently licensed in Idaho. The name, address and signature of the supervising chiropractic physician shall appear on the application. (7-1-01)T

02. Only One Permit May Be Issued. Only one (1) permit may be issued under any circumstances to any individual. (7-1-01)T

03. Validity Of Temporary Permits. Temporary permit to practice will be valid for a period not to exceed twelve (12) months and only. (7-1-01)T

a. In the case of an applicant for Idaho licensure, until the results of the next scheduled examination have been released. No work permit will be issued to an applicant who has previously failed an examination for licensure in this or any other state, territory, possession, or country. Failure to sit for the scheduled examination will invalidate the work permit and no further permits will be issued. (7-1-01)T

b. In the case of an intern, until the scheduled date of graduation from an approved school of chiropractic. Upon original application for licensure in Idaho, the intern permit may be extended by the board until the results of the next scheduled examination have been released. (7-1-01)T

~~5543.~~ -- 599. (RESERVED).

600. CHIROPRACTIC PEER REVIEW (Rule 600).

01. Purpose And Composition Of Peer Review Committee. There is hereby established a Peer Review Committee, the members of which will function at the will of the Idaho State Board of Chiropractic Physicians. (7-1-98)

a. The purpose of the Peer Review Committee is to review those matters relative to the appropriateness, quality, utilization, and cost of chiropractic care in the state of Idaho. (7-1-98)

b. The Committee will be comprised of a chairman and a minimum of five (5) members, all of whom will be appointed by the members of the Board, and all of whom will serve at the pleasure of the Board. They may be removed from the Committee by vote of the Board, at any time, without cause. (7-1-98)

c. The Board will appoint one (1) of its members to act as a liaison between the Board and the Committee. This liaison will serve at the pleasure of the Board and may be removed by the Board, at any time, without cause. (7-1-98)

02. Definitions. (7-1-98)

a. "Board" means the Idaho State Board of Chiropractic Physicians. (7-1-98)

b. "Patient" means an individual who has received treatment from an Idaho licensed chiropractor, or who has received treatment under the supervision or direction of an Idaho licensed chiropractor, which treatment is within the scope of practice for a chiropractor within the state of Idaho. (7-1-98)

c. "Peer Review" means an evaluation performed by members of the Committee, which review will include the appropriateness, quality, utilization, and cost of chiropractic services and ethical performance of chiropractic care. (7-1-98)

d. "Peer Review Committee Members" shall mean those individuals appointed by the Board to serve on the Peer Review Committee. (7-1-98)

e. "Individual Reviewers" means those individual members of the Committee who are designated by the chairman of the Committee to conduct a peer review evaluation of any particular matter. (7-1-98)

03. Committee Criteria. (7-1-98)

a. Requirements for Membership: To be considered for appointment to the Committee, an applicant shall: (7-1-98)

i. Hold a current Idaho license to practice chiropractic, which license is in good standing and which has never been the subject of a formal disciplinary action in any jurisdiction; (7-1-98)

ii. Be actively engaged in the practice of chiropractic for the past four (4) years, with the most recent two (2) of those years having been spent in Idaho. (7-1-98)

iii. Obtain such peer review training as may be required by the Board. (7-1-01)T

b. Appointment Process: Each year the Board will notify all Idaho licensed chiropractors of the process and deadlines by which they may self-submit for membership on the Committee. (7-1-98)

i. The submissions will be maintained on file for one (1) year; after which time they will be discarded without notice to the applicants. (7-1-98)

ii. The Board will notify those individuals who are named to the Committee of their appointment. (7-1-98)

c. Limitations of Peer Review Committee Members. While serving on the Peer Review Committee, a member shall not: (7-1-98)

i. Solicit to do independent medical examinations and/or reviews for insurance companies, attorneys or other third parties; (7-1-98)

ii. Utilize any designation or other reference to Committee membership on any advertisement, including telephone book, office, letterhead, or any other place. (7-1-98)

d. Reimbursement: Committee members will be afforded expense reimbursement in accordance with state employee travel regulations upon Board approval. (7-1-98)

04. Standards. (7-1-98)

a. In conducting any review, the Committee will utilize the Guidelines for Chiropractic Quality Assurance and Practice Parameters, Proceedings of the Mercy Center Consensus Conference, and Procedural/Utilization Facts, Chiropractic/Physical Therapy Treatment Standards, a Reference Guide, 5th Edition, Robert E. Olson, D.C. (7-1-98)

b. The reviewing chiropractors will be expected to utilize their own experience and other reference sources in ascertaining the reasonableness and appropriateness of care provided. (7-1-98)

05. Who May Utilize The Services Of The Committee. A request for peer review may be submitted to the Committee by a patient, the patient's legal representative, an insurer or other third-party payor or health care provider, or the treating chiropractic physician. (7-1-98)

06. Form Of Request. A request for peer review must be submitted to the Committee on forms available from the Board offices. (7-1-98)

07. Fees For Review. The following fees will be assessed: (7-1-98)

a. If review is requested by a patient: no charge. (7-1-98)

b. If review is requested by a treating physician, an insurer or third party provider: (7-1-98)

i. One hundred twenty-five dollars (\$125) for a review of claims in the amount of one thousand dollars (\$1,000) or less; (3-30-01)

ii. Two hundred fifty dollars (\$250) for a review of claims in the amount of one thousand one dollars (\$1,001) or more and not exceeding three thousand dollars (\$3,000); (3-30-01)

iii. Three hundred fifty dollars (\$350) for a review of claims in the amount of three thousand one dollars (\$3,001) or more; (3-30-01)

c. Payment for reviews by the insurer or third-party provider is required prior to implementation of any review process. (7-1-98)

08. Procedures For Review. (7-1-98)

a. All reviews will be blind reviews. The identity of the patient, treating physician, and any insurer or third-party payor for the services will be unknown to the individual reviewers. (7-1-98)

b. Peer review will be conducted only upon request. The opportunity for participation in the review will be made available to the non-requesting party or parties. With the exception of the treating chiropractic physician, there is no requirement of participation in the peer review process. (7-1-98)

c. Reviews will be conducted by three (3) individual reviewers, to be chosen from the membership of the Committee by the chairman. (7-1-98)

d. The individual reviewers will conduct their evaluation, reach an agreement as to the outcome, and report that outcome to the chairman. If any of the parties desire to appeal this decision, they may notify the chairman who will appoint one (1) new reviewer to conduct an evaluation and report the outcome to the chairman. There will be no further rights to appeal. Decisions of the individual reviewer will not be subject to challenge. (7-1-98)

e. The chairman will provide regular reports to the Board liaison. If it is the opinion of the reviewers that a licensed chiropractic physician has violated any of the laws and rules governing continued licensure, the Committee chairman will notify the Board liaison, immediately. The liaison will then refer the matter for further investigation and potential disciplinary action by the Board. (7-1-98)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY
DOCKET NO. 24-0401-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-821, 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:

Reference Administrative Appeals; incorporation by reference; update the Bureau contact information; address public records; delete references to student loan defaults; delete references to temporary permits; clarify the application process and relax the deadline requirement for final training records; revise training requirements to be compatible with statute; revise examination requirements to require mannequins instead of live models; insert provisions for nail tech and esthetics instructors; clarify the supervision requirements for apprentices.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Budd A. Hetrick, Jr. (208) 334-3233.

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

DATED this 22nd day of August, 2001.

Budd A. Hetrick, Jr.
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0401-0101

~~002. (RESERVED).~~

~~003.2. WRITTEN INTERPRETATIONS (Rule 32).~~

The board may have written statements ~~which~~ that pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of

Occupational Licenses.

~~(7-1-97)~~(7-1-01)T

003. ADMINISTRATIVE APPEALS (Rule 3).

Administrative appeals shall be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code.

(7-1-01)T

004. INCORPORATION BY REFERENCE (Rule 4).

These rules do not incorporate by reference any document other than those sections of Idaho Code so referenced.

(7-1-01)T

0045. ADDRESS OF THE IDAHO BOARD OF COSMETOLOGY (Rule 45).

The office of the Board of Cosmetology is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ibol@ibol.state.id.us. The Board's official web site is at www2.state.id.us/ibol/cos.

~~(7-1-97)~~(7-1-01)T

006. PUBLIC RECORDS (Rule 6).

The records associated with the Board of Cosmetology are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code.

(7-1-01)T

0057. -- 009. (RESERVED).

010. DEFINITIONS (Rule 10).

These rules expressly adopt all definitions set forth in Section 54-802, Idaho Code, in addition to the following:

(3-30-01)

01. **Gender.** Any reference to a gender shall mean both masculine and feminine. (7-1-97)
02. **Board.** The Idaho Board of Cosmetology as prescribed in Section 54-802, Idaho Code. (7-1-97)
03. **Bureau.** The Bureau of Occupational Licenses, as prescribed in Section 54-828 and Section 67-260#2, Idaho Code. ~~By authority delegated in written agreement, the Bureau of Occupational Licenses will act as the agent of the Board, in assisting the Board to carry out its duties as outlined in law and rule.~~ (7-1-97)(7-1-01)T
04. **Chief.** The Bureau Chief of the Bureau of Occupational Licenses as established by Section 67-2602, Idaho Code. (7-1-97)
05. **Current License.** An unexpired license in good standing. (7-1-97)
06. **Establishment.** A licensed cosmetological establishment. (7-1-97)
07. **Record Of Instruction.** The final documentation of total hours and operations completed by a student that is maintained by a school or, in the case of an apprentice, the instructor. (3-30-01)
08. **Certificate Of Graduation.** A signed, notarized statement from a school or, in the case of an apprentice, the instructor, which indicates that the student has fulfilled all requirements of that school or apprenticeship and is eligible for examination. (7-1-97)
09. **Rules.** The rules of the board. (7-1-97)
10. **School.** A licensed school of cosmetology. (7-1-97)
11. **School Of Electrology.** A licensed school of cosmetology approved to teach electrology. (3-30-01)
12. **Endorsement Certification.** In accordance with Section 54-812, Idaho Code. (7-1-97)
13. **Hospital Grade.** Hospital grade means a sanitizing agent registered by the Environmental

Protection Agency as an effective germicidal/bactericidal, fungicidal, and virucidal disinfectant when used in accordance with the manufacturer's instructions. (7-1-97)

14. First-Aid Kit. First-aid kit means a packaged and identifiable assortment of medical supplies, including adhesive bandages, skin antiseptic, disposable gloves, and gauze, which may be used for cleaning and protecting blood spills and other minor emergency traumas of the human body. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

125. FEES (Rule 125).

Fees are established in accord with Section 54-818, Idaho Code, as follows: (7-1-97)

- 01. Original Permits, Licenses, And Annual Renewals.** (3-30-01)
 - a. Cosmetological establishment, original license - Fifty dollars (\$50). (3-30-01)
 - b. Cosmetological establishment, annual renewals - Thirty-five dollars (\$35). (3-18-99)
 - c. Retail cosmetics Dealer, original license - Fifty dollars (\$50). (3-30-01)
 - d. Retail cosmetics dealer, annual renewals - Thirty-five dollars (\$35). (3-18-99)
 - e. Makeover or glamour photography business, original license - Fifty dollars (\$50). (3-30-01)
 - f. Makeover or glamour photography business, annual renewals - Thirty-five dollars (\$35). (3-18-99)
 - g. Domestic school of cosmetology, original license - Five hundred dollars (\$500). (3-30-01)
 - h. Domestic school of cosmetology, annual renewals - One hundred fifty dollars (\$150). (7-1-97)
 - i. Registered cosmetologist, original license/annual renewals - Twenty-five dollars (\$25). (3-18-99)
 - j. Nail technician, original license/annual renewals - Twenty-five dollars (\$25). (3-18-99)
 - k. Apprentice, original license (no renewal fees required) - Twenty dollars (\$20). (7-1-97)
 - l. Student certificate (registration) (no renewal fees required) - Twenty dollars (\$20). (7-1-97)
 - m. Instructor, original license/annual renewals - Thirty dollars (\$30). (3-18-99)
 - n. Student instructor permit - Twenty-five dollars (\$25). (3-30-01)
 - o. Electrologist, original license/annual renewals - Twenty-seven dollars (\$27). (3-18-99)
 - p. Esthetician, original license/annual renewals - Twenty-seven dollars (\$27). (3-18-99)
 - q. Endorsement fee - One hundred dollars (\$100). (3-30-01)
 - r. Temporary permit to demonstrate and teach - Ten dollars (\$10). (3-30-01)
- 02. Examination Fees.** (7-1-97)
 - a. As a registered cosmetologist - Seventy-five dollars (\$75). (3-18-99)

- b. As a nail technician - Seventy-five dollars (\$75). (3-18-99)
- c. As an instructor - Seventy-five dollars (\$75). (3-18-99)
- d. As an electrologist - Seventy-five dollars (\$75). (3-18-99)
- e. As an esthetician - Seventy-five dollars (\$75). (3-18-99)

03. Fees Shall Not Be Prorated Or Returnable. Fees shall not be prorated or returnable. (7-1-97)

~~**04. Default.** When the board is notified by a financial institution or its assignee, that a person holding a registration, permit, or license is in student loan default, no registration, permit, or license may be issued or renewed until proper documentation is received from the financial institution or its assignee, that said default has been satisfied by the regulations set forth by the U.S. Department of Education. Reference Section 54-816(9), Idaho Code. (3-30-01)~~

(BREAK IN CONTINUITY OF SECTIONS)

150. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT (Rule 150).

01. Filing Application. Applicants for license by endorsement under the provisions of Section 54-812, Idaho Code, shall file an application on forms provided by the board; and (7-1-97)

- a. Furnish proof of current license in another state, territory, possession or country, having requirements equal to the requirements of Idaho; or (7-1-97)
- b. Document by sworn affidavit attesting to having worked in a cosmetology establishment for three (3) years of practical experience under licensure within the five (5) years immediately preceding application. (3-30-01)

02. Certification Of Licensure. Certification of licensure must be completed and ~~signed~~ submitted directly to the board by the licensing agency of the other state, territory, possession or country, and filed in the office of the board with the application for license and required fee. ~~(7-1-97)~~(7-1-01)T

03. Application Must Be Accompanied By Proof Of Meeting Educational Requirements. Application for license by endorsement must be accompanied by proof of the applicant having met the educational requirements as set forth in Section 54-805, Idaho Code. (3-30-01)

04. Submit Proof Of Birth. Endorsement applicants must furnish a copy of their birth certificate or other acceptable proof of birth. (7-1-97)

05. Application Must Be Accompanied By Endorsement Fee And Original License Fee. Applications for license by endorsement must be accompanied by the endorsement fee and the original license fee. If the board finds that the applicant is ineligible for license by endorsement, but is eligible for license by examination, the endorsement fee shall be utilized as the examination fee, and the applicant permitted to take the examination. (3-30-01)

06. Jurisprudence Examination Required. The board shall require all applicants for endorsement to pass the Idaho jurisprudence examination as noted under Section 450 prior to licensure by endorsement. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

176. APPLICATION AND FEE FOR PERMIT TO DEMONSTRATE OR TEACH COSMETOLOGY. (Rule 176).

Application and fee for permit to demonstrate or teach cosmetology shall be made by the sponsoring agent on forms furnished by the board and must be received in that office at least seven (7) days prior to the date of demonstration or instruction. The applicant shall include the name, address, license number, and the state, territory, possession, or country of licensure, and a ten dollar (\$10) fee for each person who shall demonstrate or instruct. The permit fee shall not be required for those persons holding a current personal Idaho license issued by the Board. Said demonstration or instruction shall not commence until the permit is received by the applicant. The permit shall be available for inspection by the board or its agent at the location of said demonstration or instruction. The applicant shall be required to inform each person of the sanitary rules for shops and schools prior to said demonstration, or instruction.

~~(3-30-01)~~(7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

200. APPLICATIONS (Rule 200).

01. Application For License By Examination. Application for license by examination shall be made on forms furnished by the board ~~and must be received by the board at least thirty (30) days prior to the date of examination.~~

~~(3-30-01)~~(7-1-01)T

a. Applicant. Each applicant for licensure by examination shall be required to submit to the board an application and the required fees.

(7-1-01)T

b. Records. The school or apprenticeship instructor shall submit the following directly to the board:

(7-1-01)T

i. The record of instruction;

(7-1-01)T

ii. A signed and notarized certificate of graduation;

(7-1-01)T

iii. Proof of the required high school education (pursuant to Section 54-805, Idaho Code) or equivalent;

(7-1-01)T

and

iv. Acceptable verification of applicants age upon registration as a student or apprentice.

(7-1-01)T

02. Applications Must Be Complete To Be Accepted. ~~To be complete a~~Applications ~~must meet the following criteria:~~ shall not be considered complete and accepted until all required information, documents, and fees are received by the board.

~~(7-1-97)~~(7-1-01)T

a. ~~Applications from students educated in-state must be accompanied by records of instruction, a signed and notarized certificate of graduation, proof of the required high school education (pursuant to Section 54-805, Idaho Code) or equivalent, and acceptable verification of applicants age upon registration in school, together with the required fees. Do not send original diploma to the board. A copy will be acceptable.~~

~~(3-30-01)~~

b. ~~Applications from an apprentice must be accompanied by records of instruction and a notarized certificate of graduation, from a licensed establishment and the required fees.~~

~~(3-30-01)~~

e. ~~Applicants not completing their education in Idaho must document other state territory, possession, or country licensure, provide verification of practical experience, and submit the required fees.~~

~~(3-30-01)~~

d. ~~Applicants that cannot provide documentation of current licensure in another state, territory, possession, or country must provide certified documentation of instruction received directly from the applicable regulatory agency.~~

~~(3-30-01)~~

03. ~~Fees Which May Be Refunded.~~ If a license is not issued, the license fee may be refunded, providing a permit has not been issued. Examination fees are not refundable. Out Of State Applicants. ~~(7-1-97)~~(7-1-01)T

a. Applicants not completing their instruction in Idaho and currently licensed in another state, territory, possession or country, must also document their other licensure and provide verification of practical experience, in addition to the required application and fees. (7-1-01)T

b. Applicants not currently licensed in another state, territory, possession or country must provide certified documentation of all instruction received. Records of instruction must be received by the board directly from the applicable regulatory agency or the facility that provided the instruction. (7-1-01)T

04. Deadline Date For Filing. ~~An Applications which are not~~ must be fully completed, in accordance with Rule 200, before an applicant is eligible for examination. The application and the fees paid must be received by the board at least thirty (30) days prior to the date of examination, will be held over until the next scheduled examination. All other required records must be received by the board at least fourteen (14) days prior to the date of examination. Those applicants whose applications or fees or records are not received in accordance with the deadlines will be scheduled for the next subsequent examination. Those applicants who fail any portion of the examination on their first attempt may submit an application with the required fee for re-examination, and if said application and fee is received by the board office prior to the next scheduled examination, the thirty (30) day application deadline shall be waived. ~~(3-30-01)~~(7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

413. ESTHETICS REQUIREMENTS FOR LICENSURE BY EXAMINATION (Rule 413).

01. Filing of Record of Instruction. Applicant must file Record of Instruction covering ~~nine~~ six hundred (~~9~~600) hours as a student, or one thousand ~~eight~~ two hundred (18~~2~~00) hours as an apprentice. ~~(3-30-01)~~(7-1-01)T

02. Credit Given For Instruction. Credit given for instruction as a student will be ~~ninety~~ sixty (~~9~~60) hours as a student, or one hundred ~~eighty~~ twenty (18~~2~~0) hours as an apprentice, for each year of practical experience under licensure in another state, territory, possession, or country. ~~(3-30-01)~~(7-1-01)T

03. Six Month Allowance For Credit. Credit for experience will be allowed only in full six (6) month increments. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

419. NAIL TECHNOLOGY REQUIREMENTS FOR LICENSURE BY EXAMINATION (Rule 419).

01. Filing Of Record Of Instruction. Applicant must file Record of Instruction covering ~~six~~ four hundred (~~6~~400) hours as a student, or ~~twelve~~ eight hundred (~~12~~800) as an apprentice. ~~(3-30-01)~~(7-1-01)T

02. Credit Given For Instruction. Credit given for instruction as a student will be ~~sixty~~ forty (~~6~~40) hours as a student, or ~~one hundred twenty~~ eighty (~~12~~80) hours as an apprentice, for each year of practical experience under licensure in another state, territory, possession or country. ~~(3-30-01)~~(7-1-01)T

03. Six Month Allowance For Credit. Credit will be allowed only on six (6) month experience increments. (7-1-97)

04. Hours Credit Toward Licensure. One seventh (1/7) of cosmetology student training hours may be credited toward nail technology instruction requirements. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

479. MODELS FOR THE COSMETOLOGY EXAMINATION (Rule 479).

01. Human Models. Human models are mandatory for the facial ~~and manicure/artificial nail application~~ portions of the cosmetology examination. ~~(3-30-01)(7-1-01)T~~

02. Mandatory Mannequins For Examination. Except as set forth in Rule 479.01, mannequins and mannequin hands are mandatory for all portions of the cosmetology examination and must be treated in all respects, the same as a live model. ~~(3-30-01)(7-1-01)T~~

(BREAK IN CONTINUITY OF SECTIONS)

491. MODELS FOR THE NAIL TECHNOLOGY EXAMINATION (Rule 491).

01. ~~Human Models~~ Mannequin Hands For Manicure. ~~Human models must be people who can be given a manicure.~~ Mannequin hands are mandatory for all portions of the nail technology examination and must be treated in all respects, the same as a live model. They may not have artificial nails. ~~(7-1-97)(7-1-01)T~~

(BREAK IN CONTINUITY OF SECTIONS)

550. RULES FOR COSMETOLOGY SCHOOLS APPROVED TO TEACH ELECTROLOGY (Rule 550).
Section 54-802(n) provides for the teaching of electrology in cosmetology schools. (7-1-99)

01. Board Approval. The board may approve a school to teach electrology who makes application on forms provided by the board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach electrology. (7-1-99)

02. Minimum Square Footage. Schools provide a minimum of three hundred (300) square feet of designated floor space per six (6) students. (7-1-97)

03. Required Equipment. Each school shall have the following equipment, which is considered the minimum equipment necessary for the proper instruction of students. This amount of equipment is based on six (6) students. (7-1-97)

- a. Work stations equal to seventy-five percent (75%) of total enrollment. (7-1-97)
- b. Two (2) brands of machines (one (1) with three (3) method capability) Galvanic, Thermolysis, and Blend. (7-1-97)
- c. Two (2) treatment tables and adjustable technician chairs. (7-1-97)
- d. Two (2) swing arm lamps with magnifying lens. (7-1-97)
- e. Two (2) magnifying glasses. (7-1-97)
- f. Tweezers. (7-1-97)

- g. One (1) basin with approved water source. (7-1-97)
- h. Necessary sanitation equipment for implements. (7-1-97)
- i. Closed storage cabinet. (7-1-97)

04. Kit. Each student to be issued a basic kit containing: two (2) tweezers, disposable probes, eye shields, disposable gloves, before treatment solution, after treatment lotion, hair pins or clippies, one (1) sharps container. (7-1-99)

05. Electrologist Instructor/Student Ratio. Schools have at least one (1) licensed electrologist instructor for every six (6) students or portion thereof, being trained therein. (7-1-99)

06. Records Required. Records required of cosmetology schools approved to teach electrology shall be maintained in accordance with the records required for schools of cosmetology. (3-30-01)

~~*α. Students must complete a course of instruction which includes a total of eight hundred (800) hours.*~~
~~(3-30-01)~~

07. Record Of Instruction. A record of all operations completed by each student shall be maintained and include the following: (3-30-01)

- a. Permanent Removal of Hair (Electrology). (7-1-97)
 - i. Bacteriology, sanitation and sterilization, safety precautions, anatomy, and physiology. (3-30-01)
 - ii. Electricity which shall include the nature of electrical current, principles of operating electrical devices and the various safety precautions used when operating electrical equipment. (3-30-01)
 - iii. Electrolysis which shall include the use and study of galvanic current. (3-30-01)
 - iv. Thermolysis which shall include the use and study of high frequency current automatic and manual. (3-30-01)
 - v. A combination of high frequency and galvanic currents. (3-30-01)
 - vi. The study and cause of hypertrichosis. (3-30-01)
- b. Students may not render any clinical services to patrons until completing at least eighty (80) hours of instruction in electrology. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

560. RULES FOR COSMETOLOGY SCHOOLS TEACHING ESTHETICS (Rule 560).
Section 54-802 (p), Idaho Code, provides for the teaching of esthetics in cosmetology schools. (7-1-97)

01. Board Approval. The board may approve a school to teach esthetics who makes application on forms provided by the board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach esthetics. (7-1-97)

02. Records Required. Records required of schools teaching esthetics shall be maintained in

accordance with the records required for schools of cosmetology. (3-30-01)

~~a. Students must complete a course of instruction which includes a total of nine hundred (900) hours.~~
~~(3-30-01)~~

~~b.a.~~ Students may not render any clinical services to patrons until completing at least sixty (60) hours of instruction in esthetics. (7-1-97)

~~eb.~~ The recorded operations completed by each student shall be maintained and include the following: (3-30-01)

i. Massage and Manipulation application of lotions, creams, etc. (3-30-01)

ii. Cosmetics. (3-30-01)

iii. Machine Application: use of mechanical or electrical equipment. (3-30-01)

iv. Bacteriology, Sanitation and sterilization, safety precautions, anatomy and physiology. (3-30-01)

v. Eyebrow arch and hair removal. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

600. INSTRUCTOR RULES (Rule 600).

01. Requirements For Instructor License. (7-1-97)

a. Application for an instructor license shall be made on forms furnished by the board and accompanied with the required fees. (7-1-97)

b. Section 54-805(2)(8), Idaho Code, provides for twelve (12) semester college credit hours or equivalent, as approved by the board, or successful completion of the examination required by board rules. Credit hours must be obtained from the Education Department, Speech Communications Department or from the Psychology/Sociology Department and other credit at the discretion of the Board. (7-1-97)

c. Equivalent: (7-1-97)

i. Teaching seminars directed to cosmetology, nail technology, esthetics, or electrology must be approved by the board. Fourteen (14) clock hours is equivalent to one (1) semester college credit hour in an approved seminar. Verification of satisfactory completion must be submitted to the board for their approval. (3-30-01)

ii. Verified satisfactory teaching as a qualified instructor from another state three (3) of the previous five (5) years immediately prior to application. (7-1-97)

d. Experience Requirements for Instructor Applicant (Reference Section 54-805(2)(8), Idaho Code). Five (5) years experience is deemed "immediately preceding" if obtained during the seven (7) year period immediately preceding application for licensure. (7-1-97)

e. An electrologist with fewer than five (5) years' experience as a licensed electrologist must complete three (3) months, five hundred (500) hours of teacher's instruction in a cosmetology school approved to teach electrology as set forth in Subsection 550.08. (3-30-01)

02. Examination Dates And Places. The dates and places of examination are subject to change. (3-30-01)

03. Termination. All application records in the bureau of applicants who have not qualified for reexamination within five (5) years of notification of failure in any examination under the Cosmetology Law will be terminated and destroyed. (7-1-97)

04. Scope And Requirement Of Examination For License. (7-1-97)

a. Examination will consist of both a practical and written examination. The written examination will be in two parts: a national theory examination and an Idaho jurisprudence examination. (7-1-97)

b. Mannequin shall be used. (3-30-01)

c. Examinee will be required to demonstrate to the board the ability to teach cosmetology, nail technology, esthetics, or electrology services. One subject to be assigned when accepted for examination and a subject to be drawn at the time of the examination. ~~(3-30-01)~~(7-1-01)T

d. Supplies required for the instructor's examination. Bring sufficient materials and supplies to demonstrate in assigned category. (7-1-97)

05. Instructor Reexamination. (7-1-01)T

a. To be eligible, an applicant must obtain two hundred (200) hours additional instruction in a school of cosmetology, nail technology, esthetics, or electrology as a student instructor. *This requirement will not apply to those applicants failing the examination for the first time.* ~~(3-30-01)~~(7-1-01)T

b. Applicant failing below seventy-five percent (75%) will not be required to complete any additional instruction prior to the first reexamination. (7-1-01)T

06. Requirements For Student Instructor. (7-1-97)

a. A student instructor shall file an application on forms provided by the board before beginning instruction and shall at all times be under the direct supervision of a licensed instructor. (3-30-01)

b. The time spent as a student instructor to meet instructor licensure requirements will not be credited to the years experience required for an instructor license. (7-1-97)

c. One (1) year experience may be obtained within a school upon completion of instructor instruction. (3-30-01)

d. Six (6) months is considered to be one thousand (1,000) hours of instruction. Three (3) months is considered to be five hundred (500) hours of instruction. (3-30-01)

07. Student Registration. Schools are required to register all students with the board prior to providing any instruction. Student registration fee must be submitted at time of registration. (7-1-97)

08. Records Required. Records required of schools teaching student instructors shall be maintained in accordance with the records required for schools of cosmetology. (3-30-01)

09. Record Of Instruction. Records of the operations completed by each student shall be maintained of the following: (3-30-01)

a. Lesson Planning. (3-30-01)

b. Audio Visual Aid Preparation. (3-30-01)

c. Theory Class. (3-30-01)

- d. Practical Demonstrations. (3-30-01)
- e. Testing and Evaluation Theory. (3-30-01)
- f. Testing and Evaluation. (3-30-01)
- g. Clinic Floor Supervision. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

700. COSMETOLOGY - ELECTROLOGY, ESTHETICS, AND NAIL TECHNOLOGY APPRENTICE INSTRUCTION (Rule 700).

Sections 54-805(6)(c) and 54-807, Idaho Code, provide for the practice of apprentices. (3-30-01)

01. Cosmetology Apprentices. There must be at least one (1) licensed cosmetology instructor and one (1) licensed cosmetologist in any cosmetological establishment at all times for each apprentice who is being trained therein. (7-1-99)

a. One (1) instructor shall train no more than three (3) currently registered apprentices. (7-1-01)T

b. Each apprentice must also be supervised by a separate licensed cosmetologist. (7-1-01)T

02. Electrology Apprentices. Apprentice instruction must be obtained under the direct personal supervision of an electrologist instructor. An electrologist instructor may train no more than one (1) apprentice at a time. (3-30-01)

03. Esthetics Apprentices. There must be at least one (1) licensed cosmetology instructor or esthetics instructor and one (1) licensed cosmetologist or licensed esthetician in any cosmetological establishment at all times for each apprentice who is being instructed therein. ~~(3-30-01)~~(7-1-01)T

04. Nail Technology Apprentices. There must be at least one (1) licensed cosmetology instructor or nail technology instructor and one (1) licensed cosmetologist or nail technician in any cosmetological establishment at all times for each apprentice who is being instructed therein. ~~(3-30-01)~~(7-1-01)T

05. Filing Application. Application for permit as an apprentice must be made on forms furnished by the board. (3-30-01)

06. Application For Apprentice. The application submitted for an apprentice permit must list the names and license numbers of the licensed cosmetologists, electrologists, estheticians, and nail technicians employed in the establishment in which an apprentice will serve apprenticeship. (3-30-01)

07. Prior To Beginning Instruction. Prior to beginning of instruction, the instructor for any apprenticeship must submit and have board approval of a curriculum for the entire apprenticeship instruction. (3-30-01)

08. Application Must Be Accompanied By Proof Of Meeting Educational Requirements. Applications must be accompanied by proof of having satisfactorily completed two (2) years of high school (tenth grade) or having equivalent education. If applicant is a high school graduate, a photostatic copy of the high school diploma may be submitted. A letter written on high school stationery, signed by an officer of the high school, may be forwarded with the application. Such letter shall indicate that the applicant has satisfactorily completed the tenth grade and is eligible to commence the eleventh grade. Do not send original high school diploma to the board. (7-1-97)

09. Submit Proof Of Birth. Apprentices must furnish a copy of their birth certificate or other

acceptable proof of birth with application. (7-1-97)

10. Apprentice Permit. An apprentice permit must be obtained from the board before instruction as an apprentice begins. An original apprentice permit shall be dated and valid until such time as said apprentice is no longer enrolled as an apprentice in said establishment. (3-30-01)

11. Records Required. Establishments instructing apprentices must maintain records as set forth: (3-30-01)

a. For cosmetology apprentice in Subsection 500.05. (7-1-99)

b. For electrology apprentice in Subsection 550.06.a.i. (7-1-99)

c. For esthetics apprentice in Subsection 560.02. (7-1-99)

d. For nail technology apprentice in Subsection 570.02. (7-1-99)

12. Record Of ~~Training~~ Instruction. Records of the operations completed by each student shall be maintained of the following: ~~(3-30-01)~~(7-1-01)T

a. For cosmetology apprentice in Subsection 500.06. (7-1-97)

b. For electrology apprentice in Subsection 550.07. (3-30-01)

c. For esthetics apprentice in Subsection 560.02.c. (7-1-99)

d. For nail technology apprentice in Subsection 570.03. (7-1-99)

13. Discontinuance Of A Course. When an apprentice discontinues a course of study, the salon is to complete a Record of Instruction Form with the credited hours completed by the apprentice. This form is to be submitted to the board. If an apprentice discontinues a course of instruction and does not transfer to another salon within sixty (60) days, the apprentice permit is automatically canceled and is to be submitted to the board along with the Record of Instruction. (3-30-01)

14. Before Resuming Instruction. Before resuming instruction, after having discontinued a course, an apprentice must file a new application and pay an additional fee. The apprentice must receive a permit before resuming instruction. (3-30-01)

15. Discontinuance Of Establishment Instruction Apprentices. If a licensed establishment where apprentices are being trained discontinues to operate as a salon, records of instruction covering all apprentices obtaining instruction at the time of discontinuance or prior thereto, must be filed in the office of the board. (3-30-01)

16. Out Of State Apprenticeship. Prior to commencing a course of study in an Idaho approved establishment, an apprentice applicant is required to file with the board a copy of the record of instruction from the out of state apprenticeship. For purposes of this section, the record of instruction will be a statement which gives detailed information regarding operations and hours of instruction, and which is to be verified by the licensing agency or instructor(s) in the state in which the instruction was obtained. (3-30-01)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.09.01 - RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS
DOCKET NO. 24-0901-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1604, Idaho Code.

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

Insert rules for Administrative Appeals, Incorporation by Reference, Board office information, and Public Records; insert definition for Bureau; increase the original license fee to \$150; increase the renewal fee to \$175; increase the application fee to \$100; increase the temporary permit fee and the administrator in training fee to \$100; and increase the reinstatement fee to \$100. Provide rules for the application for the registration of Administrators-In-Training and the effective date of training; provide for the application and registration for Administrator Designees.

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.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The fees being charged are as stated above in the descriptive summary. Statute authorizing these fees is 54-1604(1)(g).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed and temporary rule, contact Budd A. Hetrick, Jr., (208) 334-3233.

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

DATED this 22nd day of August, 2001.

Budd A. Hetrick, Jr.
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0901-0101

~~002. (RESERVED).~~

0032. WRITTEN INTERPRETATIONS (Rule 32).

The board may have written statements ~~which~~ that pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. (7-1-93)(7-1-01)T

003. ADMINISTRATIVE APPEALS (Rule 3).

Administrative appeals shall be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (7-1-01)T

004. INCORPORATION BY REFERENCE (Rule 4).

These rules do not incorporate by reference any document other than those sections of Idaho Code so referenced. (7-1-01)T

005. ADDRESS OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS (Rule 5).

The office of the Board of Examiners of Nursing Home Administrators is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ibol@ibol.state.id.us. The Board's official web site is at www2.state.id.us/ibol/nha. (7-1-01)T

006. PUBLIC RECORDS (Rule 6).

The records associated with the Board of Examiners of Nursing Home Administrators are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (7-1-01)T

~~0047. -- 009. (RESERVED).~~

010. DEFINITIONS (Rule 10).

01. Board. The Board of Examiners of Nursing Home Administrators as prescribed in Section 54-1601, Idaho Code. (7-1-93)

02. Bureau. The Bureau of Occupational Licenses as prescribed in Sections 54-1603 and 67-2602, Idaho Code. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

400. NURSING HOME ADMINISTRATORS-IN-TRAINING (Rule 400).

01. Related Health Care Field. "Related health care field" shall mean a field in health care related to administration. (7-1-93)

02. Trainees. Trainees must work on a full time basis in an Idaho licensed nursing health care facility, preferably a nursing home. Full time shall be a forty (40) hour per week work schedule with consideration for normal leave taken. Failure to comply with this rule or Section 54-1610, Idaho Code, shall not receive credit as a Nursing Home Administrator-In-Training. (7-1-98)

a. Each trainee shall register with the Board as a Nursing Home Administrator-In-Training (AIT) by submitting an application provided by the Board together with the required fee. The effective date of each AIT program shall be the date the Board approves the application. (7-1-01)T

b. Quarterly reports for those trainees employed in a nursing home must reflect that the preceptor of

the trainee has instructed, assisted and given assignments as deemed necessary to fulfill the requirements of Subsection 400.03. (7-1-98)

03. Nursing Home Administrator-In-Training Requirements. A Nursing Home Administrator-in-Training shall be required to train in all phases of nursing home administration including the following: (7-1-93)

- a. Resident Care Management. (7-1-98)
- b. Personnel Management. (7-1-93)
- c. Financial Management. (7-1-93)
- d. Environmental Management. (7-1-98)
- e. Meeting Regulations and Governing Entities Directives. (7-1-98)
- f. Organizational Management. (7-1-98)

04. Facility Administrator. If the facility administrator is not the preceptor, the trainee must spend no less than thirty-two (32) hours a month with the preceptor in a training and/or observational situation in the six (6) areas of nursing home administration as outlined in Subsection 400.03. Quarterly reports must reflect particular emphasis on the six (6) phases of nursing home administration during the time spent in the nursing home. (7-1-98)

05. Preceptor Certification. (7-1-93)

a. A nursing home administrator who serves as a preceptor for a nursing home administrator-in-training must be certified by the Board of Examiners of Nursing Home Administrators. The Board will certify the Idaho licensed nursing home administrator to be a preceptor who: (7-1-98)

i. Is currently practicing as a nursing home administrator and who has practiced a minimum of two (2) consecutive years as a nursing home administrator; and (7-1-98)

ii. Who successfully completes a six (6) clock hour preceptor orientation course approved by the Board. (7-1-93)

b. The orientation course will cover the philosophy, requirements and practical application of the nursing home administrator-in-training program and a review of the six (6) phases of nursing home administration as outlined in Subsection 400.03. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

401. -- 499. (RESERVED).

450. ADMINISTRATOR DESIGNEE QUALIFICATION (Rule 450).

In order to practice as an administrator designee, an individual shall register with the Board as an Administrator Designee by submitting an application and providing documentation of each the following requirements. (7-1-01)T

01. Good Moral Character. (7-1-01)T

a. Submit references of good moral character from not less than three (3) persons other than relatives. (7-1-01)T

b. Certify they have not been found guilty or convicted of a felony or a misdemeanor involving moral turpitude. (7-1-01)T

- 02.** Age. Provide proof of being at least twenty-one (21) years of age. (7-1-01)T
- 03.** Education. Provide proof of either: (7-1-01)T
- a. A bachelors degree from an approved college or university, or (7-1-01)T
- b. Two (2) years of satisfactory practical experience in nursing home administration or a related health administration area for each year of the required education as set forth in Section 54-1605(3), Idaho Code; (7-1-01)T
- 04.** Experience. Provide proof of having one (1) year of management experience in a skilled nursing facility. Experience documented in Subsection 450.03.b. may also be used to meet this requirement. (7-1-01)T
- 05.** Authorization. Submit an agreement signed by an Idaho Licensed Nursing Home Administrator who will act as a consultant to assist the designee in administrating the facility. (7-1-01)T
- 451. -- 499.** (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

600. FEES (Rule 600).

- 01.** Original License And Annual Renewal Fee. ~~Original Licenses and Annual Renewal Fee - Sixty-five dollars (\$65).~~ ~~(7-1-98)~~(7-1-01)T
- a. Original license fee - one hundred fifty dollars (\$150). (7-1-01)T
- b. Annual renewal fee - one hundred seventy-five dollars (\$175). (7-1-01)T
- 02.** Application Fees. (3-10-00)
- a. Original application fee - ~~sixty-five~~ one hundred dollars (~~\$65~~100). ~~(3-10-00)~~(7-1-01)T
- b. Endorsement application fee - ~~sixty-five~~ one hundred dollars (~~\$65~~100). ~~(3-10-00)~~(7-1-01)T
- 03.** Temporary Permit Fee. ~~Temporary Permit Fee - Sixty-five dollars (\$65).~~ ~~(7-1-93)~~(7-1-01)T
- a. Temporary permit fee - one hundred dollars (\$100). (7-1-01)T
- b. Administrator-In-Training registration fee - one hundred dollars (\$100). (7-1-01)T
- 04.** License Reinstatement Fee. License reinstatement fee - one hundred dollars (\$100). (7-1-01)T

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.10.01 - RULES OF THE STATE BOARD OF OPTOMETRY
DOCKET NO. 24-1001-0101
NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1509, Idaho Code.

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

Insert Administrative Appeals section; insert Incorporation by Reference section; update the Bureau contact information; insert public records section; define Bureau; provide for reinstatement for up to five (5) years with payment of renewal fees, \$150 reinstatement fee and providing proof of continuing education for each year; establish a waiver of continuing education requirements for the first license renewal; and add to unprofessional conduct by inclusion of health care professionals.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Budd A. Hetrick, Jr., (208) 334-3233.

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

DATED this 22nd day of August, 2001.

Budd A. Hetrick, Jr.
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1001-0101

~~002. (RESERVED).~~

0032. WRITTEN INTERPRETATIONS (Rule 32).

The board may have written statements ~~which~~ that pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. ~~(7-1-93)()~~

003. ADMINISTRATIVE APPEALS (Rule 3).

Administrative appeals shall be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code.

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004. INCORPORATION BY REFERENCE (Rule 4).

These rules do not incorporate by reference any document other than those sections of Idaho Code so referenced.

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005. ADDRESS OF THE STATE BOARD OF OPTOMETRY (Rule 5).

The office of the State Board of Optometry is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ibol@ibol.state.id.us. The Board's official web site is at www2.state.id.us/ibol/opt.

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006. PUBLIC RECORDS (Rule 6).

The records associated with the State Board of Optometry are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code.

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0047. -- 009. (RESERVED).

010. DEFINITIONS (Rule 10).

01. Board. The State Board of Optometry as prescribed in Section 54-1503, Idaho Code. (7-1-93)

02. Bureau. The Bureau of Occupational Licenses as prescribed in Sections 54-1509 and 67-2602, Idaho Code.

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023. Low Vision. Refer to Section 54-1501(5), Idaho Code, correcting defects may include low vision but is not limited to low vision rehabilitation. (7-1-97)

034. Vision Therapy. Any person who assesses, diagnoses, treats, or prescribes treatment for conditions of the visual system or manages a patient with vision therapy, visual training, visual rehabilitation, orthoptics or eye exercises or who hold him/herself out as being able to do so for the rehabilitation and/or treatment of physical, physiological, sensorimotor, neuromuscular or perceptual anomalies of the eyes or vision system or who prescribes or utilizes lenses, prisms, filters, occlusion or other devices for the enhancement, rehabilitation and/or treatment of the visual system or prevention of visual dysfunctions, except under the supervision and management of a licensed optometrist, is engaged in the practice of optometry. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

250. LICENSES CANCELED FOR FAILURE TO RENEW (Rule 250).

Any person whose license has been canceled for failure to renew for a period of less than five (5) years may be reinstated upon payment of the renewal fee for each year the license was lapsed, payment of a one hundred fifty dollars (\$150) reinstatement fee, and upon providing documentation of having met the continuing education requirement for each year their license was lapsed. Any person whose license to practice optometry has been canceled for failure to renew for a period in excess of five (5) years may be reinstated in accordance with the requirements of Section 67-2614, Idaho Code, subject to examination by the State Board of Examiners of the State Board of Optometry at its discretion. (~~3-30-01~~)()

(BREAK IN CONTINUITY OF SECTIONS)

300. CONTINUING EDUCATION IN OPTOMETRY (Rule 300).

01. Hours Required, Advance Approval. Each optometrist licensed by the state of Idaho shall attend

in each twelve (12) month period preceding the renewal of a license to practice optometry in Idaho, a minimum of twelve (12) full hours of post-graduate optometric education courses or meetings approved in advance by the Board of Optometry or post-graduate study sessions or seminars at an accredited school or college of optometry. In addition, all Council on Optometric Practitioners Education (COPE) approved courses would be approved for continuing education credit. If an optometrist attends or plans to attend a course of study or seminar which has not been approved in advance, he may petition the Board for approval of that educational course of study, setting forth a description of the course. The Board may, in its discretion, approve the course upon review of the material submitted either in advance or after completion of the course. (8-24-94)

02. Additional Hours Required To Use Therapeutic Pharmaceutical Agents. Each optometrist licensed by the state of Idaho to use therapeutic pharmaceutical agents shall attend in each twelve (12) month period preceding the renewal of a license to practice optometry in Idaho, a minimum of six (6) additional full hours of post-graduate optometric courses or meetings approved in advance by the Board of Optometry or post-graduate study sessions or seminars at an accredited school or college of optometry. This six (6) hours of continuing education must be in courses involving ocular pharmacology and/or advanced ocular disease and are in addition to the twelve (12) hours of continuing education required under Subsection 300.01. (7-1-93)

03. Correspondence/Home Study Courses. No more than six (6) hours of continuing education shall be permitted each year in correspondence courses or other continuing education obtained through the mail or from "home study" courses. (8-24-94)

04. Waiver Of Requirements. The Board of Optometry shall waive the continuing education requirement for the first license renewal after initial licensure. The Board of Optometry may, upon application, waive the requirements of this rule in cases involving illness, unusual circumstances interfering with the optometrist's ability to practice or inability to conform to the rules due to military duty. (7-1-93)(____)

05. Renewal Application Form. Each licensed Idaho optometrist will be furnished a license renewal application form by the State Board of Optometry on which each optometrist shall list the name of the courses, the location, date and hours of attendance, and shall submit the form prior to or with the renewal application for license filed each year. The secretary shall review each application form and maintain it for three (3) years. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

325. CODE OF ETHICS (Rule 325).

01. Patient's Visual Welfare. The licensed optometrist shall keep the patient's visual welfare uppermost in his consideration at all times and promote the best methods of care for the visual needs of mankind. (7-1-93)

02. Confidentiality. The optometrist shall preserve information concerning his patients in confidence and not release that information unless authorized by the patient. An optometrist may, however, supply information of an otherwise confidential or privileged nature when lawfully subpoenaed to testify at a deposition or hearing in any proceeding before the Board of Optometry, or at any other time and place ordered by a court of law. (7-1-93)

03. Conduct Of Practice. The optometrist shall conduct his practice in a dignified and professional manner and in keeping with the mode of practice of a professional person entrusted with the care of the health of citizens of this state and shall abide by the rulings of the Board of Optometry. (7-1-93)

04. Unprofessional Conduct. In order to define what constitutes unprofessional conduct, the board hereafter lists and sets forth certain prohibited actions. In conducting his practice, an optometrist must not: (7-1-93)

a. Practice optometry in any manner other than as a professional person in an individual capacity, or in partnership with or associate with others licensed ~~to practice optometry~~ health care professionals, under his own name and not as a corporation or officer or agent of a corporation or other business entity. An optometrist may be a stock holder in and practice as a member of a professional service corporation with other licensed health care

professionals as authorized by Title 54, Chapter 15, Idaho Code, but the optometrist must list his individual name as well as any name selected for the professional service corporation on any letterheads, telephone directories, office or building directories, or other places where the general public might be advised of the fact that the individual is practicing optometry, as required by these rules. (7-1-93)

b. Use either “Cappers” or “Steerers” or accept a split or divided fee for the purpose of obtaining patients or use solicitors or agents for the purpose of securing patients or conducting eye examinations or furnishing optometric services. (7-1-93)

c. Make or conspire to make any arrangement, agreement, or engage in any practice whereby a supplier of ophthalmic materials shall: (7-1-93)

i. Provide office space for an optometrist. (7-1-93)

ii. Pay rent upon the office space occupied by an optometrist. (7-1-93)

iii. Pay the professional fees of an optometrist. (7-1-93)

iv. Pay for the advertising for an optometrist. (7-1-93)

v. Pay commissions to an optometrist upon ophthalmic materials furnished by such optometrist to his patients. (7-1-93)

iv. Consistently refer prospective purchasers of ophthalmic materials to an optometrist in violation of the law. (7-1-93)

d. Allow his prescription files and records to be used by any unlicensed person, firm, or corporation for the practice of optometry. (7-1-93)

e. As a regular pattern of practice, accept referrals from retail optical outlets that violate section 54-1525, Idaho Code, pertaining to referral of patients, or which are located in close proximity to the optometrist’s office for the purpose of inducing consistent patronage of his services because of location of office rather than professional reputation. (7-1-93)

f. Fail to perform services for which fees have been received. (7-1-93)

g. File false reports of services performed or fees rendered. (7-1-93)

h. Permit the use of his name or professional title by or in conjunction with any person not an optometrist, or any firm, company, corporation or military association which illegally practices or in any manner holds himself or itself out to the public as being entitled to practice the profession of optometry when not licensed to do so under the law of Idaho or which uses the title “Optometric Services” in such a manner in advertising as to convey to the public the impression that the individual or corporation is entitled to practice optometry or furnish optometric advice or services when not so authorized by law. (7-1-93)

i. Enter into or continue in a contract, agreement, or understanding of any kind, or engage in any course of conduct with any person, firm or corporation, or their agents, whereby said optometrist expressly or impliedly agrees: (7-1-93)

i. To refer the patient back to said person, firm, or corporation referring the patient for any subsequent service or receipt of ophthalmic material. (7-1-93)

ii. That if any patient is referred by any person, firm or corporation to the optometrist, the optometrist will refrain from supplying to the patient any ophthalmic materials. (7-1-93)

j. Directly or indirectly give any person, association, firm or corporation, or their agents, anything of pecuniary benefit or value as consideration for the referral of any patient to said optometrist. (7-1-93)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.11.01 - RULES OF THE STATE BOARD OF PODIATRY
DOCKET NO. 24-1101-0102
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-605, Idaho Code.

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

Provide rules outlining the requirements for obtaining a license by endorsement as referenced in section 54-613, Idaho Code; Clarify the documentation and attendance verification requirements for continuing education.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To address statute changes effective July 1, 2001 referencing rules for licensure by endorsement and clarify continuing education requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Budd A. Hetrick, Jr., (208) 334-3233.

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

DATED this 22nd day of August, 2001.

Budd A. Hetrick, Jr.
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1101-0102

401. LICENSURE ~~WITHOUT WRITTEN EXAMINATION~~ BY ENDORSEMENT (Rule 401).
Applicants for licensure under ~~the~~ ~~§~~Section 54-613 Idaho Code may upon the approval of the Board be granted a license. Each applicant for licensure by endorsement shall ~~file a complete application together with a fee of two~~

~~hundred dollars (\$200) and all the credentials as provided in Section 200 and a certified copy of the subjects and the grades obtained by written examination in another state or territory or through the national board of podiatry examiners. Such examination must have been taken and passed within the preceding five (5) years from date of this application. Proof must be submitted documenting that each applicant has met the requirements of this section.~~
provide documentation for each of the following before licensure will be considered: ~~(7-1-01)T~~(7-1-01)T

- 01. Complete Application.** A complete application together with the required fee; and (7-1-01)T
- 02. Certification Of License.** Certification of having maintained a current license or other authority to practice issued by a regulatory board of Podiatry in any state or territory; and (7-1-01)T
- 03. Credentials.** Credentials as required in Subsections 200.02, through 200.06; and (7-1-01)T
- 04. Examination.** Successful passage of a written licensure examination covering all those subjects noted in Section 54-606, Idaho Code. Examination shall be certified by either: (7-1-01)T
- a. The applicant's state or territory of licensure; or (7-1-01)T
- b. The national board of podiatry examiners; and (7-1-01)T
- 05. Practical Experience.** Having practiced podiatry under licensure for three (3) of the last five (5) years immediately prior to the date of application; and (7-1-01)T
- 06. Continuing Education.** Obtained at least twelve (12) hours of continuing education during the twelve (12) months prior to the date of application; and (7-1-01)T
- 07. Disciplinary Action.** Has not been the subject of any disciplinary action within the last five (5) years immediately prior to application and has never had a license to practice podiatry revoked, suspended, or otherwise sanctioned either voluntarily or involuntarily in any jurisdiction. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

700. CONTINUING EDUCATION (Rule 700).

- 01. Post Graduate Education Requirement For License Renewal.** Each podiatrist licensed by the state of Idaho shall attend in each twelve (12) month period preceding the renewal of a license to practice podiatry in Idaho, a minimum of twelve (12) full hours of post-graduate podiatry education courses approved by the Board. No more than six (6) hours may be home study. (7-1-98)
- 02. Submission Of License Renewal Application Form.** Each licensed Idaho podiatrist will be furnished a license renewal application form by the Bureau of Occupational Licenses on which each podiatrist shall ~~list the name of the courses, the location, date and hours of attendance~~ be required to certify by signed affidavit that compliance with the continuing education requirements has been met and shall submit the ~~form with the~~ renewal application ~~for license filed each year~~ together with the required fees to the Bureau. ~~(7-1-93)~~(7-1-01)T
- 03. Verification Of Attendance.** It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the applicant. This verification shall be maintained by the licensee and provided to the Board upon the request of the Board or its agent. The Board will conduct random audits to monitor compliance. (7-1-01)T

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.12.01 - RULES OF THE IDAHO STATE BOARD OF PSYCHOLOGIST EXAMINERS
DOCKET NO. 24-1201-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2305, 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:

Insert rules for Administrative Appeals, Incorporation by Reference, providing for reference in the Rules to the American Psychological Association's Code of Conduct; add Bureau contact information; add Public Records section; define Bureau and Certificate of Professional Qualification; clarify that official certification must be received from issuing entities; replace "reciprocity" with "endorsement" throughout, and provide requirements for licensure by endorsement relevant to Section 54-2312, Idaho Code; provide reference for licensure of Senior Psychologist per Section 54-2312A, Idaho Code; delete reference to oral exams; correct the reference to the Code of Conduct; clarify renewal and reinstatement process and refer to Section 67-2614, Idaho Code.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To address statute changes effective July 1, 2001.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Budd A. Hetrick, Jr., (208) 334-3233.

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

DATED this 22nd day of August, 2001.

Budd A. Hetrick, Jr.
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1201-0101

~~002. (RESERVED).~~

0032. WRITTEN INTERPRETATIONS (Rule 32).

The board may have written statements ~~which~~ that pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. (7-1-93)(7-1-01)T

003. ADMINISTRATIVE APPEALS (Rule 3).

Administrative appeals shall be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (7-1-01)T

004. INCORPORATION BY REFERENCE (Rule 4).

The document titled "Ethical Principles of Psychologists and Code of Conduct", published by the American Psychological Association and dated December 1, 1992, as referenced in Section 350, is herein incorporated by reference and is available from the Board's office and on the Board web site. (7-1-01)T

005. ADDRESS OF THE IDAHO BOARD OF PSYCHOLOGIST EXAMINERS (Rule 5).

The office of the Board of Psychologist Examiners is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ibol@ibol.state.id.us. The Board's official web site is at www2.state.id.us/ibol/psy. (7-1-01)T

006. PUBLIC RECORDS (Rule 6).

The records associated with the Board of Psychologist Examiners are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (7-1-01)T

~~0047. -- 009. (RESERVED).~~

010. DEFINITIONS (Rule 10).

01. Board. The Idaho State Board of Psychologist Examiners as prescribed in Section 54-2301, Idaho Code. (7-1-93)

02. Bureau. The Bureau means the Bureau of Occupational Licenses, as prescribed in Sections 54-605 and 67-2602, Idaho Code. (7-1-01)T

03. Certificate Of Professional Qualification. A certificate of professional qualification shall mean the certificate of professional qualification granted to a psychologist by the Association of State and Provincial Psychology Boards. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

100. CREDENTIALS TO BE FILED BY ALL APPLICANTS (Rule 100).

01. Completed Application. An application shall be completed by all applicants for licensure upon a form prescribed by the State Board of Psychologist Examiners. (7-1-93)

02. Official Transcripts. All applicants shall arrange for official transcripts of all credits earned, at each approved college or university, to be transmitted by the registrars of the educational institutions directly to the board. (7-1-93)

03. Letters Of Reference. Letters of reference, regarding the character, training, and experience of the applicant shall be returned to the board by the references before decision is rendered on the application. (7-1-93)

04. Post Graduate Experience. One (1) of the two (2) years of post-graduate experience as required by Section 2307(b), Idaho Code, (not the internship) may be pre-doctoral. The second year must be post-doctoral work under appropriate supervision and must be verified by the appropriate supervisor. ~~(7-1-93)~~(7-1-01)T

05. Official Documentation. Official documentation of meeting the requirements of Chapter 23, Title 54, Idaho Code and IDAPA 24.12.01, must be received by the Board directly from the entity or person responsible for providing such official documentation. Applicants are responsible for requesting the required documentation from the appropriate entities and persons. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

150. FEES (Rule 150).

- 01. Annual Renewal Fee.** Annual renewal fee - two hundred dollars (\$200). (7-1-98)
- 02. Application Fee.** Application fee - two hundred dollars (\$200). (7-1-93)
- 03. Examination Fee.** Examination fee shall be equal to that charged by the national examining entity plus a processing fee of twenty-five dollars (\$25). (3-18-99)
- 04. Reexamination Fee.** Reexamination fee shall be equal to that charged by the national examining entity plus a processing fee of twenty-five dollars (\$25). (3-18-99)
- 05. Reciprocity Endorsement Fee.** Reciprocity fee - one hundred dollars (\$100) as established by Section 54-2312, Idaho Code. ~~(7-1-93)~~(7-1-01)T
- 06. Examination, Reexamination Or Reciprocity Endorsement Fee In Addition To Application Fee.** The examination, reexamination, or ~~reciprocity endorsement~~ fee shall be in addition to the application fee and must accompany the application. ~~(7-1-93)~~(7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

200. EXAMINATIONS (Rule 200).

- 01. Written~~Oral~~ Exam Required.** The board will require a written examination ~~and/or may require an oral examination~~ of the applicants. The written examination will be the national examination for professional practice in psychology, and a score of seventy percent (70%) will be considered passing. ~~(7-1-93)~~(7-1-01)T
- 02. Time And Place Of Exam.** The examination will be conducted at a time and place specified by the board. (7-1-93)
- 03. Failure Of Exam.** The first time the examination is failed the applicant may take it again the next time it is given upon application and payment of fees. If the examination has been failed twice, the individual must wait at least one (1) year before taking it a third time. The individual must wait at least one (1) year and petition the board for approval to take the examination the fourth time which petition shall include evidence satisfactory to the board that the applicant has taken additional study in the field of Psychology before approval will be granted. (7-1-93)
- 04. Waiver Of Exam.** Upon application, the examination may be waived to a member who is a diplomate in good standing of the American Board of Professional Psychology. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

250. RECIPROCITY ENDORSEMENT (Rule 250).

01. Eligibility For ~~Reciprocity~~ Endorsement. An applicant who is in possession of a valid statutory license or statutory certificate from another state or Canada may apply for licensing under the ~~reciprocity clause endorsement section~~ of this law. (7-1-93)(7-1-01)T

02. Requirements For ~~Reciprocity~~ Endorsement. An applicant under the ~~reciprocity clause endorsement section~~ shall have: (7-1-93)(7-1-01)T

a. ~~Submit evidence that he/she holds a~~ A valid psychology license or certificate issued by the regulatory entity of another jurisdiction; and (7-1-93)(7-1-01)T

b. ~~Submit evidence to demonstrate that the requirements for such licensure or certificate are the substantial equivalents of this act~~ A current certificate of professional qualification in Psychology as defined in these rules; or (7-1-93)(7-1-01)T

c. ~~Submit the credentials required of all applicants.~~ A degree of doctor of philosophy in psychology or a doctoral degree in a field related to psychology plus two (2) years of post graduate experience acceptable to the board and excluding internship, and document each of the following: (7-1-93)(7-1-01)T

i. A passing score on the EPPP examination or other similar examination; (7-1-01)T

ii. Two (2) years of supervised experience, one (1) of which was post-doctoral, for a minimum of three thousand (3,000) total hours acceptable to the Board; (7-1-01)T

iii. A record of practicing Psychology at the independent level for the five (5) years immediately prior to application; (7-1-01)T

iv. A history of no disciplinary action in any jurisdiction. (7-1-01)T

251. -- 259. (RESERVED).

260. SENIOR PSYCHOLOGY LICENSURE (Rule 260).

Any person who has maintained a valid Psychology license based on a doctoral degree in the United States or Canada for a period of not less than twenty (20) years may apply for an Idaho psychology license under Section 54-2312A, Idaho Code. (7-1-01)T

261. -- 299. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

350. CODE OF ETHICS (Rule 350).

All licensees shall be mailed a copy of the Ethical Principles of Psychologists ~~of the American Psychological Association and Code of Conduct~~, as published in the American Psychologist, as ~~the same may be modified or amended~~ referenced in Section 004. (7-1-93)(7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

400. RENEWAL OF LICENSE - CONTINUING EDUCATION (Rule 400).

01. Renewal Of License. Each person licensed ~~psychologist~~ under this act must renew ~~his~~ said license ~~prior to July 1 of each year~~ annually or the license will be cancelled. Licenses shall be renewed and reinstated in accordance with the requirements of Section 67-2614, Idaho Code. ~~(7-1-93)~~(7-1-01)T

02. Requirements For Renewal Of License. ~~The psychologist~~ Licenses may be renewed or reinstated by payment of the ~~renewal~~ required fees and by submitting certification of having satisfied the continuing education requirement. ~~(7-1-93)~~(7-1-01)T

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.15.01 - RULES OF THE IDAHO LICENSING BOARD OF PROFESSIONAL
COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

DOCKET NO. 24-1501-0101

NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-3404, 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:

Change board name; insert Administrative Appeals; incorporate Codes of Ethics by reference; insert appeals, Bureau contact information and public records rules; define Bureau; provide separate rule for application process; clarify supervised experience requirements; identify approved examinations and clarify passing score; replace Private Practice category with Clinical category; clarify CE requirements; insert references to Marriage & Family Therapy license throughout and provide for fees per statute; refer to endorsement and clarify requirements per statute; adopt Codes of Ethics; clarify renewal and reinstatement provisions.

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: Address July, 2001 law changes regarding board name, and the marriage and family therapy license.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Add application fee of \$75, original license fee of \$75, and annual license renewal fee of \$60 for Marriage and Family Therapists. Statute authorizing these fees is Section 54-3411, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Budd A. Hetrick, Jr., (208) 334-3233.

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

DATED this 22nd day of August 2001.

Budd A. Hetrick, Jr.
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233 / (208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1501-0101

**24.15.01 - RULES OF THE IDAHO ~~COUNSELOR~~ LICENSING BOARD OF PROFESSIONAL
COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS**

000. LEGAL AUTHORITY (Rule 0).

These rules are hereby prescribed and established pursuant to the authority vested in the Idaho ~~Counselor~~ Licensing Board of Professional Counselors and Marriage and Family Therapists by the provisions of Section 54-3404, Idaho Code. (7-1-93)(7-1-01)T

001. TITLE AND SCOPE (Rule 1).

These rules shall be cited as IDAPA 24.15.01, "Rules of the Idaho ~~Counselor~~ Licensing Board of Professional Counselors and Marriage and Family Therapists". (7-1-93)(7-1-01)T

~~002. (RESERVED).~~

003. WRITTEN INTERPRETATIONS (Rule 3).

The board may have written statements ~~which~~ that pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. (7-1-93)(7-1-01)T

003. ADMINISTRATIVE APPEALS (Rule 3).

Administrative Appeals shall be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (7-1-01)T

004. INCORPORATION BY REFERENCE (Rule 4).

01. ACA Code Of Ethics. "ACA Code of Ethics and Standards of Practice," as published by the American Counseling Association (ACA), dated 1999 and referenced in Subsections 241.02, 350, and 450.01, is herein incorporated by reference and is available from the Board's office and on the Board web site. (7-1-01)T

02. AAMFT Code Of Ethics. The document titled "AAMFT Code of Ethics", as published by the American Association for Marriage and Family Therapy (AAMFT), dated July 1, 2001 and referenced in Subsections 350, and 450.01, is herein incorporated by reference and is available from the Board's office and on the Board web site. (7-1-01)T

005. ADDRESS OF IDAHO LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS (Rule 5).

The office of the Board of Professional Counselors and Marriage and Family Therapists is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ibol@ibol.state.id.us. The Board's official web site is at www2.state.id.us/ibol/cou. (7-1-01)T

006. PUBLIC RECORDS (Rule 6).

The records associated with the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (7-1-01)T

~~007. -- 009. (RESERVED).~~

010. DEFINITIONS (Rule 10).

01. Board. The Idaho ~~Counselor~~ Licensing Board of Professional Counselors and Marriage and Family Therapists as prescribed in Section 54-3401, Idaho Code. (7-1-93)(7-1-01)T

02. Bureau. The Bureau of Occupational Licenses as prescribed in Sections 54-3404 and 67-2602, Idaho Code. (7-1-01)T

03. Intern. An intern shall be defined as a person who is obtaining required supervised experience for licensure in a course of study provided by an institution of higher education or a person who is in a private-practice setting acting under direct supervision. (7-1-01)T

04. Supervisor. A supervisor shall be defined as follows: (7-1-01)T

a. A counseling supervisor shall be a person who has been licensed under Title 54, Chapter 34, Idaho Code, for at least five (5) years. (7-1-01)T

b. A marriage and family therapy supervisor shall be a person who has been licensed under Title 54, Chapter 34, Idaho Code, and who provides to the Board upon request proof of having completed at least fifteen (15) contact hours of continuing education in supervision. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

100. ORGANIZATION AND MEETINGS (Rule 100).

Board meetings will be held ~~on the first Tuesday of~~ during the months of February, May, July, and October of each year and at such other times as the Board deems necessary. (7-1-93)(7-1-01)T

101. -- 149. (RESERVED).

149. MATERIALS TO BE FILED BY ALL LICENSURE APPLICANTS (Rule 149).

Each applicant for licensure shall: (7-1-01)T

01. Complete An Application. Complete an application upon a form prescribed by the Board. (7-1-01)T

02. Provide Verification Of Educational Program. Verify completion of the approved educational program identified on the application with official graduate transcripts. Official transcripts must be received by the Board directly from the registrar of the appropriate college or university. (7-1-01)T

03. Submit Verification Of Supervised Experience. The verification of supervised experience shall be provided directly to the Board by those supervisors listed on the application. (7-1-01)T

04. Submit Application Fee. Submit a non-refundable application fee as determined by Subsection 250.01. (7-1-01)T

150. QUALIFICATIONS FOR ~~LICENSED~~ PROFESSIONAL COUNSELOR LICENSURE (Rule 150).

Licensure as a ~~licensed~~ professional counselor shall be restricted to persons who have successfully completed each of the following requirements: (7-1-97)(7-1-01)T

01. Graduate Program Requirement. A planned graduate program of sixty (60) semester hours which is primarily counseling in nature, six (6) semester hours of which are earned in an advanced counseling practicum, and including a graduate degree in a counseling field from an accredited university or college offering a graduate program in counseling. (7-1-93)

a. A planned graduate program in a counseling field shall be defined as completion of one (1) of the following: (7-1-93)

i. A counseling program accredited or approved by the National Council for accreditation of Teacher Education or a counseling program listed in the Interstate List of Approved Programs; or (7-1-93)

ii. A counseling program approved by the Council for Accreditation of Counseling and Related Educational Programs; or (7-1-93)

- iii. A counseling program approved by the Council on Rehabilitation Education; or (7-1-93)
- iv. A counseling program approved by the Board which shows evidence of education in the following areas: Counseling Theory, Counseling Techniques and Supervised Counseling Experience (this practicum must be supervised at the ratio of at least one (1) hour of one-to-one supervision for every ten (10) hours of experience in the setting) and at least six (6) of the following: (7-1-93)
 - (1) Human growth and development: Includes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels. Emphasis is placed on psychological, sociological, and physiological approaches. Also included are areas such as human behavior (normal and abnormal), personality theory, and learning theory. (7-1-93)
 - (2) Social and cultural foundations: Includes studies of change, ethnic groups, subcultures, changing roles of women, sexism, urban and rural societies, population patterns, cultural mores, use of leisure time, and differing life patterns. (7-1-93)
 - (3) The helping relationship: Includes philosophic bases of the helping relationship: Consultation theory and/or an emphasis on the development of counselor and client (or consultee) self-awareness and self-understanding. (7-1-93)
 - (4) Groups: Includes theory and types of groups, as well as descriptions of group practices, methods dynamics, and facilitative skills. It includes either a supervised practice and/or a group experience. (7-1-93)
 - (5) Life-style and career development: Includes areas such as vocational-choice theory, relationship between career choice and life-style, sources of occupational and educational information, approaches to career decision-making processes, and career-development exploration techniques. (7-1-93)
 - (6) Appraisal of the individual: Includes the development of a framework for understanding the individual, including methods of data gathering and interpretation, individual and group testing, case-study approaches and the study of individual differences. Ethnic, cultural, and sex factors are also considered. (7-1-93)
 - (7) Research and evaluation: Includes areas such as statistics, research design, and development of research and demonstration proposals. It also includes understanding legislation relating to the development of research, program development, and demonstration proposals, as well as the development and evaluation of program objectives. (7-1-93)
 - (8) Professional orientation: Includes goals and objectives of professional counseling organizations, codes of ethics, legal consideration, standards of preparation, certification, and licensing and role of identity of counselors. (7-1-93)
- b. A total of at least sixty (60) graduate semester hours or ninety (90) graduate quarter hours shall be required. (7-1-93)
- c. Advanced counseling practicum shall be practica taken at the graduate school level. (7-1-93)
- d. A graduate degree shall be one of the following beyond the baccalaureate level: The master's degree, the educational specialist certificate or degree, or the doctor's degree. (7-1-93)
- e. An accredited university or college shall be a college or university accredited by one (1) of the following: the Middle States Association of Colleges and Secondary Schools, the New England State Association of Colleges and Secondary Schools, the North Central Association of Colleges and Secondary Schools, the Northwest Association of Colleges and Secondary Schools, the Southern Association of Colleges and Secondary Schools, or the Western College Association. (7-1-93)

02. Supervised Experience Requirement. One thousand (1,000) hours of supervised experience in counseling acceptable to the Board. (7-1-93)

a. One thousand (1,000) hours is defined as one thousand (1,000) clock hours of experience working in a counseling setting, four hundred (400) hours of which shall be direct client contact. Supervised experience in practica and/or internships taken at the graduate level may be utilized. The supervised experience shall include a minimum of one (1) hour of face-to-face or one-to-one (1/1) or one-to-two (1/2) consultation with the supervisor for every twenty (20) hours of job/internship experience. (As stated under Subsection 150.01.a.iv. counseling practicum experience as opposed to job or internship experience shall be supervised at a ratio of one (1) hour of supervision for every ten (10) hours in the settings. For example: ~~(3-30-01)~~(7-1-01)T

i. A person in a twenty (20) hour per week job/internship who is receiving one (1) hour of individual supervision each week would accumulate one thousand (1,000) supervised hours in fifty (50) weeks to equal the twenty to one (20/1) ratio. (7-1-93)

ii. A person in a forty (40) hour per week setting with one (1) hour of supervision per week would still require fifty (50) weeks to equal the twenty to one (20/1) ratio. (7-1-93)

iii. A person in a forty (40) hour per week setting with two (2) hours of supervision per week would accumulate the one thousand (1,000) hours at the twenty to one (20/1) supervision ratio in twenty-five (25) weeks. (7-1-93)

b. Effective July 1 1988, the supervision must be provided by a *Licensed* Professional Counselor or a Licensed Professional Counselor-Private Practice licensed by the state of Idaho. If the applicant's supervision was provided in another state, it must have been provided by a counseling professional licensed by that state, provided the requirements for licensure in that state are substantially equivalent to the requirements of Title 54, Chapter 34, Idaho Code. If supervision was obtained prior to July 1, 1988, or in a state that does not regulate counseling, that supervision must have been provided by a qualified counselor educator as a part of a planned graduate program or by a person who holds a graduate degree beyond the baccalaureate level who is certified and/or licensed as a counselor, social worker, psychologist, or psychiatrist. Supervision by an administrative superior who is not in a counseling related profession is not acceptable to the Board. Supervision by a professional counseling peer, however, may be acceptable to the Board if the peer/supervisory relationship includes the same controls and procedures expected in an internship setting. (See Subsection 150.02.a.) For example, the relationship should include the staffing of cases, the critiquing of counseling tapes and this supervision must be conducted in a formal, professional, consistent manner on a regularly scheduled basis. ~~(3-30-01)~~(7-1-01)T

c. Experience in counseling is defined as assisting individuals or groups, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan action reflecting interests, abilities, aptitudes, and needs as related to persona-social concerns, educational progress, and occupations and careers. Counseling experience may include the use of appraisal instruments, referral activities, and research findings. (7-1-93)

03. Written Examination Requirement. (7-1-93)

a. The Board requires ~~a written examination~~ the successful passage of the National Counselor Examination prepared by the National Board for Certified Counselors (NBCC). ~~(7-1-93)~~(7-1-01)T

b. Completion of the examination will not be required until the applicant meets the requirements presented in Subsections 150.01 and 151.02. However, an applicant may take the examination earlier if he desires. (7-1-93)

c. The examination will be conducted at a time and place specified by the Board. (7-1-93)

d. Successful ~~performance on~~ passage of the examination ~~will be established~~ is defined by the Board as achievement of the passing score set by the NBCC. Reexamination shall consist of the entire examination. ~~(7-1-93)~~(7-1-01)T

e. ~~The first time the examination is failed the applicant may take it again the next time it is given upon application and payment of fees. If the examination has been failed twice, the individual must wait at least one (1)~~

~~year before taking it a third time. The individual must wait at least one year and petition the Board for approval to take the examination the fourth time. The petition shall include evidence satisfactory to the Board that the applicant has taken additional study in the field of Counseling before approval will be granted.~~ (7-1-93)

~~151. -- 199. (RESERVED).~~

~~200. MATERIALS TO BE FILED BY LICENSED PROFESSIONAL COUNSELOR LICENSED PROFESSIONAL COUNSELOR APPLICANTS (Rule 200).~~

~~Each applicant must:~~ (7-1-97)

~~01. Complete An Application. Complete an application upon a form prescribed by the Counselor Licensing Board.~~ (7-1-93)

~~02. Verify Counseling Program. Verify counseling program identified in application with official graduate transcripts sent by college(s) to Board.~~ (7-1-93)

~~03. Submit Verification Of Supervised Experience. Submit verification of supervised experience upon the form prescribed by the Board.~~ (7-1-93)

~~04. Submit Application Fee. Submit a non-refundable application fee of seventy-five dollars (\$75).~~ (7-1-93)

~~20151. -- 224. (RESERVED).~~

~~225. LICENSED CLINICAL PROFESSIONAL COUNSELOR-PRIVATE PRACTICE LICENSURE (RULE 225).~~

~~The following requirements must be met for licensed clinical professional counselor-private practice licensure.~~ (7-1-97)(7-1-01)T

~~01. Private Practice Specialty Licensure. Applicants applying for private practice specialty licensure prior to January 1, 1998, must meet the criterion of having provided two thousand (2,000) hours of direct client contact since being licensed as a licensed professional counselor. Additionally, applicants must:~~ (7-1-97)

~~a. Hold a current Idaho Licensed Professional Counselor License;~~ (7-1-97)

~~b. Direct client contact is defined as face-to-face counseling in an individual or group setting. Document direct client contact by providing verification and/or practice records indicating hours of counseling; and~~ (3-30-01)

~~e. Document proficiency in Diagnostic Evaluation by providing verification of successful completion of graduate course or other training/experience equivalent to a college course acceptable to the board.~~ (7-1-97)

~~021. Other Requirements. After January 1, 1998 †The following requirements must be met:~~ (7-1-97)(7-1-01)T

~~a. Hold a current Idaho licensed professional counselor license; and~~ (7-1-97)

~~b. Document two thousand (2,000) hours of supervised experience direct client contact experience under supervision accumulated over in no less than a two (2) year period after licensure.~~ (7-1-97)(7-1-01)T

~~i. All Licensed applicants for Clinical Professional Counselor-Private Practice license must provide verification of meeting at least one thousand (1,000) hours of the supervised experience requirement; under the supervision of a licensed Clinical Professional Counselor. †The remainder of the supervision may be provided by licensed Psychiatrists, Counseling/Clinical Psychologists, and/or Certified Social Workers-Private and Independent Practice or Marriage and Family Therapists.~~ (7-1-97)(7-1-01)T

~~ii. The ratio for supervision will consist of one (1) hour of face-to-face, one-on-one (1/1) supervision~~

to every thirty (30) hours of direct client contact. (7-1-97)

c. Document proficiency in Diagnostic Evaluation by providing verification of successful completion of graduate course or other training/experience equivalent to a college course acceptable to the board. (7-1-97)

032. Supervisors. A supervisor may supervise no more than three (3) licensed professional counselors at any one time. (7-1-97)

043. Continuing Education. Twenty (20) contact hours of continuing education germane to the practice of counseling as determined by the Board, per year is required each year to renew a Licensed Professional Counselor - Private Practice license. (7-1-97)(7-1-01)T

a. ~~Documentation must be copies of verification from providers, transcripts, or certificates acceptable to the board. It shall be necessary for the applicant to provide documentation of attendance by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution substantiating any and all hours attended by the applicant. This documentation must be maintained by the applicant and provided to the Board upon request by the Board or its agent.~~ (7-1-97)(7-1-01)T

b. Continuing education requirement shall ~~begin upon~~ waived for the second first renewal of ~~the licensed a~~ professional counselor-private practice license. ~~Prior to renewal, documentation of the continuing education credits must be provided along with the renewal application.~~ (7-1-97)(7-1-01)T

~~**226. MATERIALS TO BE FILED BY LICENSED PROFESSIONAL COUNSELOR PRIVATE PRACTICE APPLICANTS (Rule 226).**~~

~~Each applicant must:~~ (7-1-97)

~~**01. Complete An Application.** Complete an application upon a form prescribed by the Counselor Licensing Board.~~ (7-1-97)

~~**02. Submit Verification Of Supervised Experience.** Submit verification of supervised experience upon the form prescribed by the Board.~~ (7-1-97)

~~**03. Submit Application Fee.** Submit a non-refundable application fee of twenty-five dollars (\$25).~~ (7-1-97)

~~2276. -- 234. (RESERVED).~~

235. LICENSED PASTORAL COUNSELORS (Rule 235).

The following requirements must be met for pastoral counselor licensure: (7-1-98)

01. Graduate Degree. Hold a Master of Divinity (M.Div.) degree or doctoral degree meeting the requirements set forth in Section 54-3405A(1) Idaho Code, from an accredited university or religious institution. (7-1-98)

a. An accredited university or religious institution shall be one accredited by: the Middle States Association of Colleges and Secondary Schools; the New England State Association of Colleges and Secondary Schools; the North Central Association of Colleges and Secondary Schools; the Northwest Association of Colleges and Secondary Schools; the Southern Association of Colleges and Secondary Schools; or the Western Colleges Association. (7-1-98)

b. The Pastoral Counselor Program May also be accredited by the Association of Theological Schools (ATS). (7-1-98)

02. Practicum. Completion of a practicum of supervised counseling experience of four hundred (400) contact hours. (7-1-98)

a. The four hundred (400) contact hours shall be supervised at a ratio of one (1) hour of supervision

for each ten (10) contact hours. (7-1-98)

b. The practicum must be supervised by a qualified counselor educator as part of a planned graduate program. (7-1-98)

03. Post-Graduate Supervised Counseling Experience. The completion of two thousand (2,000) contact hours of post-graduate supervised counseling experience with an approved supervisor. (7-1-98)

a. "Two thousand (2000) hours" hours is defined as two thousand (2,000) clock hours of experience working in a counseling setting. (7-1-98)

b. The ratio of supervision to contact hours shall be one (1) hour of supervision for each twenty (20) contact hours. (7-1-98)

c. An approved supervisor shall include an American Association of Pastoral Counselors approved supervisor, a licensed pastoral counselor, a licensed psychiatrist, a licensed psychologist, a licensed marriage and family therapist, or licensed professional counselor. (7-1-98)(7-1-01)T

04. Examination. (7-1-98)

a. The Board requires the successful completion of the national counselor examination passage of the National Counselor Examination prepared by the National Board for Certified Counselors (NBCC). (7-1-98)(7-1-01)T

b. The examination will be conducted at a time and place specified by the Board. (7-1-98)

c. Successful performance on passage of the examination will be established is defined by the Board as achievement of the passing score set by the NBCC. Reexamination shall consist of the entire examination. (7-1-98)(7-1-01)T

d. The first time the examination is failed, the applicant may take it again the next time it is given upon application and payment of fees. If the examination has been failed twice, the individual must wait at least one (1) year before taking it a third time. An individual must wait at least one (1) year and petition the Board for approval to take the examination a fourth time. The petition shall include evidence satisfactory to the Board that the applicant has taken additional study in the field of pastoral counseling before approval will be granted. (7-1-98)

236. MATERIAL TO BE FILED BY LICENSED PASTORAL COUNSELOR APPLICANTS (Rule 236) (RESERVED).

Each applicant must: (7-1-98)

~~**01- Complete An Application.** Complete an application upon a form prescribed by the Counselor Licensing Board.~~ (7-1-98)

~~**02- Verify Counseling Program.** Verify counseling program identified in the application with official graduate transcripts sent by colleges or institutions to the Board.~~ (7-1-98)

~~**03- Submit Verification Of Supervised Practicum.** Submit verification of supervised practicum counseling experience upon the form prescribed by the Board.~~ (7-1-98)

~~**04- Submit Verification Of Supervised Experience.** Submit verification of supervised experience upon a form prescribed by the Board.~~ (7-1-98)

~~**05- Submit Application Fee.** Submit a non-refundable application fee of seventy-five dollars (\$75).~~ (7-1-98)

237. CONTINUING EDUCATION FOR LICENSED PASTORAL COUNSELOR (Rule 237).

A licensed pastoral counselor must complete twenty (20) contact hours of continuing education to renew their license.

(7-1-98)

01. Contact Hours. The contact hours of continuing education must be undertaken within the following areas of study: (7-1-98)

- a. Theories of personality and personality development; (7-1-98)
- b. Theories of counseling and psychotherapy; (7-1-98)
- c. Marriage and family dynamics and counseling; (7-1-98)
- d. Group dynamics and counseling; (7-1-98)
- e. Personality, culture and ethics; (7-1-98)
- f. Psychology of religious experience; (7-1-98)
- g. Pastoral assessment and treatment; (7-1-98)
- h. Psychopathology; (7-1-98)
- i. Theories of pastoral care; (7-1-98)
- j. Research methods; (7-1-98)
- k. Orientation to the helping professions. (7-1-98)

02. Documentation Of Attendance. ~~Documentation must be copies of verification from providers, transcripts, or certificates acceptable to the Board.~~ It shall be necessary for the applicant to provide documentation verifying attendance by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution substantiating any and all hours attended by the applicant. This documentation must be maintained by the applicant and provided to the Board upon request by the Board or its agent. ~~(7-1-98)~~(7-1-01)T

03. When Requirements Begin. Continuing education requirements shall ~~begin upon~~ waived for the second first renewal of ~~the licensed a~~ pastoral counselor license. ~~Prior to renewal, documentation of continuing education credits must be provided along with a renewal application.~~ (7-1-98)(7-1-01)T

~~238. 239. (RESERVED).~~

238. MARRIAGE AND FAMILY THERAPISTS (Rule 238).

The following requirements must be met for marriage and family therapist licensure: (7-1-01)T

01. Graduate Degree. Possess a graduate degree as outlined in Section 54-3405C(1), Idaho Code. (7-1-01)T

02. Practicum. Must meet the requirements as outlined in Section 54-3405C(2), Idaho Code. (7-1-01)T

03. Supervised Marriage And Family Therapy Experience. Must meet the three thousand (3,000) hour requirement as outlined in Section 54-3405C(3), Idaho Code. (7-1-01)T

a. A minimum of two thousand (2,000) postgraduate direct client contact hours, in no less than a two (2) year time period shall include; (7-1-01)T

i. A minimum one thousand (1,000) direct client contact hours with couples and families; and (7-1-01)T

- ii. Two hundred (200) hours of supervision. (7-1-01)T
- b. No more than one hundred (100) hours of group supervision shall be allowed. Group supervision shall be defined as no more than six (6) supervisees per each supervisor; and (7-1-01)T
- c. Individual supervision is defined as up to two (2) supervisees per supervisor; and (7-1-01)T
- d. Supervision must employ the use of audio technologies or video technologies or co-therapy, or live supervision; and (7-1-01)T
- e. In accordance with the adopted Codes of Ethics prohibiting dual relationships, a supervisor shall not act as an applicant's personal Professional Counselor/Therapist. (7-1-01)T

04. Examination. (7-1-01)T

- a. The Board requires successful passage of the National Marital and Family Therapy Examination as approved by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB). (7-1-01)T
- b. The examination will be conducted at a time and place specified by the Board. (7-1-01)T
- c. Successful passage of the examination is defined by the Board as achievement of the passing score set by the AMFTRB. Reexamination shall consist of the entire examination. (7-1-01)T

239. GRANDFATHER PROVISION FOR MARRIAGE AND FAMILY THERAPY LICENSURE (Rule 239).

Until June 30, 2003 any person who meets the qualifications outlined in Section 54-3405C(6), Idaho Code, shall provide the following and upon approval by the Board be issued a marriage and family therapy license: (7-1-01)T

- 01. Application.** A complete application including the applicable fees; and (7-1-01)T
- 02. Documentation.** Certified documentation of: (7-1-01)T
 - a. Current clinical membership in the AAMFT or the National Academy for Certified Family Therapists (NACFT) or membership or certification in another professional organization with requirements substantially similar to AAMFT or NACFT; or (7-1-01)T
 - b. A graduate degree in a mental health related field from an accredited college of university; and (7-1-01)T
 - c. A minimum of three thousand (3000) hours of post graduate direct client contact experience in marriage and family therapy. (7-1-01)T

240. CONTINUING EDUCATION FOR LICENSED MARRIAGE AND FAMILY THERAPISTS (Rule 240).

A licensed marriage and family therapist must annually complete twenty (20) contact hours of continuing education to renew their license. (7-1-01)T

- 01. Contact Hours.** The contact hours of continuing education shall be obtained in areas of study germane to the practice of marriage and family therapy as approved by the Board. (7-1-01)T
- 02. Documentation Of Attendance.** It shall be necessary for the applicant to provide documentation verifying attendance by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution substantiating any and all hours attended by the applicant. This documentation must be maintained by the applicant and provided to the Board upon request by the Board or its agent. (7-1-01)T
- 03. When Requirements Begin.** Continuing education requirements shall be waived for the first renewal of a marriage and family therapist license. (7-1-01)T

04. Excess Hours. Continuing education hours accumulated during the twelve (12) months immediately preceding the license expiration date may be applied toward meeting the continuing education requirement for the next license renewal. No more than five (5) hours in excess of the required twenty (20) hours shall be carried forward. Excess hours may be used only during the next renewal period and may not be carried forward more than one (1) time. (7-1-01)T

2401. CONDITIONAL COUNSELING LICENSE (Rule 2401).

The following requirements must be met for the issuance of a conditional counseling license: (3-18-99)

01. Possess A Bachelor's Degree. Possess a bachelor's degree in a counseling field from an accredited university or college offering an undergraduate program in counseling. (3-18-99)

a. A counseling field shall be in social work, psychology, mental health areas or such other degree as determined by the board in one or more of those areas stated in Subsection 150.01.a.iv. (3-18-99)

b. An accredited university or college shall be a college or university accredited by one (1) of the following: the Middle States Association of Colleges and Secondary Schools, the New England State Association of Colleges and Secondary Schools, the North Central Association of Colleges and Secondary Schools, the Northwest Association of Colleges and Secondary Schools, the Southern Association of Colleges and Secondary Schools, or the Western College Association. (3-18-99)

02. Follow The Ethical Standards Of A Licensed Professional Counselor. The Board adopts the American Counseling Association (ACA) Code of Ethics as ~~the same may be modified or amended~~ referenced in Section 004. All applicants will receive a copy of the ACA Code of Ethics. All licensees will be required to adhere to the ACA Code of Ethics. (3-18-99)(7-1-01)T

242. -- 249. (RESERVED).

250. FEES (Rule 250).

01. Application Fee. Application fee: (7-1-97)

a. ~~Licensed~~ Professional Counselor - Seventy-five dollars (\$75). (7-1-97)(7-1-01)T

b. ~~Licensed Clinical~~ Professional Counselor-~~Private Practice~~ - Seventy-five dollars (\$75). (7-1-97)(7-1-01)T

c. ~~Licensed~~ Pastoral Counselor - Seventy-five dollars (\$75). (7-1-98)(7-1-01)T

d. Conditional Counseling License - Seventy-five dollars (\$75). (3-18-99)

e. Marriage and Family Therapist - Seventy-five dollars (\$75). (7-1-01)T

02. Licensed Professional Counselor, Marriage And Family Therapist, And Licensed Pastoral Counselor Examination Or Reexamination Fee. ~~Licensed~~ The Professional Counselor, Marriage and Family Therapist and ~~Licensed~~ Pastoral Counselor license examination or reexamination fee ~~Fifty dollars (\$50)~~ shall be the fee as set by the provider of the approved examination. (7-1-98)(7-1-01)T

03. Original License Fee. Original License fee: (7-1-97)

a. ~~Licensed~~ Professional Counselor - Seventy-five dollars (\$75). (7-1-97)(7-1-01)T

b. ~~Licensed Clinical~~ Professional Counselor-~~Private Practice~~ - ~~Twenty~~ Seventy-five dollars (~~\$20~~75). (7-1-97)(7-1-01)T

c. ~~Licensed~~ Pastoral Counselor - Seventy-five dollars (\$75). (7-1-98)(7-1-01)T

d. Conditional Counseling License - Seventy-five dollars (\$75). (3-18-99)

e. Marriage and Family Therapist - Seventy-five dollars (\$75). (7-1-01)T

04. Annual Renewal Fee. Annual license renewal fee for *Licensed* Professional Counselor, *Licensed Clinical* Professional Counselor-*Private Practice*, *Marriage and Family Therapist*, *Licensed* Pastoral Counselor, and Conditional Counseling *License* - Sixty dollars (\$60). (~~3-18-99~~)(7-1-01)T

05. Fees Are Non-Refundable. All fees are non-refundable. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

300. RECIPROCITY ENDORSEMENT (Rule 300).

An applicant who is in possession of a valid counseling license from another state must apply following the procedures listed under Section 200 except that Subsections 200.02 and 200.03 may be verified from documents received from the other state. An applicant who is licensed in another state, however, must meet the qualifications for license. (See Section 150). The Board may grant a license to any person who submits a completed application on a form approved by the board together with the required fees and who: (~~7-1-93~~)(7-1-01)T

01. Holds A Current License. The applicant must be the holder of a current active license, in the profession for which a license is being sought, issued by the authorized regulatory entity in another state or country, the certification of which must be received directly by the board from the issuing agency; and (7-1-01)T

02. Has Not Been Disciplined. The applicant must certify they have not been disciplined within the last five (5) years, had a license revoked, suspended, restricted, or otherwise sanctioned by any regulatory entity and has never voluntarily surrendered a license; and (7-1-01)T

03. Is Of Good Moral Character. The applicant must certify they are of good moral character and have not been convicted, found guilty, or received a withheld judgment or suspended sentence for any felony; and (7-1-01)T

04. Has Documented Experience. The applicant must provide a documented record of at least five (5) years actual practice under licensure immediately prior to application in the profession for which a license is being sought, or can demonstrate hardship or extenuating circumstances that prohibited practice during a portion of the five (5) year period as determined by the board; and (7-1-01)T

05. Will Abide By Laws, Rules And Code Of Ethics. The applicant must certify under oath to abide by the laws and rules governing the practice of counseling and marriage and family therapy in Idaho and the applicable code of ethics as adopted; and (7-1-01)T

06. Provides Information. The applicant must document at least three (3) of the following during the five (5) years immediately prior to application: (7-1-01)T

i. A minimum of one thousand (1,000) hours client contact; (7-1-01)T

ii. Service as an officer of a state or national counseling or marriage and family therapy organization, or a member of a state or national counseling or marriage and family therapy board or committee, or other leadership positions as may be approved by the board; (7-1-01)T

iii. Teaching at least three (3) graduate courses for credit at an accredited college or university; (7-1-01)T

iv. A certificate to supervise issued by the NBCC or AAMFT; (7-1-01)T

- v. Providing at least twelve (12) months of supervision to each of no less than three (3) persons seeking licensure; (7-1-01)T
- vi. Maintained professional liability insurance for the previous five (5) years with proof of no claims filed; (7-1-01)T
- vii. Obtained a post graduate degree in a field of study related to counseling or marriage and family therapy that is in addition to the minimum licensure requirements; (7-1-01)T
- viii. Current certification by a national credentialing entity as approved by the board in the discipline for which licensure is sought; (7-1-01)T
- ix. Twenty (20) hours of continuing education per year for the five (5) years immediately prior to application. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

350. CODE OF ETHICS (Rule 350).

The Board adopts the American Counseling Association (ACA) Code of Ethics and the American Association for Marriage and Family Therapy (AAMFT) Code of Ethics as ~~the same may be modified or amended~~ referenced in Section 004. All applicants will receive a copy of both the ACA Code of Ethics and the AAMFT Code of Ethics. All licensees ~~will~~ shall be required to adhere to the ACA appropriate Code of Ethics pertaining to their licensure. (3-18-99)(7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

400. RENEWAL OF LICENSE (Rule 400).

Each person licensed ~~counselor~~ under this act must renew ~~his~~ said license prior to July 1 of each year or the license will be cancelled. Cancelled licenses may be reinstated in accordance with the requirements of Section 67-2614, Idaho Code. (7-1-97)(7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

450. GENERAL SCOPE OF THE LICENSEE'S APPROPRIATE PRACTICE (Rule 450).

01. Board Recommendation Of Generic Scope Of Practice. While ~~the professional~~ a license to practice as a counselor ~~license~~ could be considered generic in nature, it should not be viewed as an authorization to provide counseling or therapy services to every client population in every possible professional setting. Counselors ~~are to~~ and marriage and family therapists shall practice only within the boundaries of competence (see the applicable Code of Ethics ~~Section C2~~). (3-30-01)(7-1-01)T

02. Submission Of Additional Information For Scope Of Practice. A licensed counselor or marriage and family therapist who considers the Board's recommended guidelines to be too restrictive may wish to submit additional information to acquaint the Board with new, possibly more expansive qualifications. (7-1-93)(7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

500. DISCIPLINARY PROCEDURES (Rule 500).

01. Disciplinary Procedures. The disciplinary procedures of the Bureau ~~of Occupational Licenses~~ are the disciplinary procedures of the ~~Counselor Licensing~~ Board. ~~(3-18-99)(7-1-01)T~~

02. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) for each violation upon ~~a licensed counselor for each~~ anyone licensed under Title 54, Chapter 34, Idaho Code who is found by the Board to be in violation of Section 54-3407, Idaho Code. ~~(3-18-99)(7-1-01)T~~

023. Costs And Fees. The Board may order ~~a licensed counselor~~ anyone licensed under Title 54, Chapter 34, Idaho Code, who is found by the Board to be in violation of the provisions of Title 54, Chapter 34, Idaho Code, to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee ~~for a violation of Section 54-3407, Idaho Code.~~ ~~(3-18-99)(7-1-01)T~~

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD
DOCKET NO. 24-1801-0101
NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-4106, Idaho Code.

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

Insert rules for Administrative Appeals, Incorporation by Reference, providing for reference in the Rules to USPAP; add Bureau contact information; add Public Records section; reference USPAP instead of Uniform Standards of Professional Appraisal Practice throughout; delete the unnecessary references to secretary and executive secretary; clarify application; add fee and requirements for trainee registration and supervision; clarify that legal advice is furnished by Bureau contract.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To address statute changes effective July 1, 2001.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Addition to Idaho statute which provides for the registration of trainees and requiring in the rules a \$50 trainee registration fee, Section 54-4106, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Budd A. Hetrick, Jr., (208) 334-3233.

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

DATED this 22nd day of August, 2001.

Budd A. Hetrick, Jr.
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1801-0101

~~002. (RESERVED).~~

0032. WRITTEN INTERPRETATIONS (Rule 32).

The board may have written statements ~~which~~ that pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. (7-1-93)(7-1-01)T

003. ADMINISTRATIVE APPEALS (Rule 3).

Administrative appeals shall be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (7-1-01)T

004. INCORPORATION BY REFERENCE (Rule 4).

The document titled "Uniform Standards of Professional Appraisal Practice (USPAP)", 2001 Edition published by the Appraisal Foundation and effective January 1, 2001, as referenced in Subsection 700, is herein incorporated by reference and is available for review at the Board's office and may be purchased from the Appraisal Foundation. (7-1-01)T

005. ADDRESS OF THE IDAHO REAL ESTATE APPRAISER BOARD (Rule 5).

The office of the Real Estate Appraiser Board is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ibol@ibol.state.id.us. The Board's official web site is at www2.state.id.us/ibol/rea. (7-1-01)T

006. PUBLIC RECORDS (Rule 6).

The records associated with the Real Estate Appraiser Board are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (7-1-01)T

~~0047. -- 009. (RESERVED).~~

010. DEFINITIONS (Rule 10).

The definitions numbered one through twelve (1-12), appearing at Section 54-4104, Idaho Code are incorporated herein by reference as if set forth in full. (7-1-93)

01. Advisory Committee. A committee of state certified or licensed real estate appraisers appointed by the board to provide technical assistance relating to real estate appraisal standards and real estate appraiser experience, education and examination requirements that are appropriate for each classification of state certified or licensed real estate appraiser. (7-1-93)

02. Appraisal Foundation. The Appraisal Foundation means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois. (7-1-97)

03. Appraiser Qualifications Board. Appraiser Qualifications Board of the Appraisal Foundation establishes the qualifications criteria for licensing, certification and recertification of appraisers. (7-1-97)

04. Appraisal Standards Board. The Appraisal Standards Board of the Appraisal Foundation develops, publishes, interprets and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. (7-1-97)

05. Bureau. The Bureau means the Bureau of Occupational Licenses, *Department of Self-Governing Agencies* as established by prescribed in Sections 54-4106(2)(a) and 67-2601, Idaho Code. (7-1-93)(7-1-01)T

06. Chief. The Bureau Chief of the Bureau of Occupational Licenses as established by Section 67-2602, Idaho Code. (7-1-93)

07. Classroom Hour. Fifty (50) minutes out of each sixty (60) minute hour. (7-1-93)

08. Field Real Estate Appraisal Experience. Personal inspections of real property, assembly and analysis of relevant facts, and, by the use of reason and the exercise of judgement, formation of objective opinions as to the market or other value of such properties or interests therein and preparation of written appraisal reports or other memoranda showing data, reasoning, and conclusion. Professional responsibility for the valuation function is essential. (7-1-93)

09. FIRREA. Title XI, Financial Institutions Reform, Recovery and Enforcement Act of 1989 was designed to ensure that more reliable appraisals are rendered in connection with federally related transactions. (7-1-93)

10. Nationally Recognized Appraisal Organization. An appraisal organization which is a member of The Appraisal Foundation. (7-1-93)

11. Real Estate. In addition to the previous definition in Section 54-4104(7), Idaho Code will also mean an identified parcel or tract of land, including improvements, if any. (7-1-93)

12. Real Property. In addition to the previous definition in Section 54-4104(8), Idaho Code will also mean one or more defined interests, benefits, or rights inherent in the ownership of real estate. (7-1-93)

13. Residential Unit. Real estate with a current highest and best use of a residential nature. (7-1-93)

14. Specialized Appraisal Services. Services which include situations in which an appraiser is employed or retained to provide appraisal services that do not fall within the defined term "appraisal assignments". Specialized appraisal services relate to the employer's or client's individual needs or investment objectives and commonly include specialized marketing and financing studies as well as analysis, opinions, and conclusions rendered in connection with activities such as real estate brokerage, mortgage banking, and real estate counseling, including real estate tax counseling. (7-1-97)

15. Uniform Standards of Professional Appraisal Practice Or USPAP. Those uniform standards adopted by the Appraisal Foundation's Appraisal Standards Board. These standards may be altered, amended, interpreted, supplemented, or repealed by the Appraisal Standards Board (ASB) from time to time. ~~(7-1-97)(7-1-01)T~~

(BREAK IN CONTINUITY OF SECTIONS)

100. ORGANIZATION (Rule 100).

01. Board Name. In accordance with Idaho Statutes, the name of this Board shall be the Idaho Real Estate Appraiser Board, hereafter called the Board. Whenever reference is made to "Law," the same shall refer to the Laws of the state of Idaho. (7-1-93)

02. Organization Of Board. At the first meeting of each year, the Board shall organize and elect from its members a Chairman, and Vice Chairman, ~~and Secretary~~ who shall assume the duties of their respective offices immediately upon such selection. ~~(7-1-93)(7-1-01)T~~

03. Board Members And Duties. (7-1-93)

a. Chairman - The Chairman shall be a voting member of the Board, and when present preside at all meetings, appoint with the consent of the Board all committees, and shall otherwise perform all duties pertaining to the office of Chairman. The Chairman shall be an ex-officio member of all committees. (7-1-93)

b. Vice-Chairman - The Vice Chairman shall, in the absence or incapacity of the Chairman, exercise the duties and possess all the powers of the Chairman. (7-1-93)

e- ~~Secretary — The Secretary of the Board shall keep an accurate record of the proceedings at the~~

~~meetings of the Board, he/she shall cause a copy of the minutes of the previous meeting to be sent to all members of the Board at least fifteen (15) days prior to the next regular meeting of the Board, he/she shall receive correspondence directed to the Board, and he/she shall cause answers to be written in behalf of the Board. (7-1-93)~~

~~d. **Executive Secretary** — The Chief of the Bureau of Occupational Licenses shall be the acting Executive Secretary of the Board and all records of the Board shall be in the charge of the Executive Secretary. The office of the Executive Secretary shall provide such clerical assistance as may be required by the Board. He shall be an advisor to the Board, without membership status. (7-1-97)~~

(BREAK IN CONTINUITY OF SECTIONS)

200. FEES (Rule 200).

Fees are established in accord with Section 54-4113, Idaho Code as follows: (7-1-93)

01. Application. Application fee for ~~qualification~~ Certification/Registration/License - two hundred fifty dollars (\$250). ~~(3-30-01)~~(7-1-01)T

02. Original Certification/License. Original Certification/License - one hundred twenty-five dollars (\$125*). (3-30-01)

03. Certification/License Renewal. Certification/License renewal - two hundred fifty dollars (\$250*). (3-30-01)

04. Reinstatement. Reinstatement fees are as provided in Section 67-2614, Idaho Code - twenty-five dollars (\$25). (7-1-93)

05. Duplicate Certificate/License. Duplicate Certificate/License - twenty-five dollars (\$25). (7-1-93)

06. History Record. History record - twenty-five dollars (\$25). (7-1-93)

07. Application For Reciprocity. Application for reciprocity - two hundred fifty dollars (\$250*). (3-30-01)

08. Original Certification/License Via Reciprocity. Original Certification/License via reciprocity - one hundred twenty-five dollars (\$125*). (3-30-01)

09. Temporary Permit. Temporary permit - one hundred dollars (\$100). (7-1-93)

10. Trainee Registration Fee. Trainee registration fee - fifty dollars (\$50). (7-1-01)T

101. Examination And Reexamination Fees. Examination and Reexamination fees will be calculated based on the actual cost of the examination. Successful applicants will be notified of the fees at the time they are scheduled for examination. (7-1-97)

~~112.~~ **Fees Are Non-Refundable.** Fees are non-refundable. (7-1-93)

123. Fees Followed By “*” Means. Proposed fees for these categories marked with an asterisk include an estimated twenty five dollars (\$25) to be submitted by the state to federal government. Title XI, Section 1109 requires each state to submit a roster listing of state certified/licensed appraisers to the Appraiser Subcommittee “no less than annually”. The state is also required to collect from such individuals who perform appraisals in federally related transactions an annual registry fee of “not more than twenty five dollars (\$25)”, such fees to be transmitted by the state to the federal government on an annual basis. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

250. APPLICATION (Rule 250).

01. Filing Application With Supporting Documents And Fees. Any person desiring to apply for certification/licensure must submit a completed application with required supporting documents and appropriate fees to the Bureau ~~of Occupational Licenses~~ at its official address. After the qualifications have been reviewed/verified and approved by the Board, the applicant will receive the pre-approved examination application and must submit the appropriate fees to the examining entity. ~~(7-1-97)~~(7-1-01)T

02. Application Deadline Date. Completed applications must be received by the ~~Executive Secretary~~ Bureau at least thirty (30) days prior to the next scheduled board meeting in order to be reviewed by the Board. Applications received less than thirty (30) days in advance will be held until a subsequent meeting. ~~(7-1-97)~~(7-1-01)T

03. Eligibility For Examination. The qualified applicant will be assigned to the first available examination subsequent to determination of eligibility. (7-1-97)

04. Trainee Registration Application. Any person desiring registration as a trainee must submit a completed application with required supporting documents and appropriate fees to the Bureau at its official address. Completed applications must be received by the Bureau at least thirty (30) days prior to the next scheduled Board meeting in order to be reviewed by the Board. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

299. REQUIREMENTS FOR LICENSURE/CERTIFICATION (Rule 299).

All applicants for licensure/certification in any real estate appraiser classification must meet the following requirements in addition to those requirements set forth in Sections 300, 350, and 400 below. All applicants for trainee registration must meet the following requirements regarding education set forth in Section 299 in addition to those requirements set forth in Section 430. ~~(7-1-97)~~(7-1-01)T

01. Examination. Successful completion of an examination approved by the Board pursuant to the guidelines of the Appraisal Foundation. (7-1-97)

02. Education. (7-1-97)

a. Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours, and the individual successfully completes an examination pertinent to the educational offering. (7-1-97)

b. Credit for the classroom hour requirement may be obtained from the following: (7-1-97)

i. Colleges or Universities. (7-1-97)

ii. Community or Junior Colleges. (7-1-97)

iii. Any member of the Appraisal Foundation. (7-1-97)

iv. State or Federal Agencies or Commissions. (7-1-97)

v. Other providers approved by the Board. (7-1-97)

c. Only those courses completed preceding the date of application will be accepted for meeting educational requirements. (3-18-99)

d. Course credits which are obtained from the course provider by challenge examination without attending the course will not be accepted. (3-18-99)

e. Various appraisal courses may be credited toward the classroom hour education requirement. Applicants must demonstrate that their education involved coverage of all topics listed below. Licensed Residential and Certified Residential must include emphasis in one (1) to four (4) unit residential properties; Certified General must include emphasis in nonresidential properties. (7-1-97)

- i. Influences on Real Estate Value. (7-1-97)
- ii. Legal Considerations in Appraisal. (7-1-97)
- iii. Types of Value. (7-1-97)
- iv. Economic Principles. (7-1-97)
- v. Real Estate Markets and Analysis. (7-1-97)
- vi. Valuation Process. (7-1-97)
- vii. Property Description. (7-1-97)
- vii. Highest and Best Use Analysis. (7-1-97)
- ix. Appraisal Statistical Concepts. (7-1-97)
- x. Sales Comparison Approach. (7-1-97)
- xii. Site Value. (7-1-97)
- xiii. Cost Approach. (7-1-97)
- xiv. Income Approach. (7-1-97)
- xv. Valuation of Partial Interests. (7-1-97)
- xvi. Appraisal Standards and Ethics. (7-1-97)

f. Advanced courses will be those courses for which an introductory or basic course is required. Typically classes titled "Introductory," "Basic," or "Principles" will not be accepted for advanced requirements. (7-1-97)

03. Experience. (7-1-97)

a. The work product claimed for experience credit must be in conformity with the *Uniform Standards of Professional Appraisal Practice USPAP* or shall be in compliance with generally accepted standards which were in effect at the time those appraisals were prepared. ~~(7-1-97)~~(7-1-01)T

b. On or after July 1, 2003, appraisal experience must be obtained as a registered trainee or as a licensed or certified appraiser. A year of experience is equal to a minimum of one thousand (1,000) hours worked during a consecutive twelve (12) month period. Regardless of the number of experience hours submitted or obtained during any twelve (12) month period, no more than one thousand (1,000) of those hours may be credited to meet this requirement. Hours obtained in excess of one thousand (1,000) hours during any consecutive twelve (12) month period may not be credited or carried over into the next twelve (12) month period. ~~(7-1-97)~~(7-1-01)T

c. Only experience gained during the five (5) years preceding application will be considered for evaluation. (7-1-97)

d. Acceptable non field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, tax appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, and feasibility analysis/study. (3-18-99)

e. An appraiser applying for certification/licensure must verify his completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board. (7-1-97)

i. To demonstrate experience the Board requires submission of a log which details hours claimed for experience credit. (7-1-97)

ii. The Board reserves the right to contact an employer for confirmation of length and extent of experience claimed. This may require an employer to submit appraisal reports and/or an affidavit. (7-1-97)

iii. The Board may request submission of written reports or file memoranda which substantiate an applicant's claim for experience credit. (7-1-97)

f. Ad valorem tax appraisers who demonstrate that they use techniques to value properties similar to those used by appraisers and effectively use the process as defined in Subsection 010.10, Field Real Estate Appraisal Experience will receive experience credit. (7-1-97)

300. LICENSED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (Rule 300).

The state licensed residential real estate appraiser classification applies to the appraisal of residential real property consisting of one (1) to four (4) noncomplex residential units having a transaction value less than one million dollars (\$1,000,000) and complex one (1) to four (4) residential units having a transaction value less than two hundred fifty thousand dollars (\$250,000). Applicants must meet the following examination, education, and experience requirements in addition to complying with Section 299. Subsequent to being licensed, an individual must meet the continuing education requirement. (7-1-97)

01. Education. As a prerequisite to taking the examination for licensure as an Idaho Licensed Real Estate Appraiser, an applicant shall present evidence satisfactory to the board that he has successfully completed not less than ninety (90) classroom hours of courses in subjects related specifically to real estate appraisal approved by the board. Each applicant must have successfully completed not less than seventy (70) classroom hours of study related to those topics outlined under Subsection 299.02.e., the basic principles of real estate appraising. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the *Uniform Standards of Professional Appraisal Practice USPAP*, and Code of Ethics will be credited to the classroom hour requirement. ~~(7-1-97)~~(7-1-01)T

02. Experience. Prerequisite to sit for the examination: (7-1-97)

a. Equivalent of two (2) years appraisal experience (see Subsection 299.03.b.). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (7-1-97)

b. Of the required two thousand (2,000) hours, the applicant must accumulate a minimum of one thousand five hundred (1,500) hours from field real estate appraisal experience. The balance of five hundred (500) hours may include non field experience, refer to Subsection 299.03.c. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

350. CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (Rule 350).

The State Certified Residential Real Estate Appraiser classification applies to the appraisal of residential properties of four (4) or less units without regard to transaction value or complexity. Applicants must meet the following examination, education, and experience requirements in addition to complying with Section 299. Subsequent to being certified an individual must meet the continuing education requirement. (7-1-97)

01. Education. As a prerequisite to taking the examination for certification as an Idaho Certified Residential Real Estate Appraiser, an applicant shall present evidence satisfactory to the board that he has successfully completed not less than one hundred twenty (120) classroom hours of courses in subjects related to real estate appraisal approved by the board. Each applicant must have successfully completed not less than ninety (90) classroom hours of study related to those topics outlined under Subsection 299.02.e., the basic principles of real estate appraising and thirty (30) classroom hours of advanced residential or non-residential specialized courses relating to the topics specified at Subsection 299.02.e. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the ~~Uniform Standards of Professional Appraisal Practice~~ USPAP, and Code of Ethics; will be credited to the classroom hour requirement. ~~(7-1-97)~~(7-1-01)T

02. Experience. (3-18-99)

a. Prerequisite to sit for the examination: Equivalent of three (3) years appraisal experience (see Subsection 299.03.b.). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (3-18-99)

b. The applicant must accumulate a minimum of two thousand five hundred (2,500) hours of real estate appraisal experience in not less than thirty (30) months. Two thousand (2,000) hours of the experience shall be from residential field appraisal experience. The balance of five hundred (500) hours may include non field experience, refer to Subsection 299.03.c. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

400. CERTIFIED GENERAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (RULE 400).

The State Certified General Real Estate Appraiser classification applies to the appraisal of all types of real property. Applicants must meet the following examination, education, and experience requirements in addition to complying with Section 299. Subsequent to being certified, an individual must meet the continuing education requirement. (7-1-97)

01. Education. As a prerequisite to taking the examination for certification as an Idaho State Certified General Real Estate Appraiser, an applicant shall present evidence satisfactory to the board that he/she has successfully completed not less than one hundred eighty (180) classroom hours of courses in subjects related specifically to real estate appraisal approved by the board. Each applicant must have successfully completed not less than one hundred sixty (160) classroom hours of study related to those topics outlined under Subsection 299.02.e. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the ~~Uniform Standards of Professional Appraisal Practice~~ USPAP, and Code of Ethics; and one hundred (100) classroom hours of advanced non residential specialized courses relating to the topics specified at Subsection 299.02.e. ~~(7-1-97)~~(7-1-01)T

02. Experience. (3-18-99)

a. Prerequisite to sit for the examination. Equivalent of three (3) years appraisal experience (See Subsection 299.03.b.). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (3-18-99)

b. The applicant must accumulate a minimum of three thousand (3,000) hours of appraisal experience

in not less than thirty-six (36) months. Two thousand (2,000) hours of the experience must be nonresidential field appraisal experience. The balance of one thousand (1,000) hours may be solely residential experience or can include up to five hundred (500) hours of nonfield experience as outlined in Subsection 299.03.c. (4-5-00)

401. CONTINUING EDUCATION (Rule 401).

All certified/licensed appraisers must comply with the following continuing education requirements: (7-1-97)

01. Purpose Of Continuing Education. The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his skill, knowledge and competency in real estate appraising. (7-1-97)

02. Hours Required. The equivalent of fifteen (15) classroom hours of instruction in courses or seminars for each year during the three (3) years during the period preceding the renewal is required. (For example, a three (3) year certification term would require forty-five (45) hours. These hours may be obtained any time during the three (3) year term. (7-1-97)

a. A classroom hour is defined as fifty (50) minutes out of each sixty (60) minute segment. (7-1-93)

b. Credit toward the classroom hour requirement may be granted only where the length of the educational offering is at least two (2) hours. (7-1-97)

c. Credit for the classroom hour requirement may be obtained by accredited courses which have been approved by the appraisal members of The Appraisal Foundation and by courses approved by Real Estate Appraiser Boards of states with reciprocity with Idaho. All other courses must have approval of the Board, which shall require documentation including the instructors and their qualifications, course content, length of course, and its location. Courses shall be approved for a period of four (4) years. ~~(7-1-93)~~(7-1-01)T

d. Once every five (5) years an Idaho State Certified/Licensed Real Estate Appraiser will be required to attend fifteen (15) hours of a ~~Uniform Standards of Professional Appraisal Practice~~ USPAP course and receive a passing grade on a course examination. ~~(7-1-97)~~(7-1-01)T

03. Credit For Appraisal Educational Processes And Programs. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. (7-1-97)

04. Requirement When A Certificate/License Is Cancelled. For each year (less than five (5)) in which a license is lapsed, cancelled, or otherwise non-renewed, fifteen (15) hours of continuing education must be obtained prior to reinstatement. (3-18-99)

402. -- 4429. (RESERVED).

430. REGISTERED TRAINEE REAL ESTATE APPRAISER. (Rule 430).

01. Scope Of Practice. An Appraiser Trainee shall not be involved in the appraisal of any property that exceeds the lawful scope of practice of the supervising appraiser. The appraiser trainee shall be subject to USPAP. (7-1-01)T

02. Supervision. The appraiser supervising shall be subject to the following: (7-1-01)T

a. The appraiser trainee shall be under the direct supervision of an appraiser who holds a current Idaho license in good standing. (7-1-01)T

b. A supervising appraiser shall not have been disciplined by the Board within the previous four (4) years from acting as a supervisor. (7-1-01)T

- c. A supervising appraiser shall be limited to supervising no more than three (3) appraiser trainees. (7-1-01)T
- d. The supervising appraiser shall be responsible for the training and direct supervision of the appraiser trainee by: (7-1-01)T
- i. Accepting responsibility for all appraisal reports by signing and certifying that the report is in compliance with USPAP. (7-1-01)T
- ii. Reviewing all appraiser trainee appraisal report(s); and (7-1-01)T
- iii. Personally inspecting each appraised property with the appraiser trainee until the supervising appraiser determines the appraiser trainee is competent in accordance with the Competency Provision of USPAP for the property type. (7-1-01)T
- e. Each appraiser trainee is permitted to have more than one (1) supervising appraiser. (7-1-01)T
- f. An appraisal log shall be maintained for each supervising appraiser by the appraiser trainee and shall include the following for each appraisal: (7-1-01)T
- i. Type of property. (7-1-01)T
- ii. Client name and address. (7-1-01)T
- iii. Address of subject property. (7-1-01)T
- iv. Description of work performed. (7-1-01)T
- v. Number of work hours. (7-1-01)T
- vi. Signature and license number of the supervising appraiser. (7-1-01)T
- 03. Qualification.** An appraiser trainee must meet the following requirements: (7-1-01)T
- a. There is no examination requirement for registration as a Appraiser Trainee. (7-1-01)T
- b. Applicants for registration must document completion of at least seventy-five (75) classroom hours of courses in subjects related to real estate appraisal as provided in Section 299, that shall include training in USPAP. (7-1-01)T
- 04. Continuing Education.** Prior to the second renewal of an appraiser trainee registration the appraiser trainee shall be required to obtain: (7-1-01)T
- a. The equivalent of fifteen (15) classroom hours of instruction in approved courses or seminars during the twelve (12) month period preceding the renewal. (7-1-01)T
- b. All continuing education shall be in compliance with Subsections 401.01 through 401.03. (7-1-01)T
- c. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. (7-1-01)T
- d. The purpose of continuing education is to ensure that the appraiser trainee participates in a program that maintains and increases skill, knowledge and competence in real estate appraising. (7-1-01)T

431. -- 449. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

550. LEGAL ADVICE (Rule 550).

All legal advice shall be furnished by the Bureau under contract with the Board ~~by the Office of the Attorney General of the state of Idaho or such legal advice may be furnished by private legal counsel with the approval of the Board and where the budget permits.~~

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

(BREAK IN CONTINUITY OF SECTIONS)

700. UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE/CODE OF ETHICS (Rule 700).

~~Rules of conduct of the Appraisal Foundation which includes~~ The Uniform Standards of Professional Practice and Code of Ethics, as published by the Appraisal Foundation and referenced in Section 004, are hereby adopted as the rules of conduct and code of ethics for all ~~Idaho State Certified/Licensed~~ Real Estate Appraisers licensed under Title 54, Chapter 41, Idaho Code, and these rules.

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

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

DOCKET NO. 24-1901-0101

NOTICE OF TEMPORARY AND PROPOSED RULEMAKING

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-4205, Idaho Code.

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

Insert rules for Administrative Appeals, Incorporation by Reference, address of the Board, Public Records and add definition of the Bureau; clarify application requirement; set meetings at least semi-annually, and as otherwise necessary; adopt use of the national NAB licensure examination; clarify exam requirements for the part specific to Idaho.

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: Provide for a national examination and latitude for the board to meet semi-annually as deemed necessary and are necessary in order to confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Budd A. Hetrick, Jr., (208) 334-3233.

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

DATED this 22nd day of August, 2001.

Budd A. Hetrick, Jr.
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1901-0101

~~002. (RESERVED).~~

0032. WRITTEN INTERPRETATIONS (Rule 32).

The board may have written statements ~~which~~ that pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. (7-1-93)(7-1-01)T

003. ADMINISTRATIVE APPEALS (Rule 3).

Administrative appeals shall be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (7-1-01)T

004. INCORPORATION BY REFERENCE (Rule 4).

These rules do not incorporate by reference any document other than those sections of Idaho Code so referenced. (7-1-01)T

005. ADDRESS OF IDAHO BOARD OF EXAMINERS OF RESIDENTIAL CARE FACILITY ADMINISTRATORS (Rule 5).

The office of the Board of Examiners of Residential Care Facility Administrators is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ibol@ibol.state.id.us. The Board's official web site is at www2.state.id.us/ibol/rca. (7-1-01)T

006. PUBLIC RECORDS.

The records associated with the Board of Examiners of Residential Care Facility Administrators are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (7-1-01)T

~~0047. -- 009. (RESERVED).~~

010. DEFINITIONS (Rule 10).

01. Board. The Board of Examiners of Residential Care Facility Administrators as prescribed in Section 54-4202, Idaho Code. (7-1-93)

02. Bureau. The Bureau of Occupational Licenses as prescribed in Sections 54-4204 and 67-2602, Idaho Code. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

100. APPLICATIONS (Rule 100).

Applications will be on forms approved by the Board. No application will be considered for any action unless accompanied by the appropriate fees and until the required supporting documentation is received by the Bureau. (7-1-98)(7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

200. BOARD MEETINGS - DATES - PLACES (Rule 200).

01. Board Meeting Dates. The board shall meet ~~on the second Thursday of March and September of each year~~ at least semi-annually at such time and place as shall be determined by the Board. (7-1-98)(7-1-01)T

~~**02. Place Of Board Meetings.** Board meetings will be held in Boise, Idaho, at the bureau. (7-1-93)~~

~~032.~~ **Dates And Places May Be Changed.** Dates and places of board meetings may be changed by the action of the majority of the board and advance public notice given. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

300. EXAMINATIONS (Rule 300).

01. Examination. The examination shall be the Residential Care Facility Administrators examination developed and administered by the National Association of Boards of Examiners of Long Term Care Administrators (NAB). Examination shall be administered at at least semi-annually such times and places as determined by NAB. (7-1-01)T

~~042.~~ **Application And Deadline Date For Filing.** An application for examination must be accompanied by the examination fee and proof of completion of approved curriculum. Applications must be received at least thirty (30) days prior to the date of examination. (7-1-98)

023. Individuals Who Have Special Needs. Individuals who have special needs as defined by the American Disabilities Act must specify those needs or required services as indicated on the application form. (7-1-93)

~~03.~~ **Dates Of Exams.** Examinations will be administered on the second Tuesday in January, April, July, and October of each year at times and locations to be set by the board. (4-5-00)

- 04. Contents Of Exam.** The examination will consist of two (2) sections. (7-1-93)
- a. Section One will include questions from all or some of the following topics: (7-1-98)
 - i. Business Planning and Marketing. (7-1-93)
 - ii. Fiscal Planning and Management. (7-1-93)
 - iii. Human Resource Planning. (7-1-93)
 - iv. Residential Health Services. (7-1-93)
 - v. Nutrition and Food Service. (7-1-93)
 - vi. Working with the Elderly. (7-1-93)
 - vii. Working with the Mentally Ill. (7-1-93)
 - viii. Social and Recreational Activities. (7-1-93)
 - ix. Legal Issues. (7-1-93)
 - x. Licensing Process. (7-1-93)
 - xi. Housekeeping. (7-1-93)
 - xii. Physical Maintenance and Fire Safety. (7-1-93)
 - xiii. Developmentally Disabled. (7-1-98)

b. Section Two will include questions from the Idaho Board and Care Act, Chapter 33, Title 39, Idaho Code, the Residential Care for the Elderly Act, Title 39, Chapter 35, Idaho Code, and the rules for licensed residential and assisted living facilities in Idaho, IDAPA 16.03.22 promulgated by the and the Idaho Department of Health and Welfare ~~rules promulgated thereunder and appearing at Title 3, Chapter 21.~~ (7-1-93)(7-1-01)T

05. Passing Score On Exam. An examination is passed by obtaining a score of seventy percent (70%) or better on each section. Applicants who fail to pass one (1) section of the examination must retake and pass that section within two (2) years from the date of the first examination or the application file will be terminated without further notice to the applicant, and the applicant will be required to begin the process as a new applicant except that no further temporary permits will be granted. (7-1-98)

06. Requirements For Retakes. ~~There will be a seventy five dollar (\$75) fee for retakes of any or all portions of the examination.~~ Individuals desiring to be reexamined must file a letter of intent, ~~together with the appropriate fee,~~ with the board. ~~The letter and fee must be received by the Bureau at least thirty (30) days prior to examination.~~ (7-1-93)(7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

401. CONTINUING EDUCATION (Rule 401).

01. Courses Approved. Courses of study in health and residential care administration sponsored by accredited universities or colleges; health or residential care seminars relevant to residential care administration sponsored by national, state ~~or local~~ agencies, or associations will be acceptable to meet the continuing education requirement. Other courses of study or seminars may be approved by the Board. (7-1-93)(7-1-01)T

02. Minimum Hours Required. Applicants for annual recertification/renewal shall be required to have a minimum of twelve (12) hours of continuing education courses within the preceding twelve (12) month period. First Aid and/or Cardio-Pulmonary Resuscitation courses shall not be considered for continuing education credit. (7-1-93)

03. Educational Hour - Defined. An hour of education will mean sixty (60) minutes. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

600. FEES (Rule 600).

01. License Application Fee. License Application - twenty-five dollars (\$25). (7-1-93)

~~**02. Examination Fee.** Examination Fee (must be submitted with license application) - seventy five dollars (\$75). (7-1-93)~~

~~**03. Annual Recertification Or Renewal Fee.** Annual Recertification or Renewal Fee - seventy-five dollars (\$75). (7-1-93)~~

04. Provisional/Temporary. Provisional/Temporary - forty dollars (\$40). (7-1-93)

05. Reinstatement Fee. Reinstatement - twenty-five dollars (\$25). (7-1-93)

~~**06. Reapplication For Examination Fee.** Reapplication for examination - seventy five dollars (\$75). (7-1-93)~~

07. Reissuance Of Lost License Fee. Reissuance of lost license - ten dollars (\$10). (7-1-93)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.20.01 - RULES OF THE BUREAU OF OCCUPATIONAL LICENSES
DOCKET NO. 24-2001-0101 (REPEAL)
NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 67-2609, 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 chapter is being repealed and is being replaced with the Docket 24-2001-0102.

FEE SUMMARY: There are no fees or charges imposed or increased as a result of these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Budd A. Hetrick, Jr., (208) 334-3233.

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

DATED this 22nd day of August, 2001.

Budd A. Hetrick, Jr.
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.20.01 - RULES OF THE BUREAU OF OCCUPATIONAL LICENSES
DOCKET NO. 24-2001-0102 (REWRITE)
NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 67-2609, 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: The proposed rules bring the Bureau of Occupational Licenses' procedures for contested cases, declaratory judgments, and rulemaking in line with the Administrative Procedure Act and the Idaho Rules of Administrative Procedure of the Attorney General. The Bureau of Occupational Licenses Proposed Rules will supplement those statutes and rules.

FEE SUMMARY: There are no fees or charges imposed or increased as a result of these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Budd A. Hetrick, Jr., (208) 334-3233.

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

DATED this 22nd day of August, 2001.

Budd A. Hetrick, Jr.
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233 / (208) 334-3945 (FAX)

FOLLOWING IS THE TEXT OF DOCKET NO. 24-2001-0102

IDAPA 24, TITLE 20, Chapter 01

24.20.01 - RULES OF THE BUREAU OF OCCUPATIONAL LICENSES

000. LEGAL AUTHORITY (Rule 0).

These rules are established pursuant to the authority vested in the Bureau of Occupational Licenses by the provisions of Section 67-2609, Idaho Code. ()

001. TITLE AND SCOPE (Rule 1).

01. Title. These rules shall be cited in full as IDAPA 24.20.01, "Rules of the Bureau of Occupational Licenses". ()

02. Scope. These rules include, but are not limited to the procedures followed by the Bureau of Occupational Licenses and boards in contested cases. ()

002. WRITTEN INTERPRETATIONS (Rule 2).

The Bureau may have written statements that pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost at the Bureau office. ()

003. ADMINISTRATIVE APPEALS (Rule 3).

Administrative appeals shall be governed by the Administrative Procedure Act, Chapter 52, Title 67, Idaho Code, and IDAPA 04.11.01.100 through 04.11.01.799, "Idaho Rules of Administrative Procedure of the Attorney General". ()

004. INCORPORATION BY REFERENCE (Rule 4).

There are no documents that have been incorporated by reference into these rules other than those sections of Idaho Code so referenced. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (Rule 5).

The office of the Bureau is located within the Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702. The phone number of the Bureau is (208) 334-3233. The Bureau's FAX number is (208) 334-3945. The Bureau's e-mail address is ibol@ibol.state.id.us. The Bureau's official web site is at www2.state.id.us/ibol. The Bureau is open between the hours of 8 a.m. and 5 p.m. each day except Saturdays, Sundays and holidays. ()

006. PUBLIC RECORDS ACT COMPLIANCE (Rule 6).

Records maintained by the Bureau are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

007. FILING OF DOCUMENTS (Rule 7).

All written communications and documents that are intended to be part of an official record for decision in rulemakings or contested cases before the Bureau or a board shall be filed with the Bureau or the relevant board at the offices of the Bureau during office hours. One (1) original of each document must be filed with the Bureau or board. Additionally, one (1) copy must be provided for the hearing officer and one (1) copy must be provided to the opposing party. The person or officer presiding over any rulemaking or contested case proceeding may issue orders requiring the filing of additional copies for use in such proceeding. Any communication or document may be filed with the Bureau by a facsimile machine process (FAX), provided that such FAX transmission must be received during the office hours set forth in Subsection 005 and be legible in its entirety. It shall be the responsibility of the filing party to verify with Bureau staff that any FAX transmission is successfully received and legible in its entirety. ()

008. CHANGES IN NAME AND ADDRESS -- ADDRESS FOR NOTIFICATION PURPOSES (Rule 8).

01. Change Of Name. Whenever a change of a licensee's name of record occurs, the licensee must immediately notify the Bureau in writing of the change. Official documentation confirming the change of name must be provided to the Bureau on request. ()

02. Change Of Address. Whenever a change of the licensee's address of record occurs, the licensee must immediately notify the Bureau in writing of the change. ()

03. Address For Notification Purposes. The most recent mailing address on file with the Bureau will be used for purposes of all written communication with a licensee including, but not limited to, notification of renewal and notices related to disciplinary actions. It is the responsibility of each licensee to keep the Bureau informed of a current mailing address. ()

009. (RESERVED).

010. DEFINITIONS (Rule 10).

01. Address of Record. The address that appears on an official license issued by a board to practice an occupation or profession. The address of record is considered a public record pursuant to the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

02. Board. Any professional or occupational licensing board of the state of Idaho receiving administrative, investigative, legal, fiscal and other services from the Bureau. The boards receiving such services from the Bureau include, but are not limited to, those listed in Idaho Code § 67-2602(1). ()

03. Bureau. The Bureau of Occupational Licenses as prescribed in Idaho Code Section 67-2602. ()

04. Complaint. A written communication in a form approved by the Bureau that contains the name, address, and phone number of the complaining party, the name, address, phone number, and profession of the licensee complained against, and a narrative of the facts and circumstances and perceived acts or omissions that may constitute cause for disciplinary action against the licensee. The complaint must be signed by the complaining party. ()

05. Formal Complaint. The document that initiates a hearing before a board and charges a licensee with acts or omissions under the laws administered by the board. ()

06. Hearing. A hearing is a contested case. ()

07. Hearing Officer. A person appointed by the Bureau or a Board, other than a member of the Board, to preside over the hearing of a contested case. ()

08. Licensee. A person holding any current, expired, cancelled, suspended, revoked, or otherwise sanctioned license, registration, permit and/or certificate issued by a board. ()

09. Mailing Address. The address used by the Bureau or a board for purposes of all written communication with an applicant for a license, permit, certificate, or registration, or a licensee, including, but not limited to, general correspondence, notification of renewal, and notices related to disciplinary actions. The mailing address may or may not be the same as the address of record. ()

10. Representative Of The Board. Any person, including the Chief of the Bureau of Occupational Licenses, designated by a Board to act as its agent under certain circumstances. ()

011. -- 019. (RESERVED).

020. PROCEDURES GOVERNING HEARINGS (Rule 20).

Procedures for a hearing before the Bureau or a Board shall be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, "Idaho Rules of Administrative Procedure of the Attorney General," IDAPA 04.11.01, and the provisions of Idaho Code and administrative rules governing the Boards. These rules supplement the contested case procedures of the Boards, if any. Where these rules are inconsistent with provisions of the Idaho Code governing the procedures for a hearing before a board, the Idaho Code provisions are the controlling authority.()

021. -- 099. (RESERVED).

100. REPORT AND INVESTIGATION OF VIOLATIONS (Rule 100).

01. Who May Report A Violation. Any person who knows of a violation by a licensee of the lawful requirements for the retention of a license, registration, permit or certificate may report the violation to the Bureau. ()

02. Person Reporting A Violation. A person reporting a violation is not regarded as a party to the investigation or to any proceeding that may result from the investigation. The policy of the Bureau shall be not to publish or divulge the name of any person reporting a violation. The name of a person reporting a violation may be

obtained, however, pursuant to the rules governing discovery during contested case proceedings. ()

03. Insufficient Facts And Evidence. If, after review, the Bureau finds that either the complaint or the investigative report concerns facts and evidence insufficient to warrant the filing of a formal complaint against a licensee, no further action shall be taken. ()

04. Sufficient Facts And Evidence. If after investigation the Bureau finds that the investigative report concerns facts and evidence potentially sufficient to warrant the filing of a formal complaint against a licensee, a formal complaint against the licensee may be prepared by the Bureau with the approval and assistance of the Office of the Attorney General and filed with the Board. ()

05. Preliminary Investigations And Papers. Preliminary investigations and papers obtained as part of an inquiry into a person's fitness to be granted or to retain a license, certificate, permit, privilege, or registration shall be confidential until a formal complaint is filed. This rule is subject to any provisions in the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code, and the Idaho Rules of Civil Procedure which may require or limit disclosure either before or after a formal complaint is filed. ()

101. -- 199. (RESERVED).

200. INITIATION OF A HEARING (Rule 200).

A hearing shall be initiated by filing with the Bureau or relevant board a formal complaint or other pleading. A formal complaint or other pleading initiating a hearing may be signed by the Chief of the Bureau of Occupational Licenses or his designated representative. Upon receipt of a formal complaint or other pleading, the relevant board or its representative shall assign it a docket number and may select and appoint a hearing officer. Regardless of who conducts the hearing, all board members shall be entitled to attend and participate in a hearing. ()

201. NOTICE REQUIRED (Rule 201).

The formal complaint shall include a notice containing the following information: ()

01. File An Answer. The respondent is required to file an answer to the formal complaint; ()

02. Time Limit. The applicable time limits for filing an answer; ()

03. Default Notice. That if the respondent fails to timely file an answer, then a notice of default may be issued; ()

04. Hearing To Be Scheduled. That a hearing will be scheduled within applicable time limits pursuant to a Notice of Hearing if he files an answer; ()

05. Opportunity To Respond To Complaint. That at the hearing he will be afforded an opportunity to respond to the formal complaint and to present evidence and argument on all issues involved, and an opportunity to cross-examine all witnesses testifying against him; ()

06. Legal Representation. That he has the right to be represented by an attorney; that if he fails to appear at the hearing, the Board may revoke, suspend, or impose other disciplinary sanctions as authorized by law without further notice; and ()

07. Issuance Of Subpoenas. That he is entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents, or other things relevant to the proceedings. ()

202. -- 599. (RESERVED).

600. RULEMAKING HISTORY PRIOR TO JULY 1, 1993 (Rule 600).

These rules are adopted and effective this first day of June, 1981. ()

601. -- 999. (RESERVED).

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-0101

NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 36-2107(b) and (d), 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 is accessible to persons with disabilities. Requests for accommodation must have been 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 change in Subsection 002.27 clarifies that by definition, a minor activity is an activity which is not the primary purpose of an outfitted excursion; the change in Subsection 002.35 clarifies that an outfitter license is needed to operate on both public and private land; the change in Subsection 002.45 is in response to a legislative request that failure to pay state taxes is unethical/unprofessional conduct; the changes in Rule 018 are to provide for a hearing to decide the successful applicant when more than one applicant submits an application with landowner signoffs and to provide that a licensed outfitter has priority for any opportunities within that outfitter's existing area boundaries; the change in Rule 022 are to clarify that an outfitter may not operate in an area for which that outfitter doesn't have a landowner or land manager signoff; the change in Rule 027 is to provide for multiple year licenses; the changes in Rule 028 is to reword section and subsection titles clarifying that an outfitter license is not transferable; and the change in Rule 055 is to provide that all float boats occupied by three or more clients shall be under the control of a licensed guide.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fee increases imposed or increased.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted at a public hearing held on Tuesday, August 22, 2001, in the Board meeting room at 1365 North Orchard, Suite 172, Boise, Idaho 83706.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact: Dean Sangrey, Executive Director, (208) 327-7380.

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 15th day of August, 2001.

Dean Sangrey, Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172
Boise, Idaho 83706
(208) 327-7380
FAX (208) 327-73820

THE FOLLOWING IS THE TEXT OF DOCKET NO. 25-0101-0101

002. DEFINITIONS.

The Act defines certain terminology applicable to its interpretation and administration (Idaho Code 36-2102). Further definitions, for the purposes of these Rules are: (4-1-92)

01. Act. Shall mean Idaho Code, Title 36, Chapter 21, commonly known as the Outfitters and Guides Act, as amended. (4-1-92)

02. Authorized Person. An investigator or enforcement agent in the employ of the Board, a conservation officer of the Idaho Department of Fish and Game, or any local, state, or federal law enforcement officer. (4-1-92)

03. Board. The Idaho Outfitters and Guides Licensing Board. (4-1-92)

04. Board Meeting. The set schedule of meeting dates established for conduct of regular Board business on a calendar year basis. Additional meetings may be scheduled as necessary (See Section 071). (4-1-92)

05. Booking Agent. Any individual, firm, business, partnership, or corporation that makes arrangements for the use of the services of a licensed outfitter and receives compensation therefore. A booking agent does not supply personnel or facilities and services to outfitter clientele. (4-1-92)

06. Compensation. The receipt or taking of goods, services, or cash in exchange for outfitted or guided activities. A bona fide charging of out-of-pocket travel expenses by members of a recreational party shall not be deemed compensation. However, such out-of-pocket expenses may not include depreciation, amortization, wages, or other recompense. (4-1-92)

07. Completed Application. An application submitted for Board consideration which contains all of the material required to be submitted by the Board for that license category. (4-1-92)

08. Consideration. The receipt or taking of goods, services, or cash in exchange for the provision of facilities and services in the conduct of outfitted or guided activities. (4-1-92)

09. Desert. A region of scarce rainfall and vegetation in areas often having great differences between day, night and seasonal temperatures. A desert is a land surface ranging from level, plateau land, or undulating to sharply breaking hill-lands and sand dunes that, in addition, may be broken by poor to well-defined, deeply entrenched drainage systems, rims, cliffs, and escarpments. (4-1-92)

10. Designated Agent. An individual who meets all qualifications for an outfitter's license who is employed as an agent by any person, firm, partnership, corporation, or other organization or combination thereof that is licensed by the Board to operate as an outfitter and who shall, together with the licensed outfitter, be responsible and accountable for the conduct of the licensed outfitter's operations. The name of each designated agent employed by an outfitter shall appear on the outfitter's bond. A designated agent may act as a guide if he possesses the qualifications of a guide as determined by the Board. (Previously referred to as Managing Agent). (4-1-92)

11. Drift Boats. Shall be substituted for and have the same meaning as "float boats" defined below. (4-1-92)

12. Enforcement Agent. An individual employed by the Board having the power of peace officers to enforce the provisions of the Idaho Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and the Rules promulgated thereunder. (4-1-92)

13. Facilities And Services. The provision of personnel, lodging (tent, home, lodge, or hotel/motel), transportation (other than by commercial carrier), guiding, preparation and serving of food and equipment, or any other accommodation for the benefit of clientele in the conduct of outdoor recreational activities as designed in

Section 36-2102(b), Idaho Code.

(4-1-92)

14. First Aid Card. A valid card issued by the American Red Cross to denote the individual whose name and signature appear thereon has successfully completed an applicable Red Cross course and is qualified to render appropriate, minimal first aid as prescribed by the American Red Cross, or other valid evidence showing successful completion of an equivalent course conducted by an organization acceptable to the Board. (4-1-92)

15. Fishing. Fishing activities on those waters and for those species described in the rules of the Idaho Department of Fish and Game, IDAPA 13.01.11, "Rules Governing Fish," general fishing seasons and any anadromous fishing rules; for purposes of the "Act", fishing is defined as follows: (4-1-92)

a. Anadromous fishing means fishing for salmon or steelhead trout. (4-1-92)

b. Float boat fishing means the use of floatboats without motors for the conduct of fishing as a major activity on those waters open to commercial activities as set forth in Section 059. (4-1-92)

c. Fly fishing means a licensed activity restricted to the use of fly fishing equipment and procedures, as defined by Idaho Department of Fish and Game rules. (4-1-92)

d. Incidental fishing means fishing conducted as a minor activity. (4-1-92)

e. Power boat fishing means the use of power boats in conduct of fishing as a major activity on those Idaho waters open to commercial outfitting activities as set forth in Section 059. (4-1-92)

f. Walk and wade fishing means fishing conducted along or in a river, stream, lake or reservoir, and may include the use of personalized flotation equipment, but does not include the use of watercraft. (4-1-92)

16. Float Boats. Watercraft (inflatable watercraft, dories, drift boats, canoes, catarafts, kayaks, sport yaks, or other small watercraft) propelled by, and moving with the stream flow, maneuvered by oars, paddles, sweeps, pike poles or by motors for downstream steerage only. Downstream steerage does not include holding or upstream travel of a watercraft with a motor. Excluded as float boats are personal flotation devices, innertubes, air mattresses, or similar devices. (4-1-92)

17. Guide. An individual who meets the criteria as set forth in Idaho Code 36-2102(c), and has further met the required qualifications as prescribed in the Rules to provide professional guided services to clientele in the pursuit and conduct of licensed activities. (4-1-92)

18. Guide License. A license issued by the Board to an individual who is employed by a licensed outfitter to furnish personal services for the conduct of outdoor recreational activities as defined in Idaho Code 36-2102(c). (4-1-92)

19. Hazardous Excursions. Outfitted or guided activities conducted outside municipal limits in a desert or mountainous environment which may constitute a potential danger to the health, safety, or welfare of participants involved. These activities shall include, but are not limited to: day or overnight trailrides, backpacking, technical mountaineering/rock climbing, cross-country skiing, backcountry alpine skiing, llama and goat packing, snowmobiling, survival courses, and motored and non-motored cycling. (3-19-99)

20. He/His/Him. Shall mean either the male or female gender. (4-1-92)

21. Hunting. The pursuit of any game animal or bird and all related activities including packing of client camp equipment, supplies, game meat and clients to and from a hunting camp. (3-30-01)

22. Incidental Activity. Shall be and is the same as a minor activity. (4-1-92)

23. Incidental Amendment. All outfitter license amendment requests that can be processed by the Board without requiring outside research or recommendation of a land managing agency or other agency before the Board takes final action on said amendment request. (4-1-92)

24. Investigator. An individual employed by the Board to monitor compliance with the provisions of the Outfitters and Guides Act (Idaho Code, Title 36, Chapter 21) and Rules promulgated thereunder and issue warning tickets for violations thereof. An investigator shall not have arrest powers nor any other power of a peace officer. (4-1-92)

25. Major Activity. A licensed activity, the nature of which requires a significant commitment of time and effort by an outfitter in its execution and is intended to provide a significant amount of income to an outfitter. (4-1-92)

26. Major Amendment. All outfitter license amendment requests requiring Board research or recommendation of a land management agency or other agency before the Board takes final action on the amendment request. (4-1-92)

27. Minor Activity. A licensed activity the nature of which ~~may~~ **must** be carried out in conjunction with a major activity, but is not ~~intended to provide a significant amount of income to an outfitter~~ **the primary purpose of the excursion.** (~~4-1-92~~)()

28. Mountainous. A region receiving limited to abundant annual precipitation with an associated vegetative cover of grass, weeds, shrubs, or trees. Cool summer temperatures and cold winter temperatures prevail. A mountainous area is a land surface ranging from level to gently rolling low hills to elevated lands that are often broken with poor to well-developed, deeply entrenched drainage systems, rims, cliffs, and escarpments to steep-sided land masses of impressive size and height. (4-1-92)

29. New Opportunity. A proposed commercial outfitted activity to be conducted in an area where no similar commercial outfitted activity has been conducted in the past. (4-1-92)

30. Nonresident. An individual, corporation, firm, or partnership who is not a resident of the state of Idaho. (See "Resident"). (4-1-92)

31. Nonuse. Inactivity, such as incidental activity only, or an outfitter's making zero (0) use of major licensed activities for any two (2) of the three (3) preceding years. See Definitions, "Zero (0) use," and Subsection 024.01. (3-23-98)

32. Operating Area. The area assigned by the Board to an outfitter for the conduct of outfitting activities. (4-1-92)

33. Operating Plan. A detailed schedule or plan of operation which an outfitter proposes to follow in the utilization of licensed privileges, areas, or activities. (See Subsection 018.03). (4-1-92)

34. Outfitter. An individual, corporation, firm, partnership, or other organization or combination thereof that meets the criteria as set forth in Idaho Code 36-2102(b), and has further met the required qualifications as prescribed in the Rules to conduct an outfitting business in Idaho. (4-1-92)

35. Outfitter License. A license issued by the Board to an individual, partnership, corporation, or other duly constituted organization to conduct activities as defined in Idaho Code 36-2102(b). ~~NOTE:~~ The conduct of an outfitted operation on any ~~private~~ land(s) within an operating area approved by the Board is not authorized unless signed permission, a permit, or a lease is obtained from the ~~private~~ land owner(s), or their agent(s), and filed with the Board. (~~4-1-92~~)()

36. Out-Of-Pocket Costs. The direct costs attributable to a recreational activity. Such direct costs shall not include: (4-1-92)

a. Compensation for either sponsors or participants; (4-1-92)

b. Amortization or depreciation of debt or equipment; or (4-1-92)

- c. Costs of non-expendable supplies. (4-1-92)
- 37. Power Boats.** All motorized watercraft used on Idaho waters open to commercial outfitting activities as set forth in Subsections 059.01 and 059.02. Excluded as power boats are hovercraft, jetskis or similar devices, and float boats using motors for downstream steering. (4-1-92)
- 38. Relinquishment Of License Privileges.** The failure to re-apply at the expiration of a license; the loss through nonuse, inactivity, revocation, or voluntary surrender of a license; or other loss of license. (See Subsection 030.03). (3-23-98)
- 39. Resident.** An individual, corporation, firm, or partnership who has resided in the state of Idaho for a period of six (6) months next preceding the time of application for license. (4-1-92)
- 40. Rules.** The Rules of the Board. (4-1-92)
- 41. Stay Of Board Action.** An order, pursuant to Idaho Code 67-5215(c), stopping or delaying the enforcement of a Board decision, order or action. (4-1-92)
- 42. Third Party Agreement.** The allowing of the conduct of an outfitted or guided activity by the outfitter licensed to conduct those activities by any persons not directly employed by said outfitter. (See Section 023). (4-1-92)
- 43. Trainee.** A person not less than sixteen (16) years of age who does not possess the necessary experience or skill qualifications required to obtain a guide license, but who is working toward obtaining the necessary experience or skill qualifications. This required training shall be recorded on a form provided by the Board. A trainee may not provide any direct guiding services for clients, but may assist while under direct supervision. (5-1-95)
- 44. Under Supervision.** The trainee must be in a boat operated by a licensed boatman, or one in which the operation is closely monitored by a licensed boatman. The licensed boatman need not be in the same boat during training as long as the trainee's activity is closely monitored. (4-1-92)
- 45. Unethical/Unprofessional Conduct.** Any activity(ies) by an outfitter or guide which is inappropriate to the conduct of the outfitting or guiding profession. These activities include, but are not limited to: (3-30-01)
- a. An outfitter employing an unlicensed guide; (3-30-01)
 - b. Providing false, fraudulent or misleading information to the Board; (3-30-01)
 - c. Failure to obey an order of the Board; (3-30-01)
 - d. Failure to provide services as advertised or contracted; (3-30-01)
 - e. Harassment of the public in their use of Idaho's outdoor recreational opportunities; (3-30-01)
 - f. Violation of state or federal fish and game laws; (3-30-01)
 - g. Engaging in unlicensed activities or conducting outfitter/guide services outside the operating area for which the licensee is licensed; (3-30-01)
 - h. Disregard for the conservation, maintenance or enhancement of fish, game, land and water resources; (3-30-01)
 - i. Failure to pay a supplier of goods or services to the outfitter business; ~~or~~ (~~3-30-01~~)()
 - j. Failure to pay state taxes; or ()

- ~~k.~~ Operating in a manner which endangers the health, safety, or welfare of the public. (3-30-01)
- 46. Validated Training Form.** An approved form bearing the “Great Seal of the State of Idaho” and the official stamp of the Board affixed thereon. (4-1-92)
- 47. Watercraft.** A boat or vessel propelled mechanically or manually, capable of operating on inland water surfaces. Excluded as watercraft are hovercraft, jetskis, personal flotation devices (PFD's), or similar devices. (4-1-92)
- 48. Zero Use.** No or negligible use by an outfitter of his licensed activity unless the lack of use is due to an act of nature or season or hunting or fishing restrictions by a state or federal agency that limit the ability of the outfitter to seek and accommodate clientele. (4-1-92)

(BREAK IN CONTINUITY OF SECTIONS)

018. NEW OUTFITTER OR OUTFITTER LICENSE AMENDMENT APPLICATION.

In order to be complete, a new outfitter license or outfitter license amendment application, or new landowner signoff in existing areas must, in addition to all other requirements: ~~(3-23-98)~~()

- 01. Signed.** Be signed by the applicant. A new outfitter license application must be signed under oath before a notary public and be accompanied by a bond on a form approved by the Board. (3-23-98)
- 02. Other Signatures.** Include the signatures of: (9-1-90)
- a. The affected state and federal land managers in all areas where an outfitter plans to utilize lands administered by the state or federal government (this may involve memorandum of understanding procedures as applicable to proposed operation on national forest or public domain lands); and, (9-1-90)
- b. Private land owners, or their agents, where an outfitter applicant proposes to use such private lands in his operation. (9-1-90)
- 03. Operating Plan.** Include an operating plan. The operating plan shall include, among other things, the following: (9-1-90)
- a. A list of the activities to be conducted in the operating area(s) requested. (9-1-90)
- b. A detailed map showing the operating area(s) requested for each activity and a worded description of the boundaries of said operating area(s), described in terms of rivers, creeks, and ridges with prominent reference coordinates (section, township, and range). (9-1-90)
- c. An outfitter whose operation is solely on rivers, streams, lakes or reservoirs should specify put-in and take-out points but need not send maps. (9-1-90)
- d. A detailed description of how and when each operating area(s) will be used for each activity. (9-1-90)
- e. The proposed number of guests intended to be accommodated for each activity within the proposed operating area(s). (9-1-90)
- f. A list of the names and locations of camps that will be used for each activity, and whether on public or private land. (9-1-90)
- g. A list of the basic equipment, facilities, and livestock, and proof of financial capability necessary to

conduct the proposed outfitted activity or business. (9-1-90)

h. The number, title (guide, lead guide, etc.), and principal activities of individuals to be employed in the business operation. (9-1-90)

i. A plan to assure the safety and provide for emergency medical care of guests. (9-1-90)

04. Hearing. If more than one (1) applicant submits a complete application with landowner signoff(s), a hearing will be held to decide the successful applicant. ()

05. Existing Operating Area. A licensed outfitter has the priority for any opportunities within the outfitter's existing operating area boundaries. ()

(BREAK IN CONTINUITY OF SECTIONS)

022. ISSUANCE OF AN OUTFITTER LICENSE.

When the Board issues an outfitter license, said license shall specify the activity(ies) for which the applicant is licensed, designate specific operating area(s) for each activity, and be based on an operating plan acceptable to the Board. In order to safeguard the health, safety, and welfare of the public and for the conservation of wildlife resources, the Board may place a limit on the number of outfitter licenses issued within an operating area. An outfitter may not operate in an area for which there is no landowner or land manager signoff. (10-15-88)()

(BREAK IN CONTINUITY OF SECTIONS)

027. OUTFITTER LICENSE TENURE.

Tenure in any outfitter's operating area ceases with the expiration of his outfitter license at the end of ~~any~~ the license ~~year~~ period. Priority in the operating area may be maintained by submitting a complete application for a license for the ensuing license ~~year~~ period before the expiration date of the current license. If a completed application is not received by the Board by June 30 within ninety (90) days following the end of the ~~renewal~~ license ~~year~~ period, the license is relinquished. (3-23-98)()

028. OUTFITTER BUSINESS PURCHASE, LICENSE ~~TRANSFER~~ CONSIDERATIONS.

01. Transferability. An outfitter license is not transferable. (3-1-86)()

02. Transfer Issuance To Purchaser. The purchase of an outfitting business from a licensed outfitter does not require the Board to transfer the operating area(s) of the licensee to the purchaser or to issue to him an outfitter license; however, an applicant who has negotiated a purchase agreement with a licensee may be given priority for a license if he meets all other outfitter requirements. (3-1-86)()

03. Notification To Clients. When an existing operation is acquired by another outfitter, all clients who have booked with the original outfitter must be promptly notified. Each client must be satisfied with the new arrangements or his advance payment must be refunded. (3-1-86)()

(BREAK IN CONTINUITY OF SECTIONS)

055. BOATING CLIENT/GUIDE RATIO.

All float boats, occupied by three (3) or more ~~people~~ clients, including guides, shall be under the control of a licensed guide; except a boat guide trainee may operate a boat under the direct supervision of a licensed boatman, or may train as indicated in Section 040. Kayaks and canoes and clients rowing their own rafts with no more than two (2) people are exempt from this rule. (5-1-95)()

IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.30 - SAFE BOATING RULES

DOCKET NO. 26-0130-0101

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 67-7002, Idaho Code.

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

**October 24, 2001
7:00 - 9:00 pm
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue
Boise, ID 83720**

The hearing site is 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 above.

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

Personal Flotation devices would be required to be worn by children 14 years of age and younger, while onboard vessels 19 feet or less, when vessel is underway. Thirty-seven states currently have similar PFD requirements. The National Transportation Safety Board, the National Marine Manufacturers Association, and the Ada County Parks and Waterways Board have written letters to Governor Kempthorne requesting that the state enact such a law.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the need to require children to wear life jackets when onboard small open vessels has been established in national studies, is currently law in thirty-seven states, has been recommended to the Governor by the National Transportation Safety Board and the Marine Manufacturers Association. Further study of the issue would not be feasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Douglas Strong at (208) 334-4199.

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.

Douglas K. Strong
Boating Supervisor
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue
P.O. Box 83720
Boise, ID 83720-0065
(208) 334-4199
FAX 334-3741

FOLLOWING IS THE TEXT OF DOCKET NO. 26-0130-0101

050. PERSONAL FLOTATION DEVICES (PFD's).

01. Personal Flotation Devices Required. Except seaplanes, sailboards, and as provided in Subsections 050.03 and 050.04 of this chapter, no person shall operate or permit to be operated any vessel on the waters of this state without carrying on board personal flotation devices (Type I life preservers, Type II buoyant vests, Type III special purpose marine buoyant devices, Type IV buoyant cushions or ring life buoys, or Type V restricted use devices) as follows: (5-1-93)

a. Recreational vessels (used for non-commercial use) less than sixteen (16) feet in length, and canoes and kayaks of any length, shall have one (1) type I, II, or III wearable personal flotation devices of a suitable size for each person on board. (5-1-95)

b. Recreational vessels sixteen (16) feet in length and over, except as stated in Subsection 050.01.a. of this chapter, shall have one (1) type I, II, or III wearable personal flotation device of a suitable size for each person on board and, in addition, one (1) type IV throwable device. (1-1-94)

c. Commercial vessels less than forty (40) feet in length not carrying passengers for hire shall have at least one (1) Type I, II, or III wearable personal flotation device of a suitable size for each person on board. (1-1-94)

d. Commercial vessels carrying passengers for hire and commercial vessels forty (40) feet in length or longer not carrying passengers for hire shall have at least one Type I wearable personal flotation device of a suitable size for each person on board. (1-1-94)

e. Commercial vessels twenty-six (26) feet in length or longer shall have at least one (1) Type IV throwable ring life buoy in addition to other requirements. (1-1-94)

f. Children fourteen (14) years of age and younger, onboard vessels nineteen (19) feet or less, must wear an approved flotation device when the vessel is underway. ()

02. Location And Condition. All personal flotation devices required by Section 050 of this chapter shall be readily accessible to persons on board and be of good and serviceable condition. When aboard a personal watercraft (Jet Ski, Wave Runner, etc.) or being towed by a boat (water ski, wake board, knee board, tube, etc.), an approved flotation device must be worn to be considered readily accessible. All such devices shall be approved by the U.S. Coast Guard, and shall be marked in accordance with U.S. Coast Guard standards. All such devices shall comply with the construction and design standards set forth by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and applicable federal regulations. (3-30-01)

03. Alternative PFD Requirement. A Type V personal flotation device may be carried in lieu of any required personal flotation device if U.S. Coast Guard approved for the activity engaged in. (7-1-93)

04. Exemptions. (7-1-99)

a. Racing shells, rowing sculls and racing kayaks are exempt from the requirements of Section 050 of this chapter provided they are manually propelled, recognized by a national or international racing association and designed solely for competitive racing. (7-1-99)

b. Float tubes are exempt from the requirements of Section 050 of this chapter while being operated on lakes and reservoirs of this state of less than two hundred (200) surface acres in size at natural or ordinary high water. (7-1-99)

IDAPA 27 - IDAHO STATE BOARD OF PHARMACY
27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY
DOCKET NO. 27-0101-0101
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 Sections 54-1717 and 54-1718, 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 hearings will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

Pharmacy Externs are students enrolled in accredited pharmacy colleges who are allowed to work in pharmacies to gain valuable practical experience. Currently they are required to register annually with the Board of Pharmacy in the same fashion as Pharmacy Interns. This rule allows Pharmacy Externs to register with the Board of Pharmacy only once while they are in school and have the registration continue so long as they remain in school. This will be a benefit to the Pharmacy Externs and will reduce paper work and staff time at the Board of Pharmacy.

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Richard K. Markuson, Executive Director, (208) 334-2356.

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.

Richard K. Markuson
Executive Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Telephone: (208) 334-2356
Facsimile: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0101

100. REGISTRATION.

01. Interns. ~~Externs and~~ Interns shall, prior to obtaining practical experience, make application for registration to the Idaho Board of Pharmacy, on forms provided by the Board, along with the appropriate fee. Registrations and the renewals of registrations are the responsibility of the ~~extern or~~ intern and expire on May 15, annually. ()

02. Externs. Externs shall, prior to obtaining practical experience, be enrolled in an accredited college of pharmacy and make application for registration to the Idaho Board of Pharmacy, on forms provided by the Board, along with the appropriate fee. The registration will remain in effect as long as the extern remains in the college of pharmacy and until July 15 following graduation from the college of pharmacy, provided the registration has not been revoked or suspended by the Board. (6-30-95)()

013. Registration. The training site shall make application to the Idaho Board of Pharmacy for registration on forms provided by the Board along with the appropriate fee. This registration expires on June 30, annually. (6-30-95)

024. Credit. Credit for practical experience will not be accepted unless the extern or intern and the training site have been registered. (6-30-95)

IDAPA 27 - IDAHO STATE BOARD OF PHARMACY
27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY
DOCKET NO. 27-0101-0102
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 Sections 54-1717, 54-1720, 54-1746, and 37-2715I 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 hearings will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

The proposed rule changes increase fees for various registrations and licenses issued by the Board of Pharmacy. There has been no adjustment to the Board's licensing and registration fees for several years. The proposed changes bring the fees into the current market.

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

The proposed rule will increase fees for various registrations and licenses affecting pharmacy licensees and registrants, including new license applicants, pharmacists, pharmacy interns, externs, and technicians, pharmacies and other drug outlets, and controlled substance registrants.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Richard K. Markuson, Executive Director, (208) 334-2356.

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.

Richard K. Markuson
Executive Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Telephone: (208) 334-2356 / Facsimile: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0102

402. ORIGINAL PHARMACIST LICENSE.

01. **Certification For NABPLEX Examination.** Fee -- ~~two~~ one hundred ~~and fifty~~ dollars (\$~~251~~00).
(~~12-7-94~~)()
02. **Reciprocity.** Fee -- two-hundred and fifty dollars (\$250). (7-1-93)
- ~~03. **State Practical Examination.** Fee -- one hundred and fifty dollars (\$150). (7-1-93)~~
043. **State Jurisprudence Exam.** Fee -- ~~forty~~ fifty dollars (\$~~4~~50). (7-1-93)()

403. DUE DECEMBER 31, ANNUALLY.

01. **Controlled Substance Registration.** Fee -- ~~forty~~ sixty dollars (\$~~5~~60). (~~12-7-94~~)()

404. DUE JUNE 30, ANNUALLY -- TABLE.

01. **Pharmacist License.** (12-7-94)
- a. Active: ~~seventy five~~ ninety dollars (\$~~75~~90). (~~12-7-94~~)()
- b. Inactive: ~~thirty five~~ fifty dollars (\$~~35~~50). (~~12-7-94~~)()
02. **Pharmacy.** (6-1-94)
- a. Pharmacy License: one hundred dollars (\$100). (12-7-94)
- b. Parenteral Admixture License: one hundred dollars (\$100). (12-7-94)
03. **Out-Of-State Mail Service.** (7-1-93)
- a. Pharmacy, initial license: five hundred dollars (\$500). (12-7-94)
- b. Renewal license: two hundred fifty dollars (\$250). (12-7-94)
04. **Clinics and Nursing Homes.** ~~Thirty-five~~ dollars (\$~~30~~5). (~~12-7-94~~)()
05. **Non-Pharmacy.** (11-1-93)
- a. "A": ~~fifty~~ sixty dollars (\$~~5~~60). (~~12-7-94~~)()
- b. "B": ~~twenty-five~~ dollars (\$~~20~~5). (~~12-7-94~~)()
- c. "V" (Vending machines): ~~five~~ ten dollars (\$~~5~~10). (~~8-4-94~~)()
- d. "DME": fifty dollars (\$50). (7-1-98)
06. **Hospitals Without Pharmacy.** ~~Thirty-five~~ dollars (\$~~30~~5). (~~12-7-94~~)()
07. **Wholesaler (Distributor).** One hundred dollars (\$100). (12-7-94)
08. **Controlled Substance For Wholesalers And Distributors.** One hundred dollars (\$100).
(~~12-7-94~~)()
09. **Researcher, Analytical Lab.** ~~Thirty five~~ Forty dollars (\$~~35~~40). (~~12-7-94~~)()

10. **Veterinary Legend Drug Outlet - Retail Or Retail/Wholesale.** One hundred dollars (\$100). ~~(11-1-93)~~(____)
- ~~11. **Retail or Retail/Wholesale.** (11-1-93)~~
- ~~12. **Combination, Up To Three Trucks.** One hundred dollars (\$100). (12-7-94)~~
- ~~13. **Additional Trucks.** Twenty five dollars (\$25). (12-7-94)~~
- ~~14. **Veterinary Drug Technician.** Thirty dollars (\$35). (12-7-94)~~
- ~~12. **Pharmacy Technician.** Thirty-five dollars (\$35). (____)~~
405. **DUE APRIL 1 ANNUALLY.**
01. **Preceptor Site.** Fee --twenty-five dollars (\$25). (7-1-97)
02. ~~**Extern/Intern.** Fee -- fifteen fifty dollars (\$150). (12-24-93)(____)~~
03. **Extern.** Fee - fifty dollars (\$50) at acceptance to accredited college of pharmacy, to last until July 31 following graduation. (____)
406. **MISCELLANEOUS.**
01. ~~**Grade Test Score Certification.** Fee -- ten twenty-five dollars (\$1025). (12-24-93)(____)~~
02. ~~**Hour Certification.** Fee -- ten twenty-five dollars (\$1025). (12-24-93)(____)~~
03. ~~**Controlled Substance Inventory.** Book Fee -- ten fifteen dollars (\$105). (7-1-93)(____)~~
04. ~~**Duplicate Pharmacist Certificate.** Fee -- twenty thirty-five dollars (\$235). (12-24-93)(____)~~
05. **Commercial Lists.** (12-24-93)
- a. Pharmacy list. Fee -- ~~twenty-five~~ fifty dollars (\$250). (12-24-93)(____)
- b. Pharmacist list. Fee -- ~~twenty-five~~ fifty dollars (\$250). (12-24-93)(____)
- c. CSA Practitioners list. Fee -- fifty dollars (\$50). (12-24-93)(____)
- i. Complete CSA Practitioner list. Fee -- one hundred fifty dollars (\$1050). (12-24-93)(____)
- ii. Each profession CSA list. Fee -- ~~twenty-five~~ fifty dollars (\$250). (12-24-93)(____)
06. **Official Idaho Register.** Official Idaho Register -- ~~ten~~ fifteen dollars (\$105). (7-1-93)(____)
07. **Pharmacy Law.** Pharmacy law, includes two (2) year updates -- thirty-five dollars (\$35). (7-1-93)
08. **Reinstatement Fee.** Reinstatement fee, all licenses -- ~~fifty~~ seventy-five dollars (\$5075). (7-1-93)(____)
09. **Transcript Of Hearing.** Transcript of hearing, per page -- ~~one~~ five dollars ~~and twenty-five cents~~ (\$7.25). (7-1-93)(____)
- ~~10. **Duplicate Prescription Forms.** (7-1-98)~~

- a. Twenty five (25) forms -- eight dollars (\$8). (7-1-93)*
- b. Fifty (50) forms -- twelve dollars (\$12). (7-1-93)*
- c. Seventy five (75) forms -- sixteen dollars (\$16). (7-1-93)*
- d. One hundred (100) forms -- twenty dollars (\$20). (7-1-93)*
- 11. Pharmacy Technician Registration. Fee -- thirty five dollars (\$35). (7-1-98)***

IDAPA 29 - IDAHO POTATO COMMISSION RULES
29.01.02 - RULES GOVERNING PAYMENT OF ADVERTISING TAX AND USAGE
OF FEDERALLY REGISTERED TRADEMARKS

DOCKET NO. 29-0102-0101

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) 22-1207(1).

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

November 14, 2001, at 9:00 a.m.
Offices of the Idaho Potato Commission
599 West Bannock Street
Boise, ID 83702

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:

Recent improvements in labeling now make it practical to sticker Idaho potatoes. These rules update the Commission rules accordingly. Technical corrections to conform existing rules to statutory changes and requirements of the Office of Administrative Rules are also made.

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 changes being made are technical in nature and are also the result of changing technology.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Patrick J. Kole; (208) 334-2350.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be received on or before November 14, 2001 at 9:00 A.M.

DATED this 22nd day of August, 2001.

Patrick J. Kole, Vice President
Legal & Governmental Affairs
Idaho Potato Commission
599 West Bannock Street
Post Office Box 1068
Boise, ID 83701-1068
Telephone: (208) 334-2350
Facsimile: (208) 334-2274

THE FOLLOWING IS THE TEXT DOCKET NO. 29-0102-0101

IDAPA 29
TITLE 01
Chapter 02

**29.01.02 - RULES GOVERNING PAYMENT OF ~~ADVERTISING~~ TAX AND
USAGE OF FEDERALLY REGISTERED TRADEMARKS**

000. ~~099.~~ *(RESERVED)*. LEGAL AUTHORITY.

These rules are adopted under the general legal authority of the Idaho Potato Commission Law, Chapter 12, Title 22, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 29.01.02, "Rules Governing Payment of Tax and Usage of Federally Registered Trademarks". ()

02. Scope. These rules govern payment of taxes to the Idaho Potato Commission (the Commission); records required to be kept by dealers, handlers, and repackers of Idaho® potatoes; use of Certification Marks and Trademarks owned or administered by the Commission; branding of individual potatoes, state brand grade and packing requirements, reporting, labeling and revocation, and additional labeling requirements. ()

03. Citation. The official citation of these rules is IDAPA 29.01.02.000, et seq. For example, this rules is cited as IDAPA 29.01.02.001.03. In documents submitted to the Commission or issued by the Commission, these rules may be cited as Idaho Potato Commission "Rules Governing Payment of Tax and Usage of Federally Registered Trademarks", IDAPA 29.01.02. ()

002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES.

For rulemakings conducted before July 1, 1993, written interpretations to these rules in the form of explanatory comments accompanying the order of proposed rulemaking and review of comments submitted in the order adopting these rules are maintained in the files of the Secretary of the Idaho Potato Commission and are available from the office of the Commission Secretary. For rulemakings conducted after July 1, 1993, written interpretations to these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking decision adopting these rules maintained in the files of the Secretary of the Idaho Potato Commission and are available from the office of the Commission Secretary. The Commission Secretary may be contacted in writing at the Idaho Potato Commission, P.O. Box 1068, Boise, Idaho 83701, or may be reached by telephone at (208) 334-2350. ()

003. ADMINISTRATIVE APPEALS.

Administrative appeals are governed under the Commission's Rules of Procedure, IDAPA 29.01.01.000, et seq. ()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules. ()

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

The principal office of the Commission is in Boise, Idaho. This office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The Commission's telephone number is (208) 334-2350. The Commission's FAX number is (208) 334-2274. The Commission's mailing address: Idaho Potato Commission, Post Office Box 1068, Boise, Idaho 83701-1068. The street address of the Commission is: 599 West Bannock Street, Boise, Idaho 83702-5983. All documents filed in all proceedings must be filed with the Commission at one of these addresses. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

Except as provided by Rules 52 and 233, all materials filed with the Commission pursuant to these rules and all materials issued by the Commission pursuant to these rules are public documents subject to inspection, examination

and copying. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

Terms of art used throughout these rules are defined within the rules themselves. ()

011. -- 099. (RESERVED).

100. GENERAL.

01. When Idaho Potato Commission ~~Advertising~~ Tax Is Due. The Idaho Potato Commission ~~Advertising~~ Tax shall be due on or before the time when such potatoes are first handled in the primary channels of trade and shall be paid not later than the fifteenth day of the month next succeeding the month in which such potatoes were handled in the primary channels of trade. See Section 22-1211, Idaho Code. (7-1-93)()

02. Idaho Potato Commission ~~Advertising~~ Tax. There is hereby levied and imposed a tax of four cents (\$0.04) per hundredweight on potatoes covered by this act which tax shall be due on or before the time when such potatoes are first handled in the primary channels of trade and shall be paid not later than the fifteenth day of the month next succeeding the month in which such potatoes were handled in the primary channels of trade. In addition to the four cents (\$0.04) tax herein above provided for there is hereby levied and imposed an additional tax of six cents (\$0.06) per hundredweight on potatoes covered by this act; provided, however, said additional tax of six cents (\$0.06), or any portion thereof, shall only be due and collectible upon a determination by at least two-thirds (2/3) of the commission members that the anticipated expenditures for the next fiscal year following the year in which the determination is made will exceed the anticipated tax revenues to be collected from the said four cents (\$0.04) tax. Upon such a determination, the commission shall collect the additional six cents (\$0.06) tax or such portion thereof as is required by such determination, which shall be collected with, and as, other taxes imposed by this act. The person first selling or otherwise delivering potatoes into primary channels of trade shall be responsible for and make payment of all taxes imposed by this chapter. If such person is the dealer or shipper handling potatoes grown by another, he may charge against and recover from the grower of such potatoes or the person from whom he acquired them sixty percent (60%) of the tax. (7-1-93)()

03. Definitions - As Used In These Rules. Section 22-1204, Idaho Code, defines terms used in these rules. (7-1-93)

04. Dealers', Handlers' And Out-Of-State Repackers' Records. Idaho Potato Commission ~~Advertising~~ Tax Returns - Audits - Inspections. (7-1-93)()

a. Every dealer or handler including out-of-state repackers shall keep a complete and accurate record of all potatoes handled by him in the primary channels of trade. Such record shall be in such form as the Commission's Executive Director shall prescribe. (7-1-93)

b. In addition to such other information that the Executive Director requires, each dealer, handler and out-of-state repacker shall keep records that segregates purchases and sales of Idaho® potatoes by calendar month; records of inventories of Idaho® potatoes by calendar month; records of inventories of containers bearing the registered ~~trademarks~~ Certification Marks of the Commission by calendar month. Such records shall be preserved for a period of two years and shall be open to inspection at any time upon written or oral request or demand by the Commission or its duly authorized agents or employees. (7-1-93)()

c. The Commission's duly authorized agent may enter upon the premises of any grower, dealer, handler, out-of-state repacker, food manufacturer, processor or any other license agreement holder of Idaho® potatoes and examine or cause to be examined any books, papers, records, ledgers, purchase journals, sales journals, electronically and/or magnetically recorded data, computers and computer records or memoranda bearing upon the amount of taxes payable or the correct usage of any Idaho Trade or Certification Mark, and to secure any other information directly or indirectly concerned with the enforcement of Chapter 12, Title 22, Idaho Code, all rules adopted pursuant thereto and all licensing agreements entered into with the Commission. The Commission's duly authorized agents may also inspect and take samples of any potatoes, potato products or containers from the premises

used by a dealer, handler or out-of-state repacker. Regular audits shall be routinely performed by the Commission or its duly authorized agents or employees to assure adherence with these rules. In addition, compliance audits may take place at any time. For further requirements see Section 22-1212, Idaho Code. (7-1-93)(____)

05. Calculation Of ~~Advertising~~ Tax Due. (7-1-93)(____)

a. All first handlers of Idaho® Grown Potatoes shall pay the total tax due on all potatoes handled by them on a net weight basis, except as provided in Rule 100.05.b. Net weight shall be determined by subtracting from the gross scale weight the tare for dirt, rock and other foreign material only. Net weight shall then be multiplied by ninety percent (90%) which provides for a ten percent (10%) allowance for those potatoes that are unusable for human consumption. The amount of tax due is the tax rate currently imposed pursuant to Rule 100.02. multiplied by the hundredweight (cwt) calculated above. The following diagram illustrates the manner in which the formula is to be applied:

		tare			90%			CWT
Gross Scale Weight	Less	(Dirt, rock and other foreign materials ONLY)	X	(Allowance for potatoes unfit for consumption is 10%)	=			(Upon which TAX is DUE)

(7-1-93)

b. Any first handler of Idaho® Grown Potatoes who does not have reasonable access to a scale to calculate the tax due on a net weight basis, may make application to the Commission’s Executive Director for permission to use the following alternate procedure: (7-1-93)

i. Fresh Shipped Potatoes. On all Idaho® potatoes shipped fresh, a permitted handler shall pay the full Idaho Potato Commission ~~Advertising~~ Tax on all fresh shipments which meet State Grade Standards or Federal Fresh Market Standards whether sold interstate or intrastate. (7-1-93)(____)

ii. Fresh Potatoes Not Meeting Grades. A ten percent (10%) discount per hundredweight shall be allowed on all intrastate shipments of fresh potatoes not meeting State Grade Standards or Federal Fresh Market Standards, such as culls or processing grade potatoes sold to processors, after tare is taken for dirt and foreign material only, to allow for that portion which is unusable for human consumption. Statements showing Idaho Potato Commission ~~Advertising~~ Tax liability shall be mailed to fresh shippers each month, and payment of Idaho Potato Commission ~~Advertising~~ Tax due to be made within thirty days of receipt of statement. This rule is not to be construed as authorizing any shipments of potatoes contrary to Section 22-901, Idaho Code. (7-1-93)(____)

06. Tax Reports To Be Made By Dealers, Handlers. A report on a form approved by the Commission, showing total weight handled for a given period of time and the Idaho Potato Commission ~~advertising~~ tax due are to be sent to the Idaho Potato Commission office with the tax payment. These reports are to be made on forms furnished by the Commission and shall show such other information as the Commission may require. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

102. CERTIFICATION MARKS FOR IDAHO® POTATO CONTAINERS.

01. Containers. All potatoes grown in Idaho and packed or repacked in containers in Idaho shall be in containers printed, labeled or stenciled in a plain and legible manner with one (1) of the Commission’s registered Certification Marks, and the “GROWN IN IDAHO®” Certification Mark. An exact reproduction of the Commission’s Certification Marks appears in appendix A. Certification Marks may not be stamped on any Idaho® potato container. All containers must use Idaho specific approved produce code identification numbers. (7-1-93)(____)

a. Upon written application, the Idaho Potato Commission may grant a variance from these rules for special purpose shipments for charity, certified seed, experimentation and processing. The application shall be accompanied by a valid Certificate of Privilege issued by the Idaho and Eastern Oregon Potato Committee, and the applicant shall furnish copies of all of the reports required by the Idaho and Eastern Oregon Potato Committee to the Idaho Potato Commission. ()

02. Marks. No person, firm or corporation packing or repacking potatoes or potato products outside of the state of Idaho shall use any of the Commission's Certification Marks on any containers of potatoes or potato products packed or repacked outside the state of Idaho unless they have first executed an agreement for the use of the Certification Marks with the Idaho Potato Commission, and unless they are actually packing or repacking in such containers Idaho grown potatoes or potato products made from Idaho® grown potatoes. (3-30-01)

03. Agreement. No person, including without limitation manufacturers, container manufacturers, growers, shippers, processors and repackers, shall use or reproduce any of the Commission's Certification Marks on any container without first executing an agreement for the use of the marks with the Idaho Potato Commission. (7-1-93)

04. Recognition. Whenever the "GROWN IN IDAHO®," "IDAHO®" or other Certification Marks are used, recognition must be given that the marks are registered under the appropriate Federal statute. This recognition must be: by printing a legible capital "R" inside a circle (®), immediately after the word "IDAHO". (3-30-01)

05. No Certification Mark. No Certification Mark shall be incorporated into any private label, brand or seal but shall be portrayed without embellishment as shown in appendix A. (3-30-01)

06. Not Incorporated. The word "IDAHO®" shall not be incorporated into any private label, brand or seal unless such label, brand or seal was registered with the U.S. Patent Office prior to January 1, 1966. (3-30-01)

07. Size. When a Certification Mark is used on the front of a one hundred pound (100) sack type container, it shall not be less than five (5) inches in diameter or width and shall not be placed closer than two (2) inches from the bottom of said container. When any Certification Mark is used on the rear of a one hundred pound (100) sack type container, it shall not be less than twelve (12) inches in diameter or width. The marks may also be used on both the front and back of one hundred pound (100) sack type containers, if placed as indicated and in the sizes indicated. Unless a variance has been approved by the Commission. (~~7-1-93~~)()

08. Limitation Of Use. On fifty (50) pound sack type containers, a Certification Mark shall be used as on the one hundred (100) pound containers, but in proportionate sizes. (7-1-93)

09. Other Type Containers. On all sack type containers of less than fifty (50) pounds, a Certification Mark shall appear plainly visible on the front of the containers; and it shall be in relative proportion to brands, labels or other printed matter thereon, but not less than one and one-half (1 1/2) inches in diameter or width. When registered and upon written approval by the Commission, a Spuddy Buddy Certification Mark may be used on the back of a sack type container; provided that no other Certification Mark is also placed on the back of said container. (~~7-1-93~~)()

10. Box Type Containers. (3-30-01)

a. On all box type containers in which ~~number~~ U.S. No. 1 grade Idaho® Potatoes will be packed, a Certification Mark may be located on the sides, ends or top of the container as desired, but shall be so placed and of such size as to be plainly visible. (~~3-30-01~~)()

b. On all box type containers in which number two (2) grade Idaho® Potatoes will be packed, packing is permitted only when the following requirements are met: (3-30-01)

i. The container must be manufactured in a kraft, or non-colored cardboard material and be of a single piece construction; (3-30-01)

ii. The rectangular "Grown in Idaho®" certification mark shall be placed on each side and end panel

of the container, with a width measurement of three and one-half (3 1/2) inches and length measurement of five and one-half (5 1/2) inches. The mark shall be located as shown in Appendix B; (3-30-01)

iii. The certification mark "Idaho® Potatoes" shall be printed on all four (4) sides of the container in one (1) inch lettering in the locations shown in Appendix B; (3-30-01)

iv. The words "U. S. NO. 2" shall be printed on all four (4) sides of the container in one (1) inch lettering in the locations shown in Appendix B and on one (1) of the top flaps of the container; (3-30-01)

v. The top one and three quarters (1 3/4) inches of the carton shall contain no preprinting on all four (4) sides of the container; (3-30-01)

vi. One (1) of the elongated top flaps shall contain the "Grown in Idaho," certification mark with a width of three and one-half (3 1/2) inches and length of five and one-half (5 1/2) inches, together with the certification mark "Idaho Potatoes" in one (1) inch height and the words "U. S. NO. 2" in one (1) inch height; (3-30-01)

vii. Product code identification numbers on containers bearing the certification marks shall use Idaho specific codes where the same have been obtained; and (3-30-01)

viii. All other requirements regarding container packaging set forth in these rules and the license agreements of the Idaho Potato Commission apply to the use of this type of container. (3-30-01)

11. Tote Bin Type. On all tote bin type containers, Certification Marks must be used on the front of said container but may be used elsewhere and shall not be less than twelve (12) inches in diameter or width. (7-1-93)

12. Identity Of Commodity. All containers bearing the marks shall specify the identity of the commodity contained therein and the name and place of business of the manufacturer, packer or distributor of the commodity. Containers which do not comply with the rules of the Idaho Potato Commission shall not be used by any manufacturer, packer or distributor for any potatoes or potato products subject to these rules. (7-1-93)

13. Words Printed. All potatoes grown in Idaho and packed or repacked in Idaho shall have the words "PACKED IN IDAHO" printed on the container. (7-1-93)

14. Sack Type Containers -- Fifty Pounds Or Over. On all sack type containers for fifty (50) pounds or over the words "PACKED IN IDAHO" shall be located on the front lower half of the container but not closer than six (6) inches to the bottom thereof. (7-1-93)

15. Sack Type Containers -- Less Than Fifty Pounds. On all sack type containers containing less than fifty (50) pounds of potatoes the words "PACKED IN IDAHO" may be placed anywhere on the container but shall be so placed as to be plainly visible. (7-1-93)

16. Location Of Words. On all box type containers the words "PACKED IN IDAHO" may be located on the ends, sides or top of the container but shall be so placed as to be plainly visible. (7-1-93)

17. Colors. All marks when used and the words "PACKED IN IDAHO" shall be in color or colors in contrast with the color of the container. (7-1-93)

18. Use. Only in connection with potatoes and potato products grown within the state of Idaho may growers, shippers and packers use the name "IDAHO®" in any mark, label or stencil applied to containers for such produce and products. The growers, shippers and packers of potatoes within the state of Idaho are not precluded from processing, packing and shipping potatoes grown outside the state of Idaho so long as such potatoes are not misrepresented or misbranded as Idaho® Potatoes. (3-30-01)

19. Compulsory Printing. Printing of the mark "GROWN IN IDAHO®" and the words "PACKED IN IDAHO" is compulsory on all potato containers printed or contracted for after December 1, 1964. (3-30-01)

20. Idahos. The word "IDAHOS" shall not be used on any container for potatoes, potato products nor

on any other printing or advertising material or correspondence used to identify or promote Idaho® potatoes. (3-30-01)

21. Exemption. Only shipments of certified seed potatoes to destinations outside of the state of Idaho are exempt from this rule. (7-1-93)

22. Other Rules. Other rules on containers, grade and size are covered under Title 22, Chapter 9, Idaho Code, and applicable marketing orders. (7-1-93)

103. BRANDING, AND GRADE AND PACKAGING REQUIREMENTS OF STATE BRAND.

01. Branding Or Marking Of Individual IDAHO® Potatoes. (7-1-93)

a. Idaho® potatoes are considered to be branded when they are individually marked or identified as such. The methods of branding shall include: marking of individual potatoes by ink, heat, light, labeling, sticker, or puncturing and such other methods as may from time to time be authorized by the Idaho Potato Commission. (7-1-93)(____)

b. The certification mark “Idaho®” shall be one (1) inch in length and one-quarter (1/4) inch in height unless prior Idaho Potato Commission approval is secured and granted for any variation. (7-1-93)

c. The purchase or the leasing or use of branding machines shall be entirely voluntary. (7-1-93)

d. There shall be no limitations on the size and type of containers in which branded potatoes may be packed as long as they meet the licensing requirements of Rule 102. (7-1-93)

e. Grade for branding shall be U.S. No. 1 or better (as defined in the U.S. Standards effective March 27, 1991) and not less than two (2) inches in diameter or four (4) ounces in weight. (7-1-93)

f. Only ~~the word “Idaho®”~~ Certification Marks owned or administered by the Idaho Potato Commission may be branded on potatoes grown in Idaho unless prior Idaho Potato Commission approval in writing is secured and granted for the use of additional words or designs. (7-1-93)(____)

g. The operation of branding the word “Idaho®” upon potatoes shall be carried on only ~~within the state of Idaho~~ by licensees of the Idaho Potato Commission, and only upon such terms and conditions that will insure that only Idaho grown potatoes are branded as such. (7-1-93)(____)

h. ~~Only~~ All varieties of ~~Russet~~ potatoes grown in Idaho may be so branded. (7-1-93)(____)

i. No person, firm or corporation may brand the word “Idaho®” on potatoes or sell machinery for the purpose of branding potatoes with ~~either~~ any of the Idaho certification marks unless granted the right to do so by written agreement with the Idaho Potato Commission. (7-1-93)(____)

j. Branded potatoes ~~shall be Federal-State inspected~~ must use Idaho specific, approved produce code identification numbers. (7-1-93)(____)

02. State Brand Grade And Packaging Requirements. Idaho® potatoes shall meet all requirements of U.S. Extra No. 1 as defined in the U.S. Standards for Grades of Potatoes, March 27, 1991, with the following additions or exceptions: (7-1-93)

a. Mature. (7-1-93)

b. Fairly well shaped. Defined as excluding the lower limits of such classification. (7-1-93)

c. Appearance as related to russeting. Defined: at least seventy five percent (75%) of the surface of the individual potato shall be moderately netted which means the netting will be solid net-like in appearance. (7-1-93)

d. Size shall be two and one eighth (2-1/8) inches in diameter and four (4) ounces minimum, eleven (11) ounces maximum. Each lot shall meet the specifications of Size A as defined in 51.1545, Table I(2) of the Standards. (7-1-93)

e. Tolerances for grade defects are defined in 51.1546(a)(2), for U.S. No. 1. (7-1-93)

f. All other tolerances and definitions of the Standards apply. (7-1-93)

03. Packaging. (7-1-93)

a. Container Requirement: Maximum size not to exceed twenty (20) pounds. (7-1-93)

b. Miscellaneous Requirements: Use of the state brand packaging shall be entirely voluntary. Potatoes grown only in Idaho may be packed in state branded containers. State branded containers shall be packed only in Idaho. ~~Only~~ All varieties of ~~Russet~~ potatoes grown in Idaho may be packed in state branded containers. The Commission shall require a written agreement between the Idaho Potato Commission and Idaho packers for the use of the state brand. All state branded containers shall be Federal-State inspected. (~~7-1-93~~)(____)

c. The grade used in state brand containers shall be as defined in Rule 103.03 and "Idaho State Code 22-908" and "Federal-State Inspected" shall be printed in three-eighths (3/8) inch or larger letters, on front of each container. (7-1-93)

d. If individually branded Idaho® potatoes are packaged in state brand packaging they must meet grade requirements as defined in Rule 103.03. (7-1-93)

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

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

DOCKET NO. 31-4101-0101

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has adopted a pending rule. This action is authorized pursuant to Sections 61-302, 61-303, 61-507 and 62-622(5), Idaho Code, and Sections 64.1100 through 64.1170, and 64.1190, Title 47, Code of Federal Regulations (October 1, 2000).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement 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.

No written comments were received in response to the Notice of Proposed Rulemaking. Consequently, the pending rule is being adopted as proposed. The original text of the temporary and proposed rules was published in the July 4, 2001 Idaho Administrative Bulletin, Volume 01-7, pages 76 through 78.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Beverly Barker at (208) 334-0302.

DATED this 1st day of August, 2001.

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

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

IDAPA 31, TITLE 41, Chapter 01

THE TELEPHONE CUSTOMER RELATIONS RULES

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 76 through 78.](#)

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

DOCKET NO. 31-4201-0101

NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission proposes rulemaking to delete certain rules. This action is authorized pursuant to Sections 62-602, 62-611, 62-614, 62-615, 62-616 and 62-622, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning the Commission's proposal to repeal rules will be scheduled only 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 Commission's address set out below.

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

The Commission proposes to delete its rules adopting interconnection and access standards for facilities-based competitive telephone corporations that provide basic local service to previously unserved areas of the state. More specifically, the Commission proposes to delete Sections 401 through 411 of IDAPA 31.42.01, The Title 62 Telephone Corporation Rules. The Commission believes that these rules of general applicability are no longer necessary.

FEE SUMMARY: There are no fees associated with this proposal to delete rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the deletion of the rules, contact Donald L. Howell, Deputy Attorney General at (208) 334-0312.

Anyone may submit written comments regarding the Commission's proposal to delete rules. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 5th day of September, 2001.

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

Street address for express delivery:
472 W Washington
Boise, Idaho 83702

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-4201-0101

~~303-400. (RESERVED).~~

~~RULES 401 THROUGH 500 - ACCESS AND INTERCONNECTION STANDARDS
IN NEW TELECOMMUNICATIONS DEVELOPMENT AREAS~~

~~401. DEFINITIONS (Rule 401).~~

~~As used in Rules 401 through 410:~~

~~(8-10-98)~~

~~01. **Facilities-Based Competitor.** "Facilities-based competitor" means a non-incumbent telephone corporation that offers basic local exchange service exclusively over its own telecommunications service facilities or predominantly over its own facilities in combination with the resale of telecommunications services of another carrier.~~

~~(8-10-98)~~

~~02. **Incumbent Telephone Corporation.** "Incumbent telephone corporation" means a telephone corporation or its successor which was providing basic local exchange service on or before February 8, 1996.~~

~~(8-10-98)~~

~~03. **Network Element.** "Network element" means a facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.~~

~~(8-10-98)~~

~~04. **New Telecommunications Development Area.** "New telecommunications development area" means a geographic area in which no telephone corporation, including a municipal, cooperative, or mutual non-profit telephone company, has facilities capable of providing basic local exchange service to customers.~~

~~(8-10-98)~~

~~05. **Non-Incumbent Telephone Corporation.** "Non-incumbent telephone corporation" means a telephone corporation which was not providing basic local exchange service on or before February 8, 1996.~~

~~(8-10-98)~~

~~06. **Telephone Corporation.** "Telephone corporation" means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, providing basic local exchange services for compensation within this state, except municipal, cooperative, or mutual nonprofit telephone companies, or telephone corporations providing radio paging, mobile radio telecommunications services, answering services (including computerized or otherwise automated answering or voice message services), or one-way transmission to subscribers of video programming, or other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service or surveying are not included.~~

~~(8-10-98)~~

~~07. **Unbundled Element.** "Unbundled element" means a single network element that a competitor telephone corporation may lease on its own, or if the competitor telephone corporation wishes, in combination with other elements.~~

~~(8-10-98)~~

~~402. **INTERCONNECTION STANDARDS (Rule 402).**~~

~~If a facilities-based competitor builds facilities to provide basic local service within a new telecommunications development area, it shall provide interconnection with its network for the facilities and equipment of any telephone corporation requesting the transmission and routing of telephone exchange service.~~

~~(8-10-98)~~

~~403. **EXCHANGE ACCESS QUALITY STANDARDS (Rule 403).**~~

~~If a facilities-based competitor builds facilities to provide basic local service within a new telecommunications development area, it shall provide exchange access at any technically feasible point within its network that is equal in quality to that provided to itself or to any subsidiary, affiliate, or any other party to which it provides interconnection.~~

~~(8-10-98)~~

~~404. **UNBUNDLED ACCESS STANDARDS (Rule 404).**~~

~~If a facilities-based competitor builds facilities to provide basic local service within a new telecommunications~~

~~development area, it shall provide nondiscriminatory access to network elements to any telephone corporation requesting provision of a telecommunications service on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable and non-discriminatory and shall provide such unbundled network elements in a manner that allows requesting telephone corporations to combine such elements in order to provide basic local exchange service. (8-10-98)~~

~~405. RESALE STANDARDS (Rule 405).~~

~~If a facilities-based competitor builds facilities to provide basic local service within a new telecommunications development area, it shall offer any telecommunications service for resale at wholesale rates that it provides at retail to subscribers who are not telephone corporations and shall not prohibit or impose unreasonable or discriminatory conditions or limitations on the resale of such telecommunications service. (8-10-98)~~

~~406. PHYSICAL COLLOCATION STANDARDS (Rule 406).~~

~~Subject to Rule 407, if a facilities-based competitor builds facilities to provide basic local service within a new telecommunications development area, it shall provide for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the facilities-based competitor, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory. (8-10-98)~~

~~407. EXEMPTION FOR VIRTUAL COLLOCATION (Rule 407).~~

~~If a facilities-based competitor builds facilities to provide basic local service within a new telecommunications development area, it may provide for virtual collocation if it demonstrates to the commission that physical collocation is not practical for technical reasons or because of space limitations. (8-10-98)~~

~~408. VOLUNTARY NEGOTIATION (Rule 408).~~

~~Upon receiving a request for interconnection, services, or network elements, a facilities-based competitor that built facilities to provide basic local service within a new telecommunications development area may negotiate and enter into a binding agreement with the requesting telephone corporation without regard to the standards set forth in Rules 402 through 407. The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement and shall be submitted to the commission for approval. Any party negotiating an agreement under this Rule may, at any point in the negotiation, petition the commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation. (8-10-98)~~

~~409. ARBITRATION. (Rule 409).~~

~~No earlier than ninety (90) days after the date on which a facilities-based competitor receives a request for negotiation pursuant to Rule 408, any party to the negotiation may petition the commission to arbitrate any open issues. The commission shall provide for the resolution of each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required. (8-10-98)~~

~~410. PETITION FOR EXEMPTION FROM RULES 402-409 (Rule 410).~~

~~Any facilities-based competitor may petition the commission to exempt it from the application of Rules 402 through 409. The commission may grant the petition if the petitioner demonstrates there are functionally equivalent, competitively priced basic local services reasonably available to both residential and small business customers within the unserved area from a telephone corporation unaffiliated with the petitioner, or the petitioner demonstrates exemption is in the public interest. (8-10-98)~~

~~411. EFFECTIVE DATE (Rule 411).~~

~~The effective date for these rules is the date of Order No. 27674, August 10, 1998. (8-10-98)~~

~~412-303. -- 999. (RESERVED).~~

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION
31.51.01 - OPERATOR SERVICES AND PAY TELEPHONE RULES

DOCKET NO. 31-5101-0101

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has adopted a pending rule. This action is authorized pursuant to Sections 61-507, 62-601 and 62-622(5), Idaho Code.

DESCRIPTIVE SUMMARY: The Commission's Operator Services and Pay Telephone Rules were last updated in 1993. These rules are amended so that they are consistent with recent changes in federal law and Federal Communications Commission ("FCC") orders. See generally, In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Order No. 96-388 (September 20, 1996). The pending rules also comply with the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq. (September 22, 2000) and the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, 36 C.F.R Part 1191, Appendix A (July 1, 2000). Finally, the pending rules contain several non-substantive changes to clarify and streamline them. In response to the Notice of Proposed Rulemaking, the Commission received one written comment supporting the proposed changes. Consequently, the pending rule is being adopted as proposed. The original text of the proposed rules was published in the July 4, 2001 Idaho Administrative Bulletin, Volume 01-7, pages 79 through 93.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joe Cusick at (208) 334-0333.

DATED this 1st day of August, 2001.

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

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

IDAPA 31, TITLE 51, Chapter 01

OPERATOR SERVICES AND PAY TELEPHONE RULES

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 79 through 93.

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 33 - IDAHO REAL ESTATE COMMISSION
33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION
DOCKET NO. 33-0101-0101 (REPEAL)
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 upon the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224, Idaho Code, and Section 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized by Section 54-2007, Idaho Code.

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

Repeals the existing rules chapter, IDAPA 33.01.01, in its entirety. A new pending rule is being adopted under Docket 33-0101-0102 to replace this chapter.

The pending rule was adopted as proposed and published in the June 6, 2001, Idaho Administrative Bulletin, Volume No.01-6, page 77.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donna Jones, (208) 334-3285 ext. 232 or Kim Coster, (208) 334-3285 ext.235.

DATED this 8th day of August, 2001.

Donna M. Jones
Executive Director
Agency: Idaho Real Estate Commission
Physical Address: 633 N. Fourth St., Boise, ID 83702
PO Box 83720, Boise, ID 83720
(208) 334-3285; (208) 334-2050 (fax)

IDAPA 33, TITLE 01, Chapter 01

RULES OF THE IDAHO REAL ESTATE COMMISSION

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 01-6, June 6, 2001, page 77](#).

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 33 - IDAHO REAL ESTATE COMMISSION
33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION
DOCKET NO. 33-0101-0102 (REWRITE)
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 upon the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224, Idaho Code, and Section 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized by Section 54-2007, Idaho Code.

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

A new rules chapter has been adopted to replace the existing rules chapter, IDAPA 33.01.01. The new chapter consists of former rules that were not codified by the new amendments to the statute, SB 1051.

The pending rule was adopted as proposed and published in the June 6, 2001, Idaho Administrative Bulletin, Volume No. 01-6, pages 78 through 85.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donna Jones, (208) 334-3285 ext. 232 or Kim Coster, (208) 334-3285 ext.235.

DATED this 8th day of August, 2001.

Donna M. Jones
Executive Director
Agency: Idaho Real Estate Commission
Physical Address: 633 N. Fourth St., Boise, ID 83702
PO Box 83720, Boise, ID 83720
(208) 334-3285; (208) 334-2050 (fax)

IDAPA 33, TITLE 01, Chapter 01

RULES OF THE IDAHO REAL ESTATE COMMISSION

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 01-6, June 6, 2001, pages 78 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.

IDAPA 35 - STATE TAX COMMISSION
NOTICE OF RULEMAKING ACTION AFFECTING THE ADMINISTRATIVE
RULES OF THE IDAHO STATE TAX COMMISSION

DOCKET NO. 35-0100-0101

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) 63-105, 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:

The State Tax Commission has proposed rules for several chapters of its rules that are identical or slightly different for all tax types. The rules are of a general nature and are being amended to update code references. Rule 002 - Written Interpretations needed changes to code references and several chapters did not include this rule so the rule is being promulgated in those sections. Rule 004 - Public Records is being amended to update code references in all tax types. Rule 005 is being promulgated in each tax type to list addresses for the main office, office hours, phone numbers, e-mail address and facsimile numbers. Administration and Enforcement Rule 005 is being promulgated and will also list the regional field offices, with locations, phone numbers and facsimile numbers.

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 proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest, at (208) 334-7530.

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

DATED this 22nd day of August, 2001.

Alan Dornfest
Tax Policy Specialist Supervisor
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36
Boise, ID 83722

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0100-0101

IDAPA 35.01.01 - INCOME TAX ADMINISTRATIVE RULES

002. WRITTEN INTERPRETATIONS (Rule 002).

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Tax Commission This Agency has written statements ~~that~~ as defined in Section 67-5201(19)(b)(iv), Idaho Code, which pertain to the interpretation of these rules of this chapter or to the documentation of compliance with these rules of this chapter. To the extent that ~~these such~~ documents are not confidential ~~pursuant to Section 63-3076 or 9-340, Idaho Code~~ by statute or rule, they documents are available for public inspection and copying at the main office of the Tax Commission. See Rule 005 of these rules for the main office address. ~~(3-20-97)()~~

(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS (Rule 004).

The records associated with this chapter are subject to Title 9, Chapter 3, Idaho Code, to the extent these documents are not confidential pursuant to Sections ~~63-3076, 63-3077, or 9-340~~ through 9-350, Idaho Code. ~~(3-20-97)()~~

005. OFFICE -- OFFICE HOURS -- STREET AND MAILING ADDRESSES -- PHONE AND FACSIMILE NUMBERS -- E-MAIL ADDRESS (Rule 005).

01. Main Office. The State Tax Commission main office is located at 800 Park Blvd., Plaza IV, Boise, Idaho 83712. The correspondence mailing address is P.O. Box 36, Boise, Idaho 83722-0410. The telephone number for Taxpayer Services is (208) 334-7660, or toll free 1-800-972-7660, and the facsimile number is (208) 334-7846. The e-mail address is "taxrep@tax.state.id.us". All offices are open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Regional Field Offices. The address and phone number for each regional field office is listed in IDAPA 35.02.01.005 "Tax Commission Administration and Enforcement Rule 005." ()

03. Hearing Impaired. Hearing impaired individuals may contact any State Tax Commission office by using the Idaho Relay Service Number 1-800-377-3529. ()

0056. -- 009. (RESERVED).

BREAK IN CHAPTERS

IDAPA 35.01.02 - SALES AND USE TAX ADMINISTRATIVE RULES

002. WRITTEN INTERPRETATIONS (Rule 002).

In accordance with Section 52-5201(16)(b)(iv), Idaho Code, the Tax Commission This agency has written statements as defined in Section 67-5201(19)(b)(iv), Idaho Code, which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter. To the extent that ~~these such~~ documents are not confidential ~~under Section 63-3075 or 9-340, Idaho Code~~ by statute or rule, they documents are available for public inspection and copying at the main office of the State Tax Commission. See Rule 005 of these rules for the main office address. ~~(7-1-93)()~~

(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS (Rule 004).

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-3076, ~~63-3077~~ or 9-~~340~~~~37~~ through 9-350, Idaho Code. (7-1-98)()

005. OFFICE -- OFFICE HOURS -- STREET AND MAILING ADDRESSES -- PHONE AND FACSIMILE NUMBERS -- E-MAIL ADDRESS (Rule 005).

01. Main Office. The State Tax Commission main office is located at 800 Park Blvd., Plaza IV, Boise, Idaho 83712. The correspondence mailing address is P.O. Box 36, Boise, Idaho 83722-0410. The telephone number for Taxpayer Services is (208) 334-7660, or toll free 1-800-972-7660, and the facsimile number is (208) 334-7846. The e-mail address is "taxrep@tax.state.id.us". All offices are open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Regional Field Offices. The address and phone number for each regional field office is listed in IDAPA 35.02.01.005 "Tax Commission Administration and Enforcement Rule 005." ()

03. Hearing Impaired. Hearing impaired individuals may contact any State Tax Commission office by using the Idaho Relay Service Number 1-800-377-3529. ()

005~~6~~ -- 009. (RESERVED).

BREAK IN CHAPTERS

IDAPA 35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

002. WRITTEN INTERPRETATIONS (Rule 002).

In accordance with Section 52-5201(16)(b)(iv), Idaho Code, the Tax Commission This agency has written statements as defined in Section 67-5201(19)(b)(iv), Idaho Code, which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter. To the extent that these documents are not confidential ~~under Sections 63-3075 or 9-340, Idaho Code~~ by statute or rule, they documents are available for public inspection and copying at the main office of the State Tax Commission. See Rule 005 of these rules for the main office address. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS (Rule 004).

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-3076, ~~63-3077~~ or 9-~~340~~~~37~~ through 9-350, Idaho Code. (7-1-98)()

005. OFFICE -- OFFICE HOURS -- STREET AND MAILING ADDRESSES -- PHONE AND FACSIMILE NUMBERS -- E-MAIL ADDRESS (Rule 005).

01. Main Office. The State Tax Commission main office is located at 800 Park Blvd., Plaza IV, Boise, Idaho 83712. The correspondence mailing address is P.O. Box 36, Boise, Idaho 83722-0410. The telephone number for Taxpayer Services is (208) 334-7660, or toll free 1-800-972-7660, and the facsimile number is (208) 334-7846.

The e-mail address is "taxrep@tax.state.id.us". All offices are open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Regional Field Offices. The address and phone number for each regional field office is listed in IDAPA 35.02.01.005 "Tax Commission Administration and Enforcement Rule 005." ()

03. Hearing Impaired. Hearing impaired individuals may contact any State Tax Commission office by using the Idaho Relay Service Number 1-800-377-3529. ()

0056. -- 019. (RESERVED).

BREAK IN CHAPTERS

IDAPA 35.01.04 - IDAHO ESTATE AND TRANSFER TAX ADMINISTRATIVE RULES

002. (~~RESERVED~~) WRITTEN INTERPRETATIONS (Rule 002).

This agency has written statements as defined in Section 67-5201(19)(b)(iv), Idaho Code, which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter. To the extent that such documents are not confidential by statute or rule, the documents are available for public inspection and copying at the main office of the State Tax Commission. See Rule 005 of these rules for the main office address. ()

(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS.

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-3076, 63-3077, or 9-34037 through 9-350, Idaho Code. (7-1-98)()

005. OFFICE -- OFFICE HOURS -- STREET AND MAILING ADDRESSES -- PHONE AND FACSIMILE NUMBERS -- E-MAIL ADDRESS (Rule 005).

01. Main Office. The State Tax Commission main office is located at 800 Park Blvd., Plaza IV, Boise, Idaho 83712. The correspondence mailing address is P.O. Box 36, Boise, Idaho 83722-0410. The telephone number for Taxpayer Services is (208) 334-7660, or toll free 1-800-972-7660, and the facsimile number is (208) 334-7846. The e-mail address is "taxrep@tax.state.id.us". All offices are open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Regional Field Offices. The address and phone number for each regional field office is listed in IDAPA 35.02.01.005 "Tax Commission Administration and Enforcement Rule 005." ()

03. Hearing Impaired. Hearing impaired individuals may contact any State Tax Commission office by using the Idaho Relay Service Number 1-800-377-3529. ()

0056. -- 011. (RESERVED).

BREAK IN CHAPTERS

IDAPA 35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES

002. WRITTEN INTERPRETATIONS (Rule 002).

~~In accordance with Section 67-5201(16)(b)(iv), Idaho Code, the Tax Commission~~ This agency has written statements ~~that~~ as defined in Section 67-5201(19)(b)(iv), Idaho Code, which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter. To the extent that ~~these such~~ documents are not confidential under Sections 63-2434, 41-4908, 63-3076, 63-3077, or 9-34037 through 9-350, Idaho Code, they are available for public inspection and copying at the main office of the State Tax Commission. See Rule 005 of these rules for the main office address. (6-23-94)()

(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS (Rule 004).

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-2434, 41-4908, 63-3076, 63-3077, or 9-34037 through 9-350, Idaho Code. Non-confidential records are available for public inspection and copying at the main office of the State Tax Commission. See Rule 005 of these rules for the main office address. (7-1-97)()

005. OFFICE -- OFFICE HOURS -- STREET AND MAILING ADDRESSES -- PHONE AND FACSIMILE NUMBERS -- E-MAIL ADDRESS (Rule 005).

01. Main Office. The State Tax Commission main office is located at 800 Park Blvd., Plaza IV, Boise, Idaho 83712. The correspondence mailing address is P.O. Box 36, Boise, Idaho 83722-0410. The telephone number for Taxpayer Services is (208) 334-7660, or toll free 1-800-972-7660, and the facsimile number is (208) 334-7846. The e-mail address is "taxrep@tax.state.id.us". All offices are open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Regional Field Offices. The address and phone number for each regional field office is listed in IDAPA 35.02.01.005 "Tax Commission Administration and Enforcement Rule 005." ()

03. Hearing Impaired. Hearing impaired individuals may contact any State Tax Commission office by using the Idaho Relay Service Number 1-800-377-3529. ()

0056. -- 009. (RESERVED).

BREAK IN CHAPTERS

IDAPA 35.01.06 - IDAHO HOTEL/MOTEL ROOM TAX ADMINISTRATIVE RULES

002. (~~RESERVED~~) WRITTEN INTERPRETATIONS (Rule 002).

This agency has written statements as defined in Section 67-5201(19)(b)(iv), Idaho Code, which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter. To the extent that such documents are not confidential by statute or rule, the documents are available for public inspection and copying at the main office of the State Tax Commission. See Rule 005 of these rules for the main office address. ()

(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS (Rule 004).

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-3076, ~~63-3077~~ or 9-~~34037~~ through 9-350, Idaho Code. (7-1-98)()

005. OFFICE -- OFFICE HOURS -- STREET AND MAILING ADDRESSES -- PHONE AND FACSIMILE NUMBERS -- E-MAIL ADDRESS (Rule 005).

01. Main Office. The State Tax Commission main office is located at 800 Park Blvd., Plaza IV, Boise, Idaho 83712. The correspondence mailing address is P.O. Box 36, Boise, Idaho 83722-0410. The telephone number for Taxpayer Services is (208) 334-7660, or toll free 1-800-972-7660, and the facsimile number is (208) 334-7846. The e-mail address is "taxrep@tax.state.id.us". All offices are open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Regional Field Offices. The address and phone number for each regional field office is listed in IDAPA 35.02.01.005 "Tax Commission Administration and Enforcement Rule 005." ()

03. Hearing Impaired. Hearing impaired individuals may contact any State Tax Commission office by using the Idaho Relay Service Number 1-800-377-3529. ()

0056. -- 009. (RESERVED).

BREAK IN CHAPTERS

IDAPA 35.01.07 - KILOWATT HOUR TAX ADMINISTRATIVE RULES

002. WRITTEN INTERPRETATIONS (Rule 002).

In accordance with Section 67-5201(16)(b)(iv), Idaho Code, the Tax Commission This agency has written statements ~~that~~ as defined in Section 67-5201(19)(b)(iv), Idaho Code which pertain to the interpretation of these rules of this chapter or to the documentation of compliance with these rules of this chapter. To the extent that ~~these such~~ documents are not confidential *pursuant to Section 63-3076 or 9-340, Idaho Code* by statute or rule, they documents are available for public inspection and copying at the main office of the Tax Commission. See Rule 005 of these rules for the main office address. (7-1-97)()

(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS (Rule 004).

The records associated with this chapter are subject to Title 9, Chapter 3, Idaho Code, to the extent these documents are not confidential pursuant to Sections 63-3076, ~~63-3077~~ or 9-~~34037~~ through 9-350, Idaho Code. (7-1-97)()

005. OFFICE -- OFFICE HOURS -- STREET AND MAILING ADDRESSES -- PHONE AND FACSIMILE NUMBERS -- E-MAIL ADDRESS (Rule 005).

01. Main Office. The State Tax Commission main office is located at 800 Park Blvd., Plaza IV, Boise, Idaho 83712. The correspondence mailing address is P.O. Box 36, Boise, Idaho 83722-0410. The telephone number for Taxpayer Services is (208) 334-7660, or toll free 1-800-972-7660, and the facsimile number is (208) 334-7846. The e-mail address is "taxrep@tax.state.id.us". All offices are open from 8 a.m. to 5 p.m. except Saturday, Sunday

and legal holidays. ()

02. Regional Field Offices. The address and phone number for each regional field office is listed in IDAPA 35.02.01.005 "Tax Commission Administration and Enforcement Rule 005." ()

03. Hearing Impaired. Hearing impaired individuals may contact any State Tax Commission office by using the Idaho Relay Service Number 1-800-377-3529. ()

0056. -- 009. (RESERVED).

BREAK IN CHAPTERS

IDAPA 35.01.08 - IDAHO MINE LICENSE TAX ADMINISTRATIVE RULES

002. WRITTEN INTERPRETATIONS (Rule 002.)

In accordance with Section 67-5201(16)(b)(iv), Idaho Code, the Tax Commission This agency has written statements ~~that~~ as defined in Section 67-5201(19)(b)(iv), Idaho Code which pertain to the interpretation of these rules of this chapter or to the documentation of compliance with these rules of this chapter. To the extent that ~~these~~ such documents are not confidential pursuant to Section 63-3076 or 9-340, Idaho Code by statute or rule, they documents they are available for public inspection and copying at the main office of the Tax Commission. See Rule 005 of these rules for the main office address. (7-1-97)()

(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS (Rule 004).

The records associated with this chapter are subject to Title 9, Chapter 3, Idaho Code, to the extent these documents are not confidential pursuant to Sections 63-3076, 63-3077, or 9-340 through 9-350, Idaho Code. (7-1-97)()

005. OFFICE -- OFFICE HOURS -- STREET AND MAILING ADDRESSES -- PHONE AND FACSIMILE NUMBERS -- E-MAIL ADDRESS (Rule 005).

01. Main Office. The State Tax Commission main office is located at 800 Park Blvd., Plaza IV, Boise, Idaho 83712. The correspondence mailing address is P.O. Box 36, Boise, Idaho 83722-0410. The telephone number for Taxpayer Services is (208) 334-7660, or toll free 1-800-972-7660, and the facsimile number is (208) 334-7846. The e-mail address is "taxrep@tax.state.id.us". All offices are open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Regional Field Offices. The address and phone number for each regional field office is listed in IDAPA 35.02.01.005 "Tax Commission Administration and Enforcement Rule 005." ()

03. Hearing Impaired. Hearing impaired individuals may contact any State Tax Commission office by using the Idaho Relay Service Number 1-800-377-3529. ()

0056. -- 009. (RESERVED).

BREAK IN CHAPTERS

IDAPA 35.01.09 - IDAHO KITCHEN AND TABLE WINE TAX ADMINISTRATIVE RULES

002. ~~(RESERVED)~~ WRITTEN INTERPRETATIONS (Rule 002).

This agency has written statements as defined in Section 67-5201(19)(b)(iv), Idaho Code, which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter. To the extent that such documents are not confidential by statute or rule, the documents are available for public inspection and copying at the main office of the State Tax Commission. See Rule 005 of these rules for the main office address.

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(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS.

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-3076, ~~63-3077~~, or 9-~~34037~~ through 9-350, Idaho Code. ~~(7-1-98)~~()

005. OFFICE -- OFFICE HOURS -- STREET AND MAILING ADDRESSES -- PHONE AND FACSIMILE NUMBERS -- E-MAIL ADDRESS (Rule 005).

01. Main Office. The State Tax Commission main office is located at 800 Park Blvd., Plaza IV, Boise, Idaho 83712. The correspondence mailing address is P.O. Box 36, Boise, Idaho 83722-0410. The telephone number for Taxpayer Services is (208) 334-7660, or toll free 1-800-972-7660, and the facsimile number is (208) 334-7846. The e-mail address is "taxrep@tax.state.id.us". All offices are open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Regional Field Offices. The address and phone number for each regional field office is listed in IDAPA 35.02.01.005 "Tax Commission Administration and Enforcement Rule 005." ()

03. Hearing Impaired. Hearing impaired individuals may contact any State Tax Commission office by using the Idaho Relay Service Number 1-800-377-3529. ()

005. -- 009. (RESERVED).

BREAK IN CHAPTERS

IDAPA 35.01.10 - IDAHO CIGARETTE AND TOBACCO TAX ADMINISTRATIVE RULES

002. ~~(RESERVED)~~ WRITTEN INTERPRETATIONS (Rule 002).

This agency has written statements as defined in Section 67-5201(19)(b)(iv), Idaho Code, which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter. To the extent that such documents are not confidential by statute or rule, the documents are available for public inspection and copying at the main office of the State Tax Commission. See Rule 005 of these rules for the main office address.

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(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS (Rule 004).

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-3076, 63-3077 or 9-34037 through 9-350, Idaho Code. (7-1-98)()

005. OFFICE -- OFFICE HOURS -- STREET AND MAILING ADDRESSES -- PHONE AND FACSIMILE NUMBERS -- E-MAIL ADDRESS (Rule 005).

01. Main Office. The State Tax Commission main office is located at 800 Park Blvd., Plaza IV, Boise, Idaho 83712. The correspondence mailing address is P.O. Box 36, Boise, Idaho 83722-0410. The telephone number for Taxpayer Services is (208) 334-7660, or toll free 1-800-972-7660, and the facsimile number is (208) 334-7846. The e-mail address is "taxrep@tax.state.id.us". All offices are open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Regional Field Offices. The address and phone number for each regional field office is listed in IDAPA 35.02.01.005 "Tax Commission Administration and Enforcement Rule 005". ()

03. Hearing Impaired. Hearing impaired individuals may contact any State Tax Commission office by using the Idaho Relay Service Number 1-800-377-3529. ()

0056. -- 009. (RESERVED).

BREAK IN CHAPTERS

IDAPA 35.01.11 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES

002. (~~RESERVED~~) WRITTEN INTERPRETATIONS (Rule 002).

This agency has written statements as defined in Section 67-5201(19)(b)(iv), Idaho Code, which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter. To the extent that such documents are not confidential by statute or rule, the documents are available for public inspection and copying at the main office of the State Tax Commission. See Rule 005 of these rules for the main office address. ()

(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS (Rule 004).

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-3076, 63-3077, or 9-34037 through 9-350, Idaho Code. (7-1-98)()

005. OFFICE -- OFFICE HOURS -- STREET AND MAILING ADDRESSES -- PHONE AND FACSIMILE NUMBERS -- E-MAIL ADDRESS (Rule 005).

01. Main Office. The State Tax Commission main office is located at 800 Park Blvd., Plaza IV, Boise, Idaho 83712. The correspondence mailing address is P.O. Box 36, Boise, Idaho 83722-0410. The telephone number for Taxpayer Services is (208) 334-7660, or toll free 1-800-972-7660, and the facsimile number is (208) 334-7846. The e-mail address is "taxrep@tax.state.id.us". All offices are open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Regional Field Offices. The address and phone number for each regional field office is listed in

IDAPA 35.02.01.005 "Tax Commission Administration and Enforcement Rule 005." ()

03. Hearing Impaired. Hearing impaired individuals may contact any State Tax Commission office by using the Idaho Relay Service Number 1-800-377-3529. ()

0056. UNCLAIMED EXPENSES AND CHECKS (Rule 005).

Intangible property required to be reported and delivered to the state includes outstanding or unclaimed expense and vendor checks, payroll checks, claim checks or drafts or other miscellaneous checks and drafts. The term "check" also includes items referred to as "warrants". The term "payroll" includes commissions and any other form of monetary payment to an employee in exchange for services. (7-1-98)

01. Confirmation. A confirmation letter by the payee which claims that the amount is due and owing to the payee should be accompanied by a facsimile instrument issued by the holder in payment of the amount due and owing before the account will be considered not abandoned. (8-24-94)

02. Clearance. A confirmation letter signed by the payee which states that the amount is not due and owing to the payee will be deemed sufficient to relieve the holder of the liability even if the check with which the holder paid the liability has not yet cleared the holder's bank. (7-1-98)

0067. -- 009. (RESERVED).

BREAK IN CHAPTERS

IDAPA 35.01.12 - IDAHO BEER TAX ADMINISTRATIVE RULES

002. (~~RESERVED~~) WRITTEN INTERPRETATIONS (Rule 002).

This agency has written statements as defined in Section 67-5201(19)(b)(iv), Idaho Code, which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter. To the extent that such documents are not confidential by statute or rule, the documents are available for public inspection and copying at the main office of the State Tax Commission. See Rule 005 of these rules for the main office address. ()

(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS (Rule 004).

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-3076, ~~63-3077~~, or 9-~~34037~~ through 9-350, Idaho Code. (7-1-98)()

005. OFFICE -- OFFICE HOURS -- STREET AND MAILING ADDRESSES -- PHONE AND FACSIMILE NUMBERS -- E-MAIL ADDRESS (Rule 005).

01. Main Office. The State Tax Commission main office is located at 800 Park Blvd., Plaza IV, Boise, Idaho 83712. The correspondence mailing address is P.O. Box 36, Boise, Idaho 83722-0410. The telephone number for Taxpayer Services is (208) 334-7660, or toll free 1-800-972-7660, and the facsimile number is (208) 334-7846. The e-mail address is "taxrep@tax.state.id.us". All offices are open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Regional Field Offices. The address and phone number for each regional field office is listed in IDAPA 35.02.01.005 "Tax Commission Administration and Enforcement Rule 005." ()

03. Hearing Impaired. Hearing impaired individuals may contact any State Tax Commission office by

using the Idaho Relay Service Number 1-800-377-3529. ()

0056. -- 009. (RESERVED).

BREAK IN CHAPTERS

IDAPA 35.02.01 - ADMINISTRATION AND ENFORCEMENT ADMINISTRATIVE RULES

002. WRITTEN INTERPRETATIONS (Rule 002).

In accordance with Section 67-5201(16)(b)(iv), Idaho Code, and Rule 110 of these rules, the Tax Commission This agency has written statements as defined in Section 67-5201(19)(b)(iv), Idaho Code, that which pertain to the interpretation of these rules of this chapter or to the documentation of compliance with these rules of this chapter. To the extent that these such documents are not confidential pursuant to Section 63-3076 or 9-340, Idaho Code by statute or rule, they documents are available for public inspection and copying at the main office of the Tax Commission. See Rule 005 of these rules for the main office address. (3-20-97)()

(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS (Rule 004).

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Chapter 3, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-3076, 63-3077, or 9-34037 through 9-350, Idaho Code. (7-1-98)()

005. OFFICE -- OFFICE HOURS -- STREET AND MAILING ADDRESSES -- PHONE AND FACSIMILE NUMBERS -- E-MAIL ADDRESS (Rule 005).

01. Main Office. The State Tax Commission main office is located at 800 Park Blvd., Plaza IV, Boise, Idaho 83712. The correspondence mailing address is P.O. Box 36, Boise, Idaho 83722-0410. The telephone number for Taxpayer Services is (208) 334-7660, or toll free 1-800-972-7660, and the facsimile number is (208) 334-7846. The e-mail address is "taxrep@tax.state.id.us". All offices are open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ()

02. Regional Field Offices. The address and phone number for each regional field office is listed in Subsections 005.02.a. through 005.02.e. ()

a. Coeur d'Alene Field Office. Suite 100, 1910 Northwest Blvd., Coeur d'Alene, Idaho 83814-2615. The telephone number is (208) 769-1500. The facsimile number is (208) 769-1505. ()

b. Lewiston Field Office. 1118 F Street, P.O. Box 1014, Lewiston, Idaho 83501-1014. The telephone number is (208) 799-3491. The facsimile number is (208) 799-5053. ()

c. Idaho Falls Field Office. Suite 16, 150 Shoup Avenue, Idaho Falls, Idaho 83402-3653. The telephone number is (208) 525-7116. The facsimile number is (208) 525-7154. ()

d. Pocatello Field Office. Suite 5, 611 Wilson Avenue, Pocatello, Idaho 83201-5029. The telephone number is (208) 236-6244. The facsimile number is (208)233-6134. ()

e. Twin Falls Field Office. Suite C, 1038 Blue Lakes Blvd. N., P.O. Box 5227, Twin Falls, Idaho 83303-5227. The telephone number is (208) 736-3040. The facsimile number is (208) 736-3043. ()

03. Hearing Impaired. Hearing impaired individuals may contact any State Tax Commission office by using the Idaho Relay Service Number 1-800-377-3529. ()

IDAPA 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-0101
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) 63-105 and 63-3039, Idaho Code.

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

RULE 006 - Incorporation By Reference – is being promulgated as required by the rules of the Administrative Rules Coordinator to identify the documents incorporated by reference into the Income Tax Administrative Rules.

RULE 105 - Adjustments To Taxable Income -- Additions Required Of All Taxpayers - is being amended to conform to 2001 legislation that denies a deduction for local income taxes and to clarify the addback of taxes paid by an S corporation.

RULE 108 - Adjustments To Taxable Income -- Additions Required Only Of Individuals - is being amended to add information regarding a withdrawal from an Idaho college savings program that was enacted in 2000 legislation.

RULE 120 - Adjustments To Taxable Income -- Subtractions Available To All Taxpayers - is being amended to conform to 2001 legislation that denies a deduction for local income taxes and to add a subsection for the deduction for long-term care insurance that was added in 2001 legislation.

RULE 121 - Adjustments To Taxable Income -- Subtractions Available Only To Individuals - is being amended to conform to 2001 legislation that denies a deduction for local income taxes, to correct a code reference regarding Idaho college savings programs, and to modify the subsection regarding health insurance costs to conform to changes made in 2001 legislation.

RULE 170 – Idaho Capital Gains Deduction -- In General - is being amended to clarify how losses from nonqualified property are treated and to update examples for 2001 legislation that changed the deduction from 60% to 80% of the capital gain net income from qualified property.

RULE 171 – Idaho Capital Gains Deduction -- Qualified Property - is being amended to update examples for past legislation that changed the holding period for real property from five years to eighteen months.

RULE 173 - Idaho Capital Gains Deduction -- Pass-Through Entities - is being amended to update examples for past legislation that changed the holding period for real property from five years to eighteen months and for 2001 legislation that changed the deduction from 60% to 80% of the capital gain net income from qualified property.

RULE 251 - Nonresident And Part-Year Resident Individuals -- Computation of Idaho Taxable Income – is being amended to remove information related to computing Idaho gross income and to add information related to computing Idaho total income.

RULE 252 - Nonresident And Part-Year Resident Individuals -- Adjustments Allowed In Computing Idaho Adjusted Gross Income - is being amended to change the calculation of certain deductions for part-year residents and nonresidents to a ratio of Idaho total income to total income rather than using a ratio of Idaho gross income to gross income.

RULE 253 - Nonresident And Part-Year Resident Individuals -- Additions Required In Computing Idaho Adjusted

Income - is being amended to add a subsection for withdrawals from an Idaho college savings program that was enacted in 2000 legislation.

RULE 254 - Nonresident And Part-Year Resident Individuals -- Subtractions Allowed In Computing Idaho Adjusted Income - is being amended to add subtractions for local income tax refunds, to change the ratios used to compute deductions from using gross income to total income, to amend the deduction allowed for contributions to Idaho college savings programs, to amend the subsection related to health insurance costs for 2001 legislation, and to add a subsection for long-term care insurance that was enacted in 2001 legislation.

RULE 272 - Idaho Compensation -- Severance Pay - is being promulgated to clarify the calculation of severance pay earned by nonresidents and part-year residents that is from Idaho sources.

RULE 280 – Partnerships Operating Within and Without Idaho – is being amended to add gross income information to the list of information that a partnership must provide to partners.

RULE 325 – Definitions For Purposes Of Multistate Rules - is being amended to add a definition of gross receipts for computing Idaho taxable income of multistate corporations.

RULE 335 – Nonbusiness Income – is being amended to add a calculation for the offset of interest expense against nonbusiness income.

RULE 580 - Special Rules -- Special Industries - is being amended to update information regarding the “Model Regulations, Statutes and Guidelines, Uniformity Recommendations to the States” which contains information incorporated by reference and where the information may be obtained. The reference to Rule 581 was also clarified as to the information found in that rule.

RULE 582 - Special Rules -- Financial Institutions - is being amended to update information regarding the “Model Regulations, Statutes and Guidelines, Uniformity Recommendations to the States” which contains information incorporated by reference and where the information may be obtained.

RULE 704 - Credits -- Pass-Through Entities - is being amended to renumber the rule as Rule 785 and to update the example for 2001 legislation that changed the credit limitation.

RULE 705 - Credit For Contributions To Educational Institutions – is being amended to update the information regarding dollar limitations amended in 2001 legislation, to clarify the limitation when the credit for qualifying new employees is claimed, and to update a reference to another rule that was renumbered.

RULE 710 - Idaho Investment Tax Credit -- In General - is being amended to update a reference to another rule that was renumbered.

RULE 711 - Idaho Investment Tax Credit -- Taxpayers Entitled to the Credit - is being amended to update a reference to another rule that was renumbered and to remove an obsolete rule reference.

RULE 720 - Credit For Idaho Research Activities -- In General - is being promulgated to address in which taxable years the credit for Idaho research activities may be claimed, to clarify the limitations and carryovers related to the credit, and to reference the general rule regarding pass-through entities due to 2001 legislation that enacted the credit.

RULE 721 - Credit For Idaho Research Activities -- Elections - is being promulgated to address the elections available to a taxpayer claiming the credit for Idaho research activities due to 2001 legislation that enacted the credit.

RULE 723 - Credit For Idaho Research Activities -- Record-Keeping Requirements – is being promulgated to address the records that the taxpayer must maintain when claiming the credit due to 2001 legislation that enacted the credit.

RULE 730 - Credit For Contributions To Idaho Youth Facilities, Rehabilitation Facilities And Nonprofit Substance Abuse Centers - is being amended to update a reference to two rules that were renumbered and to remove an obsolete rule reference.

RULE 745 – Credit For Qualifying New Employees -- Revenue-Producing Enterprise - is being amended to clarify that the rule relates to Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning in 2000.

RULE 746 - Credit For Qualifying New Employees -- Calculations Used To Determine The Credit And Credit Carryover - is being amended to clarify that the rule relates to Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning in 2000 and to update references to rules that were renumbered.

RULE 747 - Credit For Qualifying New Employees -- Net Income Of A Revenue-Producing Enterprise - is being amended to clarify that the rule relates to Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning in 2000.

RULE 748 - Credit For Qualifying New Employees -- Documentation - is being amended to clarify that the rule relates to Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning in 2000 and to add information regarding failure to maintain adequate records.

RULE 750 – Broadband Equipment Investment Credit -- In General – is being promulgated to address in which taxable years the broadband equipment investment tax credit may be claimed, to clarify the limitations and carryovers related to the credit, to address taxpayers entitled to the credit, and to reference the general rule regarding pass-through entities due to 2001 legislation that enacted the credit.

RULE 752 - Broadband Equipment Investment Credit -- Recapture – is being promulgated to address the recapture of the broadband equipment investment credit due to 2001 legislation that enacted the credit.

RULE 753 - Broadband Equipment Investment Credit -- Record-Keeping Requirements – is being promulgated to address the records that the taxpayer must maintain when claiming the credit due to 2001 legislation that enacted the credit.

RULE 755 – Credit For Qualifying New Employees -- In General – is being promulgated to clarify the limitations and carryovers related to the credit for qualifying new employees, to reference the general rule regarding pass-through entities, and to address unitary taxpayers due to 2001 legislation that modified the credit.

RULE 756 - Credit For Qualifying New Employees -- Calculations Used To Determine The Credit and Credit Carryover - is being promulgated to clarify how to compute the credit including the calculation of number of employees and the number of new employees due to 2001 legislation that modified the credit.

RULE 757 - Credit For Qualifying New Employees -- Net Income Of Idaho Business - is being promulgated to clarify the calculation of net income for purposes of computing the credit due to 2001 legislation that modified the credit.

RULE 758 - Credit For Qualifying New Employees -- Record-Keeping Requirements - is being promulgated to clarify the records that the taxpayer must maintain when claiming the credit due to 2001 legislation that modified the credit.

RULE 760 - Priority Order Of Credits - is being amended to renumber the rule as Rule 799 and to add credits enacted in 2001 legislation to the priority order of nonrefundable credits.

RULE 760 - Idaho Incentive Investment Tax Credit -- In General – A new Rule 760 is being promulgated to address in which taxable year the incentive investment tax credit may be claimed, to clarify the limitations and carryovers related to the credit, to address taxpayers entitled to the credit, and to reference the general rule regarding pass-through entities due to 2001 legislation that enacted the credit.

RULE 761 - Idaho Incentive Investment Tax Credit -- Mobile Property – is being promulgated to address the calculation of the credit for mobile property due to 2001 legislation that enacted the credit.

RULE 762 - Idaho Incentive Investment Tax Credit -- Recapture – is being promulgated to address the recapture of the incentive investment tax credit due to 2001 legislation that enacted the credit.

RULE 763 - Idaho Incentive Investment Tax Credit -- Record-Keeping Requirements – is being promulgated to address the records that the taxpayer must maintain when claiming the credit due to 2001 legislation that enacted the credit.

RULE 770 – Grocery Credit – is being amended to update the amount of the credit allowed due to 2001 legislation that changed the credit from \$15 to \$20.

RULE 790 – Transfer Of Credit -- In General – is being promulgated to clarify that the transfer of credit is limited to the broadband equipment investment credit and the incentive investment tax credit and to define terms used due to 2001 legislation that allows for the transfer of these two credits.

RULE 791 – Transfer Of Credit -- Notification of Intended Transfer – is being promulgated to clarify the timing of the notification of transfer of credit and to identify the information required in the notice due to 2001 legislation that allows for the transfer of the broadband equipment investment credit and the incentive investment tax credit.

RULE 792 - Transfer Of Credit -- Posting Bond – is being promulgated to clarify the requirement to post bond or security when the incentive investment tax credit is transferred due to 2001 legislation that enacted the credit.

RULE 793 – Transfer Of Credit -- Transferee – is being promulgated to clarify when a transferee may claim the transferred credit, requirements to attach a copy of the transfer form, and the carryover period allowed to the transferee due to 2001 legislation that allows for the transfer of the broadband equipment investment credit and the incentive investment tax credit.

RULE 800 – Valid Income Tax Returns – is being amended to delete obsolete information related to partnerships that do not transact business in Idaho and to clarify when a copy of the federal return is required.

RULE 810 – Time For Filing Income Tax Returns – is being amended to address the due date for a short taxable year and to reference a rule regarding the date of filing.

RULE 872 – Reporting and Paying State Income Tax Withholding - is being amended to update a code reference.

RULE 880 – Credit and Refunds – is being amended to delete references to Form 40X, which is no longer used and to update a code reference changed in 2001 legislation.

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

No fee applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is of a general application rather than applicable to identifiable groups or interests.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning a proposed rule, contact Janice Boyd, (208) 334-7530.

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

DATED this 22nd day of August, 2001.

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

THE FOLLOWING IS THE TEXT OF DOCKET 35-0101-0101

006. INCORPORATION BY REFERENCE (Rule 006).

These rules incorporate by reference the following documents, which may be obtained from the main office of the Idaho State Tax Commission: ()

01. MTC Special Industry Regulations. This document is found in "Model Regulations, Statutes and Guidelines, Uniformity Recommendations to the States," October, 2000 Edition, published by the MTC, 444 N. Capitol Street, NW, Suite 425, Washington, DC 20001. See Rules 580 and 581 of these rules. ()

02. MTC Recommended Formula For The Apportionment And Allocation Of Net Income Of Financial Institutions. This document is found in "Model Regulations, Statutes and Guidelines, Uniformity Recommendations to the States," October, 2000 Edition, published by the MTC, 444 N. Capitol Street, NW, Suite 425, Washington, DC 20001. See Rule 582 of these rules. ()

0067. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

105. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED OF ALL TAXPAYERS (Rule 105).

Section 63-3022, Idaho Code. (3-20-97)

01. State And Local Income Taxes. As provided in Section 63-3022(a), Idaho Code, add state and local income taxes deducted in computing taxable income. This includes taxes paid to states other than Idaho and their political subdivisions, and amounts paid by an pass-through entity S corporation on capital gains, built-in gains, and excess net passive income. (7-1-99)()

02. Net Operating Loss Deduction. As provided in Section 63-3022(b), Idaho Code, add any net operating loss deduction included in taxable income. (7-1-99)

03. Capital Loss Carryover Deduction. As provided in Section 63-3022(i), Idaho Code: (3-30-01)

a. A corporation shall add a capital loss deducted in computing taxable income if the capital loss occurred during a taxable year when the corporation did not transact business in Idaho, unless the corporation was part of a unitary group with at least one (1) member of the group taxable by Idaho for that taxable year. (7-1-99)

b. An individual shall add a capital loss deducted in computing taxable income if the capital loss was incurred in a business activity not taxable by Idaho at the time it was incurred. (3-20-97)

04. Interest And Dividend Income Exempt From Federal Taxation. As provided in Section 63-3022M, Idaho Code, add certain interest and dividend income that is exempt from federal income tax. For example, add interest income from state and local bonds that is exempt from federal income tax pursuant to Section 103, Internal Revenue Code. (7-1-99)

a. Interest from bonds issued by the state of Idaho or its political subdivisions is exempt from Idaho income tax and, therefore, is not required to be added to taxable income. (3-20-97)

b. If a taxpayer has both Idaho and non-Idaho state and municipal interest income, expenses not allowed pursuant to Sections 265 and 291, Internal Revenue Code, shall be prorated between the Idaho and non-Idaho interest income as provided in Subsections 105.04.b.i. and 105.04.b.ii. The addition to taxable income required for non-Idaho state and municipal interest income shall be offset by the expenses prorated to that interest income. The

allowable offset may not exceed the reportable amount of interest income. An unused offset may not be carried back or carried over. A schedule showing the interest and related offsets shall be attached to the return. (4-5-00)

i. Expenses prorated to Idaho state and municipal interest income shall be based on the ratio of Idaho state and municipal interest income to total state and municipal interest income. (7-1-98)

ii. Expenses prorated to non-Idaho state and municipal interest income shall be based on the ratio of non-Idaho state and municipal interest income to total state and municipal interest income. (7-1-98)

05. Interest Expense Attributable To Tax-Exempt Interest Income. As provided by Section 63-3022M, Idaho Code, a taxpayer shall add interest expense on indebtedness incurred to purchase or carry certain obligations that produce tax-exempt interest income. Because this addition serves to offset the tax-exempt interest income, it is often referred to as an interest expense offset related to tax-exempt interest income. See Rule 115 of these rules for the computation of the interest expense offset related to tax-exempt interest. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

108. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF INDIVIDUALS (Rule 108).

Section 63-3022, Idaho Code. (3-20-97)

01. Lump Sum Distributions. As provided in Section 63-3022(k), Idaho Code, add the taxable amount of a lump sum distribution excluded from taxable income. (3-30-01)

02. Withdrawals From An Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, add the amount of a withdrawal from an Idaho medical savings account if the withdrawal was not made for the purpose of paying eligible medical expenses. See Rule 190 of these rules. (7-1-98)

03. Withdrawals From An Idaho College Savings Program. As provided in Section 63-3022(n), Idaho Code, an account owner shall add the amount of any nonqualified withdrawal from an Idaho college savings program. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

120. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE TO ALL TAXPAYERS (Rule 120).

Section 63-3022, Idaho Code. (3-20-97)

01. State And Local Income Tax Refunds. Subtract from taxable income ~~the~~ state and local income tax refunds included in taxable income, unless the refunds have already been subtracted pursuant to Section 63-3022(a), Idaho Code. (~~7-1-99~~)()

02. Idaho Net Operating Loss. As provided in Section 63-3022(c), Idaho Code, subtract the Idaho net operating loss deduction described in Section 63-3021, Idaho Code, and Rules 200 through 210 of these rules. An S corporation or a partnership that incurs a loss is not entitled to claim a net operating loss deduction. The loss is passed through to the shareholders and partners who may deduct the loss. (7-1-99)

03. Income Not Taxable By Idaho. As provided in Section 63-3022(f), Idaho Code, subtract the amount of income that is exempt from Idaho income tax, if included in taxable income. Income exempt from taxation by Idaho includes the following: (7-1-99)

a. Interest income from obligations issued by the United States Government. Gain recognized from

the sale of United States Government obligations is not exempt from Idaho tax and, therefore, may not be subtracted from taxable income. For the interest expense offset, see Rule 115 of these rules. (7-1-99)

b. Idaho lottery prizes exempt by Section 67-7439, Idaho Code. For prizes awarded on lottery tickets purchased in Idaho after January 1, 1998, a subtraction is allowed for each lottery prize that is less than six hundred dollars (\$600). If a prize equals or exceeds six hundred dollars (\$600), no subtraction is allowed. The full amount of the prize is included in income. (4-5-00)

04. Donated Technological Equipment. As provided by Section 63-3022J, Idaho Code, and Rule 180 of these rules, subtract the fair market value of technological equipment donated to qualifying institutions. (4-5-00)

05. Long-Term Care Insurance. As provided in Section [63-3022Q] 63-3022P, Idaho Code, a deduction from taxable income is allowed for fifty percent (50%) of the premiums paid during the taxable year for qualifying long-term care insurance for the benefit of the taxpayer, a dependent of the taxpayer or an employee of the taxpayer. ()

121. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE ONLY TO INDIVIDUALS (Rule 121).
Section 63-3022, Idaho Code. (3-20-97)

01. Income Not Taxable By Idaho. As provided in Section 63-3022(f), Idaho Code, subtract the amount of income that is exempt from Idaho income tax if included in taxable income. Income exempt from taxation by Idaho includes the following: (7-1-99)

a. Certain income earned by Native Americans. See Rule 033 of these rules. (3-20-97)

b. Retirement payments received pursuant to the old Teachers' Retirement System. Prior to its repeal on July 1, 1967, the old Teachers' Retirement System was codified at Title 33, Chapter 13, Idaho Code. Teachers who were employed by the state of Idaho and who retired on or after January 1, 1966, generally do not qualify for this exemption. Teachers who were not state employees and who retired on or after January 1, 1968, do not qualify. Teachers receiving benefits pursuant to the Public Employees' Retirement System, Title 59, Chapter 13, Idaho Code, do not qualify for the exemption. No exemption is provided for amounts received from other states, school districts outside Idaho, or any other source if the proceeds do not relate to teaching performed in Idaho. (3-20-97)

02. Military Compensation For Service Performed Outside Idaho. As provided in Section 63-3022(h), Idaho Code, certain members of the United States Armed Forces may deduct from taxable income their military service pay received for military service performed outside Idaho. See Rule 032 of these rules. (3-30-01)

03. Standard Or Itemized Deduction. As provided in Section 63-3022(j), Idaho Code, deduct either the standard deduction amount as defined in Section 63, Internal Revenue Code, or the itemized deductions allowed by the Internal Revenue Code. If itemized deductions are limited pursuant to the Internal Revenue Code, they are also limited for Idaho income tax purposes. (3-30-01)

a. If state and local income taxes are included in itemized deductions for federal purposes pursuant to Section 164, Internal Revenue Code, they shall be added to taxable income. If itemized deductions are limited pursuant to Section 68, Internal Revenue Code, the amount of state and local income taxes added back shall be computed by dividing the amount of limited itemized deductions by total itemized deductions before the limitation. This percent shall be rounded to the nearest whole percent. For example, sixty-six and one-half percent (66.5%) shall be rounded to sixty-seven percent (67%). Sixty-six and four-tenths percent (66.4%) shall be rounded to sixty-six percent (66%). This percent is then applied to state and local income taxes to determine the Idaho state and local income tax addback. See Rule 105 of these rules. (~~3-30-01~~)()

b. If an itemized deduction allowable for federal income tax purposes is reduced for the mortgage interest credit or the foreign tax credit, the amount that would have been allowed if the federal credit had not been claimed is allowed as an itemized deduction. (7-1-99)

c. For taxable year 1999 the standard deduction allowed on a married filing joint return shall be

increased by one hundred fifty dollars (\$150). (3-30-01)

d. For taxable years beginning on or after January 1, 2000, the standard deduction allowed on a married filing joint return shall be equal to two (2) times the basic standard deduction for a single individual. Add to this amount any additional standard deduction for the aged or blind allowed for federal income tax purposes. (3-30-01)

04. Social Security And Railroad Retirement Benefits. As provided in Section 63-3022(l), Idaho Code, subtract from taxable income the amount of social security and certain railroad retirement benefits included in gross income pursuant to Section 86, Internal Revenue Code. (3-30-01)

a. The term social security benefits includes United States social security benefits and Canadian social security pensions received by a United States resident that are treated as United States social security benefits for United States income tax purposes. (7-1-99)

b. The term railroad retirement benefits means Tier I, Tier II, and supplemental benefits paid by the Railroad Retirement Board. Supplemental benefits, for purposes of this rule, include railroad unemployment and sickness benefits. (7-1-99)

05. Self-Employed Worker's Compensation Insurance Premiums. As provided in Section 63-3022(m), Idaho Code, self-employed individuals may subtract from taxable income the premiums paid to secure worker's compensation insurance for coverage in Idaho if the premiums have not been previously deducted in computing taxable income. The term worker's compensation insurance means "workmen's compensation" as defined in Section 41-506(d), Idaho Code. Premiums paid to secure worker's compensation insurance coverage are those payments made in compliance with Section 72-301, Idaho Code. (3-30-01)

06. Retirement Benefits. As provided in Section 63-3022A, Idaho Code, and Rule 130 of these rules, a deduction from taxable income is allowed for certain retirement benefits. (3-20-97)

07. Insulation Of An Idaho Residence. As provided in Section 63-3022B, Idaho Code, and Rule 140 of these rules, a deduction from taxable income is allowed for qualified expenses related to the insulation of an Idaho residence. (3-20-97)

08. Alternative Energy Devices. As provided in Section 63-3022C, Idaho Code, and Rule 150 of these rules, a deduction from taxable income is allowed for qualified expenses related to the acquisition of an alternative energy device used in an Idaho residence. (3-20-97)

09. Household And Dependent Care Services. As provided in Section 63-3022D, Idaho Code, and Rule 160 of these rules, a deduction from taxable income is allowed for certain employment related expenses incurred for the care of qualifying individuals. (3-20-97)

10. Household Deduction For Elderly Or Developmentally Disabled Dependents. As provided in Section 63-3022E, Idaho Code, and Rule 165 of these rules, a deduction from taxable income is allowed for maintaining a household where an elderly or developmentally disabled family member resides. (3-20-97)

11. Reparations To Displaced Japanese Americans. As provided in Section 63-3022G, Idaho Code, certain individuals are allowed a deduction for amounts included in taxable income relating to reparation payments from the United States Civil Liberties Public Education Fund. (3-20-97)

12. Capital Gains. As provided in Section 63-3022H, Idaho Code, and Rules 170 through 173 of these rules, a deduction from taxable income may be allowed for net capital gains recognized from the sale of qualified property. (3-20-97)

13. Adoption Expenses. As provided in Section 63-3022I, Idaho Code, and Rule 185 of these rules, a deduction from taxable income is allowed for certain expenses incurred when adopting a child. (3-20-97)

14. Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, and Rule 190 of

these rules, a deduction from taxable income is allowed for qualifying contributions to and interest earned on an Idaho medical savings account. (4-5-00)

15. **Idaho College Savings Program.** As provided in Section 63-3022~~f(n)(e)~~, Idaho Code, a deduction from taxable income is allowed for qualifying contributions to a college savings program. ~~(3-30-01)~~(____)

16. **Health Insurance Costs ~~For Self-Employed Individuals.~~** ~~As provided in Section 63-3022O, Idaho Code, a deduction from taxable income is allowed for qualified medical insurance costs not otherwise deducted for federal income tax purposes pursuant to Section 162(l), Internal Revenue Code.~~ A deduction from taxable income is allowed for the amounts paid by the taxpayer during the taxable year for insurance that constitutes medical care, as defined in Section 63-3022P, Idaho Code, for the taxpayer, the spouse or dependents of the taxpayer not otherwise deducted or excluded for Idaho income tax purposes. ~~(3-30-01)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

170. **IDAHO CAPITAL GAINS DEDUCTION -- IN GENERAL (Rule 170).** Section 63-3022H, Idaho Code. (3-20-97)

01. **Losses From Nonqualified Property.** Losses from property not qualifying for the Idaho capital gains deduction ~~will~~ may not ~~reduce~~ be netted against gains from property qualifying for the Idaho capital gains deduction before the amount of the deduction, ~~unless is determined.~~ However, the Idaho capital gains deduction ~~would otherwise~~ may not exceed ~~net~~ the capital gain net income included in Idaho taxable income. See Subsection 170.034 for an explanation of the ~~net~~ capital gain net income limitation. ~~(3-20-97)~~(____)

02. **Losses From Qualified Property.** (7-1-99)

a. Losses from property qualifying for the Idaho capital gains deduction shall be netted against gains from property qualifying for the Idaho capital gains deduction before the amount of the deduction is determined. (7-1-99)

b. A capital loss carryover from property qualifying for the Idaho capital gains deduction shall be netted against current year gains from property qualifying for the Idaho capital gains deduction before the amount of the deduction is determined. If a taxpayer has a capital loss carryover consisting of qualified and nonqualified property, the qualified capital loss carryover shall be the proportion that the qualified capital loss bears to the total capital loss shown on the return in the prior year multiplied by the capital loss carryover. (7-1-99)

03. **Examples.** (3-20-97)

a. A taxpayer sells two (2) parcels of Idaho real property that qualify for the deduction. These are the only sales during the taxable year. A capital gain of seven thousand five hundred dollars (\$7,500) is recognized on the sale of Parcel A. A capital loss of five thousand dollars (\$5,000) is recognized on the sale of Parcel B. Since both parcels are qualified property, the gain and loss are netted, resulting in ~~a net~~ capital gain net income from qualified property of two thousand five hundred dollars (\$2,500) and an Idaho capital gains deduction of one thousand five hundred dollars (\$1,500). For taxable year 2001, the capital gains deduction is eighty percent (80%) of the capital gain net income from qualified property, or two thousand dollars (\$2,000). ~~(7-1-99)~~(____)

b. A taxpayer recognizes a capital gain of twenty thousand dollars (\$20,000) on the sale of Idaho real property that qualifies for the deduction. The taxpayer also recognizes a capital loss of two thousand five hundred dollars (\$2,500) from the sale of shares of stock that he has held for more than one (1) year. These are the only sales during the taxable year. In this case, since the long-term capital loss is not from qualified property, the loss on the sale of stock does not reduce the gain from qualified property for purposes of computing the deduction. The entire gain from qualified property of twenty thousand dollars (\$20,000) is eligible for the Idaho capital gains deduction, resulting in a deduction of twelve thousand dollars (\$12,000). For taxable year 2001, the capital gains deduction is eighty percent (80%) of the capital gain net income from qualified property, or sixteen thousand dollars (\$16,000).

(7-1-99)(____)

04. ~~Net~~ Capital Gain Net Income Limitation.

(3-20-97)(____)

a. The Idaho capital gains deduction is allowed only if the taxpayer reports ~~a net~~ capital gain net income, as defined in Section 1222(~~H9~~), Internal Revenue Code, on his federal income tax return. In addition, the Idaho capital gains deduction may not exceed the ~~net~~ capital gain net income included in taxable income.

(3-20-97)(____)

b. Example. A taxpayer recognizes a capital gain of five thousand dollars (\$5,000) on the sale of Idaho real property that qualifies for the deduction. The taxpayer also recognizes a capital loss of two thousand five hundred dollars (\$2,500) from the sale of shares of stock. These are the only sales during the taxable year. Sixty percent (60%) of the ~~net~~ capital gain net income from qualified property is greater than the ~~net~~ capital gain net income included in the taxpayer's taxable income. Therefore, the taxpayer's Idaho capital gains deduction is limited to the ~~net~~ capital gain net income included in taxable income of two thousand five hundred dollars (\$2,500), not sixty percent (60%) of the ~~net~~ capital gain net income from the qualified property. For taxable year 2001, the capital gains deduction is eighty percent (80%) of the capital gain net income from qualified property. This deduction is also limited to the capital gain net income included in Idaho taxable income.

(7-1-99)(____)

05. Ordinary Income Limitation. The Idaho capital gains deduction may not include any gains treated as ordinary income pursuant to the Internal Revenue Code. For example, any gain from the sale, exchange, or involuntary conversion of certain depreciable property treated as ordinary income pursuant to Section 1245, Internal Revenue Code, may not be included when computing the Idaho capital gains deduction.

(3-20-97)

171. IDAHO CAPITAL GAINS DEDUCTION -- QUALIFIED PROPERTY (Rule 171).

Section 63-3022H, Idaho Code.

(3-20-97)

01. Timber. As used in Section 63-3022H(3)(e), Idaho Code, qualified timber grown in Idaho includes:

(3-20-97)

a. Standing timber held as investment property that is a capital asset pursuant to Section 1221, Internal Revenue Code; and

(3-20-97)

b. Cut timber if the taxpayer elects to treat the cutting of timber as a sale or exchange pursuant to Section 631(a), Internal Revenue Code.

(3-20-97)

02. Holding Periods.

(3-20-97)

a. In General. To qualify for the capital gains deduction, property otherwise eligible for the Idaho capital gains deduction must be held for specific time periods. The holding periods for Idaho purposes generally follow the definitions provided by Section 1223, Internal Revenue Code.

(7-1-98)

b. Exception to the Tacked-On Holding Period. The holding period of property given up in a tax-free exchange is not tacked on to the holding period of the property received if the property given up was nonqualifying property based on the requirements of Section 63-3022H(3), Idaho Code. Nonqualifying property includes:

(7-1-98)

i. Real or tangible personal property not having an Idaho situs at the time of the exchange; and

(7-1-98)

ii. Tangible personal property not used by a revenue-producing enterprise.

(7-1-98)

c. Installment Sales. The determination of whether the property meets the required holding period is made using the laws applicable for the year of the sale. If the required holding period is not met in the year of sale, the gain is not from qualified property. The classification as nonqualified property will not change even though the gain may be reported in subsequent years when a reduced holding period is applicable.

(4-5-00)

d. Examples of nonqualifying property.

(7-1-98)

i. A taxpayer purchased land in California. After owning the land three (3) years, he gave up the California land in a tax-free exchange for land in Idaho. He owned the Idaho land for ~~fourteen (14) years~~ months until selling it at a gain. For federal purposes the holding period of the California land tacks on to the holding period of the Idaho land. The gain from the sale of the California land would not qualify for the Idaho capital gains deduction since it is real property located outside Idaho. The holding period of the California land does not tack on to the holding period of the Idaho land for purposes of the Idaho capital gains deduction. Because the Idaho land was not held for ~~five eighteen (518) years~~ months, the gain from the sale of the Idaho land does not qualify for the Idaho capital gains deduction. (7-1-98)(____)

ii. Assume the same facts as in the example in Subsection 171.02.c.i. except the taxpayer's original purchase was land in Idaho. Because the taxpayer owned real property in Idaho that was exchanged for a second parcel of real property in Idaho, the holding period of the Idaho land given up tacks on to the holding period of the second parcel of Idaho land. Because the holding period of the second property, which includes the holding period of the first property, was at least ~~five eighteen (518) years~~ months, the gain from the sale of the second parcel of real property qualifies for the Idaho capital gains deduction. (7-1-98)(____)

03. Holding Periods Of S Corporation And Partnership Property. (7-1-98)

a. Property Distributed by an S Corporation to a Shareholder or a Partnership to a Partner. The holding period of property received from an S corporation or partnership includes the S corporation's or partnership's holding period, limited to the length of time the shareholder or partner held his interest in the income of the S corporation or partnership. See Subsection 173.02 of these rules. (3-20-97)

b. Property Contributed by a Shareholder to an S Corporation or a Partner to a Partnership. A shareholder or partner who contributes otherwise qualified property to an S corporation or partnership may treat the pass-through gain on the sale of that property as a qualifying Idaho capital gain if the property has, in total, been held by the shareholder or partner and the S corporation or partnership for the required holding period. The noncontributing shareholders or partners may treat the pass-through gain as a qualifying Idaho capital gain only if the S corporation or partnership held the property for the required holding period, limited to the length of time the shareholder or partner has held his interest in the S corporation or partnership. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

173. IDAHO CAPITAL GAINS DEDUCTION -- PASS-THROUGH ENTITIES (Rule 173).
Section 63-3022H, Idaho Code. (3-20-97)

01. In General. (3-20-97)

a. Qualified property held by an S corporation or partnership may be eligible for the Idaho capital gains deduction. The deduction is claimed on the return of an individual shareholder or individual partner. (3-20-97)

b. Partnerships and S corporations electing to pay the tax for an individual pursuant to Section 63-3022L, Idaho Code, are not allowed to claim a capital gains deduction. (4-5-00)

02. Limitation Of Interest In Pass-Through Entity. (3-20-97)

a. An individual may claim an Idaho capital gains deduction on the pass-through gain from qualified property of an S corporation or partnership only to the extent that he held his interest in income of the S corporation or partnership for the required holding period. A shareholder's interest in income of the S corporation is his pro rata share of the income or loss. A partner's interest in income of the partnership is his distributive share of partnership profits. The individual must also meet any gross income limitations specified in Section 63-3022H(3), Idaho Code, for that type of property. (3-20-97)

b. Example. A shareholder in an S corporation had a ~~fifty~~ twenty-five percent (~~50~~25%) interest in income in year one (1). At the beginning of year two (2), the shareholder's ~~sold half his stock. During years two (2) through four (4) the shareholder had a twenty-five percent (25%) ownership interest. In year five (5) the shareholder purchased additional stock and his~~ ownership interest increased to fifty percent (50%). Fifteen (15) months later the S corporation recognizes a capital gain on the sale of Idaho real property held since year one (1). The shareholder reports fifty percent (50%) of the gain on his tax return for ~~the year six (6) of sale,~~ but is entitled to a capital gains deduction on only twenty-five percent (25%) of the total gain. His capital gains deduction is limited to twenty-five percent (25%) of the gain since he did not hold his fifty percent (50%) ownership interest for the full eighteen (18) months preceding the date of the sale of the property. ~~(7-1-99)(_____)~~

03. Multistate Entities. A nonresident shareholder of an S corporation or a nonresident partner of a partnership required to allocate and apportion income as set forth in Section 63-3027, Idaho Code, shall compute his Idaho capital gains deduction on his interest in income of that portion of the qualifying capital gains allocated or apportioned to Idaho. (3-20-97)

04. Examples. (3-20-97)

a. XYZ Farms, a multistate partnership, sold a parcel of Idaho farmland purchased seven (7) years ago. The sixty thousand dollar (\$60,000) gain is determined to be business income and is included in income apportionable to Idaho. The partnership has a seventy-five percent (75%) Idaho apportionment factor. The three (3) nonresident partners share equally in the partnership profits. Each partner may claim an Idaho capital gains deduction of nine thousand dollars (\$9,000), computed as follows: (\$60,000 X 75% = \$45,000 gain apportioned to Idaho X 1/3 = \$15,000 attributable to each partner X 60% = \$9,000 capital gains deduction allowable on each partner's nonresident return). For taxable year 2001, the capital gains deduction is eighty percent (80%) of the capital gain net income from qualified property, or twelve thousand dollars (\$12,000). ~~(3-20-97)(_____)~~

b. XYZ Farms, a multistate partnership, sold a parcel of Idaho real estate held for investment for the past seven (7) years. The sixty thousand dollar (\$60,000) gain is determined to be nonbusiness income and is allocated to Idaho. The three (3) nonresident partners share equally in the partnership profits. Each partner may claim an Idaho capital gains deduction of twelve thousand dollars (\$12,000), computed as follows: (\$60,000 gain allocated to Idaho X 1/3 = \$20,000 partner's share X 60% = \$12,000 Idaho capital gains deduction allowable on each partner's nonresident return). For taxable year 2001, the capital gains deduction is eighty percent (80%) of the capital gain net income from qualified property, or sixteen thousand dollars (\$16,000). ~~(3-20-97)(_____)~~

c. A resident partner's capital gain is not limited by the apportionment factor of the pass-through entity. Therefore, in both of the examples in Subsections 173.04.a. and 173.04.b., a resident partner may claim an Idaho capital gains deduction of twelve thousand dollars (\$12,000), or sixteen thousand dollars (\$16,000) for taxable year 2001. ~~(3-20-97)(_____)~~

(BREAK IN CONTINUITY OF SECTIONS)

251. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- COMPUTATION OF IDAHO TAXABLE INCOME (Rule 251).
Section 63-3026A, Idaho Code. (3-20-97)

01. Idaho ~~Gross~~ Total Income. To determine the Idaho taxable income of nonresident and part-year resident individuals, first compute the taxpayer's Idaho ~~gross~~ total income. ~~(3-20-97)(_____)~~

a. ~~For a nonresident, Idaho gross income means gross income derived from or related to sources within Idaho.~~ Idaho total income is that portion of total income subject to Idaho taxation. It is the amount reported as total income on Form 43. ~~(3-20-97)(_____)~~

b. ~~For a part-year resident, Idaho gross income means gross income derived from or related to sources within Idaho that was earned or received during the portion of the taxable year when the individual was not residing in and not domiciled in Idaho, plus gross income derived from all sources that was earned or received during the portion of the taxable year when the individual was residing in or domiciled in Idaho.~~ For purposes of this rule, total income means gross income less certain deductions allowed under the Internal Revenue Code. It is the amount reported on the federal individual income tax return that is identified as total income. (3-20-97)(____)

02. Idaho Adjusted Gross Income. From Idaho ~~gross~~ total income, make the applicable adjustments provided in Rule 252 of these rules to arrive at Idaho adjusted gross income. (3-20-97)(____)

03. Idaho Adjusted Income. From Idaho adjusted gross income, make the applicable additions and subtractions set forth in Rules 253 and 254 of these rules to arrive at Idaho adjusted income. (3-20-97)

04. Idaho Taxable Income. From Idaho adjusted income, subtract the exemption and deduction amounts as provided in Rule 255 of these rules to arrive at Idaho taxable income. (3-20-97)

252. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- ADJUSTMENTS ALLOWED IN COMPUTING IDAHO ADJUSTED GROSS INCOME (Rule 252).
Section 63-3026A(6), Idaho Code. (3-20-97)

01. Payments To An Individual Retirement Account (IRA). To determine the allowable adjustment, calculate a percentage by dividing the taxpayer's Idaho compensation by the taxpayer's total compensation. Multiply the deduction allowed for federal purposes by the percentage. For purposes of this rule, compensation means "compensation" as defined in Section 219(f)(1), Internal Revenue Code, and Treasury Regulation Section 1.219-1(c)(1). Idaho compensation is determined pursuant to Rule 270 of these rules. (3-30-01)

02. Payments To A Keogh Retirement Plan, Simplified Employee Pension (SEP) Plan, Self-Employment Tax, And Self-Employment Health Insurance. To determine the allowable adjustment, calculate a percentage by dividing the taxpayer's self-employment income from Idaho sources by the taxpayer's total self-employment income. Multiply the self-employment deductions allowed for federal purposes by the percentage. (3-20-97)

03. Penalty On Early Withdrawal Of Savings. To determine the allowable adjustment, calculate a percentage by dividing the interest income of the time savings deposit subject to the penalty that is required to be included as Idaho income by the total interest income of the time savings deposit. Multiply the penalty deduction allowed for federal purposes by the percentage. (3-20-97)

04. Alimony Payments. The deduction for alimony payments allowed for federal purposes is allowed for Idaho purposes in the proportion that Idaho ~~gross~~ total income bears to ~~gross~~ total income. (3-20-97)(____)

05. Moving Expenses. The deduction for moving expenses allowed for federal purposes is allowed for Idaho purposes in the proportion that Idaho ~~gross~~ total income bears to ~~gross~~ total income. (3-20-97)(____)

06. Payment To A Federal Medical Savings Account. To determine the allowable adjustment, calculate a percentage by dividing the taxpayer's Idaho compensation by the taxpayer's total compensation. Multiply the deduction allowed for federal purposes by the percentage. For purposes of this rule, compensation means "compensation" as defined in Section 219(f)(1), Internal Revenue Code, and Treasury Regulation Section 1.219-1(c)(1). Idaho compensation is determined pursuant to Rule 270 of these rules. (3-30-01)

07. Student Loan Interest Payments. The deduction for student loan interest payments allowed for federal purposes is allowed for Idaho purposes in the proportion that Idaho ~~gross~~ total income bears to ~~gross~~ total income. (3-30-01)(____)

253. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- ADDITIONS REQUIRED IN COMPUTING IDAHO ADJUSTED INCOME.
Section 63-3026A(6), Idaho Code. (3-20-97)

- 01. Interest And Dividends Not Taxable Pursuant To The Internal Revenue Code.** (3-20-97)
- a. Part-Year Residents. Add interest and dividend income not taxable pursuant to the Internal Revenue Code that was received while residing in or domiciled in Idaho. However, do not include interest received from obligations of the state of Idaho or any political subdivision of Idaho. This interest is exempt from Idaho income tax. (7-1-98)
- b. Nonresidents. Add interest and dividend income reportable from a pass-through entity that was transacting business in Idaho to the extent the income was apportioned or allocated as Idaho income. See Rule 263 of these rules for multistate apportionment rules. (7-1-98)
- 02. Net Operating Loss Deduction.** Add any net operating loss deduction included in Idaho gross income. (3-20-97)
- 03. Capital Loss.** Add capital losses included in Idaho gross income if the loss was incurred while not residing in and not domiciled in Idaho, or if the loss relates to an activity not taxable by Idaho at the time the loss was incurred. (3-20-97)
- 04. Lump Sum Distributions.** Add the taxable amount of a lump sum distribution, deducted from gross income pursuant to Section 402(d), Internal Revenue Code, received while residing in or domiciled in Idaho. This includes both the ordinary income portion and the amount eligible for the capital gain election. (3-20-97)
- 05. Idaho Medical Savings Account.** Add the amount withdrawn from an Idaho medical savings account to the extent the withdrawal is treated as income by Idaho law. (7-1-98)
- 06. Idaho College Savings Program.** Add the amount of a nonqualified withdrawal from an Idaho college savings program to the extent the withdrawal is treated as income by Idaho law. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. ()
- 254. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- SUBTRACTIONS ALLOWED IN COMPUTING IDAHO ADJUSTED INCOME (Rule 254).**
Section 63-3026A(6), Idaho Code. (3-20-97)
- 01. Net Operating Loss Carryover.** Subtract the net operating loss carryover allowed by Section 63-3022(c), Idaho Code, to the extent the loss was incurred while residing in or domiciled in Idaho or to the extent the loss was from business activity taking place in Idaho. A net operating loss incurred from a business activity not taxable by Idaho may not be subtracted. (7-1-99)
- 02. State And Local Income Tax Refunds.** Subtract state and local income tax refunds included in Idaho ~~gross total~~ income. (~~3-20-97~~)()
- 03. Income Not Taxable By Idaho.** Subtract income that is exempt from Idaho income taxation by a law of the state of Idaho or of the United States, if that income is included in Idaho ~~gross total~~ income and has not been previously subtracted. Income not taxable by Idaho includes: (~~3-20-97~~)()
- a. Interest income from obligations issued by the United States Government. Gain recognized from the sale of United States Government obligations is not exempt from Idaho tax and, therefore, may not be subtracted from taxable income. For the interest expense offset, see Rule 115 of these rules. (7-1-99)
- b. Idaho lottery prizes exempt by Section 67-7439, Idaho Code. For prizes awarded on lottery tickets purchased in Idaho after January 1, 1998, a subtraction is allowed for each lottery prize that is less than six hundred dollars (\$600). If a prize equals or exceeds six hundred dollars (\$600), no subtraction is allowed. The full amount of the prize is included in income. (4-5-00)
- c. Certain income earned by Native Americans. An enrolled member of a federally recognized Indian tribe who lives on a federally recognized Indian reservation is not taxable on income derived within the reservation. See Rule 033 of these rules. (7-1-98)

d. Certain income earned by transportation employees covered by Title 49, Sections 11502, 14503 or 40116, United States Code. See Rule 045 of these rules. (7-1-99)

04. Military Pay. Subtract qualified military pay included in Idaho ~~gross total~~ income earned for military service performed outside Idaho. Qualified military pay means all compensation paid by the United States for services performed while on active duty as a full-time member of the United States Armed Forces which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more. A nonresident does not ~~report~~ include his military pay ~~as in~~ Idaho ~~gross total~~ income and, therefore, makes no adjustment. See Rule 032 of these rules for information regarding the residency status of members of the United States Armed Forces. (3-20-97)()

05. Social Security And Railroad Retirement Benefits. Subtract social security benefits and benefits paid by the Railroad Retirement Board that are taxable pursuant to the Internal Revenue Code, to the extent the benefits are included in Idaho ~~gross total~~ income. See Subsections 121.04.a. and 121.04.b. of these rules. (7-1-99)()

06. Household And Dependent Care Expenses. Subtract the allowable portion of household and dependent care expenses that meets the requirements of Section 63-3022D, Idaho Code, if incurred to enable the taxpayer to be gainfully employed in Idaho. To determine the allowable portion of household and dependent care expenses, calculate a percentage by dividing Idaho earned income by total earned income. Multiply the qualified expenses by the percentage. Earned income is defined in Section 32(c)(2), Internal Revenue Code. (3-20-97)

07. Insulation And Alternative Energy Device Expenses. Subtract expenses related to the installation of insulation or alternative energy devices that meet the requirements of Section 63-3022B or 63-3022C, Idaho Code. (3-20-97)

08. Deduction For Dependents Sixty-Five Or Older Or With Developmental Disabilities. Subtract one thousand dollars (\$1,000) for each person who meets the requirements of Section 63-3022E, Idaho Code. The deduction may be claimed for no more than three (3) qualifying dependents. If a dependent has not lived in the maintained household for the entire taxable year, the allowable deduction is eighty-three dollars (\$83) for each month the dependent resided in the maintained household during the taxable year. For purposes of this rule, a fraction of a month exceeding fifteen (15) days is treated as a full month. (3-20-97)

09. Adoption Expenses. Subtract the allowable portion of adoption expenses that meets the requirements of Section 63-3022I, Idaho Code. To determine the allowable portion, calculate a percentage by dividing Idaho ~~gross total~~ income by total ~~gross~~ income. Multiply the deduction allowable pursuant to Section 63-3022I, Idaho Code, by the percentage. (3-20-97)()

10. Capital Gains Deduction. Subtract the Idaho capital gains deduction allowed by Section 63-3022H, Idaho Code. (3-20-97)

11. Idaho Medical Savings Account. (7-1-98)

a. Subtract contributions to an Idaho medical savings account that meet the requirements of Section 63-3022K, Idaho Code. (7-1-98)

b. Subtract interest earned on an Idaho medical savings account to the extent included in Idaho ~~gross total~~ income. (7-1-98)()

12. Technological Equipment Donation. Subtract donations of technological equipment allowed by Section 63-3022J, Idaho Code. See Rule 180 of these rules. (3-20-97)

13. Worker's Compensation Insurance. As allowed by Section 63-3022(m), Idaho Code, a self-employed individual may subtract the premiums paid for worker's compensation for coverage in Idaho to the extent not previously subtracted in computing Idaho taxable income. (3-30-01)

~~14. **Contributions To Idaho College Savings Program.** Subtract the allowable portion of contributions to a college savings program that meets the requirements of Section 63-3022~~f(n)~~~~(o)~~, Idaho Code. ~~To determine the allowable portion, calculate a percentage by dividing Idaho gross income by total gross income. Multiply the deduction allowable pursuant to Section 63-3022~~f(n)~~~~(o)~~, Idaho Code, by the percentage.~~~~ (3-30-01)()

15. **Retirement Benefits.** As provided in Section 63-3022A, Idaho Code, and Rule 130 of these rules, a deduction from taxable income is allowed for certain retirement benefits. To determine the allowable portion of the deduction for certain retirement benefits, calculate a percentage by dividing the qualified retirement benefits included in Idaho gross income by the qualified retirement benefits included in federal gross income. Multiply the deduction allowable pursuant to Section 63-3022A, Idaho Code, and Rule 130 of these rules, by the percentage. (3-30-01)

~~16. **Health Insurance Costs.** As allowed by Section 63-3022O, Idaho Code, a self-employed individual may subtract the allowable portion of health the amounts paid by the taxpayer during the taxable year for insurance premiums paid to the extent not previously subtracted for federal income tax purposes pursuant to Section 162(t), Internal Revenue Code that constitutes medical care as defined in Section 63-3022P, Idaho Code, for the taxpayer, spouse or dependents of the taxpayer not otherwise deducted or excluded for Idaho income tax purposes. To determine the allowable portion of health insurance premiums the amounts paid for medical care insurance, calculate a percentage by dividing Idaho self-employment total income by total self-employment income. Multiply the qualified premiums deduction allowable pursuant to Section 63-3022P, Idaho Code, by the percentage.~~ (3-30-01)()

~~17. **Long-Term Care Insurance.** As provided in Section [63-3022Q] 63-3022P, Idaho Code, a deduction from taxable income is allowed for the allowable portion of premiums paid during the taxable year for qualifying long-term care insurance for the benefit of the taxpayer, a dependent of the taxpayer or an employee of the taxpayer. To determine the allowable portion, calculate a percentage by dividing Idaho total income by total income. Multiply the deduction allowable pursuant to Section [63-3022Q] 63-3022P, Idaho Code, by the percentage.~~ ()

(BREAK IN CONTINUITY OF SECTIONS)

~~272. -- 279. (RESERVED).~~

272. IDAHO COMPENSATION -- SEVERANCE PAY (Rule 272).
Section 63-3026A(3), Idaho Code. ()

01. In General. In accordance with federal Treasury Regulation Section 1.61-2, termination or severance pay is treated as compensation for services. The amount of termination or severance pay received by a nonresident that is subject to Idaho income tax is determined pursuant to this rule. ()

02. Definitions. For purposes of this rule work days, Idaho work days and total work days are defined in Rule 270 of these rules. ()

03. Calculation Of Idaho Source Severance Pay. The amount of severance pay that is Idaho source income shall be equal to the severance pay received during the taxable year multiplied by the ratio of Idaho work days to total work days during either of the following: ()

- a. The employee's entire period of employment with such employer; or ()
- b. The employee's last twelve (12) months of employment with such employer. ()

04. Alternative Method. If the Idaho compensation percentage computed in Subsection 272.03 does not fairly represent the extent of the taxpayer's personal service activities in Idaho, the taxpayer may propose or the Tax Commission may require an alternative method. For example, working hours may be a more appropriate measure than work days in some cases. ()

a. The taxpayer shall fully explain the alternative method in a statement attached to his Idaho individual income tax return. ()

b. The alternative method may be used in lieu of the method in Subsection 272.03 unless the Tax Commission expressly denies its use. ()

273. -- 279. (RESERVED).

280. PARTNERSHIPS OPERATING WITHIN AND WITHOUT IDAHO (Rule 280).
Sections 63-3027 and 63-3030(9), Idaho Code. (4-5-00)()

01. In General. A partnership that operates within and without Idaho shall apply the principles of allocation and apportionment of income set forth in Section 63-3027, Idaho Code, and related rules to determine the extent of partnership income that is derived from or related to Idaho sources. The use of a combined report, however, is available only to C corporations. (4-5-00)

02. Exceptions To Apportionment Formula. If the method described in Subsection 280.01 does not fairly represent the extent of the business activity in Idaho, the partnership may file a request to use: (4-5-00)

a. Separate accounting as provided in Rule 585 of these rules; or (4-5-00)

b. An additional factor or substitute factor pursuant to Rule 595 of these rules. (4-5-00)

03. Information Provided To Partners. The partnership shall provide to each partner information necessary for the partner to compute his Idaho income tax. Such information shall include: (4-5-00)

a. The apportioned share of each pass-through item of income and deduction; (4-5-00)

b. The apportioned share of each Idaho addition and subtraction; (4-5-00)

c. Idaho tax credits and tax credit recapture; (4-5-00)

d. Income allocated to Idaho; ~~and~~ (4-5-00)()

e. The partnership's property, payroll and sales factor numerators and denominators if the partner is not an individual; ~~and~~ (4-5-00)()

f. The distributive share of partnership gross income multiplied by the Idaho apportionment factor, if the partner is an individual, trust or estate. ()

(BREAK IN CONTINUITY OF SECTIONS)

325. DEFINITIONS FOR PURPOSES OF MULTISTATE RULES (Rule 325).
Section 63-3027, Idaho Code. For purposes of computing the Idaho taxable income of a multistate corporation, the following definitions apply: (3-20-97)

01. Affiliated Corporation And Affiliated Group. An affiliated corporation is a corporation that is a member of a commonly owned group of which the taxpayer is also a member. The commonly owned group is referred to as an affiliated group. Although Idaho generally follows federal tax principles and terminology, Idaho's use of the terms affiliated corporation and affiliated group means a corporation or corporations with over fifty percent (50%) of its voting stock directly or indirectly owned or controlled by a common owner or owners. For information on what constitutes common ownership, see Subsection 600.01 of these rules. (7-1-98)

02. Allocation. Allocation refers to the assignment of nonbusiness income to a particular state.

(3-20-97)

03. Apportionment. Apportionment refers to the division of business income between states in which the business is conducted by the use of a formula containing apportionment factors. (3-20-97)

04. Business Activity. Business activity refers to the transactions and activity occurring in the regular course of a particular trade or business of a taxpayer. (3-20-97)

05. Combined Group. Combined group means the group of corporations that comprise a unitary business and are includable in a combined report pursuant to Section 63-3027(t) or 63-3027B, Idaho Code, if the water's edge election is made. (3-20-97)

06. Combined Report. Combined report refers to the computational filing method to be used by a unitary business which is conducted by a group of corporations wherever incorporated rather than a single corporation. (3-20-97)

07. Gross Receipts. ()

a. Gross receipts are the gross amounts realized, (the sum of money and the fair market value of other property or services received) on the sale or exchange of property, the performance of services, or the use of property or capital (including rents, royalties, interest and dividends) in a transaction that produces business income, in which the income or loss is recognized (or would be recognized if the transaction were in the United States) under the Internal Revenue Code. Amounts realized on the sale or exchange of property are not reduced for the cost of goods sold or the basis of property sold. Gross receipts, even if business income, do not include such items as, for example: ()

i. Repayment, maturity, or redemption of the principal of a loan, bond, or mutual fund or certificate of deposit or similar marketable instrument; ()

ii. The principal amount received under a repurchase agreement or other transaction properly characterized as a loan; ()

iii. Proceeds from issuance of the taxpayer's own stock or from sale of treasury stock; ()

iv. Damages and other amounts received as the result of litigation; ()

v. Property acquired by an agent on behalf of another; ()

vi. Tax refunds and other tax benefit recoveries; ()

vii. Pension reversions; ()

viii. Contributions to capital; ()

ix. Income from forgiveness of indebtedness; or ()

x. Amounts realized from exchanges of inventory that are not recognized by the Internal Revenue Code. ()

b. Exclusion of an item from the definition of gross receipts is not determinative of its character as business or nonbusiness income. Nothing in this definition shall be construed to modify, impair or supersede any provision of Rules 560 through 595 of these rules. ()

078. Group Return. A unitary group of corporations may file one (1) Idaho corporate income tax return for all the corporations of the unitary group that are required to file an Idaho income tax return. When used in these rules, group return refers to this sole return filed by a unitary group. Use of the group return precludes the need for each corporation to file its own Idaho corporate income tax return. (3-20-97)

- ~~089.~~ MTC. The Multistate Tax Commission. (3-20-97)
- ~~0910.~~ **Multistate Corporation.** A multistate corporation is a corporation that operates in more than one (1) state. For purposes of this definition, state is defined in Section 63-3027(a)(6), Idaho Code. (3-20-97)
- ~~101.~~ **Unitary Business.** Unitary business is a concept of constitutional law defined in decisions of the United States Supreme Court. See Rule 340 of these rules. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

- 335. NONBUSINESS INCOME (Rule 335).**
Section 63-3027(a)(4), Idaho Code. (3-20-97)

01. Nonbusiness Income. Nonbusiness income is all income other than business income. All deductions relating to the production of nonbusiness income shall be allocated with the income produced. Any allowable deduction that applies to both business and nonbusiness income of the taxpayer shall be prorated to those classes of income to determine income subject to tax. When used in these rules, the term nonbusiness income includes nonbusiness losses unless the context clearly indicates otherwise. (3-20-97)

02. Offset Of Interest Expense Against Nonbusiness Income. Interest on indebtedness incurred or continued to purchase or to carry investment that generates nonbusiness income is offset against the income produced. If the facts do not support such a matching of the interest expense to the nonbusiness income, the portion of the taxpayer's interest expense that is offset against income from nonbusiness investments shall be an amount that bears the same ratio to the aggregate amount allowable to the taxpayer as a deduction for interest for the taxable year as the taxpayer's nonbusiness income mentioned in the preceding sentence bears to the taxpayer's total income for the taxable year. Aggregate amount allowable means the taxpayer's total interest expense deducted in determining taxable income as defined in Section 63-3011B, Idaho Code, plus interest expense disallowed under sections 265 and 291 of the Internal Revenue Code, plus interest expense from a pass-through entity, plus the interest expense of a corporation that, pursuant to Sections 63-3027 and 63-3027B through 63-3027E, Idaho Code, is included in a combined report with the taxpayer for the taxable year. See Rule 115 of these rules for the calculation of total income. ()

023. Allocated To Idaho. Nonbusiness income, net of interest and other related expense offsets, that is attributable to Idaho is allocated to Idaho. (3-20-97)

034. Allocated To Other States. Nonbusiness income, together with interest and other related expense offsets, is allocated to other states if it is not attributable to Idaho. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

- 580. SPECIAL RULES -- SPECIAL INDUSTRIES (Rule 580).**
Section 63-3027(s), Idaho Code. (3-20-97)

01. Adoption Of MTC Special Industry Regulations. This rule incorporates by reference the MTC special industry regulations found in "Model Regulations, Statutes and Guidelines, Uniformity Recommendations to the States," ~~September, 1997~~ October, 2000 Edition, published by the MTC, 444 N. Capitol Street, NW, Suite 425, Washington, DC 20001. Copies of the MTC special industry regulations may also be obtained from the main office of the Idaho State Tax Commission-offices. The following special industries shall apportion income in accordance with the applicable MTC regulation: (~~7-1-99~~)()

a. Construction Contractors. The apportionment of income derived by a long-term construction contractor shall be computed in accordance with MTC Regulation IV.18.(d). as adopted July 10, 1980; (3-20-97)

b. Airlines. The apportionment of income derived by an airline shall be computed in accordance with MTC Regulation IV.18.(e). as adopted July 14, 1983; (3-20-97)

c. Railroads. The apportionment of income derived by a railroad shall be computed in accordance with MTC Regulation IV.18.(f). as adopted July 16, 1981; (3-20-97)

d. Trucking Companies. The apportionment of income derived by motor common carriers, motor contract carriers, or express carriers that primarily transport tangible personal property of others shall be computed in accordance with MTC Regulation IV.18.(g). as amended July 27, 1989, for taxable years beginning on or after January 1, 1997. (7-1-98)

e. Television and Radio Broadcasting. The apportionment of income derived from television and radio broadcasting shall be computed in accordance with MTC Regulation IV.18.(h). as amended April 25, 1996, for taxable years beginning on or after January 1, 1995. (3-20-97)

f. Publishing. The apportionment of income derived from the publishing, sale, licensing or other distribution of books, newspapers, magazines, periodicals, trade journals or other printed material shall be computed in accordance with MTC Regulation IV.18.(j). as adopted July 30, 1993, for taxable years beginning on or after January 1, 1995. (3-20-97)

g. Financial Institutions. See Rule 582 of these rules for the apportionment of income by a financial institution for taxable years beginning on or after January 1, 1998. (7-1-98)

02. References. See Rule 581 of these rules for the applicability of references used in the MTC special industry regulations and the calculation of the apportionment percentage. (3-20-97)(____)

(BREAK IN CONTINUITY OF SECTIONS)

582. SPECIAL RULES -- FINANCIAL INSTITUTIONS (Rule 582).
Section 63-3027(s), Idaho Code. (7-1-98)

01. Adoption Of MTC Recommended Formula For The Apportionment And Allocation Of Net Income Of Financial Institutions. This rule incorporates by reference the *Multistate Tax Commission's* "Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions" as adopted November 17, 1994, and found in "Model Regulations, Statutes and Guidelines, Uniformity Recommendation to the States," ~~September, 1997~~ October, 2000 Edition, published by the MTC, 444 N. Capitol Street, NW, Suite 425, Washington, D-C- 20001. A copy of this regulation may be obtained from the main office of the Idaho State Tax Commission-offices. (7-1-99)(____)

02. Definition Of Financial Institution. For purposes of Section 2(h) of the "Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions" the term financial institution means a person that predominantly deals in money or moneyed capital in substantial competition with the business of national banks. For purposes of this rule, the following definitions apply: (7-1-99)

a. Predominantly means over fifty percent (50%) of a taxpayer's gross income is attributable to dealings in money or moneyed capital in substantial competition with the business of national banks. Generally, the determination of predominance will be made based upon the division of gross income for the year in issue. However, the classification of a taxpayer as a financial institution or as a nonfinancial institution will not be changed based upon an occasional year in which its gross income does or does not exceed the fifty percent (50%) level. For the classification of a taxpayer as a financial or nonfinancial institution to be changed, there must be a shift in the predominant character of the gross income for two (2) consecutive years and the average of the corporation's gross income in the current and the immediately preceding two (2) years must fail or satisfy the predominance test. If substantial amounts of gross income arise from an incidental or occasional sale of an asset of the taxpayer, such gross

income shall be excluded for purposes of this subsection. For example, gross income from the sale of a headquarters building shall be excluded. (7-1-98)

b. Deals in means conducting transactions in the course of a trade or business on its own account as opposed to brokering the capital of others. (7-1-98)

c. Money or moneyed capital includes, but is not limited to, coin, cash, currency, mortgages, deeds of trust, conditional sales contracts, loans, commercial paper, installment notes, credit cards, and accounts receivable. (7-1-98)

d. In substantial competition means that a corporation and national banks both engage in seeking and securing in the same locality capital investment of the same class which are substantial in amount, even though the terms and conditions of the business transactions of the same class are not identical. It does not mean there must be competition as to all phases of the business of national banks, or competition as to all types of loans or all possible borrowers. The activities of a corporation need not be identical to those performed by a national bank in order to constitute substantial competition; It is sufficient if there is competition with some, but not all, bases of the business of national banks, or capital is invested in particular operations or investments like those of national banks. (7-1-98)

03. Entities Presumed To Be Financial Institutions. The following entities are presumed to be financial institutions as defined in Subsection 582.02: (7-1-98)

a. Any corporation or other business entity registered under state law as a bank holding company or registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended; (7-1-98)

b. A national bank organized and existing as a national bank association pursuant to the provisions of the National Bank Act, Title 12, Sections 21 et seq., United States Code; (7-1-98)

c. A savings association or federal savings bank as defined in the Federal Deposit Insurance Act, Title 12, Section 1813(b)(1), United States Code; (7-1-98)

d. Any bank or thrift institution incorporated or organized under the laws of any state; (7-1-98)

e. Any corporation organized under the provisions of Title 12, Sections 611 to 631, United States Code; (7-1-98)

f. Any agency or branch of a foreign depository as defined in Title 12, Section 3101, United States Code; (7-1-98)

g. Any corporation whose voting stock is more than fifty percent (50%) owned, directly or indirectly, by any person or business entity described in Subsections 582.03.a. through 582.03.f. other than an insurance company exempted from tax by Section 41-405, Idaho Code; and (7-1-98)

h. A corporation or other business entity that, in the current tax year and immediately preceding two (2) tax years, derived more than fifty percent (50%) of its total gross income for financial accounting purposes from finance leases. For purposes of this subsection, a finance lease shall mean any lease transaction which is the functional equivalent of an extension of credit and that transfers substantially all of the benefits and risks incident to the ownership of property. The phrase shall include any direct financing lease or leverage lease that meets the criteria of Financial Accounting Standards Board Statement No. 13, Accounting for Leases or any other lease that is accounted for as a financing lease by a lessor under generally accepted accounting principles. (7-1-98)

04. Exclusion From Rule. The Tax Commission is authorized to exclude any person from the application of Subsection 582.01 upon such person proving, by clear and convincing evidence, that the income-producing activity of such person is not in substantial competition with those persons described in Subsections 582.03.a. through 582.03.f. and 582.03.h. (7-1-98)

05. Financial Institutions Described In Section 63-3023(b), Idaho Code. (7-1-99)

a. Transacting business. If an entity described in Section 63-3023(b), Idaho Code, does not maintain an office within Idaho and carries on only the activities listed in Section 63-3023(b)(1) through (4), Idaho Code, it is not deemed to be transacting business within Idaho. The fact that the entity is also a financial institution as defined in this rule will not change the result of Section 63-3023(b), Idaho Code. (7-1-99)

b. Calculation of apportionment factor attributes. A financial institution described in Section 63-3023(b), Idaho Code, that is a member of a unitary group of corporations with at least one member subject to Idaho income tax, shall include its property, payroll, and sales amounts in the denominators of the unitary group's factors. The calculation of the amount included in the denominators shall be computed as provided in the MTC Recommended Formula for Financial Institutions. Because such a financial institution is not deemed to be transacting business within Idaho, the financial institution will have zero (0) for its Idaho numerators of the apportionment factors and will not have an Idaho corporate income tax liability. A financial institution that is transacting business within Idaho shall compute its Idaho numerator and denominator amounts as provided in the MTC Recommended Formula for Financial Institutions. (7-1-99)

06. Act Defined. For purposes of applying the rules applicable to Section 63-3027, Idaho Code, references to [Act] in the MTC Recommended Formula for Financial Institutions refers to the Idaho Income Tax Act. (7-1-99)

07. The Apportionment Percentage. References in Section 1(b) of the MTC Recommended Formula for Financial Institutions to the computation of the apportionment percentage being determined by adding the taxpayer's receipts factor, property factor, and payroll factor together and dividing the sum by three (3) shall be replaced with adding two (2) times the taxpayer's sales factor, the taxpayer's property factor, and the taxpayer's payroll factor together and dividing the sum by four (4) as required by Section 63-3027(i), Idaho Code. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

OLD SECTION 704 HAS BEEN RENUMBERED AND MOVED TO SECTION 785.

701. -- 7034. (RESERVED).

705. CREDIT FOR CONTRIBUTIONS TO EDUCATIONAL INSTITUTIONS (Rule 705).
Section 63-3029A, Idaho Code. (3-20-97)

01. Qualified Contributions. Contributions must be made in cash or in kind during the taxable year the credit is claimed. Unpaid pledges do not qualify as contributions. Tuition, room and board, student fees, and similar charges are not contributions. (3-20-97)

02. Limitations -- Individuals. The credit allowed to an individual is fifty percent (50%) of the amount contributed limited to the lesser of: (3-20-97)

a. Twenty percent (20%) of his total income tax liability; or (3-20-97)

b. ~~Fifty~~ One hundred dollars (~~\$5~~100) if filing other than a joint return or ~~one~~ two hundred dollars (~~3-20-97~~)() if filing a joint return.

03. Limitations -- Corporations. The credit allowed to a corporation is fifty percent (50%) of the amount contributed limited to the lesser of: (3-20-97)

a. Ten percent (10%) of the total income tax liability; or (3-20-97)

b. ~~Five hundred~~ One thousand dollars (~~\$5~~1,000). (~~3-20-97~~)()

04. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate or trust and passed through to the partner, shareholder, or beneficiary. For pass-through entities paying tax and the application of limitations on pass-through credits, see Rule ~~70485~~ of these rules. (3-20-97)()

05. Other Limitations. ()

a. This credit is further limited if the credit for qualifying new employees is claimed. ()

b. This credit plus other nonrefundable credits may not reduce the taxpayer's tax liability below zero (0). See Rule ~~76099~~ of these rules for the priority of credits. (3-20-97)()

06. Effect On Itemized Deductions. The credit allowed does not reduce the amount of charitable contributions that may be included in itemized deductions. (3-20-97)

07. Nonprofit Public And Private Museums. To qualify as a museum pursuant to Section 63-3029A, Idaho Code, the public or private nonprofit institution must be organized for the purpose of collecting, preserving, and displaying objects of aesthetic, educational, or scientific value and must be open to the general public on a regular basis. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

710. IDAHO INVESTMENT TAX CREDIT -- IN GENERAL (Rule 710).
Section 63-3029B, Idaho Code. (3-20-97)

01. Credit Allowed. The investment tax credit allowed by Section 63-3029B, Idaho Code, applies to investments made during tax years beginning on and after January 1, 1982, that qualify pursuant to Sections 46(c), 47, and 48, Internal Revenue Code, as in effect prior to amendment by Public Law 101-508. Investments must also meet the requirements of Section 63-3029B, Idaho Code, and Rules 710 through 717 of these rules. (3-20-97)

02. Limitations. The investment tax credit allowable in any taxable year shall be limited by the following: (3-20-97)

a. Tax liability. (3-30-01)

i. For taxable years beginning on or after January 1, 2000, the credit claimed may not exceed fifty percent (50%) of the tax after credit for taxes paid another state. (3-30-01)

ii. For taxable years beginning on or after January 1, 1995 and before January 1, 2000, the credit claimed may not exceed forty-five percent (45%) of the tax after credit for taxes paid another state. (3-30-01)

iii. For taxable years beginning prior to January 1, 1995, the credit claimed may not exceed fifty percent (50%) of the tax after credit for taxes paid another state. (3-30-01)

b. Credit for qualifying new employees. If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the investment tax credit is limited by the provisions of Section 63-3029F, Idaho Code. (3-30-01)

c. Unitary taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. (3-30-01)

d. Nonrefundable credits. The investment tax credit is a nonrefundable credit. It is applied to the income tax liability in the priority order for nonrefundable credits described in Rule ~~76099~~ of these rules. (3-30-01)()

03. Carryovers. (3-20-97)

a. Carryovers of investment tax credit for property acquired prior to January 1, 1995, may not include property acquired as replacement for reasons other than technical obsolescence. (3-20-97)

b. Investment tax credit earned on investments made before January 1, 1990, but not claimed against tax in the year earned is eligible for a five (5) year carryover. (3-30-01)

c. Investment tax credit earned on investments made on or after January 1, 1990, but not claimed against tax in the year earned is eligible for a seven (7) year carryover. If a credit carryover from these years is available to be carried into taxable years beginning on or after January 1, 2000, the credit carryover is extended from seven (7) years to fourteen (14) years. (3-30-01)

d. For example, a calendar year taxpayer earned investment tax credit in calendar year 1993. The taxpayer was unable to use all the credit in that year and in the subsequent carryover years. Carryover was remaining into the seventh and final carryover year, calendar year 2000. Since the taxpayer had eligible carryover going into a taxable year beginning on or after January 1, 2000, the carryover period changes from seven (7) years to fourteen (14) years. Assuming the carryover is available for the entire carryover period, and that there are no short period years, the last year that the carryover can be used will be calendar year 2007. If the seventh carryover year was a taxable year beginning prior to January 1, 2000, the carryover period has expired and is not extended. (3-30-01)

e. Investment tax credit earned on investments made in taxable years beginning on or after January 1, 2000, but not claimed against tax in the year earned is eligible for a fourteen (14) year carryover. (3-30-01)

04. Motor Vehicle. Motor vehicle means a self-propelled vehicle that is registered or may be registered for highway use pursuant to the laws of Idaho. Gross vehicle weight is determined by the manufacturer's specified gross vehicle weight. (3-20-97)

05. Expensed Property. The cost of property that the taxpayer elects to expense pursuant to Section 179, Internal Revenue Code, is not a qualified investment. (3-30-01)

711. IDAHO INVESTMENT TAX CREDIT -- TAXPAYERS ENTITLED TO THE CREDIT (Rule 711).
Section 63-3029B, Idaho Code. (3-20-97)

01. Unitary Taxpayers. A corporation included as a member of a unitary group may elect to share the investment tax credit it earns but does not use with other members of the unitary group. Before the corporation may share the credit, it must claim the investment tax credit to the extent allowable against its tax liability. The credit available to be shared is the amount of investment tax credit carryover and credit earned for the taxable year that exceeds the limitation provided in Section 63-3029B(4), Idaho Code, ~~or Rule 736 of these rules, whichever is applicable.~~ The limitation is applied against the tax computed for the corporation that claims the credit. Credit shared with another member of the unitary group reduces the carryforward. ~~(3-20-97)(_____)~~

02. Conversion Of C Corporation To S Corporation. (3-20-97)

a. An investment tax credit carryover earned by a C corporation that has converted to an S corporation is allowed against the S corporation's tax on built-in gains, net capital gains, and excess net passive income. The credit is not allowed against the tax computed pursuant to Section 63-3022L, Idaho Code. In addition, the credit may not be passed through to the S corporation shareholders. (3-20-97)

b. The election to file as an S corporation does not cause recapture of investment tax credit. However, the S corporation shall be liable for any recapture of credit originally claimed by the C corporation as provided by Rule 715 of these rules. (3-20-97)

03. Agricultural Cooperatives. The portion of the investment tax credit earned by an agricultural cooperative that it cannot use for the taxable year shall be allocated to the members of the cooperative. If qualifying property is disposed of or ceases to qualify prior to the close of its estimated useful life, the recapture of credit as

provided by Rule 715 of these rules applies as though the cooperative did not allocate any of the original credit to the members. (3-20-97)

a. The distribution to members is made as provided in Rule ~~70485~~ of these rules. (~~3-20-97~~)()

b. The investment tax credits claimed by the agricultural cooperative and its members may not be more than one hundred percent (100%) of the credit earned. (3-20-97)

04. Leased Property. Generally the credit for qualified investments in leased property is claimed by the lessor. (3-20-97)

a. If the lessor elected to pass the investment tax credit to the lessee and filed the federal election pursuant to the Internal Revenue Code and Treasury Regulations prior to the 1986 Tax Reform Act, the investment tax credit shall be claimed by the lessee. Both parties must attach the original election and a schedule identifying the qualifying property. (3-20-97)

b. If a taxpayer is a lessee in a conditional sales contract, he is entitled to the investment tax credit on any qualifying property subject to the contract since the lessee is considered the purchaser of the property. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

718. -- ~~7219.~~ (RESERVED).

720. CREDIT FOR IDAHO RESEARCH ACTIVITIES -- IN GENERAL (Rule 720).

Section 63-3029G, Idaho Code. ()

01. Credit Allowed. ()

a. The credit for Idaho research activities allowed by Section 63-3029G, Idaho Code, applies to taxable years beginning on and after January 1, 2001 and before December 31, 2005. ()

b. The Idaho credit shall be computed using the same definitions of qualified research expenses, qualified research, basic research payments, and basic research as are found in Section 41, Internal Revenue Code, except only the amounts related to research conducted in Idaho qualify for the Idaho credit. If an expense does not qualify for the federal credit under Section 41, Internal Revenue Code, it will not qualify for purposes of the Idaho credit. ()

02. Limitations. The credit for Idaho research activities allowable in any taxable year shall be limited as follows: ()

a. Tax Liability. The total amount of any credit for Idaho research activities claimed during a taxable year may not exceed one hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the credit for Idaho research activities, regardless of whether the credit for Idaho research activities results from a carryover earned in prior years, the current year, or both. See Rule 799 of these rules for the priority order for nonrefundable credits. ()

b. Credit for Qualifying New Employees. If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the credit for Idaho research activities is limited by the provisions of Section 63-3029F, Idaho Code. ()

c. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. ()

03. Carryovers. The carryover period for the credit for Idaho research activities is fourteen (14) years.

()

04. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credit, for pass-through entities paying tax, and the application of limitations on pass-through credits.

()

721. CREDIT FOR IDAHO RESEARCH ACTIVITIES -- ELECTIONS (Rule 721).

Section 63-3029G, Idaho Code.

()

01. Five Year Election. A taxpayer may elect to claim the credit for Idaho research activities for one (1) of the following five (5) year periods:

()

a. The five (5) year period beginning with the first day of the taxpayer's taxable year beginning in 2001; or

()

b. The five (5) year period beginning with January 1, 2001.

()

c. If a fiscal year taxpayer elects to claim the credit for the five (5) year period beginning with January 1, 2001, the credit for Idaho research activities allowed on the taxpayer's return for the fiscal year beginning in 2005 shall be computed using only the amounts for research activities occurring prior to January 1, 2006.

()

d. The five (5) year period election shall be made by checking the appropriate box on Form 67. The election may not be changed unless the statute of limitations is open for assessment for all years to which the credit was claimed and all such returns are amended consistently with the change in election.

()

02. Election To Be Treated As A Start-Up Company. Regardless of whether a taxpayer qualifies as a start-up company for purposes of the federal credit for increasing research activities under Section 41, Internal Revenue Code, a taxpayer may elect to be treated as a start-up company for the credit for Idaho research activities.

()

a. The election once made is irrevocable.

()

b. The election shall be made by checking the appropriate box on Form 67.

()

c. A taxpayer who makes the election under Section 63-3029G, Idaho Code, to be treated as a start-up company shall use the fixed-base percentage that would be used by the taxpayer if the taxpayer had qualified as a start-up company for purposes of the federal credit under Section 41, Internal Revenue Code. For example, if the taxpayer's fiscal year beginning in 2001 is the 8th such taxable year beginning after December 31, 1993, the fixed-base percentage is one-half (1/2) of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, and 7th such taxable years is of the aggregate gross receipts of the taxpayer for such years.

()

03. Unitary Sharing. A corporation included as a member of a unitary group may elect to share the credit for Idaho research activities it earns but does not use with other members of the unitary group. Before the corporation may share the credit, it must claim the credit for Idaho research activities to the extent allowable against its tax liability. The credit available to be shared is the amount of credit carryover and credit earned for the taxable year that exceeds the limitation provided in Section 63-3029G(3), Idaho Code, or Rule 720.02.b of these rules, whichever is applicable. The limitation is applied against the tax computed for the corporation that claims the credit. Credit shared with another member of the unitary group reduces the carryforward.

()

722. (RESERVED).

723. CREDIT FOR IDAHO RESEARCH ACTIVITIES -- RECORD-KEEPING REQUIREMENTS (Rule 723).

Section 63-3029G, Idaho Code.

()

01. Information Required. Each taxpayer must retain and make available, on request, records for each

item included in the computation of the credit for Idaho research activities claimed on an Idaho income tax return.
The records must include all of the following: ()

- a. Verification that the research was conducted in Idaho; ()
- b. Verification that wages included in the computation were for qualified service performed by an employee in Idaho; ()
- c. Verification that supplies included in the computation were used for research conducted in Idaho; ()
- d. Verification that contract research expenses were for research conducted in Idaho; ()
- e. Verification that the research activities meet the definition of qualified research; and ()
- f. Verification that the amounts included in the Idaho computation are includable in the computation of the federal credit allowed by Section 41, Internal Revenue Code. ()

02. Failure To Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed. ()

03. Unitary Taxpayers. Corporations claiming the credit for Idaho research activities must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers. ()

724. - 729. (RESERVED).

730. CREDIT FOR CONTRIBUTIONS TO IDAHO YOUTH FACILITIES, REHABILITATION FACILITIES AND NONPROFIT SUBSTANCE ABUSE CENTERS (Rule 730).
Section 63-3029C, Idaho Code. (3-30-01)

01. Qualified Contributions. Contributions must be made in cash or in kind during the taxable year the credit is claimed. Unpaid pledges do not qualify as contributions. Fees for services provided, room and board, and similar charges are not contributions. (3-30-01)

02. Limitations -- Individuals. The credit allowed to an individual is fifty percent (50%) of the amount contributed limited to the lesser of: (3-20-97)

- a. Twenty percent (20%) of his total income tax liability; or (3-20-97)
- b. One hundred dollars (\$100) if filing other than a joint return or two hundred dollars (\$200) if filing a joint return. (3-20-97)

03. Limitations -- Corporations. The credit allowed to a corporation is fifty percent (50%) of the amount contributed limited to the lesser of: (3-20-97)

- a. Ten percent (10%) of its total income tax liability; or (3-20-97)
- b. Five hundred dollars (\$500). (3-20-97)

04. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate or trust and passed through to the partner, shareholder, or beneficiary. For pass-through entities paying tax and the application of limitations on pass-through credits, see Rule ~~70485~~ of these rules. (~~3-20-97~~)()

05. Other Limitations. (3-30-01)

- a. This credit is further limited if the credit for qualifying new employees is claimed. *See Rule 746 of*

~~these rules.~~

~~(3-30-01)()~~

b. This credit plus any other nonrefundable credits may not reduce the taxpayer's tax liability below zero (0). See Rule ~~76099~~ of these rules for the priority of credits. ~~(3-20-97)()~~

06. Effect On Itemized Deductions. The credit allowed does not reduce the amount of charitable contributions that may be included in itemized deductions. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

745. CREDIT FOR QUALIFYING NEW EMPLOYEES -- REVENUE-PRODUCING ENTERPRISE (Rule745).

Sections 63-3029E and 63-3029F, Idaho Code, as in effect ~~on and after January 1,~~ for taxable years beginning in 2000. ~~(3-30-01)()~~

01. In General. A revenue-producing enterprise means an Idaho business that begins with a natural resource and produces, assembles, fabricates, manufactures, or processes a value-added product. A revenue-producing enterprise includes a business that conducts or is engaged in the following: (3-30-01)

- a. Farming activities identified in Section 464, Internal Revenue Code, that result in a value-added product; (3-30-01)
- b. Mining; (3-30-01)
- c. Logging; (3-30-01)
- d. Extracting a natural resource. (3-30-01)

02. Nonqualifying Activities. Examples of businesses that do not qualify as a revenue-producing enterprise include a business performing the following activities: (3-30-01)

- a. Retail sales; (3-30-01)
- b. Professional or managerial services; (3-30-01)
- c. Repair services or other service related activities; (3-30-01)
- d. The operation of laboratories or other facilities for scientific, agricultural, animal husbandry, or industrial research, development, or testing; (3-30-01)
- e. The storage, warehousing, distribution, or sale at wholesale of any products of agriculture, mining, or manufacturing; (3-30-01)
- f. Transportation activities, unless they are an integral part of a qualifying activity; (3-30-01)
- g. Activities that consume a natural resource in a process, but do not add value to the natural resource. (3-30-01)

03. Examples. (3-30-01)

a. A taxpayer's Idaho business included buying wool in raw form, processing the wool into yarn, and using the yarn to manufacture articles of clothing. The taxpayer's business activity qualifies as a revenue-producing enterprise. (3-30-01)

b. A taxpayer's Idaho business includes buying the yarn to manufacture articles of clothing. The taxpayer's activity does not qualify as a revenue-producing enterprise due to the fact the taxpayer did not begin with a natural resource. (3-30-01)

c. A taxpayer's Idaho business includes cutting lumber in a forest, transporting the logs to a sawmill, processing the logs into plywood, and selling the plywood to a furniture manufacturer. The taxpayer's cutting, transporting and processing activities qualify as a revenue-producing enterprise. The selling activity does not qualify. (3-30-01)

d. A taxpayer's Idaho business includes buying plywood to manufacture furniture. The taxpayer's activity does not qualify as a revenue-producing enterprise due to the fact the taxpayer did not begin with a natural resource. (3-30-01)

e. A taxpayer's Idaho business includes training horses. Because the Idaho business does not result in a value-added product, but rather provides a service, the taxpayer's business activity does not qualify as a revenue-producing enterprise. (3-30-01)

f. A taxpayer's Idaho business includes using water in a process to produce electricity. Because the Idaho business does not begin with a natural resource that is made into a value-added product, but rather uses the natural resource in a process, the taxpayer's Idaho business activity does not qualify as a revenue-producing enterprise. (3-30-01)

g. A taxpayer's Idaho business includes growing potatoes and operating a long-haul trucking business unrelated to the potato operations. Only the portion of the Idaho business involved in activities necessary to the growing of potatoes qualifies as a revenue-producing enterprise. (3-30-01)

04. Multiple Activities. (3-30-01)

a. If a taxpayer is engaged in both a revenue-producing enterprise and other activities, and at least fifty percent (50%) of the taxpayer's total Idaho employees are performing personal services in the revenue-producing enterprise, the taxpayer may treat the entire Idaho business as a revenue-producing enterprise. (3-30-01)

b. If a taxpayer is engaged in both a revenue-producing enterprise and other activities, and less than fifty percent (50%) of the taxpayer's total Idaho employees are performing personal services in the revenue-producing enterprise, the taxpayer must calculate qualifying new employees and the net income limitation based on that portion of the Idaho business that qualifies as a revenue-producing enterprise. (3-30-01)

05. Seasonal Or New Business. An individual employed in a seasonal or new business that was in operation during the taxable year for less than nine (9) months does not qualify as a new employee. (3-30-01)

06. Unitary Taxpayers. The activities of a taxpayer that qualify as a revenue-producing enterprise shall be determined separately for each corporation that is a member of the unitary group. (3-30-01)

746. CREDIT FOR QUALIFYING NEW EMPLOYEES -- CALCULATIONS USED TO DETERMINE THE CREDIT AND CREDIT CARRYOVER (Rule 746).

Sections 63-3029E and 63-3029F, Idaho Code, as in effect ~~on and after January 1,~~ for taxable years beginning in 2000. (~~3-30-01~~)()

01. In General. The number of new employees is used to compute the credit earned in the taxable year. To compute the credit for qualifying new employees, the taxpayer shall first calculate the number of employees in the revenue-producing enterprise. (3-30-01)

02. Calculating Number Of Employees. (3-30-01)

a. **Number of Employees Clarified.** Only employees who meet the qualifications set forth in Section 63-3029E(1)(a), Idaho Code, are included when computing the number of employees for a taxable year. (3-30-01)

b. Idaho Department of Labor Reports. The taxpayer should begin with his Idaho Department of Labor reports to determine the number of employees. However, all employees reported on these reports do not automatically qualify for the calculation of the number of employees. (3-30-01)

c. Calculation. To calculate the number of employees for a taxable year, add the total qualified employees for each month and divide that sum by the number of months of operation. (3-30-01)

03. Calculating The Number Of New Employees. (3-30-01)

a. The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following: (3-30-01)

i. The number of employees for the prior taxable year; or (3-30-01)

ii. The average of the number of employees for the three (3) prior taxable years. (3-30-01)

b. If the taxpayer treats the entire business as a revenue-producing enterprise under Subsection 745.04.a. of these rules, the calculations in Subsections 746.03.i. and 746.03.ii. shall be made on a consistent basis. The number of employees for the prior taxable year and the average for the three (3) prior taxable years shall be made presuming the entire business was a revenue-producing enterprise for those years. (3-30-01)

04. Computing The Credit Earned. The number of new employees shall be rounded to the nearest tenth (.1) and must equal or exceed one (1) or no credit is earned. The credit earned is the lesser of the following: (3-30-01)

a. The number of new employees multiplied by five hundred dollars (\$500); or (3-30-01)

b. The net income of the revenue-producing enterprise, as determined pursuant to Rule 747 of these rules, multiplied by three and one-quarter percent (3.25%). (3-30-01)

05. Limitations. This credit and all other credits may not exceed forty-five percent (45%) of the income tax liability in the year earned or claimed. The credit for taxes paid to other states, grocery credit, and the credit for maintaining a home for a family member age sixty-five (65) or older or developmentally disabled dependents are not subject to this limitation. See Section 63-3029H, Idaho Code, and Rule ~~76099~~ of these rules for the priority order of credits. (~~3-30-01~~)(____)

06. Carryover. To claim the carryover, the taxpayer must maintain the employment level on which the credit was computed during the three (3) succeeding taxable years to which the unused credit is carried. If the employment level that generated the credit decreases, the taxpayer is not required to recapture the credit claimed in previous taxable years. However, the taxpayer shall recompute the credit based on the reduced employment level to determine the correct amount of carryover. (3-30-01)

07. Pass-Through Entities. See Rule ~~70485~~ of these rules for pass-through entities and the calculation of credits. (~~3-30-01~~)(____)

08. Unitary Taxpayers. (3-30-01)

a. A corporation may not use the credit for qualifying new employees earned by another member of the unitary group. See Rule 365 of these rules. (3-30-01)

b. Each corporation in a unitary group that claims the credit for qualifying new employees is subject to Section 63-3029H, Idaho Code, and Rule ~~76099~~ of these rules for the priority order of credits. (~~3-30-01~~)(____)

747. CREDIT FOR QUALIFYING NEW EMPLOYEES -- NET INCOME OF A REVENUE-PRODUCING ENTERPRISE (Rule 747).
Sections 63-3029E and 63-3029F, Idaho Code, as in effect ~~on and after January 1,~~ for taxable years beginning in 2000. (~~3-30-01~~)(____)

01. Entire Idaho Business Qualifies As A Revenue-Producing Enterprise. If the entire Idaho business qualifies as a revenue-producing enterprise or the taxpayer treats the entire business as a revenue-producing enterprise under Subsection 745.04.a. of these rules, the net income shall be calculated as follows: (3-30-01)

a. Proprietorships. The amount of income from Idaho activities that is reported as net profit or net loss on Schedule C or Schedule F. (3-30-01)

b. C Corporations. The amount of Idaho taxable income, reported on Idaho Form 41, modified to restore all net operating loss deductions, and excluding any nonbusiness income and expenses allocable to Idaho. (3-30-01)

c. S Corporations. The amount of Idaho taxable income reported on Idaho Form 41S, modified to restore the deduction of income reported by shareholders on their Idaho income tax returns and before addition of compensation or income attributable to individual shareholders who do not report this income on Idaho income tax returns. (3-30-01)

d. Partnerships. The amount of Idaho taxable income reported on Idaho Form 65, modified to restore the deduction of income reported by partners on their Idaho income tax returns and before addition of compensation or income attributable to individual partners who do not report this income on Idaho income tax returns. (3-30-01)

02. Idaho Business With Multiple Activities. (3-30-01)

a. If the Idaho business has multiple activities resulting in only a portion of the business qualifying as a revenue-producing enterprise, and the taxpayer does not treat the entire business as a revenue-producing enterprise under Subsection 745.04.a. of these rules, the net income shall be calculated for the portion of the Idaho business that qualifies as a revenue-producing enterprise based on the number of employees in the revenue-producing enterprise compared to the number of employees in the entire business. The number of employees in the revenue-producing enterprise shall be calculated in accordance with Subsection 746.02 of these rules. (3-30-01)

b. If the calculation of net income in Subsection 747.02.a. does not fairly represent the net income of the revenue-producing enterprise, the taxpayer may propose or the Tax Commission may require an alternative method. (3-30-01)

03. Unitary Taxpayers. Each corporation included in a unitary combined group shall use its Idaho taxable income as determined pursuant to Section 63-3027, Idaho Code, modified to restore all net operating loss deductions, and excluding any nonbusiness income and expenses allocable to Idaho. (3-30-01)

748. CREDIT FOR QUALIFYING NEW EMPLOYEES -- DOCUMENTATION (Rule 748). Sections 63-3029E and 63-3029F, Idaho Code, as in effect ~~on and after January 1,~~ for taxable years beginning in 2000. (~~3-30-01~~)()

01. Adequate Records. The taxpayer must maintain adequate records to document the credit claimed including: (3-30-01)

a. Idaho Department of Labor reports; (3-30-01)

b. The computation of the number of qualifying new employees; (3-30-01)

c. The qualification as a revenue-producing enterprise; (3-30-01)

d. The computation of the credit; (3-30-01)

e. The computation of net income; (3-30-01)

f. The continued maintenance of adequate employment levels into carryover years; and (3-30-01)

g. The computation of any carryovers. (3-30-01)

02. Records Retention. These records must be maintained for as long as the credit may be carried over or until further assessments or deficiency determinations are barred by a period of limitation, whichever is longer. (3-30-01)

03. Failure To Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit. ()

~~749. --759.~~ (RESERVED).

750. BROADBAND EQUIPMENT INVESTMENT CREDIT -- IN GENERAL (Rule 750).
Section 63-3029I, Idaho Code. ()

01. Credit Allowed. The broadband equipment investment credit allowed by Section 63-3029I, Idaho Code, applies to investments made during taxable years beginning on and after January 1, 2001 and before December 31, 2005. The investment must also meet the requirements of Section 63-3029B, Idaho Code, and related rules as to what constitutes qualified investment. ()

02. Limitations. The broadband equipment investment credit allowable in any taxable year shall be limited as follows: ()

a. The broadband equipment investment credit claimed during a taxable year may not exceed the lesser of: ()

i. Seven hundred fifty thousand dollars (\$750,000); or ()

ii. One hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the broadband equipment investment credit, regardless of whether this credit results from a carryover earned in prior years, the current year, or both. See Rule 799 of these rules for the priority order for nonrefundable credits. ()

b. Credit for Qualifying New Employees. If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the broadband equipment investment credit is limited by the provisions of Section 63-3029F, Idaho Code. ()

c. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. ()

d. Transferred Credit. Limitations apply to each transferee as if the transferee had earned the credit. ()

03. Carryovers. ()

a. The carryover period for the broadband equipment investment credit is fourteen (14) years. ()

b. See Rule 793 of these rules for the rules regarding the carryover of transferred credit. ()

04. Taxpayers Entitled To The Credit. Rule 711 of these rules shall apply to the broadband equipment investment credit except that limitations referenced in Subsection 711.01 shall be those limitations as provided in Section 63-3029I, Idaho Code. ()

05. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credit, for pass-through entities paying tax, and the application of limitations on pass-through credits. ()

751. (RESERVED).

752. BROADBAND EQUIPMENT INVESTMENT CREDIT -- RECAPTURE (Rule 752). ()
Section 63-3029I, Idaho Code.

01. In General. If a taxpayer is claiming or has claimed the broadband equipment investment credit for property sold or otherwise disposed of, or that ceases to qualify pursuant to Section 63-3029B, Idaho Code, prior to being held five (5) full years, a recomputation of the credit shall be made. See Rule 715 of these rules. ()

02. Unitary Taxpayers. The corporation that earned the credit is responsible for the recapture or recomputation of the credit when the property ceases to qualify. ()

03. Transferred Credit. The transferor is responsible for the recapture or recomputation of the credit when the property ceases to qualify. ()

753. BROADBAND EQUIPMENT INVESTMENT CREDIT -- RECORD-KEEPING REQUIREMENTS (Rule 753). ()
Section 63-3029I, Idaho Code.

01. Information Required. Each taxpayer must retain and make available, on request, records for each item of property included in the computation of the broadband equipment investment credit claimed on an income tax return subject to examination. The records must include all of the following: ()

a. The order from the Idaho Public Utilities Commission confirming that the installed equipment is qualified broadband equipment. ()

b. A description of the property; ()

c. The asset number assigned to the item of property, if applicable; ()

d. The acquisition date and date placed in service; ()

e. The basis of the property; and ()

f. The retirement, disposition, or date transferred out of Idaho, or date no longer used in Idaho, if applicable. ()

02. Accounting Records Subject To Examination. Accounting records that may need to be examined to document acquisition, disposition, location, and utilization of assets include the following: ()

a. Source documents supporting the application to the Idaho Public Utilities Commission; ()

b. Accounting documents that contain asset and account designations and descriptions. These documents include a chart of accounts, the accounting manual, controller's manual, or other documents containing this information; ()

c. Asset location records including asset directories, asset registers, insurance records, property tax records, or similar asset inventory documents; ()

d. Records verifying ownership including purchase contracts and cancelled checks; ()

e. Invoices, shipping documents, and similar documents reflecting the transfer of assets in and out of Idaho; and ()

f. A system that verifies that property on which the broadband equipment investment credit was claimed continues to maintain its status as Idaho qualifying property throughout the recapture period. ()

03. Failure To Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed. ()

04. Unitary Taxpayers. Corporations claiming broadband equipment investment credit must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers. ()

05. Credit Transferred. A taxpayer that transfers the broadband equipment investment credit shall continue to be subject to the record-keeping requirements of this rule for as long as the credit may be carried over by the transferee or until further assessment or deficiency determinations are barred by a period of limitation, whichever is longer. ()

754. (RESERVED).

755. CREDIT FOR QUALIFYING NEW EMPLOYEES -- IN GENERAL (Rule 755). Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning in 2001. ()

01. Limitations. If the credit for qualifying new employees is earned or claimed in a taxable year beginning in 2001, this credit and all other credits may not exceed fifty percent (50%) of the taxpayer's income tax liability after deducting the credit for taxes paid to other states. The credit for taxes paid to other states is not subject to this limitation. See Section 63-3029H, Idaho Code, and Rule 799 of these rules for the priority order of credits. ()

02. Carryover. To claim the carryover, the taxpayer must maintain the employment level on which the credit was computed during the three (3) succeeding taxable years to which the unused credit is carried. If the employment level that generated the credit decreases, the taxpayer is not required to recapture the credit claimed in previous taxable years. However, the taxpayer shall recompute the credit based on the reduced employment level to determine the correct amount of carryover. ()

03. Pass-Through Entities. See Rule 785 of these rules for pass-through entities and the calculation of credits. ()

04. Unitary Taxpayers. ()

a. A corporation may not claim the credit for qualifying new employees earned by another member of the unitary group. See Rule 365 of these rules. ()

b. Each corporation in a unitary combined group that claims the credit for qualifying new employees is subject to Section 63-3029H, Idaho Code, and Rule 799 of these rules for the priority order of credits. ()

756. CREDIT FOR QUALIFYING NEW EMPLOYEES -- CALCULATIONS USED TO DETERMINE THE CREDIT AND CREDIT CARRYOVER (Rule 756). Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning in 2001. ()

01. In General. A taxpayer is allowed a credit of five hundred dollars (\$500) per new employee in the taxable year. To compute the credit for qualifying new employees, the taxpayer shall first calculate the number of employees in the Idaho business. ()

02. Calculating Number Of Employees. ()

a. **Number of Employees Clarified.** Only employees who meet the qualifications set forth in Section 63-3029E(1)(a), Idaho Code, are included when computing the number of employees for a taxable year. Such requirements include the following: ()

i. The employee must have had Idaho income tax withheld from his wages. ()

ii. The employee must have been employed by the taxpayer on a regular full-time basis or on a part-time basis if customarily performing such duties at least twenty (20) hours per week. Leased employees do not qualify as employees of the lessee. ()

iii. The employee must have been performing such duties for the taxpayer for a minimum of nine (9) months during the taxable year. An individual employed in a seasonal or new business that was in operation for less than nine (9) months during the taxable year does not qualify. ()

iv. The employee must have been covered for Idaho unemployment insurance purposes. ()

b. Idaho Department of Labor Reports. The taxpayer should begin with his Idaho Department of Labor reports to determine the number of employees. However, all employees reported on these reports do not automatically qualify for the calculation of the number of employees. ()

c. Calculation. To calculate the number of employees for a taxable year, add the total qualified employees for each month and divide that sum by the number of months of operation. ()

03. Calculating The Number Of New Employees. ()

a. The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following: ()

i. The number of employees for the prior taxable year; or ()

ii. The average of the number of employees for the three (3) prior taxable years. ()

b. The requirements as to who qualifies for the calculation of number of employees in Subsection 756.02.a. shall apply in computing the number of employees in Subsections 756.03.a.i. and 756.03.a.ii. Calculations used in computing the credit earned in prior years when the credit was limited to employees in a revenue-producing enterprise may not be used in computing the credit earned in taxable years beginning in 2001. ()

04. Computing The Credit Earned. The number of new employees shall be rounded to the nearest tenth (.10) and must equal or exceed one (1) or no credit is earned. The credit earned is the lesser of the following: ()

a. The number of new employees multiplied by five hundred dollars (\$500); or ()

b. The net income of the Idaho business, as determined pursuant to Rule 757 of these rules, multiplied by three and one-quarter percent (3.25%). ()

757. CREDIT FOR QUALIFYING NEW EMPLOYEES -- NET INCOME OF IDAHO BUSINESS (Rule 757).

Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning in 2001. The net income of the Idaho business is calculated as follows: ()

01. Proprietorships. The amount reported as net profit or net loss on Schedule C or Schedule F of the federal income tax return that is from Idaho activities. ()

02. C Corporations. The amount of Idaho taxable income, reported on Idaho Form 41, modified to restore all net operating loss deductions, and excluding any nonbusiness income and expenses allocated to Idaho. ()

03. S Corporations. The amount of Idaho taxable income reported on Idaho Form 41S, modified to restore the deduction of income reported by shareholders on their Idaho income tax returns and before addition of compensation or income attributable to individual shareholders who do not report this income on Idaho income tax returns. ()

04. Partnerships. The amount of Idaho taxable income reported on Idaho Form 65, modified to restore the deduction of income reported by partners on their Idaho income tax returns and before addition of compensation or income attributable to individual partners who do not report this income on Idaho income tax returns. ()

05. Unitary Taxpayers. Each corporation included in a unitary combined group shall use its Idaho taxable income as determined pursuant to Section 63-3027, Idaho Code, modified to restore all net operating loss deductions, and excluding any nonbusiness income and expenses allocable to Idaho. ()

758. CREDIT FOR QUALIFYING NEW EMPLOYEES -- RECORD-KEEPING REQUIREMENTS (Rule 758).

Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning in 2001. ()

01. Information Required. Each taxpayer must retain and make available, on request, records to document the computation of the credit earned or claimed. The records must include all of the following: ()

- a. Idaho Department of Labor reports: ()
- b. The computation of the number of qualifying new employees: ()
- c. The computation of the credit: ()
- d. The computation of net income: ()
- e. The continued maintenance of adequate employment levels into carryover years; and ()
- f. The computation of any carryovers. ()

02. Records Retention. Any records used in the computation of the credit must be maintained for as long as the credit may be carried over or until further assessments or deficiency determinations are barred by a period of limitation, whichever is longer. ()

03. Failure To Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit. ()

759. (RESERVED).

OLD SECTION 760 HAS BEEN RENUMBERED AND MOVED TO SECTION 799.

760. IDAHO INCENTIVE INVESTMENT TAX CREDIT -- IN GENERAL (Rule 760).
Section 63-3029J, Idaho Code. ()

01. Credit Allowed. The incentive investment tax credit allowed by Section 63-3029J, Idaho Code, applies to investments made during the taxable year that begins in 2001. The investment must also meet the requirements of Section 63-3029B, Idaho Code, and related rules as to what constitutes qualified investment. ()

02. Limitations. The incentive investment tax credit allowable in any taxable year shall be limited as follows: ()

- a. The incentive investment tax credit claimed during a taxable year may not exceed the lesser of:
 - i. Five hundred thousand dollars (\$500,000); or ()
 - ii. One hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the incentive investment tax credit, regardless of whether this credit results from a carryover earned in ()

prior years, the current year, or both. See Rule 799 of these rules for the priority order for nonrefundable credits. ()

b. Credit for Qualifying New Employees. If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the incentive investment tax credit is limited by the provisions of Section 63-3029F, Idaho Code. ()

c. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. ()

d. Transferred Credit. Limitations apply to each transferee as if the transferee had earned the credit. ()

03. Carryovers. ()

a. The carryover period for the incentive investment tax credit is fourteen (14) years. ()

b. See Rule 793 of these rules for the rules regarding the carryover of transferred credit. ()

04. Taxpayers Entitled To The Credit. Rule 711 of these rules shall apply to the incentive investment tax credit except that limitations referenced in Subsection 711.01 shall be those limitations as provided in Section 63-3029J, Idaho Code. ()

05. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credit, for pass-through entities paying tax, and the application of limitations on pass-through credits. ()

761. ~~769.~~ (RESERVED); IDAHO INCENTIVE INVESTMENT TAX CREDIT -- MOBILE PROPERTY (Rule 761).
Section 63-3029J, Idaho Code. ()

01. In General. The Idaho incentive investment tax credit is computed using the percentage rate for the Idaho county in which the property is primarily based. ()

a. Mobile property is considered primarily based in the Idaho county in which it has more than fifty percent (50%) of its use for that taxable year. If the property is not used in any Idaho county more than fifty percent (50%), it shall be deemed to be primarily based in the Idaho county in which it has most of its use for that taxable year. ()

b. Use shall be determined based on time, miles, or other measure that accurately reflects the use of the property. The use of aircraft in a county shall be determined by the ratio of departures from locations within a county to total departures everywhere. ()

c. If property is used one hundred percent (100%) in Idaho but in more than one (1) county, one hundred percent (100%) of the cost of the property will qualify if the property is primarily based in a qualifying county. If the property is primarily based in a county that does not qualify, the property will not qualify. ()

d. If property is used in and outside Idaho, only the percent of the property used inside Idaho is eligible for the credit. ()

02. Examples. ()

a. A loader is used in Idaho county A fifteen percent (15%), in Idaho county B thirty percent (30%), and in Idaho county C fifty-five percent (55%). The loader is deemed to be primarily based in Idaho county C. Since Idaho county C qualifies for the credit, one hundred percent (100%) of the cost of the loader qualifies for the credit at the rate for Idaho county C. ()

b. A loader is used in Idaho county A twenty-five percent (25%), in Idaho county B thirty percent (30%), and in Idaho county C forty-five percent (45%). The loader is deemed to be primarily based in Idaho county C. Since Idaho county C qualifies for the credit, one hundred percent (100%) of the cost of the loader qualifies for the credit at the rate for Idaho county C. ()

c. A loader is used in Idaho county A fifteen percent (15%), in Idaho county B thirty percent (30%), and in Idaho county C fifty-five percent (55%). The loader is deemed to be primarily based in Idaho county C. Since Idaho county C has a credit percentage rate of zero (0), the credit is zero (0). ()

d. A loader is used in Idaho county A fifteen percent (15%), in Idaho county B thirty percent (30%), and in Oregon fifty-five percent (55%). The loader is deemed to be primarily based in Idaho county B, the Idaho county with the most usage. Only forty-five percent (45%) of the property will qualify for the credit at the credit percentage rate for Idaho county B, since the percent of the loader used outside Idaho is not eligible for the credit. ()

762. IDAHO INCENTIVE INVESTMENT TAX CREDIT -- RECAPTURE (Rule 762).

Section 63-3029J, Idaho Code. ()

01. In General. If a taxpayer is claiming or has claimed the incentive investment tax credit for property sold or otherwise disposed of, or that ceases to qualify pursuant to Section 63-3029B, Idaho Code, prior to being held five (5) full years, a recomputation of the credit shall be made. See Rule 715 of these rules. ()

02. Unitary Taxpayers. The corporation that earned the credit is responsible for the recapture or recomputation of the credit when the property ceases to qualify. ()

03. Transferred Credit. The transferor is responsible for the recapture or recomputation of the credit when the property ceases to qualify. ()

763. IDAHO INCENTIVE INVESTMENT TAX CREDIT -- RECORD-KEEPING REQUIREMENTS (Rule 763).

Section 63-3029J, Idaho Code. ()

01. Information Required. Each taxpayer who earns the incentive investment tax credit shall be subject to the record-keeping requirements set forth in Rule 716 of these rules. In addition, the taxpayer shall maintain records to identify the location and utilization by Idaho county for each item of property. ()

02. Credit Transferred. A taxpayer that transfers the incentive investment tax credit shall continue to be subject to the record-keeping requirements of this rule and Rule 716 of these rules, for as long as the credit may be carried over by the transferee or until further assessment or deficiency determinations are barred by a period of limitation, whichever is longer. ()

764. - 769. (RESERVED).

770. GROCERY CREDIT (Rule 770).

Section 63-3024A, Idaho Code. (3-20-97)

01. Residents Required To File. (3-20-97)

a. A resident may claim a credit of ~~fifteen~~ twenty dollars (~~\$15~~20) for each personal exemption for which a deduction is permitted and claimed on his Idaho income tax return provided the personal exemption represents an individual who is a resident of Idaho. (~~3-20-97~~)()

b. A resident age sixty-five (65) or older may claim a credit of ~~thirty-five~~ thirty-five dollars (~~\$305~~305) for each personal exemption described in Subsection 770.01.a. that represents an individual age sixty-five (65) or over. (~~3-20-97~~)()

c. A resident who is required to file an Idaho individual income tax return must claim the credit on his return. If the credit exceeds his tax liability, the resident will receive a refund. (3-20-97)

02. Residents Not Required To File. A resident who is not required to file an Idaho income tax return may be eligible for the credit. If eligible, the individual shall file a claim for refund of the credit on a form approved by the Tax Commission on or before April 15 each year. No credit shall be refunded three (3) years after the due date of the claim for refund, including extensions. The following resident individuals are eligible for the credit: (3-20-97)

a. Individuals age sixty-two (62) or older; (3-20-97)

b. Disabled veterans; and (3-20-97)

c. Blind individuals. (3-20-97)

03. Part-Year Residents. A part-year resident is entitled to a prorated credit based on the number of months he was domiciled in Idaho during the taxable year. For purposes of this rule, a fraction of a month exceeding fifteen (15) days is treated as a full month. If the credit exceeds his tax liability, the part-year resident is not entitled to a refund. (3-20-97)

04. Members Of The Armed Forces. A member of the United States Armed Forces who is required to file an Idaho income tax return and who is: (3-20-97)

a. Domiciled in Idaho is entitled to this credit; (3-20-97)

b. Residing in Idaho but who is a nonresident pursuant to the Soldiers' and Sailors' Civil Relief Act is not entitled to this credit. (3-20-97)

05. Spouse Or Dependents Of Armed Forces Members. A spouse or dependent of a nonresident military person stationed in Idaho may be an Idaho resident or part-year resident. The domicile of a dependent child is presumed to be that of the nonmilitary spouse. (3-20-97)

06. Nonresidents. A nonresident is not entitled to the credit even though the individual may have been employed in Idaho for the entire year. (3-20-97)

771. - ~~79984.~~ (RESERVED).

~~704785.~~ CREDITS -- PASS-THROUGH ENTITIES (Rule ~~704785~~).

01. In General. A credit earned by a partnership, S corporation, estate, or trust generally is claimed on the income tax returns of the partners, shareholders, or beneficiaries of the entity. (3-20-97)

a. Partnerships. A credit passes through to a partner based on that partner's distributive share of partnership profits. (3-20-97)

b. S Corporations. A credit passes through to a shareholder based on that shareholder's pro rata share of income or loss. (3-20-97)

c. Estates and Trusts. A credit passes through to a beneficiary in the same ratio that income is allocable to that beneficiary. (3-20-97)

02. Limitations. (3-20-97)

a. In General. Credits claimed on a partner's, shareholder's, or beneficiary's tax return may not exceed the limitations imposed by statute or rule. (3-20-97)

b. Example. Partnership XYZ has three (3) individual partners who each are entitled to a one-third (1/3) share of the partnership profits. The partnership contributed three thousand dollars (\$3,000) to an educational

institution. The contribution qualifies for the credit provided by Section 63-3029A, Idaho Code. One-third (1/3) of the contribution, one thousand dollars (\$1,000), passes through to Partner X who files a joint return. He is allowed a credit of fifty percent (50%) of the amount contributed, but is limited to the lesser of ~~one~~ two hundred dollars (~~\$1,200~~) or twenty percent (20%) of his total income tax liability. (3-20-97)()

c. Example. Assume the same facts as in Subsection ~~70485.02.b.~~, except Partner X also contributed two hundred dollars (\$200) to a qualifying educational institution. ~~Subject to other limitations, the credit is six hundred dollars (\$600) computed as follows: $((\$1,000 + \$200) \times .5)$. Partner X is treated as contributing one thousand two hundred dollars (\$1,200), to a qualifying educational institution. Since fifty percent (50%) of his contributions, six hundred dollars (\$600) exceeds the limitation, the credit is limited to the lesser of two hundred dollars (\$200) or twenty percent (20%) of his total income tax liability. The credit is not increased because part of the contribution was from Partner X as an individual and part from the partnership.~~ (3-20-97)()

03. Carryovers. Carryovers of credit are allowed to the partner, shareholder, or beneficiary to the extent provided by statute or rule. (3-20-97)

04. Different Taxable Year Ends. If a pass-through entity has a taxable year end different from that of a partner, shareholder, or beneficiary, the credit is available in the same taxable year that income or loss from that entity is reported. (3-20-97)

05. Information Provided By A Pass-Through Entity. The pass-through entity shall prepare and distribute to each partner, shareholder, or beneficiary a schedule detailing the proportionate share of each credit earned and any recapture that is required. Copies of these schedules shall be attached to the pass-through entity's Idaho income tax return or information return for the taxable year that the credit is earned and to each return on which the credit is claimed. (3-20-97)

06. Pass-Through Entities That Pay Tax. (3-30-01)

a. A pass-through entity may apply and may recapture credits that generally pass through to the partner, shareholder, or beneficiary for whom the pass-through entity is paying the tax. For example, Idaho investment tax credit earned that would have passed through to the owner or beneficiary could be claimed by the pass-through entity subject to the applicable limitations. Limitations based on the tax liability apply to each owner's or beneficiary's tax liability being paid by the pass-through entity. (3-30-01)

b. The partner, shareholder or beneficiary is responsible for the recapture or recomputation of credits passed through to the partner, shareholder, or beneficiary. (3-30-01)

c. Carryovers that exist after a pass-through entity offsets the tax with credit available to that partner, shareholder or beneficiary, remain a carryover of the partner, shareholder or beneficiary. (3-30-01)

786. - 789. (RESERVED).

790. TRANSFER OF CREDIT -- IN GENERAL (Rule 790).
Sections 63-3029I and 63-3029J, Idaho Code. ()

01. In General. A credit may be transferred only as specifically allowed in the statute authorizing the credit. The following credits are the only credits that may be transferred: ()

a. The broadband equipment investment credit, as allowed by Section 63-3029I, Idaho Code; and ()

b. The incentive investment tax credit, as allowed by Section 63-3029J, Idaho Code. ()

02. Terms. For purposes of Rules 790 through 795 of these rules, the following terms have the stated meanings: ()

a. Transferor. The taxpayer who earns the credit and sells, conveys, or transfers the credit to another

taxpayer shall be referred to as the transferor. ()

b. Transferee. The taxpayer who receives the credit from the transferor shall be referred to as the transferee. ()

03. Transfer Limited. The transfer of a credit is limited to the taxpayer who originally earned the credit. A taxpayer who receives the credit through unitary sharing or through a transfer, may not transfer the credit to another taxpayer. ()

791. TRANSFER OF CREDIT -- NOTIFICATION OF INTENDED TRANSFER (Rule 791).
Sections 63-3029I and 63-3029J, Idaho Code. ()

01. Timing Of Notification. A taxpayer who intends to transfer qualified credit shall notify the Tax Commission in writing of its intent to transfer the credit at least sixty (60) days prior to the date of the transfer. A transfer may not take place prior to the Tax Commission providing its response as to the amount of credit available and the years the credit may be carried forward. ()

02. Information Required. A transferor shall notify the Tax Commission by submitting the following information on a form prescribed by the Tax Commission: ()

a. Name, address, and federal employer identification number of the transferor: ()

b. Name, address, and federal employer identification number of the transferee: ()

c. Type of credit to be transferred: ()

d. Amount of credit to be transferred: ()

e. Date of intended transfer; and ()

f. Signature of authorized individual for transferor. ()

792. TRANSFER OF CREDIT -- POSTING BOND (Rule 792).
Section 63-3029J, Idaho Code. ()

01. Posting Bond Or Security. Prior to obtaining the written statement from the Tax Commission confirming the amount of credit and the carryover period, the transferor shall post a bond or security as the Tax Commission may require to secure any liability related to the transferred credit. ()

02. Waiver Of Bond Or Security. The Tax Commission may waive the bond requirement if the taxpayer shows that he is financially responsible. A notice of denial of the bond waiver shall be treated in accordance with Section 63-3045, Idaho Code. A notice of denial of the bond waiver shall be subject to review in accordance with Section 63-3045B, Idaho Code. ()

793. TRANSFER OF CREDIT -- TRANSFEREE (Rule 793).
Sections 63-3029I and 63-3029J, Idaho Code. ()

01. Tax Year Credit Available. A transferee may first claim the transferred credit on an income tax return originally filed during the calendar year in which the transfer takes place. However, the credit may not be claimed on a tax return that begins prior to January 1, 2001. ()

02. Copy Of Transfer Form Required. The form verifying the transferred credit shall be attached to the income tax return for each taxable year that the credit is claimed or carried over. ()

03. Carryover Period. If a credit is transferred, the transferee is entitled to any remaining carryover period that would have been allowed to the transferor had the credit not been transferred. The Tax Commission shall verify the carryover period. The carryover period approved shall apply to the taxable year of the transferee that begins

in the calendar year in which the transferor's taxable year begins. ()

a. Taxpayer A earned the incentive investment tax credit in his taxable year beginning in 2001. He claimed part of the credit on his return for that year. In 2002, Taxpayer A sold the remaining credit to Taxpayer B. Taxpayer B claimed the credit on his return for taxable year beginning in 2001 since he filed it in 2002. Taxpayer B has a fourteen (14) year carryover remaining, the same as Taxpayer A would have been entitled to. ()

b. Taxpayer A earned the incentive investment tax credit in his taxable year beginning in 2001. He claimed part of the credit on his return for that year. In 2002, Taxpayer A sold the remaining credit to Taxpayer B. Taxpayer B claimed the credit on his return for taxable year beginning in 2002 which he filed in 2003. Taxpayer B has a thirteen (13) year carryover remaining. ()

c. Taxpayer A earned the incentive investment tax credit in his taxable year beginning in 2001. He claimed part of the credit on his return for that year. On his return for taxable year beginning in 2002, Taxpayer A claimed additional credit earned during his taxable year beginning in 2001. In 2003, Taxpayer A sold the remaining credit to Taxpayer B at which time he had a thirteen (13) year carryover remaining. Taxpayer B is entitled to claim the credit on his return filed in 2003. Taxpayer B is entitled to a thirteen (13) year carryover. ()

794. -- 798. (RESERVED).

76099. PRIORITY ORDER OF CREDITS (Rule 76099).

Section 63-3029H, Idaho Code. (3-20-97)

01. Tax Liability. Tax liability is the tax imposed by Sections 63-3024, 63-3025, and 63-3025A, Idaho Code. (3-20-97)

02. Nonrefundable Credits. A nonrefundable credit is allowed only to reduce the tax liability. A nonrefundable credit not absorbed by the tax liability is lost unless the statute authorizing the credit includes a carryover provision. Nonrefundable credits apply against the tax liability in the following order of priority: (3-20-97)

a. Credit for taxes paid to other states as authorized by Section 63-3029, Idaho Code; (3-20-97)

b. Credit for contributions to Idaho educational institutions as authorized by Section 63-3029A, Idaho Code; (3-20-97)

c. Investment tax credit as authorized by Section 63-3029B, Idaho Code; (3-20-97)

d. Credit for contributions to Idaho youth facilities, rehabilitation facilities, and nonprofit substance abuse centers as authorized by Section 63-3029C, Idaho Code; (3-30-01)

e. Credit for equipment using postconsumer waste or postindustrial waste as authorized by Section 63-3029D, Idaho Code; (3-30-01)

f. Natural resource conservation credit as authorized by Section 63-3024B, Idaho Code; (3-30-01)

g. Promoter-sponsored event credit as authorized by Section 63-3620C, Idaho Code; ~~and (3-30-01)~~()

h. Credit for qualifying new employees as authorized by Sections 63-3029E and 63-3029F, Idaho Code, ~~as in effect January 1, 2000;~~ (3-30-01)()

i. Credit for Idaho research activities as authorized by Section 63-3029G, Idaho Code; ()

j. Broadband equipment investment credit as authorized by Section 63-3029I, Idaho Code; and()

k. Incentive investment tax credit as authorized by Section 63-3029J, Idaho Code. ()

800. VALID INCOME TAX RETURNS (Rule 800).

Section 63-3030, Idaho Code.

(3-20-97)

01. Requirements Of A Valid Income Tax Return. In addition to the requirements set forth in ~~Rule 150, IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules", Rule 150,~~ an income tax return shall meet the requirements set forth in this rule. Those that fail to meet these requirements are invalid. They may be rejected and returned to the taxpayer to be completed according to these requirements and resubmitted to the Tax Commission. A taxpayer who does not file a valid income tax return is considered to have filed no return. (3-20-97)

02. Copy Of Federal Return Required. A taxpayer shall include with the Idaho return a complete copy of his the federal income tax return with his Idaho return unless he including all forms, schedules and attachments. If an individual files an Idaho Form 40EZ, a copy of the federal income tax return is not required.

~~(3-20-97)~~()

~~**03. Partnerships That Do Not Transact Business In Idaho.** If a partnership does not transact business in Idaho but has one or more resident partners, the partnership must file an Idaho Form 65 along with the first four (4) pages from its federal partnership return, Form 1065, and a copy of each Schedule K-1 reflecting distributions allocated to each Idaho resident partner. Submitting the Form 1065, Schedules K-1, and supporting schedules on microfiche or three and one half (3-1/2) inch diskette along with Idaho Form 65 is acceptable. Taxpayers wishing to submit these schedules on a diskette should contact the Tax Commission for information regarding the acceptable format.~~

~~(3-20-97)~~

(BREAK IN CONTINUITY OF SECTIONS)

810. TIME FOR FILING INCOME TAX RETURNS (Rule 810).

Section 63-3032, Idaho Code.

(3-20-97)

01. Due Date Of Returns.

(7-1-98)

a. All taxpayers except farmer's cooperatives. Each taxpayer, whether a corporation, S corporation, individual, partnership, estate or trust, is required to file an income tax return with the Tax Commission on or before the fifteenth day of the fourth month following the close of the taxable year. A taxable year, for this purpose, includes a short taxable year as defined by the Internal Revenue Code. However, if the time for filing a short taxable year for federal income tax purposes is later than the fifteenth day of the fourth month following the close of the taxable year, the later date shall be the date the return is required to be filed with the Tax Commission.

~~(7-1-98)~~()

b. Farmer's cooperatives. Each farmers' cooperative taxable pursuant to Section 63-3025B, Idaho Code, is required to file an income tax return with the Tax Commission on or before the fifteenth day of the ninth month following the close of the taxable year.

(7-1-98)

02. Timely Filing Defined. If the last day for filing a return falls on a Saturday, Sunday or legal holiday, the return is deemed timely filed if it is filed on the next day that is not a Saturday, Sunday, or legal holiday. This rule also applies to returns falling due at the end of a period of extension granted by the Tax Commission. A legal holiday, for this purpose, is any holiday recognized by the state of Idaho, including special holidays declared by the Governor.

(3-20-97)

03. Mail. Section 63-217(1), Idaho Code, specifies that an income tax return sent through the mail is filed timely if it is postmarked on or before the due date of the return. See IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 010.

~~(7-1-98)~~()

04. Fifty-Two/Fifty-Three Week Years. A fifty-two fifty-three (52-53) week year is considered to end on the last day of the calendar month ending nearest to the last day of that taxable year. For example, the taxable year of a taxpayer with a fifty-two fifty-three (52-53) week year that ends on February 3 is considered to end on January 31. In this example the due date of the return is May 15, the fifteenth day of the fourth month following January 31.

(3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

872. REPORTING AND PAYING STATE INCOME TAX WITHHOLDING (RULE 872).

Sections 63-3035 and 63-3036, Idaho Code.

(3-20-97)

01. Filing Of Returns.

(7-1-99)

a. In General. An employer shall file returns quarterly to report payroll and state income tax withheld. Returns shall be filed on or before the last day of the month following the end of the quarter. (4-5-00)

b. Farmer-Employers. Generally, an employer who is a farmer shall file returns annually to report payroll and state income tax withheld. However, an employer who is a farmer shall file returns quarterly on or before the last day of the month following the end of the quarter if he is a covered employer required to file with the Department of Labor. (4-5-00)

c. Zero tax returns. A return shall be filed for each reporting period. For reporting periods in which the employer had no payroll or withheld no tax, the return shall be completed and filed by the due date. (7-1-99)

02. Extension Of Time To File Returns. The Tax Commission may allow a one (1) month extension of time to file the withholding return. (3-20-97)

a. The employer shall file a written request by the due date of the withholding return that identifies the reason for the extension and includes the required minimum payment. The minimum payment shall be at least ninety percent (90%) of the tax withheld for the period or one hundred percent (100%) of the tax withheld for the same period of the prior year. (4-5-00)

b. The employer shall file a return reporting the actual tax withheld for the period within one (1) month of the due date. The tax paid with the extension request shall be shown on the adjustment line of the return. Interest from the due date applies to any additional tax due. (3-20-97)

03. Payment Of State Income Tax Withheld.

(7-1-99)

a. In general. An employer shall remit monthly any state income tax withheld. However, employers who owe five hundred dollars (\$500) or less per calendar quarter may, at the discretion of the Tax Commission, be allowed to remit the tax withheld on or before the last day of the month following the end of the quarter. (4-5-00)

b. Farmer-employers. Generally an employer who is a farmer shall remit state income tax withheld on or before the last day of February. However, an employer who is a farmer shall remit the state income tax withheld on or before the last day of the month following the end of the quarter if he is a covered employer required to file with the Department of Labor. (4-5-00)

04. Employer's Annual Reconciliation. On or before the last day of February, employers shall file a return reconciling the tax remitted throughout the preceding calendar year and the state income tax withholding reported on the W-2s. (3-20-97)

05. Employee's Wage And Tax Statements. Federal Form W-2 or a form of similar size and design may be used. In addition to the information required by the Internal Revenue Code, total Idaho wages paid, Idaho income tax withheld, and the name of the state shall be shown in the appropriate boxes. Altered forms are not accepted. (7-1-99)

a. The employer shall furnish each employee a W-2 before February 1, or at the request of the employee within thirty (30) days after termination of his employment. (3-20-97)

b. On or before the last day of February, each employer shall file with the Tax Commission a W-2 for each employee to whom Idaho taxable wages were paid, regardless of whether Idaho income tax was withheld. (3-20-97)

c. If a corrected W-2 is filed with the Internal Revenue Service, the W-2c shall be filed with the Tax Commission. (3-20-97)

d. Each employer with fifty (50) or more Idaho employees who is required to file returns on magnetic media or other machine-readable form by Section 6011, Internal Revenue Code, shall file in a similar manner with Idaho. In addition to the information required by the Internal Revenue Code, the magnetic media or machine readable form shall also include the employer's Idaho withholding account number, Idaho wages, and Idaho withholding. Employers who are required to file on magnetic media but fail to do so are subject to the provisions of Section 63-3046(e)(1), Idaho Code, and treated as if no W-2s were filed. (~~3-20-97~~)(____)

e. If services are performed within and without Idaho, the state wages shown on the W-2 furnished to the employee shall include the portion of the employee's total wages reasonably attributed to services performed within Idaho. Wages may be allocated to Idaho based on work days, hours, mileage or commissions. (7-1-99)

06. Valid Returns. All withholding returns and other documents required to be filed pursuant to Sections 63-3035 and 63-3036, Idaho Code, and this rule shall be filed using the proper forms as prescribed by the Tax Commission. The forms shall include the taxpayer's name, signature, withholding account number, and federal employer identification number. Returns that fail to meet these requirements are invalid and may be returned to the taxpayer to be refiled. Failure to file a valid return by the due date may cause interest and penalties to be imposed. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

880. CREDITS AND REFUNDS (Rule 880). (3-20-97)
Section 63-3072, Idaho Code.

01. Overpayment. The term overpayment includes: (3-20-97)

a. A voluntary and unrequested payment greater than an actual tax liability. (3-20-97)

b. An excessive amount that an employer withholds pursuant to Sections 63-3035 and 63-3036, Idaho Code. (3-20-97)

c. All amounts erroneously or illegally assessed or collected. (3-20-97)

d. The term overpayment does not include an amount paid pursuant to a final determination of tax, including a compromise and closing agreement, decision of the Tax Commission, decision of the Board of Tax Appeals, or final court judgment. (3-20-97)

02. Timely Claim Required For Refund. (3-20-97)

a. The Tax Commission may not credit or refund an overpayment after the expiration of the period of limitations unless the taxpayer filed a claim before the expiration of the period. (3-20-97)

b. The claim for a credit or refund must be in writing and set forth each legal or factual basis in sufficient detail to inform the Tax Commission of the basis of the claim. The Tax Commission may require a taxpayer to submit a written declaration that the claim for refund is true and correct to the best of his knowledge and belief and is made under the penalties of perjury. (3-20-97)

c. When an adjustment to the taxpayer's federal return affects the calculation or application of an Idaho net operating loss in a year otherwise closed by the period of limitations, the taxpayer has one (1) year from the date of the final determination to file a claim for refund. (3-20-97)

03. Amended Returns As Refund Claims. A properly signed amended tax return shall constitute a claim for refund. The taxpayer must clearly set forth the amount claimed and explain why and how the original return is amended. ~~Individuals use Form 40X, Amended Idaho Individual Income Tax Return. Corporations, partnerships, and fiduciaries use Form 41X, Amended Business Income Tax Return.~~ (3-20-97)(____)

04. Closed Issues. The Tax Commission shall deny a credit or refund claim for a taxable year for which the Tax Commission has issued a Notice of Deficiency, unless the taxpayer shows that the changes on the amended return are unrelated to the adjustments in the Notice of Deficiency or that the changes result from a final federal determination. (3-20-97)

05. Limitations On Refunds Of Withholding And Estimated Payments. The Tax Commission may not refund taxes withheld from wages unless the taxpayer files a return within three (3) years after the due date. See Section 63-303572(ec), Idaho Code. The Tax Commission may not refund any payment received with an extension of time to file or with a tentative return, including quarterly estimated payments, unless the taxpayer makes a claim for a refund within three (3) years of the due date of the return. (3-20-97)(____)

06. Reduction Or Denial Of Refund Claims. If the Tax Commission determines that a refund claim is in error, the Tax Commission shall deny the claim in whole or part. Unless the denial results from a mathematical error by the claimant, the Tax Commission shall give notice of the denial by a Notice of Deficiency in the manner required by Section 63-3045, Idaho Code, and related rules. The protest and appeal process that applies to a Notice of Deficiency also applies to the denial or reduction of a refund. See Section 63-3045A, Idaho Code, for information on mathematical errors. (3-20-97)

07. Amended Federal Return. Filing a claim with the Internal Revenue Service to reduce taxable income does not extend the Idaho period of limitations for claiming a refund or credit of tax. If the statute of limitations is about to expire on a taxpayer's Idaho return for which an issue is pending on his federal return or return filed with another state, the taxpayer should amend his Idaho return. He should clearly identify the amended return as a protective claim for refund. The taxpayer must notify the Tax Commission of the final resolution. (7-1-98)

08. Combined Reports -- Final Federal Determination And Change Of Filing Method. If the Idaho period of limitations is open due to a final federal determination, a corporate taxpayer may not adjust its Idaho return to include a previously omitted corporation or to exclude any corporation previously included in a combined report. (3-20-97)

IDAPA 35 - STATE TAX COMMISSION
35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0102-0102
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) 63-105, 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:

Sales Tax Rule 037 - Aircraft And Flying Services is being amended to conform with Section 63-3622GG, Idaho Code, that was amended by the 2001 Legislature.

Sales Tax Rule 051 - Discounts, Coupons, Rebates, And Gift Certificates is being amended to clarify the treatment of manufacturers' rebates that are paid to the consumer by the retailer when the retailer in turn is reimbursed by the manufacturer.

Sales Tax Rule 075 - Pollution Control Equipment is being promulgated to clarify the type of equipment that qualifies for the pollution control exemption found in Section 63-3622X, Idaho Code.

Sales Tax Rule 107 - Motor Vehicles - Gifts, Military Personnel, Nonresident, New Resident, Tax Paid To Another State, Sales To Family Members, Sales To Indians, And Other Exemptions is being amended to conform with the Section 63-3022R, Idaho Code, that was amended during the 2001 Legislature.

Sale Tax Rule 108 - Motor Vehicles - Manufacturer's, Rental Company's, And Dealer's Purchase Or Use Of Motor Vehicles is being amended to clarify related party transfers and sales to family members. It is also being amended to provide correct cross reference to the Motor Vehicle Act and to change title and requirements on forms that are being amended.

Sales Tax Rule 131 - Prizes Won In Contests, Drawings, And Raffles is being promulgated to clarify the person giving away the prize is responsible for the sales and use tax on items that are given away in contests, drawing and raffles.

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 proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact James Husted, at (208) 334-7530. Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2001.

DATED this 22nd day of August, 2001.

James Husted, Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV, P. O. Box 36
Boise, ID 83722

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0102-0102

037. AIRCRAFT AND FLYING SERVICES (Rule 037).

01. **Definitions.** For the purposes of this rule, the following terms have the following meanings: (7-1-94)

a. Certified Air Carrier. Any person who directly or indirectly or by a lease or any other arrangement, offers air transportation and is authorized by the FAA to operate as an air carrier under an air carrier operating certificate. (7-1-94)

b. Regular Scheduled Flight. A flight which is operated regularly between two (2) points and is listed in a published schedule which is readily available to the public. (7-1-94)

c. On Demand Flight. The hiring on demand of an aircraft with a pilot to transport freight or passengers on an unscheduled flight. (7-1-94)

d. Recreational Flight. The hiring on demand of an aircraft with a pilot to transport passengers for a recreational purpose. Examples are a pleasure ride, sightseeing, photography, wildlife viewing, hot air balloon rides, or other similar activities. (7-1-94)

e. Intrastate Flight. A flight where the origin and destination points are within Idaho. (7-1-94)

f. Freight. Goods transported by a carrier between two (2) points. Freight does not include goods which are being transported for the purpose of aerial spraying or dumping. (7-1-94)

g. Nonresident Individual. An individual as defined by Section 63-3014, Idaho Code. (7-1-94)

h. Nonresident Business. A business with no property located in Idaho, or employees working in Idaho. (7-1-94)

i. Day. For the purpose of this rule any part of a day is a day. (7-1-94)

02. **Sales Subject To Tax.** Sales or use tax applies to the total sales price of: (7-1-94)

a. An aircraft sold at retail, except as provided by Subsection 037.03 of this rule; ~~(7-1-94)~~(____)

b. The receipts from intrastate on demand flights, except as part of a regularly scheduled flight by a certified air carrier, under the authority of the FAA; ~~(7-1-93)~~(____)

c. The receipts from transporting passengers for a recreational flight; ~~or~~ ~~(7-1-94)~~(____)

d. The sale of parts or other tangible personal property used to repair or maintain an aircraft not held for resale, ~~including parts or other tangible personal property used to repair or maintain aircraft primarily used to transport passengers or freight for hire~~ except as provided by Subsection 037.05.e. of this rule. ~~(7-1-93)~~(____)

03. **Aircraft Not Subject To Tax.** Sales or use tax does not apply to the sale, lease, purchase, or use of an aircraft. (7-1-94)

a. ~~PRIMARILY~~rimarily used to transport passengers or freight for hire; ~~(7-1-94)~~(____)

b. ~~PRIMARILY~~rimarily used for emergency transportation of sick or injured persons; ~~or~~ ~~(7-1-94)~~(____)

c. By nonresidents for use outside this state, when the aircraft is upon delivery taken outside this state, but only if the aircraft registration will be immediately changed to show the new owner and the aircraft will not be used in this state more than ninety (90) days in any twelve (12) month period. (7-1-94)

04. Rentals And Leases Of Aircraft. The rental or lease of an aircraft without operator is a sale subject to sales tax, other than as provided in Subsection 037.03 ~~above~~ of this rule. See ~~Idaho Sales Tax Administrative Rule 024~~ of these rules. (7-1-94)()

05. On Demand Flying Services. The charge for intrastate on demand flying of passengers or freight is subject to sales tax. The sales tax applies to the total amount charged for the intrastate charter flight, including standby time for a pilot, crew, or other separately stated charges. (7-1-94)

a. Example: A customer hires a flight on demand from Boise to Coeur d'Alene, Idaho. During the flight the pilot stops briefly in Spokane, Washington, at the passenger's request. In this example the flight is an intrastate on demand flight of passengers for hire and is subject to sales tax. The measure of the sales tax is the total amount charged for the on demand flight. (7-1-94)

b. Example: A customer hires a flight on demand from Boise, Idaho, to Spokane, Washington. During the flight the pilot stops briefly in Coeur d'Alene, Idaho, at the passenger's request. In this example the flight is an interstate on demand flight, even though the aircraft landed briefly in Idaho. Sales tax will not apply to the flight because it is an interstate flight. (7-1-94)

c. Example: A company hires a flight on demand from Boise, Idaho, which is to transport one (1) passenger to Pocatello, Idaho, and the remaining passengers to Salt Lake City, Utah. The amount charged to transport the passenger to Pocatello is subject to sales tax as an intrastate on demand flight. The charge for flying the remaining passengers to Salt Lake City is not subject to sales tax, as it is an interstate flight. (7-1-93)

d. Example: A company hires a flight on demand from Boise to Pocatello, Idaho, and requests that the plane then fly the passenger to Salt Lake City, Utah, later in the day. Two (2) on demand flights have occurred. The first is an intrastate flight from Boise to Pocatello, subject to sales tax. The second flight is interstate, Pocatello to Salt Lake City, and not subject to sales tax. (7-1-93)

e. Aircraft which are purchased, rented, leased, or withdrawn from resale inventory to be used primarily for on demand flights are not subject to sales or use tax. Sales or use tax ~~DOES~~ does not apply to the sale or use of repair and replacement materials and parts, oil, or other tangible personal property used to repair or maintain which will become component parts of such aircraft. Sales or use tax does apply to the sale or use of tools and equipment utilized in performing the repair or maintenance. (7-1-94)()

06. Aerial Contracting Services. Sales tax does not apply to the amount charged by the owner or operator of an aircraft to perform aerial contracting services such as aerial logging, applying agricultural products or other products by aerial spraying or dumping, or other similar activities not involving the transportation of freight or passengers. However, if the service involves the hauling of freight or passengers who are not employees of the flying service, the flight is deemed an on demand flight. (7-1-94)

a. Aircraft purchased, rented, or leased for aerial contracting are subject to sales tax. It makes no difference whether or not the service is provided to a government agency or a private individual or company. Sales or use tax also applies to the purchase of repair parts, oil, and other tangible personal property. (7-1-94)

b. When aircraft held for resale are used by the owner, aircraft dealer, for aerial contracting services, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service. (7-1-94)

07. Air Ambulance Service. Charges for the emergency transportation of sick or injured persons, including standby time, are not subject to sales tax. (7-1-94)

08. Flying Instructions. Flying instructions or lessons which may include solo flights are a service and the fees are not subject to sales tax. (7-1-94)

- a. Aircraft purchased, rented, or leased to be used primarily for flying instruction are subject to sales or use tax. (7-1-94)
- b. When aircraft held for resale are used by the aircraft dealer for flying instructions or lessons, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service. (7-1-94)
- 09. Recreational Flights.** Fees charged for recreational flights are taxable as provided by Subsection 037.02.c. of this rule. Aircraft purchased, rented, or leased primarily for providing recreational flights are subject to sales or use tax. (7-1-94)
- 10. Aircraft Held For Resale.** Aircraft purchased and held for resale become taxable when used for purposes other than demonstration or display in the regular course of business. (7-1-94)
- a. Rentals of aircraft held for resale are taxable as provided by Subsection 037.04 of this rule. (7-1-93)
- b. When an aircraft held for resale is used for a taxable purpose, the dealer owes tax on that use. The use tax applies to a reasonable rental value for the time the aircraft is used. (7-1-94)
- c. Parts and oil purchased to repair or maintain aircraft held for resale are not subject to sales tax. The aircraft dealer must provide the supplier with a properly completed resale certificate. See ~~Idaho Sales Tax Administrative Rule 071128~~ of these rules. (7-1-94)(____)
- 11. Fuel.** The sale or purchase of fuels subject to motor fuels tax, or on which a motor fuels tax has been paid, pursuant to Chapter 24, Title 63, Idaho Code, is exempt from sales and use tax. (7-1-94)
- 12. Records Required.** The owner or operator of an on-demand flying service must give his customer a receipt and keep a copy for his records, showing the customer's name and address, date of flight, its purpose, and its origin and destination. If the flight or transaction is subject to sales tax, the tax must be separately stated on the receipt. (7-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

051. DISCOUNTS, COUPONS, REBATES, AND GIFT CERTIFICATES (Rule 051).

- 01. Adjustments That Apply After Tax Calculation.** Tax must be charged ~~BEFORE~~ before deducting the following: (7-1-93)(____)
- a. Cash discounts. Sales tax must be computed on the full amount of the purchase price before the cash discount is subtracted. When an invoice or other billing document states that a discount will be allowed if payment is made before a certain date, then the discount is presumed to be a cash discount. Discounts allowed on payments received after the stated date are presumed to be cash discounts unless proven to the contrary by clear and convincing evidence. (7-1-93)
- b. Manufacturer's rebates. Except as provided by Subsection 051.02 of this rule, sales tax must be computed on the full amount of the purchase price without regard to the manufacturer's rebate. Any rebate received by the purchaser from the manufacturer, distributor, or any person other than the retailer will not reduce the retail sales price subject to tax. Rebates paid by a retailer to the consumer will also be included in the price subject to sales tax if the retailer has been reimbursed by a third party, such as the manufacturer. (7-1-93)(____)
- c. Manufacturer's discount coupons. Sales tax must be computed on the full amount of the purchase price before subtracting the coupon amount. This includes coupons issued by a manufacturer allowing the purchaser

to buy one item and get a second item free if the retailer will be reimbursed by the manufacturer. (7-1-98)

d. Food Stamps and WIC. Purchases of food with coupons issued under the Federal Food Stamp Program or food checks issued by the Federal Special Supplemental Food Program for Women, Infants, and Children, (WIC), are exempt from sales or use tax. When a purchaser uses manufacturer's discount coupons along with food stamps or WIC checks to purchase food items that qualify under these programs, the discount value of the coupon is subject to sales tax. For example, a food stamp recipient purchases fifteen dollars (\$15) worth of eligible food, surrenders manufacturer's discount coupons valued at two dollars (\$2), and pays with thirteen dollars (\$13) in food stamps. Sales tax is due on the two dollar (\$2) discounted amount. The purchaser may not use food stamps or WIC checks to pay sales tax due. (7-1-98)

02. Adjustments That Apply Before Tax Calculation. Tax is charged *AFTER* after the deduction of the following: (7-1-93)(____)

a. Trade discounts. A trade discount is a reduction from the posted or listed price offered by a retailer which is not an inducement for prompt payment and which, when applied to the posted or listed price, establishes the true selling price to be paid by the purchaser. (7-1-93)

b. Retailer's rebates. A retailer's rebate is an amount of money or property paid by a retailer to a purchaser which is conditioned upon the recipient making a purchase from the retailer. However, if a retailer is reimbursed by a manufacturer or other third party, the transaction is not a retailer's rebate and the rebate amount is included in the sales price subject to sales tax. This would be the case when a purchaser sends the rebate claim to the retailer, the retailer sends the rebate amount to the purchaser and the manufacturer reimburses the retailer. (7-1-93)(____)

c. Retailer discount coupons. Retailer discount coupons are coupons issued by a retailer which entitle the holder to purchase the issuing retailer's products at less than the posted or listed retail price. (7-1-93)

d. Manufacturer's motor vehicle rebates. Effective July 1, 1990, a manufacturer's rebate offered to a purchaser of a motor vehicle may be deducted from the purchase price of the vehicle before computing the tax IF the rebate is used to reduce the retail sales price of the vehicle, or is used as a down payment on the purchase. The dealer's customer invoice must show the manufacturer rebate as a deduction to, or down payment on, the purchase price of the vehicle. Only manufacturer rebates offered on motor vehicles qualify for the exclusion from tax. Manufacturer rebates offered on trailers, off-highway equipment, and other property will be treated as discussed in Subsection 051.01.b. of this rule. (7-1-96)

03. Coupon Books. A coupon book is a set of two (2) or more coupons sold to a purchaser who may use the coupons as all or part of the purchase price of tangible personal property subject to sales taxes. The sale of coupon books is not subject to sales tax. When a retailer discount coupon from a coupon book is used to purchase merchandise, the discount allowed by the coupon is not included in the purchase price subject to tax. Sales tax applies to the amount paid by the purchaser to the retailer after allowance of the discount permitted by the coupon. (7-1-98)

04. Donated Goods. The donor is the consumer of donated goods and must pay sales or use tax on the purchase price of the goods. (7-1-98)

05. Gift Certificates. A gift certificate purchased from a vendor entitles a recipient to tangible personal property or services when presented to the vendor. The purchase of a gift certificate is not a taxable transaction. When the gift certificate is presented for redemption a sale is consummated. If the sale is a transfer of tangible personal property, the vendor must collect sales tax at the time of sale. Tax applies to the purchase price of the tangible personal property, irrespective of any cash refunded on any difference between the face value of the gift certificate and the purchase price. If the sale is for services not subject to tax under the Sales Tax Act, the vendor will not collect sales tax. (7-1-93)

06. Discount Purchasing Memberships And Cards. The purchase of a card or membership which entitles the holder to purchase tangible personal property at a discounted price is a sale subject to sales tax, if the seller of the membership is the same as the seller of the merchandise. Examples of taxable fees include membership fees to rent or purchase from video rental stores, discount lumber retail outlets, and discount dry goods outlets.

(7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

075.—~~076.~~ (RESERVED). POLLUTION CONTROL EQUIPMENT (Rule 075).

01. In General. Section 63-3622X, Idaho Code, provides an exemption for certain sales and purchases of equipment used in pollution control. The exemption is not limited to purchases of equipment by persons or businesses in any particular industry. The person purchasing the equipment must be required to meet emission standards set by the United States Environmental Protection Agency, the Idaho Department of Environmental Quality, or some other state or federal agency having authority to regulate and set air and water quality emission standards. ()

02. Primary Use. To qualify for the exemption, the item purchased must be used primarily for the purpose of preventing pollutants from entering the environment and must be reasonably necessary to meet the required emission standards. Equipment, such as safety equipment, which does not prevent pollutants from entering the environment, is not pollution control equipment. ()

03. Equipment. For the purposes of the pollution control exemption, equipment means some type of apparatus, implement, or instrument. Purchases of items to be permanently affixed to real property, materials that will become part of a building or structure, and purchases of chemicals, gases or other fluids are not equipment, and their purchase will not qualify for the pollution control exemption. ()

076. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

107. MOTOR VEHICLES - GIFTS, MILITARY PERSONNEL, NONRESIDENT, NEW RESIDENT, TAX PAID TO ANOTHER STATE, SALES TO FAMILY MEMBERS, SALES TO AMERICAN INDIANS, AND OTHER EXEMPTIONS.

01. In General. This rule discusses specific topics relating to motor vehicles including gifts, military personnel, and exemptions. Refer to Rule 106 of these rules for general information on purchases, sales, rentals, and leases of motor vehicles. (3-6-00)

02. Gifts Of Motor Vehicles. When the following facts clearly establish that a motor vehicle is being transferred as a gift from the titleholder to another, the vehicle can be transferred tax exempt if: (7-1-93)

a. No money, services, or other consideration is exchanged between the donor and recipient at any time. (7-1-93)

b. The recipient assumes no indebtedness. (7-1-93)

c. The relationship of the donor and recipient indicates a basis for a gift. (7-1-93)

d. The donor and recipient ~~both~~ complete and sign a Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, ~~have it notarized,~~ and submit it to the county assessor or the Idaho Transportation Department along with the title to the vehicle being transferred. If the donor is unable to sign the affidavit: (7-1-93)()

i. A letter stating the vehicle is a gift, and signed by the donor, may be accepted by the county assessor or his representative and attached to the affidavit; or ()

- ii. The back of the title may be marked as a gift and signed by the donor. ()

03. Nonresidents. A nonresident does not owe use tax on the use of a motor vehicle which is registered or licensed under the laws of another state or nation, is not used in Idaho more than ninety (90) days in any consecutive twelve (12) months pursuant to Section 63-3621(k), Idaho Code, and is not required to be registered or licensed under Idaho law. For purposes of this subsection, a motor vehicle is considered to have been used in Idaho for a day when it is present in this state for more than sixteen (16) hours during any twenty-four (24) hour period.

~~(3-6-00)~~()

04. New Residents. A new resident of Idaho does not owe tax on the use of household goods, personal effects and privately owned motor vehicles, if he acquired them while he resided in another state and used them primarily outside Idaho. If a vehicle owner obtained a registration or title from another state or nation of residence more than three (3) months before moving to Idaho, this is proof that the vehicle was primarily for use outside Idaho. New residents entering Idaho with a vehicle titled in a state that does not impose a general sales and use tax will be required to complete and sign a Three Month Exemption Claim Form ST-102 and submit it to the Idaho Transportation Department or county assessor when applying for a title transfer.

~~(3-6-00)~~()

a. If the vehicle was acquired less than three (3) months before the buyer moved to Idaho, it is presumed that it was acquired for use in this state. (7-1-93)

b. Exclusion from the tax applies only to motor vehicles owned by an individual. A privately owned motor vehicle is one which is owned by, and titled to, a private individual or individuals. (3-6-00)

05. Military Personnel. Military personnel receive no special exemption from the Idaho sales and use tax regarding motor vehicles or other tangible personal property. The exemptions discussed in this rule apply equally to military and nonmilitary personnel. A military person with a home of record other than Idaho is considered to be a nonresident. A military person whose home of record is Idaho is considered to be a resident of this state. Example: A military officer with a home of record in Oregon brings a vehicle purchased in Germany to Idaho upon being stationed at Mountain Home Air Force Base. During his first year at Mountain Home, the vehicle is present in Idaho for more than ninety (90) days. The exemption provided to nonresidents, as discussed in Subsection 107.03 of this rule, does not apply. Use tax applies to the fair market value of the vehicle. (7-1-93)

06. Tax Paid To Another State. When sales tax has been properly imposed by another state of the United States in an amount equal to or greater than the amount due Idaho, no Idaho tax is due. (7-1-93)

a. If the amount paid to the other state is less, Idaho tax is due to the extent of the difference, unless some other exemption applies. The owner must provide evidence that the tax was paid to the other state. A registration certificate or title issued by another taxing state is sufficient evidence that tax was imposed at the other state's tax rate. (7-1-93)

b. Example: A Wyoming resident buys a vehicle there for ten thousand dollars (\$10,000) two (2) months before moving to Idaho. He presents his Wyoming title to an Idaho county assessor. Since he acquired the vehicle only two (2) months before entering Idaho, no exemption applies. The tax paid to Wyoming was three hundred dollars (\$300) when the vehicle was purchased. Credit for this amount is allowed against the five hundred dollars (\$500) tax due Idaho. The assessor will collect two hundred dollars (\$200) tax. (7-1-93)

c. Example: A vehicle was purchased by a Colorado resident two (2) months before moving to Idaho. The applicant paid three percent (3%) Colorado state sales tax, six ~~one-hundredths~~ tenths of one percent (.06%) city sales tax, and one and six tenths percent (1.6%) county sales tax. The total Colorado general sales tax paid was five and two tenths percent (5.2%). Since the Idaho tax rate is five percent (5%), no tax is due Idaho because the amount of tax paid to Colorado exceeds the amount owed Idaho. ~~(7-1-93)~~()

d. A registration certificate or title issued by another taxing state is proof that tax was paid to the other taxing state. This does not apply to states that do not have a tax, such as Montana and Oregon, or when a state has exempted the motor vehicle from tax. (7-1-93)

e. Example: A church buys and titles a vehicle in Utah. The Utah sales tax law exempts the purchase of the vehicle from sales tax. The church later titles the vehicle in Idaho. Sales tax must be paid on the fair market value of the vehicle when it is titled in Idaho. (7-1-93)

f. Taxes paid to another nation cannot be offset against the taxes owed to Idaho. (7-1-93)

07. Sales To Family Members. The tax does not apply to sales of motor vehicles between members of a family related within the second degree of consanguinity. The second degree of consanguinity means only the following blood or formally adopted relatives of the person making the sale: parents, children, grandparents, grandchildren, brothers, and sisters. Relatives of the second degree of consanguinity do not include persons who are related only by marriage. However, when the motor vehicle sold is community property, and it is sold to a person who is related within the second degree of consanguinity to either spouse, the sale is exempt from tax. (7-1-93)

a. The Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, is used to document this exemption. The seller and buyer must complete and sign Form ST-133 and ~~have their sworn statements notarized. The affidavit is then given~~ submit it to the Idaho Transportation Department or county assessor along with the title to the vehicle being transferred. If the seller is unable to sign the affidavit a letter from the seller stating the sale was made to a qualified family member may be accepted by the county assessor or his representative and attached to the affidavit. (7-1-93)()

b. This exemption does not apply if the seller did not pay tax when he acquired the vehicle. (7-1-93)

c. Example: An Oregon resident buys a vehicle and titles it in Oregon without paying sales or use tax. Later, he sells the vehicle for ten thousand dollars (\$10,000) to his son who is an Idaho resident. No exemption applies, since the father did not pay a sales or use tax when he acquired the vehicle. The son is required to pay Idaho use tax on the ten thousand dollars (\$10,000) purchase price of the vehicle. (7-1-93)

08. Sales To American Indians. An enrolled American Indian tribal member may buy a motor vehicle exempt from tax if the sale and delivery of the vehicle is made within the boundaries of the Indian Reservation. The Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, is used to document this exemption. The seller and the ~~purchaser~~ buyer must complete and sign Sales Tax Exemption Certificate - Transfer Affidavit Form ST-133 including the name of the tribe, Tribal Identification Number and have their sworn statements notarized the name of the Reservation upon which the sale and delivery occurred. The affidavit is then given to the Idaho Transportation Department or county assessor along with the title to the vehicle being transferred. (7-1-93)()

09. Bulk Sale Transfers. A transfer or sale of a motor vehicle as part of a bulk sale of assets or property, as defined by Rule 099 of these rules, is exempt from tax. The buyer must ~~obtain written clearance from the State Tax Commission to present to the Idaho Transportation Department or county assessor when applying for transfer of title. The buyer must present written evidence to the State Tax Commission to support the exemption~~ complete and sign Sales Tax Exemption Certificate - Capital Asset Transfer Affidavit Form ST-133CATS to present to the Idaho Transportation Department or county assessor when applying for transfer of title. The buyer must attach a copy of the sales agreement showing the sale qualifies for the exemption on the Form ST-133CATS. (3-6-00)()

10. Vehicles Purchased In Idaho For Use Outside Idaho. (7-1-93)

a. Sales of motor vehicles, trailers, utility trailers, vessels and attached motor, all-terrain vehicles (ATVs) and snowmobiles for use out of this state, even though delivery is made within this state are exempt from tax when: ()

ai. The sale of an on-road trailer or the sale of a motor vehicles, is exempt from tax if the buyer can claim that immediately upon delivery the vehicle will be taken directly to another state or nation and titled and licensed there; the vehicle will not be required to be titled by the laws of Idaho; and no more than twenty five percent (25%) of the vehicle's mileage will be accumulated in Idaho during any calendar year. vessels and attached motor, ATVs, utility trailers, trailers and snowmobiles will be taken from the point of delivery in this state directly to a point outside this state; and (7-1-97)()

bii. The buyer must make these claims on Form ST-104-MV, Sales Tax Exemption Certificate Vehicle,

~~and give the form to the dealer.~~ The motor vehicles, ~~must then~~ vessels and attached motor, ATVs, utility trailers, trailers and snowmobiles will be ~~taken out of Idaho and~~ titled ~~in~~ and licensed immediately under the laws of another state or nation if required to be titled and licensed in that state or nation. (7-1-93)()

eb. ~~This~~ To claim the exemption, ~~does not apply to off-highway vehicles such as ATVs, snowmobiles, boats, and off-road bikes~~ the buyer must provide the seller a completed and signed Sales Tax Exemption Certificate - Vehicle Form ST104-MV. (7-1-93)()

c. This exemption does not apply to sales of truck campers, off highway motorcycles and vessels without attached motors. ()

11. Motor Vehicles And Trailers Used In Interstate Commerce. The sale of motor vehicles with a maximum gross registered weight of over twenty-six thousand (26,000) pounds and trailers are exempt from sales or use tax when they are purchased to become part of a fleet of vehicles registered under the International Registration Plan, or similar proportional or pro rata registration system, and they will be used in interstate commerce with at least ten percent (10%) of the fleet miles operated outside this state. The owner must complete and sign the Sales Tax Exemption Certificate - Vehicle Form ST-104MV, and provide it to the seller, the Idaho Transportation Department or the county assessor when applying for title transfer. See Rule 101 of these rules. (3-6-00)()

12. Related Party Transfers And Sales. Certain transfers and sales of motor vehicles between businesses defined as related parties are exempt from tax. Refer to Rule 099 of these rules. The new owner must ~~obtain written clearance from the State Tax Commission~~ complete and sign Sales Tax Exemption Certificate - Capital Asset Transfer Affidavit Form ST-133CATS to present submit to the Idaho Transportation Department or county assessor when applying for title transfer. ~~Also, the new owner must present written evidence to the State Tax Commission to support the exemption claimed, including proof that the prior owner paid sales or use tax on the vehicle, and proof of the related party relationship between the transferor and transferee.~~ (3-6-00)()

108. MOTOR VEHICLES MANUFACTURER'S, RENTAL COMPANY'S, AND DEALER'S PURCHASE OR USE OF MOTOR VEHICLES (Rule 108).

01. Purchases Of Motor Vehicles For Resale. Licensed motor vehicle dealers, motor vehicle rental companies, and manufacturers of motor vehicles may purchase ~~and hold~~ motor vehicles tax exempt when the vehicles are held for resale or rental and are used for no purpose other than retention, demonstration, or display while holding the vehicles for sale or rental in the regular course of business. Purchases of parts that will be installed on vehicles held in a resale inventory are exempt from sales tax. (7-1-93)()

02. Titling A Motor Vehicle. Under the Sales Tax Act, no motor vehicle may be titled without documentation establishing that any sales or use taxes which may be due have been paid. However, certain vehicles may be titled by dealers and rental companies with no tax applying. (7-1-93)

a. Motor vehicle rental companies may title and register motor vehicles held in their rental inventory in their company name with no tax applying. (7-1-93)

b. Idaho dealers may title motor vehicles held for resale in their dealer name to ensure clear title to the vehicle. However, the vehicle ~~CANNOT~~ cannot be registered in the dealer's name. If the dealer applies for registration, tax applies. (7-1-93)()

03. Dealer Plates. Any vehicle upon which a dealer's plate may be lawfully displayed, as provided by Sections ~~49-1627 and~~ 49-1628, Idaho Code, shall be considered, for purposes of the Sales Tax Act, to be inventory held for sale and not subject to sales or use tax. If any use of a vehicle displaying a dealer plate requires that the dealer provide the user with a compensation form for federal income tax purposes, the amount so reported is subject to the use tax. The use tax must be paid by the dealer in the month immediately following the issuance of the compensation form. The unauthorized use or display of a dealer's plate on the motor vehicle which is otherwise required to be titled or licensed under the laws of the state of Idaho ~~may~~ shall subject the dealer to a use tax liability. (7-1-93)()

04. Service Vehicles. Vehicles, such as work or service vehicles, which are not held in stock for sale or rental are subject to sales or use tax at the time of their purchase. The use tax shall be reported and paid on the sales

tax return relating to the period during which the vehicle was purchased. In titling the vehicle, the motor vehicle dealer may report his seller's permit number to the county assessor or Department of Transportation as evidence that sales or use tax has been paid. (7-1-93)

05. Inventory Withdrawals By Dealers. Motor vehicle dealers may withdraw motor vehicles from inventory and put them to a use for which a dealer's plate is not authorized. Such vehicles must be titled and licensed. Vehicles which are required to be titled and licensed are subject to tax. The taxpayer may choose one (1) of two (2) methods for reporting the tax: (7-1-93)

a. At the time the vehicle is withdrawn from resale inventory, ~~the~~ taxpayer may report and pay use tax on his acquisition cost ~~of the vehicle at the time the vehicle is withdrawn from resale inventory. This should be done in the same manner as prescribed for work and service vehicles, above.~~ (7-1-93)()

b. During each month or part of a month during which a motor vehicle is held for purposes other than resale, the taxpayer may report and pay use tax on a reasonable monthly rental value. A reasonable monthly rental value shall be an amount equal to rentals actually charged for vehicles of like or similar make and model when such vehicles are leased or rented by the taxpayer or by other persons in the community in the business of leasing or renting such vehicles. (7-1-93)

06. Inventory Withdrawals By Rental Companies. Motor vehicle rental companies that withdraw motor vehicles from their rental inventory and put them to a use subject to use tax may elect either method of reporting tax discussed in Subsection 108.05. (7-1-93)

07. Applicability Of ~~ISTC~~ Rule 108. The provisions of this rule apply only to motor vehicle dealers or manufacturers licensed as such by the Department of Transportation, and to companies engaged in the business of renting motor vehicles without operators. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

131. PRIZES WON IN CONTESTS, DRAWINGS, AND RAFFLES (Rule 131).

The transfer of tangible personal property, including motor vehicles, to the winner of a contest, drawing, or raffle is deemed to be a gift from the sponsor to the winner. The legal responsibility for the payment of sales or use tax does not fall on the winner of the prize. ()

01. Donation Of Inventory Items. The donation of items withdrawn from a resale inventory that will be used as prizes for a contest, drawing, or raffle is a use of the property by the donor. Since the items were purchased for resale but were not actually resold, the use of the donated items is subject to use tax. The use tax must be paid pursuant to Section 63-3621, Idaho Code. The tax is computed on the acquisition cost of the property. ()

02. Sales Of Prizes To The State Lottery Commission. Notwithstanding the provisions of Subsection 131.01, a retailer may enter into a contractual arrangement to provide tangible personal property to the State Lottery Commission that is intended to be used as a prize, pursuant to Chapter 74, Title 67, Idaho Code. Such a transaction shall be deemed to be a sale by the retailer to the Lottery Commission whether the title to the property is transferred to the Lottery Commission or directly to the prize winner. Since the Lottery Commission is an agency of the state of Idaho, the sale is exempt pursuant to Section 63-3622O, Idaho Code. ()

131.2. -- 999. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0101
NOTICE OF VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the proposed rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 63-105A and 63-3624, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the Vacation of Proposed Rulemaking:

The proposed amendments to the Property Tax Rules published under this docket number in the Idaho Administrative Bulletin, Vol. 01-5, May 2, 2001, pages 42 through 45, are being vacated and replaced in a new rulemaking that substantially revises proposed Rule 609 - Property Exempt From Taxation - Residential Improvements and Rule 700 - Definitions for Property Tax Reduction Benefit. These changes are necessary because of legislation passed by the 2001 Legislature. See new Docket No. 35-0103-0105, published in the Idaho Administrative Bulletins, Vol. 01-10, October 3, 2001, for a description of the proposed rules.

The temporary rules adopted under this docket are not affected by this vacation and still remain in full force and effect.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this vacation notice, contact Alan Dornfest, at (208) 334-7530.

DATED this 22nd day of August, 2001.

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

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0102
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) 63-105A and 63-3624, 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 rules:

Property Tax Rule 130 - Equalization By Category--Identification And Reappraisal was published as a temporary rule effective January 1, 2001. The 2001 Legislature passed legislation amending Section 63-602EE, Idaho Code, which exempted certain tangible personal property considered to be agricultural machinery and equipment. Category 58 used by counties to report this equipment was deleted and Category 68 was amended to include equipment not exclusively used for agriculture. The changes as published in Idaho Administrative Bulletin Volume 01-6 are being proposed as permanent amendments as well as amending the rule to clarify categories dealing with manufactured housing, Categories 46, 48 and 65.

Property Tax Rule 645 - Land Actively Devoted To Agriculture was published in the Idaho Administrative Bulletin Volume 01-06. as a temporary rule effective January 1, 2001. The rule was amended to add the term "land used to produce nursery stock." No changes were made to the published temporary rule.

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

Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because nature of the rule is conferring a benefit and the time constraints of having the benefits in effect for the year 2001.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest at (208) 334-7530.

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

DATED this 22nd day of August, 2001.

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

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

This docket has been previously published as a Temporary Rule.
There are substantive changes from the temporary rule text.

The temporary effective date is January 1, 2001.

The original text of the Temporary Rule was published in the Idaho
Administrative Bulletin, Volume 01-6, June 6, 2001, pages 86 through 91.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0102

130. EQUALIZATION BY CATEGORY -- IDENTIFICATION AND REAPPRAISAL (Rule 130).

Sections 63-109 and 63-315, Idaho Code. Property shall be identified for assessment purposes in the categories outlined below. These categories are to be used on the current year's assessment notice, assessment roll and abstract.

(3-30-01)(____)

01. Category 1 - Irrigated Agricultural Land. Irrigated land and only such irrigated land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) This irrigated land must be capable of and normally producing harvestable crops and may be located inside or outside the boundaries of an incorporated city.

(3-30-01)

02. Category 2 - Irrigated Grazing Land. Irrigated land and only such irrigated land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) This irrigated land must be used for grazing and not normally capable of producing harvestable crops and may be located inside or outside the boundaries of an incorporated city.

(3-30-01)

03. Category 3 - Non-irrigated Agricultural Land. Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) This non-irrigated land must be capable of and normally producing harvestable crops without man-made irrigation and may be located inside or outside the boundaries of an incorporated city.

(3-30-01)

04. Category 4 - Meadow Land. Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) This meadow land must be capable of lush production of grass and may be located inside or outside the boundaries of an incorporated city.

(3-30-01)

05. Category 5 - Dry Grazing Land. Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) This land must be capable of supporting grasses and not normally capable of supporting crops on regular rotation and may be located inside or outside the boundaries of an incorporated city.

(3-30-01)

06. Category 6 - Productivity Forestland. All land and only such land designated by the owner for assessment appraisal and taxation under Section 63-1703(a), Idaho Code, for the current year's assessment roll. This land must be assessed as forest land under the productivity option and may be located inside or outside the boundaries of an incorporated city. Also included is all land assessed under Section 63-1704, Idaho Code.

(3-30-01)

07. **Category 7 - Bare Forestland.** All land and only such land designated by the owner for assessment appraisal and taxation under Section 63-1703(b), Idaho Code, for the current year's assessment roll. This land must be assessed as bare land with the yield tax option and may be located inside or outside the boundaries of an incorporated city. (3-30-01)
08. **Category 8 - Reforestation Land.** Repealed. Effective July 1, 1995, see 1995 Session Laws, Chapter 173. (3-30-01)
09. **Category 9 - Patented Mineral Land.** All land used solely for mines and mining claims and only the part of such land not used for other than mining purposes for the current year's assessment roll. This land may be located inside or outside the boundaries of an incorporated city. See Section 63-2801, Idaho Code. (3-30-01)
10. **Category 10 - Homesite Land.** Land being utilized for homesites on categories 1 through 9. (3-23-94)
11. **Category 11 - Recreational Land.** Land used in conjunction with recreation but not individual homesites. (3-23-94)
12. **Category 12 - Rural Residential Tracts.** Rural residential land not in a properly recorded subdivision. (3-23-94)
13. **Category 13 - Rural Commercial Tracts.** Rural commercial land not in a properly recorded subdivision. (3-23-94)
14. **Category 14 - Rural Industrial Tracts.** Rural industrial land not in a properly recorded subdivision. (3-23-94)
15. **Category 15 - Rural Residential Subdivisions.** Rural residential land in a properly recorded subdivision. (3-23-94)
16. **Category 16 - Rural Commercial Subdivisions.** Rural commercial land in a properly recorded subdivision. (3-23-94)
17. **Category 17 - Rural Industrial Subdivisions.** Rural industrial land in a properly recorded subdivision. (3-23-94)
18. **Category 18 - Other Land.** Land not compatible with other categories. (4-5-95)
19. **Category 19 - Waste.** Public Rights-of-Way includes roads, ditches, and canals. Use this category to account for total acres of land ownership. Only list acres in this category ~~shall be listed~~ on the abstract. (4-5-95)()
20. **Category 20 - Residential Lots Or Acreages.** Land inside city limits zoned residential. (3-30-01)
21. **Category 21 - Commercial Lots Or Acreages.** Land inside city limits zoned commercial. (3-30-01)
22. **Category 22 - Industrial Lots Or Acreages.** Land inside city limits zoned industrial. (3-30-01)
23. **Category 25 - Common Areas.** Land and improvements not included in individual property assessments. (4-5-95)
24. **Category 26 - Residential Condominiums.** Land and improvements included in individual assessments of condominiums in areas zoned residential or in areas zoned commercial or industrial but maintained as residences. (7-1-97)

25. **Category 27 - Commercial Or Industrial Condominiums.** Land and improvements included in individual assessments of condominiums in areas zoned commercial or industrial. (3-23-94)
26. **Category 30 - Improvements.** Other than residential, located on category 20. (3-23-94)
27. **Category 31 - Improvements.** Residential improvements located on category 10. (3-30-01)
28. **Category 32 - Improvements.** Other than residential, located on categories 1 through 12 and 15. (3-23-94)
29. **Category 33 - Improvements.** Located on category 11. (3-23-94)
30. **Category 34 - Improvements.** Residential in nature, located on category 12. (3-23-94)
31. **Category 35 - Improvements.** Commercial in nature, located on category 13. (3-23-94)
32. **Category 36 - Improvements.** Industrial in nature, located on category 14. (3-23-94)
33. **Category 37 - Improvements.** Residential in nature, located on category 15. (3-23-94)
34. **Category 38 - Improvements.** Commercial in nature, located on category 16. (3-23-94)
35. **Category 39 - Improvements.** Industrial in nature, located on category 17. (3-23-94)
36. **Category 40 - Improvements.** Located on category 18. (3-23-94)
37. **Category 41 - Improvements.** Residential in nature, located on category 20. (3-23-94)
38. **Category 42 - Improvements.** Commercial in nature, located on category 21. (3-23-94)
39. **Category 43 - Improvements.** Industrial in nature, located on category 22. (3-23-94)
40. **Category 44 - Improvements.** Taxable improvements located on otherwise exempt property under the same ownership. (3-23-94)
41. **Category 45 - Utility Systems.** Locally assessed utility systems not under the jurisdiction of the State Tax Commission. (3-30-01)
42. **Category 46 - Manufactured Housing.** Structures transportable in one (1) or more sections, built on a permanent chassis, for use with or without permanent foundation ~~situated~~ located on land under the same ownership as the manufactured home. Include any manufactured home located on land under the same ownership as the manufactured home on which a statement of intent to declare a real property has been filed but becomes effective the following year. ~~(4-5-00)()~~
43. **Category 47 - Improvements To Manufactured Housing.** Additions not typically moved with manufactured housing. (3-23-94)
44. **Category 48 - Manufactured Housing.** Manufactured housing on which a statement of intent to declare as real property has been filed and has become effective. ~~(3-23-94)()~~
45. **Category 55 - Boats Or Aircraft.** Unlicensed watercraft or unregistered aircraft. (3-23-94)
46. **Category 56 - Construction Machinery, Tools, And Equipment.** Unlicensed equipment such as cranes, tractors, scrapers, and rock crushers, used in the building trade or road construction. (3-23-94)
47. **Category 57 - Equities In State Property.** Property purchased from the state under contract. (4-5-95)

~~48. Category 58 - Farm Machinery, Tools, And Equipment. Unlicensed farm or ranch machinery, shop tools, or equipment not assessed as real property. (3-23-94)~~

~~498.~~ **Category 59 - Furniture, Fixtures, Libraries, Art, And Coin Collections.** Trade articles used commercially for convenience, decoration, service, storage, including store counters, display racks, typewriters, office machines, surgical and scientific instruments, paintings, books, coin collections, and all such items held for rent or lease. (3-23-94)

~~5049.~~ **Category 60 - Improvements On Railroad Rights-Of-Way.** Improvements located on railroad rights-of-way under separate ownership. (3-23-94)

~~540.~~ **Category 61 - Improvements By Lessee Other Than Category 62.** Improvements made by the tenant or lessee to landlord's property. (3-23-94)

~~521.~~ **Category 62 - Improvements On Exempt Or Public Land.** Taxable improvements which are owned separately from exempt or public land on which they are located. (3-23-94)

~~532.~~ **Category 63 - Logging Machinery, Tools, And Equipment.** Unlicensed logging machinery, shop tools, and equipment not assessed as real property. (3-23-94)

~~543.~~ **Category 64 - Mining Machinery, Tools, And Equipment.** Unlicensed mining machinery, shop tools, and equipment not assessed as real property. (3-23-94)

~~554.~~ **Category 65 - Manufactured Housing.** Manufactured housing not considered real property located on exempt, rented or leased land. Include any manufactured home located on exempt, rented or leased land on which a statement of intent to declare as real property has been filed but becomes effective the following year. ~~(4-5-00)()~~

~~565.~~ **Category 66 - Net Profits Of Mines.** That amount of money or its equivalent received from the sale or trade of minerals or metals extracted from the Earth after deduction of allowable expenses. See Section 63-2802, Idaho Code, and Rule 982 of these rules. (3-30-01)

~~576.~~ **Category 67 - Operating Property.** Property assessed by the State Tax Commission. (3-30-01)

~~587.~~ **Category 68 - Other Miscellaneous Machinery, Tools, And Equipment.** Unlicensed machinery, tools, and equipment not used in ~~agriculture~~, construction, logging, ~~or~~ mining, or not used exclusively in agriculture. ~~(3-23-94)()~~

~~598.~~ **Category 69 - Recreational Vehicles.** Unlicensed recreational vehicles. (3-23-94)

~~6059.~~ **Category 70 - Reservations And Easements.** Reservations, including mineral rights reserved divide ownership of property rights. Easements convey use but not ownership. (3-23-94)

~~640.~~ **Category 71 - Signs And Signboards.** Signs and signboards, their bases and supports. (3-23-94)

~~621.~~ **Category 72 - Tanks, Cylinders, Vessels.** Containers. (3-23-94)

~~632.~~ **Category 81 - Exempt Property.** For county use in keeping an inventory, including acreage, of exempt real and personal property. (3-23-94)

(BREAK IN CONTINUITY OF SECTIONS)

645. LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED (Rule 645).
Section 63-604, Idaho Code. ()

01. Definitions. The following definitions apply for the implementation of the exemption for the speculative value portion of agricultural land. (7-1-99)

a. **Homesite.** The “homesite” is that portion of land, contiguous with but not qualifying as land actively devoted to agriculture, and the associated site improvements used for residential and farm homesite purposes. (7-1-99)

b. **Associated Site Improvements.** The “associated site improvements” include developed access, grading, sanitary facilities, water systems and utilities. (7-1-99)

c. **Nursery Stock.** Nursery stock is defined in Section 22-2302, Idaho Code. ()

d. **Land Used to Produce Nursery Stock.** “Land used to produce nursery stock” means land used by an agricultural enterprise to promote or support the promotion of nursery stock growth or propagation, not land devoted primarily to selling nursery stock or related products. This term also includes land under any container used to grow or propagate nursery stock. This term does not include land used for parking lots or for buildings sites used primarily to sell nursery stock or related items or any areas not primarily used for the nurturing, growth or propagation of nursery stock. ()

e. **Speculative Value Exemption.** The “speculative value exemption” is the exemption allowed on land actively devoted to agriculture. (7-1-99)

02. Homesite Assessment. Effective January 1, 1999, each homesite and residential and other improvements, located on the homesite, shall be assessed at market value each year. (7-1-99)

a. **Accepted Assessment Procedures.** Market value shall be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the State Tax Commission. Acceptable techniques include those that are either time tested in Idaho, mathematically correlated to market sales, endorsed by assessment organizations, or widely accepted by assessors in Idaho and other states. (7-1-99)

b. **Appropriate Market and Comparable Selection.** The appropriate market is the market most similar to the homesite and improvements, located on the homesite. In applying the sales comparison approach, the appraiser should select comparables having actual or potential residential use. (7-1-99)

c. **Assigning Category.** The value of the homesite will be listed in Category 10. (7-1-99)

d. **Homesite Independent of Remaining Land.** The value and classification of the homesite will be independent of the classification and valuation of the remaining land. (7-1-99)

03. Valuing Qualifying Agricultural Land, Excluding The Homesite. The assessor shall value ~~the~~ qualifying agricultural land, excluding the homesite, on the following basis: (7-1-99)()

a. **Land Used for Personal Use or Pleasure.** Any land, regardless of size, utilized for the grazing of animals kept primarily for personal use or pleasure and not a portion of a profit making agricultural enterprise, shall be valued at market value using appraisal procedures identified in Subsection 645.02 and shall not qualify for the speculative value exemption. (3-30-01)

b. **Land in a Subdivision with Restrictions Prohibiting Agriculture Use.** Land in a subdivision with restrictions prohibiting agricultural use shall be valued at market value using appraisal procedures identified in Subsection 645.02 and shall not qualify for the speculative value exemption. (3-30-01)

c. **Land, Five (5) Acres or Less.** Land parcels of five (5) acres or less shall be presumed nonagricultural, shall be valued at market value using appraisal procedures identified in Subsection 645.02 of these

rules, and shall not qualify for the speculative value exemption. If the owner produces evidence that the land has been devoted to agricultural use for the last three (3) growing seasons and it agriculturally produced for sale or home consumption fifteen percent (15%) or more of the owner's or lessee's annual gross income or it produced gross revenue in the immediate preceding year of one thousand dollars (\$1,000) or more, the land actively devoted to agriculture, shall qualify for the speculative value exemption. For parcels of five (5) acres or less income is measured by production of crops, nursery stock, grazing, or net income from sale of livestock. Income shall be estimated from crop prices at harvest or nursery stock prices at sale. The use of the land and the income received in the prior year must be certified with the assessor by March 15, each year. ~~(3-30-01)~~()

d. **Lease Income Considered.** Lease income may be considered in determining income qualifications only if the lease terms are defined, the carrying capacity is shown, and the rent is consistent with market rent. (7-1-99)

e. **Land, More Than Five (5) Acres.** Land parcels of more than five (5) contiguous acres under one (1) ownership, producing agricultural field crops, nursery stock, timber, or grazing, or in a cropland retirement or rotation program, as part of a profit making agricultural enterprise, shall qualify for the speculative portion of value of agricultural land exemption. Land not annually meeting any of these requirements shall be valued at market value using appraisal procedures identified in Subsection 645.02 and shall not qualify. Application for agricultural classification must be filed with the assessor by March 15. A successful application need only be filed once where the ownership and qualifying conditions remain unchanged in subsequent years. ~~(3-30-01)~~()

04. Effective Date. Beginning with the assessment rolls for 2001 and each year thereafter, land actively devoted to agriculture and eligible for the speculative value exemption includes "land used to produce nursery stock" as defined in Subsection 645.01. ()

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0104
NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 63-105A and 63-3624, 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:

Property Tax Rule 125 - Program Of Education is being amended to clarify the process for making application to become a certified appraiser. The language in the rules is being revised to make the process and the responsibility clear on the application for certification.

Property Tax Rule 131 - Use of Ratio Study in Equalization is being amended to clarify the Categories 45, 48 and 65 dealing with the identification of manufactured housing for equalization purposes.

Property Tax Rule 218 - Assessors' Plat Book is being amended to move charts used to clarify the rule from the appendix at the end of the rules to the subsection within the rule dealing with the chart. The incorporation of the Bureau of Land Management Manual of Instructions for the Survey of the Public Lands of the United states is being updated to include the edition and bulletin number.

Property Tax Rule 223 - Description of Property is being deleted as being redundant of code.

Property Tax Rule 225 - Documentation for Taxing Districts or Urban Renewal Districts Containing Revenue Allocation Areas (RAAs) Newly Organized or Altered is being amended to clarify what documentation is required for dissolution and disincorporation of cities, taxing districts and urban renewal areas.

Property Tax Rules 610 and 709 - Property Exempt From Taxation - Residential Improvements with Special Situations are being amended to clarify and conform with legislation passed by the 2001 Legislature. Rule 610 is being amended to clarify the calculation of any proportional reduction in the exemption resulting from partial ownership. Rule 709 is being amended to delete the use of other household members' income when determining the reduction benefit program household income.

Property Tax Rule 801 - Limitation on Budget Requests - Special Plant Facilities Fund Levy Provisions is being amended to clarify when an additional plant facilities fund levy for school districts or libraries can be initiated.

Property Tax Rule 805 - Penalty For Failure To Provide Notice of Budget Hearing is being promulgated to clarify penalty procedures for legislation passed in 2000 when a taxing district fails to notify the county clerk of budget hearings.

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 nature of the rule is conferring a benefit and the time constraints of having the benefits in effect for the year 2001.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning a proposed rule, contact Alan Dornfest, at (208) 334-7530.

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

DATED this 22nd day of August, 2001.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0104

125. PROGRAM OF EDUCATION (Rule 125).

Section 63-105A(17), Idaho Code.

()

01. Administration. The education program shall be the responsibility of the State Tax Commission (Commission) through its education director. The assessors' education committee and the Commission's education director shall set the curriculum of classes for the annual education program. This curriculum shall include classes important to providing training to appraise property for assessment purposes. (1-1-98)

02. Education And Certification Requirements. An applicant for certification must have passed Commission Course No. 1, IAAO Course No. 102, or equivalent courses, and must have a minimum of twelve (12) months experience appraising for tax assessment purposes in Idaho or equivalent property tax appraisal experience approved by the examination committee. These requirements must be completed in the five (5) year period immediately preceding application except when the applicant proves equivalent education and experience.

~~(1-1-98)~~()

a. Equivalency for Course No. 1 and No. 102 shall be established by the Commission and approved by the examination committee. ~~(7-1-93)~~()

b. Beginning January 1, 1998 and on or before each January 1 thereafter, to maintain certification each "certified property tax appraiser", who became certified on or before December 31, 1995, shall have completed thirty-two (32) hours of appraisal education during the previous two (2) years as described in Subsection 125.02.d. of this rule. Beginning January 1, 1998, to maintain certification each "certified property tax appraiser", who became certified during the two (2) year period prior to each January, shall have completed sixteen (16) hours of appraisal education during the calendar year following the year of certification. By January 1 of each year thereafter, said "certified property tax appraiser" shall have completed thirty-two (32) hours of appraisal education during the previous two (2) years as described in Subsection 125.02.d. (3-30-01)

c. The examination committee shall decide which classes meet the requirements for maintaining certification and the hours of appraisal education awarded for each. For Commission administered classes, the Commission's staff will monitor attendance and hours of appraisal education to be awarded to each "certified property tax appraiser" in attendance. For these classes, the education director shall provide certificates of attendance showing the number of hours of appraisal education to be awarded. For those not administered by the Commission, the "certified property tax appraiser" has the responsibility to report education hours completed. The report shall be on a form provided by the Commission and shall be submitted to the education director. To receive education hours for any classes not administered by the Commission, a copy of a record verifying attendance must be submitted with the report of education hours completed. (1-1-98)

d. The Commission shall maintain records to show the number of hours completed during the current year and the previous two (2) years. By June and November each year, the education director shall send an appraisal certification status report to each county assessor. This report will list each "certified property tax appraiser" who is known to be employed by or under contract with said assessor and show the number of hours of appraisal education completed during the previous and current years. (1-1-98)

e. For Commission developed classes in which a test is given, the education director will notify the appropriate county assessor of the grades achieved on the test. (1-1-98)

f. ~~When Any~~ "certified property tax appraiser" failings to meet the continuing education requirements, ~~the examination committee shall be placed this person~~ on six (6) month probation ~~by the examination committee~~. ~~When Any~~ "certified property tax appraiser" failings to meet the continuing education requirements within the probationary period, ~~this person~~ shall forfeit certification or may, on a one (1) time only basis, submit a written petition to the examination committee for a six (6) month extension of probation. ~~This person must submit this petition must be made~~ at least thirty (30) days prior to the expiration date of the first probationary period. (1-1-98)()

g. For recertification, an applicant must apply to the examination committee within five (5) years of the date certification was canceled. An applicant for recertification must satisfactorily complete a written examination approved by the committee. ~~The committee shall decide the~~ time and place of the examination ~~are to be decided by the committee~~. If more than five (5) years have lapsed since certification was canceled, ~~recertification the committee~~ shall not ~~be granted~~ recertification. After the five (5) year period, an applicant must apply for certification under the same conditions as required for initial certification. (1-1-98)()

h. The county shall reimburse its employees' expenses for registration, tuition, fees, texts, travel, food, and lodging required to comply with these rules. (1-1-98)

i. Each person, except the county assessor, members of the county board of equalization and State Tax Commissioners, making decisions regarding final values for assessment purposes shall be a "certified property tax appraiser". ~~For each county assessor's employee, that county assessor shall ensure compliance with this provision.~~ ~~For each Commission employee the appropriate Commission supervisor shall ensure compliance with this provision.~~ (1-1-98)()

03. Application For Certification. ()

a. ~~After any applicant has completed the requirements provided in Subsection 125.02, the county assessor (for the county assessor's employee) or appropriate Commission supervisor (for the Commission employee) shall submit the completed "application for state certification" form to the education director. The Commission shall prescribe the "application for state certification" form and shall distribute a copy of said form to each county assessor. The "application for state certification" form shall list the name and address of the applicant, identify the employer of the applicant, list the courses completed, be signed by the applicant, and be dated with the submission date of the application. On the "application for state certification" form the county assessor or Commission supervisor, as applicable, shall certify the completion of the minimum experience requirement.~~ ()

b. ~~The education director shall ensure that information on the certification process and the "application for state certification" form are available to students attending the Commission Course No. 1 and Commission sponsored IAAO Course No. 102.~~ ()

034. Examination Committee -- Establishment And Procedures. The examination committee shall be composed of three (3) assessors, one (1) member of the Idaho Association of Assessment Personnel, and the Commission's education director. ~~Committee appointments shall be made by~~ ~~the Commission shall appoint the~~ members of the committee. The committee will operate by majority rule. (1-1-98)()

a. Terms. The term of the Commission's education director shall be continuous. The other members shall serve four (4) year terms. The education director shall maintain records of dates of appointments. (7-1-93)

b. If any member fails to serve the full-appointed term, the Commission shall appoint another person for the remainder of the ~~unexpired~~ term. The appointee shall be from the same category as the one who failed to serve. (7-1-93)()

c. The committee shall elect a chairman each year. (7-1-93)

d. Any applicant may appeal to a review board any complaints concerning matters involving examination structure, grading, or grievances concerning the committee. The review board shall consist of four (4) persons: the president of the Idaho Assessors' Association; a person appointed by the president of the Idaho Assessors' Association; a person appointed by the examination committee; and a person appointed by the Commission. No board member may be an assessor of the applicant's county or a member of the examination committee. (1-1-98)

e. The applicant may request, in writing to the Commission's education director, permission to take the examination for Commission Course No. 1. The director shall set the time and place for the examination. (7-1-93)

045. Incentives For Certification. The legislature and Commission recommend that counties offer pay incentives to encourage employees to obtain prompt certification. These pay incentives should include at least three (3) parts: state certification; successful completion of additional professional appraisal courses or seminars; and designation from a recognized professional appraisal organization. (1-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

131. USE OF RATIO STUDY IN EQUALIZATION (Rule 131).

01. Annual Ratio Study. Each year the State Tax Commission shall conduct a ratio study to assist in the equalization of assessments of property within and among the categories of property established in Rule 130 of these rules. The ratio study shall be conducted in accordance with the "Standard on Ratio Studies" published in 1999 by the International Association of Assessing Officers. The annual ratio study shall test assessments as of January 1 of each year. Except when sales or appraisals must be added or deleted to improve representativeness, sales used will be those occurring within each county between October 1 of the year preceding the year for which assessments are to be tested and September 30 of the year for which assessments are to be tested. Each sale price is to be adjusted for time and compared to market value for assessment purposes for the year for which assessments are to be tested, to compute ratios to be analyzed. The State Tax Commission may use sales from extended time periods and may add appraisals when data is lacking. The State Tax Commission may delete sales when necessary to improve representativeness. The study shall be completed in February following the end of the period studied. The appropriate ratio study statistical measure of level shall be determined as follows: (3-30-01)

a. Given a sample of ten (10) or fewer observations, the mean shall be used. (3-30-01)

b. Given a sample of eleven (11) or more observations, the median shall be used. (3-30-01)

02. Tested For Equalization. Categories which will be tested for equalization purposes will include the following, provided that adequate samples can be obtained: (4-5-95)

a. Improved Urban Residential: Abstract Items 20 and 41; (4-5-95)

b. Unimproved Urban Residential: Abstract Item 20; (4-5-95)

c. Improved Rural Residential: Subcategory 1 (tracts): Abstract Items 12, 18, 34, and 40; Subcategory 2 (subdivisions): Abstract Items 15 and 37; (4-5-95)

d. Unimproved Rural Residential: Subcategory 1 (tracts): Abstract Items 12 and 18; Subcategory 2 (subdivisions): Abstract Item 15; (4-5-95)

e. Commercial: Abstract Items 13, 16, 21, 27, 33, 35, 38, and 42. (Urban and rural categories and land and improved categories will be analyzed separately, if adequate samples are available.) (3-30-01)

f. Residential Condominiums: Abstract Item 26. (3-30-01)

g. Manufactured Housing Without Land: Abstract Items 46, 47, ~~48~~ and 65. (~~4-5-95~~)()

h. Manufactured Housing With Land: Abstract items 46, 47, and 48 with residential land for ratio studies conducted beginning January 1, 2002. ()

03. Separate And Combined Analyzations. (3-30-01)

a. Categories 18 and 40 may be analyzed separately from Categories 12 and 34 if adequate samples are available. If these categories (18 and 40) are not used for residential property, they should not be included in the 12/34 study. (3-30-01)

b. Manufactured housing sales that include land may be analyzed as an independent category or in combination with other improved residential property sales with the same land category. The manufactured housing sales with land will be analyzed as an independent category unless the State Tax Commission and county assessor agree that analysis in combination with other improved residential property sales with the same land category would produce a more representative sample. ()

~~b~~c. Samples for the categories listed in Subsection 131.02 may be analyzed in combinations designed to produce studies of improved residential property, unimproved residential property, commercial property, and manufactured housing. Such analysis will be conducted upon request by the county assessor, provided that the assessor provides evidence to the State Tax Commission that the resulting combined category studies will provide results that are more representative of the categories to be equalized. (3-30-01)

04. Follow Up Ratio Study. When the annual ratio study provided in Subsections 131.01 and 131.02, discloses that assessments in any category of property as defined in Subsections 131.02 and 131.03 in a county are out of compliance with the equalization standards of this rule, the State Tax Commission shall conduct a follow up ratio study. The follow up ratio study shall test the assessments for January 1 of the year following the year tested by the annual ratio study and shall be based on property sales occurring during the calendar year immediately preceding that date. The State Tax Commission shall notify the county assessor of the results of the follow up ratio study. The notice shall indicate whether any adjustments will be considered by the State Tax Commission at its next equalization meeting in August based on either the annual or any follow-up ratio study and the reason for the proposed adjustments. (3-30-01)

05. Use Of Ratio Study Results. The results of the annual ratio study or any follow-up ratio study shall be one source of information upon which the State Tax Commission may rely when equalizing assessments of property by category under Section 63-109, Idaho Code. When the results of any ratio study on any property category as defined in Subsections 131.02 and 131.03 show, with reasonable statistical certainty as defined in Subsection 131.08, that the appropriate measure of level of any category studied is less than ninety percent (90%) or greater than one hundred ten percent (110%), the assessment of property within that category may be considered not equalized. When this occurs, the State Tax Commission may, at its annual meeting commencing on the second Monday in August, order the county auditor to adjust the value of all property in any category or subcategory included in the analysis conducted in an amount the State Tax Commission finds necessary to accomplish equalization of assessments of property. The State Tax Commission may order the county auditor to adjust the value of manufactured homes with land as if the combination were a category. If categories have been combined for analysis, adjustment will not be considered for any category that does not have at least one observation in the ratio study conducted for the combined categories. (~~3-30-01~~)()

06. Use Of Alternate Ratio Study. When the follow-up ratio study required by Subsection 131.04 does not measure the true assessment level, the State Tax Commission may consider adjustment based on the most recent annually conducted ratio study or other information relevant to equalization. If the State Tax Commission has reason to question the representativeness of the sample used in an annual or follow up ratio study conducted on any

category of property, the State Tax Commission may delay implementation of any order to adjust property values until two successive years' ratio studies fail to produce an appropriate measure of level between ninety percent (90%) and one hundred ten percent (110%). (3-30-01)

07. Submission Of Additional Information. Any party may petition the State Tax Commission to consider any information or studies relevant to equalization. The petition shall include a description of the information to be presented and the petitioner's conclusions drawn from the information. (4-5-95)

08. Reasonable Statistical Certainty. For the purposes of this section and equalization pursuant to Section 63-109, Idaho Code, "reasonable statistical certainty" that any category is not equalized shall mean that the appropriate measure of level determined by the ratio study for the category must be provably less than ninety percent (90%) or greater than one hundred ten percent (110%) of market value for assessment purposes. Beginning with the ratio study used to test 2000 assessments, such a determination shall occur if: (3-30-01)

a. The appropriate measure of level for the category(ies) being tested is less than ninety percent (90%) or greater than one hundred ten percent (110%) and a ninety percent (90%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%); or (3-30-01)

b. The appropriate measure of level for the category(ies) being tested has been less than ninety percent (90%) or greater than one hundred ten percent (110%) as determined by the most recent previous two (2) ratio studies on the category(ies) and an eighty percent (80%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%). (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

218. ASSESSOR'S PLAT BOOK (Rule 218).
Sections 63-209, 63-210, 63-212, 63-219, and 63-307, Idaho Code. ()

01. Plat Maps. Plat maps for all privately owned land shall be prepared. (7-1-97)

a. Permanent plats shall be drafted on thirty (30) inch by thirty-six (36) inch, 0.003 inch drafting film (minimum thickness). (See Sections 50-1304 and 63-209, Idaho Code.) (7-1-97)

b. Section, aliquot part, subdivision, and parcel boundaries shall be drafted with ink on drafting film and in accordance with the ~~most current~~, Bureau of Land Management (BLM) "Manual of Instructions for the Survey of the Public Lands of the United States" published by the Government Printing Office, 1973 edition, Technical Bulletin No. 6. (See Section 50-1304, Idaho Code.) (~~7-1-97~~)()

c. Parcel numbers, and all other desired information, shall be drafted with ink. Annotative information shall be added as necessary and, if plotted by computer be of appropriate font style and size to be easily readable. The minimum letter height shall be 1.25 millimeters. (See Section 50-1304, Idaho Code.) (7-1-97)

d. Section outlines shall be platted according to: technical descriptions of Bureau of Land Management, formerly the General Land Office (GLO), surveys, (Section 31-2709, Idaho Code); descriptions on recorded surveys (Sections 55-1901 through 55-1911, Idaho Code); recorded corner perpetuation records (Sections 55-1603 through 55-1612, Idaho Code); recorded subdivision plats and assessor's plats (Sections 50-1301 through 50-1330, 63-209, and 63-210(2) Idaho Code); deeds or contracts with metes and bounds descriptions (Section 31-2709, Idaho Code); highway, railroad, and other engineering quality route surveys; relevant court decisions; and unrecorded data from registered land surveyors (Section 31-2709, Idaho Code). (7-1-97)

e. Subdivision of sections shall be platted. (See Sections 31-2709 and 63-209, Idaho Code.) (7-1-97)

02. Map Scales. Non-Computer and computer generated maps shall be scaled. (7-1-97)

a. Non computer generated plats shall be: One (1) township at one (1) inch = fourteen thousand four hundred (14,400) inches (1,200 feet), 1:14,400; four (4) sections at one (1) inch = four thousand eight hundred (4,800) inches (400 feet), 1:4,800; one (1) section at one (1) inch = twenty four hundred (2400) inches (200 feet), 1:2,400; one (1) quarter section at one (1) inch = twelve hundred (1,200) inches (100 feet), 1:1,200. (7-1-97)

b. Mapping done from aerial photographs will have the scale recalculated and shown on the map. (7-1-97)

c. Subdivision, townsite, and metes and bounds parcels shall be platted to include the basis of bearing with monuments and their coordinates relative to the "Idaho Coordinate System". (See Section 31-2709, Idaho Code, Sections 50-1301, 50-1303, and 50-1304, Idaho Code.) (7-1-97)

d. Plat titles, subdivision names, and parcel dimensions shall be drafted with ink, or generated by computer at an appropriate scale. The minimum letter height shall be 1.25 millimeters. (7-1-97)

03. Property Ownership Records. Ownership shall be shown on the property ownership records. (7-1-97)

a. Ownership notations include the reputed owner of the property or note that the owner is unknown, or list other persons with interests of record. Ownership may be ascertained from numerous recorded sources. (See Sections 63-212 and 63-307, Idaho Code.) (3-30-01)

b. Purchasers, agents, guardians, executors, administrators, heirs, and claimants may have their names inserted with the recorded owner's name. (See Sections 63-212 and 63-307, Idaho Code.) (7-1-97)

04. Uniform Parcel Numbering System. Each parcel shall be assigned a parcel number. (7-1-97)

a. The uniform parcel numbering system shall be used for mapping and record keeping. Each parcel's uniform parcel number shall appear on the plat map and on a companion sheet. The assigned parcel number may also be the tax number. (See Sections 63-209 and Section 63-210(1), Idaho Code.) (7-1-97)

b. As long as the property boundary does not change, the new owner's name shall be assigned to the same parcel number on the companion sheet. A parcel number that exists at the time a property is divided or added to shall be canceled and a new number(s) assigned. (7-1-97)

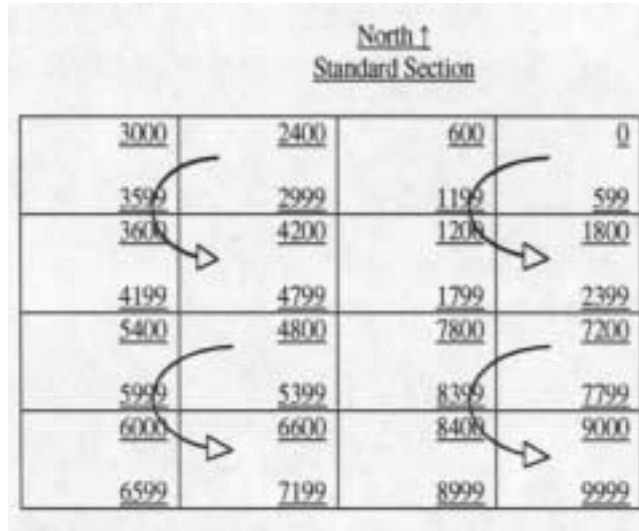
c. Properties contiguous under common ownership but split by county line, section line, or tax code area boundary shall require separate parcel numbers. (7-1-97)

d. Rural land not subdivided shall have the township descriptor minus the "T" in positions 1, 2, and 3 of the parcel number. (7-1-97)

i. Positions 4, 5, and 6 shall be the range descriptor minus the "R". (7-1-97)

ii. Positions 7 and 8 shall be the section number. If the section number is less than 10, the section number is in position "8", preceded by a zero in position "7". (7-1-97)

iii. Positions 9, 10, 11, and 12 shall be the quarter section numbers. To assign the quarter section number, begin numbering in the northeast quarter (NE1/4) of the northeast quarter (NE1/4) and proceed counterclockwise. Starting in the NE1/4 of the section the numbers used range from zero to two thousand three hundred ninety nine (0 to 2399). Continuing counterclockwise, beginning in the NE1/4 of the northwest quarter (NW1/4), the numbers continue from two thousand four hundred to four thousand seven hundred ninety nine (2400 to 4799), thence, starting in the NE1/4 of the southwest quarter (SW1/4), assign numbers from four thousand eight hundred to seven thousand one hundred ninety nine (4800 to 7199), and beginning in the NE1/4 of the southeast quarter (SE1/4), assign quarter section numbers from seven thousand two hundred to nine thousand nine hundred ninety nine (7200 to 9999). The following quarter section breakdown key shows the sequence for assigning quarter section numbers for land not subdivided.



Note: The northern quarters of sections 1, 2, 3, 4, 5, and 6 may be government lots and the western quarters of Sections 6, 7, 18, 19, 30 and 31 may be government lots. For the purpose of parcel numbering, these government lots shall be treated as if each was the respective quarter-quarter of the section. (7-1-97)()

iv. The following parcel number example denotes Township 10 North, Range 5 East, Section 4 with the parcel being in the NE (7-1-97)

v. The following table is an example of a companion sheet with parcel numbers for land not subdivided.

Township & Range	Sec.	Parcel No.	Grantor	Grantee	Remarks	Deed Type	Date	Instrument Number
23N11E	29	7985	Public, John	Citizen, Fred	See Parcel # 7832	WD	1/10/93	492183
23N11E	29	7990	Citizen, Fred		Split from #7985			
23N11E	29	8000	Citizen, Fred	Voter, Sue	Split from #7985	WD	3/9/99	644809
23N11E	29	8010	Citizen, Fred		Split from #7990			
23N11E	29	8250	Citizen, Fred	Anyone, Jim	Split from #7990	WD	4/9/01	652186

()

e. Land not subdivided inside the city limits shall have a letter in position 1 of the parcel number. Each city letter designator shall be unique. (7-1-97)

- i. Positions 2, 3, 4, 5, and 6 shall be zeros. (7-1-97)
- ii. Positions 7 and 8 shall be the section number. Number these positions as required in Subsection 218.04.d. of this rule. (3-30-01)
- iii. Positions 9, 10, 11, and 12 shall be the quarter section number. Number these positions as required in Subsection 218.04.d. of this rule. (3-30-01)
- iv. When a metes and bounds parcel inside city limits is being numbered, positions 9, 10, 11, and 12 locate the parcel to the nearest quarter section. (7-1-97)
- v. If a government lot is within a section, or an extended government lot is an extension of a section, the quarter section numbering shall be assigned as rural land not subdivided. For a government lot within a quarter section, the assigned number shall be a number within the sequence of numbers for the quarter section. For an extended section, the assigned number shall be within the sequence from the extended quarter section. (7-1-97)
- vi. The following parcel number example denotes a parcel in the NE1/4 of section 29 in the city identified by the letter "A": A 0 0 0 0 0 2 9 2 1 6 3. (7-1-97)
- f. Subdivided land within the county, but not in a city, shall have the number zero, in position 1 of the parcel number. (7-1-97)
 - i. Positions 2, 3, 4, and 5 shall be the subdivision number. The subdivision number shall not contain alphabetic characters. Each subdivision, whether the original townsite or new subdivision, shall be assigned a four (4) digit number. (7-1-97)
 - ii. Positions 6, 7, and 8 shall be the block number. (7-1-97)
 - iii. Positions 9, 10, and 11 shall be the lot number designated on the subdivision plat or an assigned number if characters on the subdivision plat are not acceptable as a parcel number. (7-1-97)
 - iv. Position 12 shall be a zero (0) if the lot is as originally platted. If a lot has been split once or combined once, then this becomes the letter, "A". If split a second time, the letter becomes a "B", etceteras. These splits or combinations shall be listed on the companion sheet. (7-1-97)
 - v. The following parcel number example denotes a subdivided parcel not in any city, identified by the number "0", subdivision number 62, block number 200, and lot number 29: 0 0 0 6 2 2 0 0 0 2 9 0. (7-1-97)
- g. Subdivided land within the cities shall have the city letter in position 1 of the parcel number. Each city letter designator shall be unique. (7-1-97)
 - i. Positions 2, 3, 4, and 5 shall be the subdivision number. The subdivision number shall not contain alphabetic characters. Each subdivision, whether the original townsite or a new subdivision, shall be assigned a four (4) digit number. (7-1-97)
 - ii. Positions 6, 7, and 8 shall be the block number. (7-1-97)
 - iii. Positions 9, 10, and 11 shall be the lot number designated on the subdivision plat. An assigned subdivision plat number may be used if numbers comply with the parcel numbering system. (7-1-97)
 - iv. Position 12 shall be a zero (0) if the lot is as originally platted. If a lot has been split once or combined once, then this becomes the letter "A". If split a second time, the letter becomes a "B", etceteras. These splits or combinations shall be listed on the companion sheet. (7-1-97)
 - v. When one whole lot and part of another adjoining lot are under common ownership, one parcel number may be assigned. That parcel number shall be written using the whole lot's number and position 12 shall be a letter. (7-1-97)

vi. The following parcel number example denotes a parcel in the city identified by the letter “A”, in subdivision with number 0062, block number 200, lot number 029, and has been modified once: A 0 0 6 2 2 0 0 0 2 9 A. (7-1-97)

vii. The following table is an example of a companion sheet with parcel numbers for subdivided land within a city.

<u>City No.</u>	<u>Sub. No.</u>	<u>Blk. No.</u>	<u>Lot & Split Number</u>	<u>Grantor</u>	<u>Grantee</u>	<u>Remarks</u>	<u>Deed Type</u>	<u>Date</u>	<u>Instrument Number</u>
A	0054	001	0090	Owner, Sid	Pat Voter		WD	1/11/92	190624
A	0054	001	009A	Voter, Pat		Retaining N1/2 Lot 9			
A	0054	001	009B	Voter, Pat	Public, Joe	S1/2 Lot 9	WD	2/12/99	299486
A	0054	001	009B	Public, Joe	Owms, Tim	S1/2 Lot 9	WD	6/9/01	299999

()

h. Patented mines and patented mining claims shall have the number “9” in positions 1 and 2 of the parcel number. (7-1-97)

i. Positions 3 through 8 shall denote the township and range, as in the land not subdivided format. (7-1-97)

ii. Positions 9 through 12 shall be a county assigned sequential account number for individual mines. (7-1-97)

iii. The following parcel number example denotes a parcel that is a patented mine in township 10 North, Range 36 East, with county assigned number 58: 9 9 1 0 N 3 6 E 0 0 5 8. (7-1-97)

i. Condominiums in a city shall have a letter in position 1 of the parcel number. The city designator shall be a unique letter. For condominiums not in any city, position 1 is a zero. (7-1-97)

i. Positions 2, 3, 4, and 5 shall be the condominium number and shall be four numbers. To differentiate between condominiums and subdivisions, numbers 0001 through 8999 are to be used for subdivisions, and numbers 9000 through 9999 for condominiums. Fill positions preceding the number with zeros to occupy all four positions. (7-1-97)

ii. Positions 6, 7, and 8 shall be the block or building number. Position 6 may be a “C” to differentiate between a typical block or building number and a condominium common area. (7-1-97)

iii. Positions 9, 10, and 11 shall be the lot or unit number designated on the condominium plat or an assigned number. An assigned condominium plat number may be used if numbers comply with the parcel numbering system. (7-1-97)

iv. Position 12 shall be a zero (0) if the parcel has not been modified since originally platted. If it has been split once or combined once, then this character becomes an “A”. If split a second time, the character becomes a “B”, etceteras. These splits or combinations shall be listed on the companion sheet. (7-1-97)

v. The following parcel number example denotes a parcel that is in the city identified by the letter “A”, with condominium number 9062, block or building number 007, lot or unit number 029, and has not been modified since originally platted: A 9 0 6 2 0 0 7 0 2 9 0. (7-1-97)

219. -- ~~224.~~ (RESERVED).

~~223. DESCRIPTION OF PROPERTY (Rule 223).~~

~~01. Description Of Property. For assessment purposes property shall be described in the tax number book by parcel number, tax number, initial letters, or abbreviation. The description must be indexed to the metes and bounds or other recorded legal description. These records must be provided to the county auditor and treasurer. (7-1-93)~~

~~02. Notices. Parcel numbers, tax numbers, initial letters, and abbreviations are not acceptable for notice of tax sale, delinquency certificates, or foreclosure proceedings. Such notices must carry a full and accurate legal description, and either: (7-1-93)~~

~~a. A street address or other information useful in locating the property; or (7-1-93)~~

~~b. The name and telephone number of a person, firm, or business office from whom information concerning the location of the property may be obtained. Section 63-1005, Idaho Code. (4-5-00)~~

~~03. Parcel Number. A parcel number is the tax number when a legal description is entered in the tax number book opposite the parcel number and this book is filed with the county clerk. (7-1-93)~~

~~224. (RESERVED).~~

225. DOCUMENTATION FOR NEWLY ORGANIZED OR ALTERED TAXING DISTRICTS OR URBAN RENEWAL DISTRICTS CONTAINING REVENUE ALLOCATION AREAS (RAAs) ~~NEWLY ORGANIZED OR ALTERED~~ UNDER THE JURISDICTION OF URBAN RENEWAL AGENCIES (Rule 225). Sections 50-2907, 50-2908, ~~and~~ 63-215, 63-1202, 63-3067, and 63-3638, Idaho Code. (4-5-00)()

01. Definitions. The following definitions apply for cities, taxing districts, or revenue allocation areas (RAAs) under the jurisdiction of urban renewal agencies being organized or formed or altering boundaries. ()

a. Taxing Districts. The term taxing districts as used in this rule means taxing districts and taxing units. ()

b. Alter. Alter or any derivatives of the word as used in Section 63-215, Idaho Code, means annex, deannex, or consolidate or derivatives of these words. ()

c. Contiguous. Contiguous means being in actual contact or touching along a boundary or at a point and is synonymous with abutting on. ()

d. Deannex. Deannex means to delete or remove a portion but not all of a boundary for a city, taxing district, or RAA by completing all legal requirements to establish a new boundary for the city, district or RAA.()

e. Disincorporate. Disincorporate or any derivatives of the word as used in Sections 63-3067 and 63-3638, Idaho Code, means completing all legal requirements to end the existence of a city. ()

f. Dissolve. Dissolve or any derivatives of the word as used in Sections 63-3067 and 63-3638, Idaho Code, means completing all legal requirements to end the existence of a taxing district or RAA. ()

g. Legal Description. Legal description means a narrative that describes by metes and bounds a definite boundary of an area of land that can be mapped on a tax code area map and shall include: ()

i. Section, township, range and meridian. ()

ii. An initial point, being a government surveyed corner, such as a section corner, quarter corner or mineral survey corner. ()

iii. A true point of beginning, defined by bearings and distances from the initial point, that begins a new city, taxing district, RAA or any alteration thereto. ()

iv. Bearings and distances that continuously define the boundary of any area with a closure accuracy of at least one (1) part in five thousand (5,000). Variations from this closure requirement may be approved by the State Tax Commission if the description is sufficiently certain and accurate to ensure that the property is assigned to the proper tax code area. Such variations may include: ()

(1) Boundaries which follow mountain ranges, rivers, highways, lakes, canals and other physical features that are clearly delineated on published U.S. Geological Survey quadrangle maps at scale 1:24,000; or ()

(2) References to cardinal directions, government survey distances, and section or aliquot part corners;
or ()

(3) References to recorded subdivision or town site plats, with copies of such plats; or ()

(4) Legislatively established boundaries as defined by reference to Idaho Code sections. ()

v. The legal description to annex to or deannex from an existing city, taxing district, or RAA shall plainly and clearly define the boundary lines of the deannexed or annexed area and include a reference to existing boundaries where contiguous. ()

h. Map Prepared in a Draftsman-like Manner. Map prepared in a draftsman-like manner means an original graphic representation or precise copy matching the accompanying legal description and drafted to scale using standard mechanical drawing instruments or a computer. The map shall include: ()

i. Section, township, range, and meridian identifications. ()

ii. North arrow, bar scale, and title block. ()

iii. District name and ordinance number or order date. ()

iv. Bearing and distance annotation between boundary points or a legend or table identifying the bearing and distance between each set of boundary points. ()

v. Clearly defined boundary lines of the newly formed city, taxing district, or RAA or of the alteration to an existing one together with reference to the existing boundary where contiguous. ()

vi. Variations from the requirements of Subsection 225.01.h. for what must be included on the map may be approved by the State Tax Commission if the map is sufficiently certain and accurate to ensure that the property is assigned to the proper tax code area. ()

~~042.~~ Documentation To Be Filed For Newly Created Or Altered Cities Taxing Districts, Or Urban Renewal Districts Containing Revenue Allocation Areas Or (RAAs). The following documentation shall be filed with the county assessor, county recorder, and the State Tax Commission no later than thirty (30) days following the effective date of any action creating, or altering, ~~or dissolving~~ a city, taxing district, ~~urban renewal district,~~ or ~~revenue allocation area (RAA)~~ boundary, but no later than January 10 of the following year when any action creating or altering said boundary occurs after December 10. (~~3-30-01~~)()

a. A legal description which plainly and clearly defines the boundary of ~~the a~~ newly ~~or altered~~ formed city, taxing district, or RAA ~~contained in an urban renewal district~~ or the boundary of an alteration to an existing one. (~~4-5-00~~)()

b. A copy of a map prepared in a draftsman-like manner or a record of survey as defined by Chapter 19, Title 55, Idaho Code, which matches the legal description. (4-5-00)

- c. A copy of the ordinance or order effecting the formation or alteration. (4-5-00)

023. Documentation To Be Filed For Disincorporated Cities Or Dissolved Taxing Districts, ~~Urban Renewal Districts, And Or~~ RAAs. (~~3-30-01~~)()

a. No later than thirty (30) days following the effective date of ~~any~~ the final action ~~disincorporating a city or dissolving a taxing district, urban renewal district or RAA, but no later than January 10 of the following year when the final action occurs after December 10, for the distributions of revenue as provided for in Sections 50-2908, 63-1202, 63-3067 and 63-3638, Idaho Code, the disincorporating or dissolving entity shall file a copy of the ordinance or order effecting causing the disincorporation or dissolution shall be filed with the county assessor, county recorder and the State Tax Commission. If the disincorporating or dissolving entity can provide a map showing the last known boundaries of the entity, this map should accompany the ordinance or order.~~ (~~3-30-01~~)()

b. Upon receipt of the ordinance or order without an accompanying map of the boundaries from a ~~disincorporating city or dissolving taxing district, or RAA, the State Tax Commission shall prepare and send a list of the affected tax code area number(s) and send a copy of a map showing the affected tax code area(s) to the city, taxing district, or urban renewal agency and to the appropriate assessor(s) and recorder(s) within thirty (30) days except for any ordinance or order received after January 1 when the list and map shall be sent by the fourth Friday of January.~~ ()

c. ~~After fourteen (14) days from the date of the mailing of the list of the affected tax code area(s), the State Tax Commission shall process the disincorporation or dissolution unless it receives a response from the disincorporating city, or dissolving taxing district, appropriate urban renewal agency, appropriate recorder(s) or appropriate assessor(s) that an error exists in the identification of the tax code area(s).~~ ()

03. ~~Legal Description. Legal description means a narrative which describes, by metes and bounds, a definite boundary of an area of land that can be mapped on a tax code area map, and shall include:~~ (~~7-1-93~~)

a. ~~Section, township, range, and meridian.~~ (~~7-1-93~~)

b. ~~An initial point, being a government surveyed corner, such as a section corner, quarter corner or mineral survey corner.~~ (~~4-5-00~~)

e. ~~A true point of beginning, defined by bearings and distances from the initial point, that begins the new or altered taxing district or RAA.~~ (~~4-5-00~~)

d. ~~Bearings and distances that continuously define an area boundary with a closure accuracy of at least one (1) part in five thousand (5,000). Variations from closure requirements of this subsection may be approved by the State Tax Commission if the description is sufficiently certain and accurate to ensure that property is assigned to the proper tax code area. Such variations may include:~~ (~~4-5-00~~)

i. ~~Boundaries which follow mountain ranges, rivers, highways, lakes, canals, and other physical features that are clearly delineated on published U.S. Geological Survey quadrangle maps at scale 1:24,000; or~~ (~~4-5-00~~)

ii. ~~References to cardinal directions, government survey distances, and section or aliquot part corners; or~~ (~~4-5-00~~)

iii. ~~References to recorded subdivision or townsite plats, with copies of such plats; or~~ (~~4-5-00~~)

iv. ~~Legislatively established boundaries as defined by reference to Idaho Code sections.~~ (~~4-5-00~~)

e. ~~The legal description to annex to a taxing district or RAA shall duplicate the existing metes and bounds of the district or RAA, or shall reference the former legal description as, "formerly known as", unless the existing district or RAA can be clearly identified.~~ (~~4-5-00~~)

04. ~~Map Prepared In A Draftsman Like Manner. Map prepared in a draftsmanlike manner means an~~

~~original graphic representation or precise copy matching the accompanying legal description and drafted to scale using standard mechanical drawing instruments or a computer. The map shall include:~~ (4-5-00)

- ~~a. Section, township, range, and meridian identifications.~~ (4-5-00)
- ~~b. North arrow, bar scale, and title block.~~ (4-5-00)
- ~~c. District name and ordinance number or order date.~~ (4-5-00)
- ~~d. Bearing and distance annotation between boundary points.~~ (4-5-00)
- ~~e. Clearly defined boundary lines of the newly formed or altered taxing district or RAA together with reference to the existing boundary where contiguous.~~ (4-5-00)

054. Digital Map Information. Digital map information in a format usable by the State Tax Commission may be submitted in addition to ~~the hard~~ or as a substitute for any cloth, film, or paper copy maps ~~in Subsection 225.04~~. Such information shall be accompanied by metadata that clearly defines map projection, datum and attributes. (4-5-00)(____)

~~06. Contiguous. Contiguous means being in actual contact or touching along a boundary or at a point.~~ (7-1-93)

075. Deadline For Completion. December 31 of the current year shall be the deadline for completing of any action that creates, alters, or dissolves any taxing district or RAA or creates, alters or disincorporates any city requiring a revision of the State Tax Commission's tax code area maps for the following year, unless the law provides otherwise. (4-5-00)(____)

086. Approval Of Property Tax Levy Or Revenue Allocation. For the purpose of levying property taxes or receiving revenue allocations no newly formed or altered city, taxing district, or RAA shall be considered formed or altered by the State Tax Commission if it: (4-5-00)(____)

- a. Fails to provide the correct documentation plainly and clearly designating the boundaries of such a newly formed city, taxing district, or RAA or of an alteration to an existing one; or (4-5-00)(____)
- b. Fails to provide the correct documentation in sufficient time for the State Tax Commission to comply with Rule 404 of these rules; or (4-5-00)
- c. Has boundaries which overlap with like cities, taxing districts or RAAs. (4-5-00)(____)

097. Notification Of Approval Or Disapproval. The State Tax Commission shall send a letter of approval or disapproval to the taxing district or municipality. A copy of said letter shall be submitted to ~~the~~ any affected urban renewal agency, and the auditor(s) and assessor(s) of all the involved county(ies). In the case of disapproval said letter will state the reason(s) for disapproval, the corrective action(s) needed for approval, and the time within which such corrective action(s) must be taken. ~~Such letter shall be sent by~~ The State Tax Commission shall send such letter within thirty (30) days of receipt of the document to which the disapproval relates, but not later than the fourth Friday of January 24 except during the first quarter of the calendar year for documents relating to the next tax year. (4-5-00)(____)

~~108. One Uniform System.~~ The State Tax Commission will prepare one (1) uniform system of tax code area numbers and maps which shall be used by each county for property tax purposes. (4-5-00)

~~109. Tax Code Areas.~~ The State Tax Commission shall create a separate, unique number for each tax code area, shall have a separate tax code area number which Only the State Tax Commission shall be initiated or changed a tax code area number only by the State Tax Commission. (4-5-00)(____)

120. Furnished By The State Tax Commission. The State Tax Commission will furnish annually, without charge, one (1) set of updated tax code area maps, a listing of cities, taxing districts or RAAs included in each

tax code area, and a list of changes in city, taxing district or RAA boundaries to ~~the county~~ each appropriate assessor, recorder, ~~and~~ treasurer, and entity with operating property assessed by the State Tax Commission. There shall be a charge for all other tax code area maps. (4-5-00)(____)

(BREAK IN CONTINUITY OF SECTIONS)

610. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS -- SPECIAL SITUATIONS (Rule 610).

Section 63-602G, Idaho Code.

(4-5-00)

01. Scope. This rule addresses issues relating to the homeowner's exemption as it applies to certain unusual factual situations. It states general principles applicable to unusual cases and provides some illustrative examples. The rule cannot address every conceivable situation that may arise, but the principles established may apply to the resolution of situations not addressed in the rule. (7-1-99)

02. Dual Residency Couples. As used in this rule, "dual residency couple" means a husband and wife, each of whom has established a different dwelling place as his or her primary dwelling place as defined in Section 63-602G, Idaho Code, and Subsection ~~735609~~.02 of these rules. (7-1-99)(____)

03. Dual Residency Couples -- General Principles. (7-1-99)

a. Whether a particular residential improvement is an individual's primary dwelling place is a question of fact for each individual. Each spouse of a dual residency couple can maintain a separate primary dwelling place for purposes of the homeowner's exemption. The test to be applied is the general test set out in Subsection ~~735609~~.02 of these rules. (7-1-99)(____)

b. If a residential improvement is community property, either the husband or wife may exercise full management or control over it, except that neither the husband nor the wife can sell or encumber the property without the written consent of the other. Thus, either the husband or the wife can file an application for the homeowner's exemption regarding community property on his or her own authority. The signature of the other spouse is not required on the application. See Section 32-912, Idaho Code. (7-1-99)

c. Neither spouse is a partial owner of community property. (This principle is an exception to laws generally governing community property interests. It applies only for matters relating to the homeowner's exemption or the circuit breaker property tax relief program. See Section 63-701(~~87~~) Idaho Code.) Thus, there is no authority to reduce the ~~amount of homeowner's exemption~~ value of the improvement proportionally to reflect ~~an~~ one (1) spouse's ownership in community property before determining the amount of the homeowner's exemption. For purposes of the homeowner's exemption, a community property interest is treated the same as a full ownership interest. (7-1-99)(____)

d. An owner may apply only once for the homeowner's exemption. See Section 63-602G(c), Idaho Code. Thus, an application by one (1) spouse regarding a residential improvement that is community property, precludes the other spouse from making a second application on any other residential improvement whether held by the other spouse as community or separate property except as provided in Subsection 610.07. (7-1-99)(____)

04. Example -- Both Residences Are Community Property. (7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the couple as community property. Each applies for the homeowner's exemption for the residence in which he or she resides. (7-1-99)

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid because the couple can not make more than one (1) application. The ~~full amount of~~ homeowner's exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other

residential improvement does not qualify. (7-1-99)()

05. Example -- One Residence Is Community Property, The Other Is Separate Property. (7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement. One (1) is owned by the spouse who resides in it as his or her separate property, the other is owned by the couple as community property. Each applies for the homeowner's exemption for the residence in which he or she resides. (7-1-99)

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid. If the first application relates to the community property, it is an application on behalf of both members of the community. Thus, the other spouse can not file a second application relating to his or her separate property. If the first application relates to the separate property, then the subsequent application relating to the community property is a second application by the spouse owning the separate property and is not valid. The ~~full amount of~~ homeowner's exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify. (7-1-99)()

06. Example -- Both Residences Are Separate Property. (7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the spouse residing in it as his or her separate property. Each applies for the homeowner's exemption for the residence in which he or she resides. (7-1-99)

b. Both residential improvements qualify for the full homeowner's exemption. Neither application is a second application by the same owner. Each spouse is a sole owner of the residential improvement, so the proportional reduction provisions for partial ownership do not apply. (7-1-99)

07. Apportionment Of Homeowner's Exemption By Dual Residency Couples. Both spouses of a dual residency couple may elect to equally apportion the homeowner's exemption between the two (2) residential improvements if each files a written election with the county assessor of the county in which each property is located. When the election is made each residential improvement shall be entitled to one-half (1/2) of the exemption applicable to that property alone. The total exempted value of both properties shall not exceed the amount of exemption available to the individual residential improvement with the greatest market value if no election were made. (4-5-00)

08. Multiple Ownerships Including Community Interests As Partial Owners. A community property interest in a residential improvement is a partial ownership when combined with the ownership of another individual who is not a member of the marital community. For example, if a deed conveys title to real property to a husband and wife and to an adult child of theirs, the husband and wife hold a community property interest in the improvement and the child is a tenant-in-common. The parents collectively hold a two-thirds (2/3) partial interest and the child holds a one-third (1/3) partial interest in the property. Qualification of the property for the homeowner's exemption is as follows: (7-1-99)

a. If the residential improvement is the primary dwelling of the husband and wife but not the child, the ~~improvement qualifies for~~ homeowner's exemption applies to two-thirds (2/3) of the ~~homeowner's exemption value of~~ the improvement. (7-1-99)()

b. If the residential improvement is the primary dwelling of the child, but not of the husband or wife, the ~~improvement qualifies for~~ homeowner's exemption applies to one-third (1/3) of the ~~homeowner's exemption value~~ of the improvement. (7-1-99)()

c. If the residential improvement is the primary dwelling of the husband, wife and child, the ~~improvement qualifies for the full~~ homeowner's exemption applies to the full value of the improvement. (7-1-99)()

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the ~~improvement qualifies for~~ homeowner's exemption applies to two-thirds (2/3) of the

~~homeowner's exemption~~ value of the improvement unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. The two-thirds (2/3) qualification results from the statutory provision that a community property interest is not considered a partial interest of either spouse. See Subsection 610.03.c. (4-5-00)(____)

e. If the residential improvement is the primary dwelling of one (1) spouse and the child, the ~~improvement qualifies for the full~~ homeowner's exemption applies to the full value of the improvement unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption under the dual residency couple rules set out in Subsections 610.02. through 610.07. (4-5-00)(____)

(BREAK IN CONTINUITY OF SECTIONS)

709. PROPERTY TAX REDUCTION BENEFIT PROGRAM -- SPECIAL SITUATIONS (Rule 709).
Section 63-701, Idaho Code. (____)

01. Scope. This rule addresses issues relating to the property tax reduction benefit program as it applies to certain unusual factual situations. It states general principles applicable to unusual cases and provides some illustrative examples. The rule cannot address every conceivable situation that may arise, but the principles established may apply to the resolution of situations not addressed in the rule. The following examples apply to qualified property tax reduction claimants. (3-30-01)

02. General Principles. Benefits under the property tax reduction program are only available to owners of property ~~which that~~ have first qualified for the homeowner's exemption under Section 63-602G, Idaho Code. See Rule 610 of these rules. (3-30-01)(____)

03. Dual Residency Couples. The definition of "dual residency couple" in Rule 610.02 of these rules applies to this rule. (7-1-99)(____)

a. Example -- Both residences are community property. Property tax reduction is available in regard only to the residential improvement qualifying for the homeowner's exemption. See Rule 610.04 of these rules. (3-30-01)(____)

b. Example -- One (1) residence is community property, the other is separate property. Property tax reduction is available in regard only to the residential improvement qualifying for the homeowner's exemption. See Rule 610.05 of these rules. (3-30-01)(____)

c. Example -- Both residences are separate property. Property tax reduction is available in regard to both residential improvements. See Rule 610.06 of these rules. (3-30-01)(____)

d. Household income. In the three (3) examples in Subsection 709.03, the household income upon which qualification is determined is the total of one-half (1/2) the community income plus any separate income of the spouse residing in the residence ~~plus the income of any other household member.~~ (7-1-99)(____)

04. Apportionment Of Property Tax Reduction Benefits By Dual Residency Couples. If a dual residency couple makes the election provided in Subsection 610.07 of these rules and the applicable county assessor provided the State Tax Commission with a copy of the election required under that rule, each spouse shall be entitled to one-half (1/2) of the amount of any property tax reduction available to that spouse alone. The household income of the spouse shall be one-half (1/2) of the community income plus any separate income of the spouse residing in the residence ~~plus the income of any other household member.~~ The total property tax reduction benefit shall not exceed the amount of benefit available to the individual spouse with the least household income if no election were made. (3-30-01)(____)

05. Multiple Ownerships Including Community Interests As Partial Owners. Example: A deed conveys title to real property to a husband and wife and to an adult child of theirs. The husband and wife hold a

community property interest in the improvement and the child is a tenant-in-common. The parents collectively hold a two-thirds (2/3) partial interest and the child holds a one-third (1/3) partial interest in the property. For clarification of the calculation of the net taxable value, see Rule 700.05.b. of these rules. Qualification ~~of the property~~ for the property tax reduction is as follows: (3-30-01)(____)

a. If the residential improvement is the primary dwelling of the husband and wife but not of the child, the improvement claimant qualifies for full benefits applied on two-thirds (2/3) of the benefits value of the property less the homeowner's exemption. Household income is the total of the community and separate income of the spouses and the income of any other household member. (7-1-99)(____)

b. If the residential improvement is the primary dwelling of the qualifying child, but not of neither the husband or wife, the improvement claimant qualifies for full benefits applied on one-third (1/3) of the benefits value of the property less the homeowner's exemption. Household income is the total of the child's income and the income of any other household member. (7-1-99)(____)

c. If the residential improvement is the primary dwelling of the husband, wife and a qualifying child, the improvement claimant qualifies for the full benefits applied on full value of the property less the homeowner's exemption. Household income is the total of the community and separate income of the spouses; and the income of the child and the income of any other household member. (7-1-99)(____)

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the improvement claimant qualifies for full benefits applied on two-thirds (2/3) of the benefits value of the property less the homeowner's exemption unless the residential improvement of the other spouse has qualified for the homeowner's exemption. Household income is the total income of both spouses plus the income of any other household member. (3-30-01)(____)

e. If the residential improvement is the primary dwelling of one (1) spouse and ~~the~~ a qualifying child, the improvement claimant qualifies for the full benefits applied on the full value of the property less the homeowner's exemption unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption. Household income is the total income of both spouses plus the income of the child and the income of any other household member. (3-30-01)(____)

(BREAK IN CONTINUITY OF SECTIONS)

801. LIMITATION ON BUDGET REQUESTS -- SPECIAL PLANT FACILITIES FUND LEVY PROVISIONS (Rule 801).

Sections 63-802 and 33-804, Idaho Code. (____)

01. Limits On Plant Facilities Funds. For any school or library district with a plant facilities fund created pursuant to Section 33-804, Idaho Code, the amount of property tax to be budgeted for said fund in any year cannot exceed four tenths of one percent (0.4%) multiplied by the market value for assessment purposes of the taxing district as of December 31 ~~or~~ of the year prior to the first year in which a plant facilities fund levy is made. (4-5-00)(____)

02. No Additional Plant Facilities Fund Permitted. Any school or library district with an existing plant facilities fund is not allowed to levy for an additional plant facilities fund in any tax year until the period of the existing plant facilities fund has expired. (____)

03. Plant Facilities Fund Extensions Or Increases. Any school or library district may hold an election to increase the amount to be levied pursuant to the requirements of Section 33-804, Idaho Code. For the purpose of such increase, the "total levy for school or library plant facilities and bonded indebtedness" shall be computed as follows. (____)

a. For the first year in which the increased or extended plant facilities fund levy is to be made, sum of

the amount to be levied for the plant facilities fund and for any bond fund in existence prior to the new plant facilities fund. ()

b. Divide the sum computed in Subsection 801.03.a. by the district's actual market value for assessment purposes as of December 31 of the year immediately preceding the year in which the increased or extended plant facilities fund is to be levied. ()

04. Maximum Amount Of Increased Plant Facilities Fund. When any district increases its plant facilities fund amount to be levied, the maximum amount shall not in any year exceed four tenths of a percent (0.4%) multiplied by the actual market value for assessment purposes as of December 31 of the year immediately preceding the first year the increased fund is to be levied. ()

(BREAK IN CONTINUITY OF SECTIONS)

805. PENALTY FOR FAILURE TO PROVIDE NOTICE OF BUDGET HEARING (RULE 805).
Section 63-802A, Idaho Code ()

01. Penalties For Non-Compliance. Effective January 1, 2003, penalties shall be applied to any taxing district that fails to provide each appropriate county clerk with written notification of the budget hearing information required pursuant to Section 63-802A, Idaho Code. The penalties provided by this section apply only to failure to comply with the April 30 notification deadline. ()

a. Non-Complying Non-School Districts. There shall be no increase in the portion of the budget subject to the limitations of Section 63-802, Idaho Code. This restriction shall apply to otherwise available budget increases from the three percent (3%) growth factor, new construction or change of land use classification, and annexation. There shall also be no increase resulting from adding previously accrued foregone increase amounts to the budget and the total accrued foregone amount shall not change for a non-complying district. ()

b. Non-Complying School Districts. The maintenance and operation portion of the budget is the portion that shall not increase. School tort and tuition funds shall be permitted to increase, subject to the limitations of Section 63-802, Idaho Code. ()

02. Exceptions. Voter approved budget increases permitted pursuant to Section 63-802(4), Idaho Code, shall be allowed. ()

03. County Clerks To Submit Lists. By the first Monday of August, each county clerk shall submit to the State Tax Commission a list of non-complying taxing districts along with other documents required pursuant to Rule 803 of these rules and Section 63-808, Idaho Code. ()

~~806.~~ -- 808. (RESERVED).

CHART 1

COMPANION SHEET FOR LAND NOT SUBDIVIDED

<i>Township & Range</i>	<i>Sec</i>	<i>Parcel No.</i>	<i>Grantor</i>	<i>Grantee</i>	<i>Remarks</i>	<i>Deed Type</i>	<i>Date</i>	<i>Inst No.</i>
23N10E	29	7985	Little, Dwayne	Downend, Robt	See Par #7832	WD	1/10/7	492183
23N10E	29	7990	Downend, Robt		Split frm 7985			
23N10E	29	8000	Downend, Robt	Wood, Don	"	WD	3/9/74	641809
23N10E	29	8010	Downend, Robt		Split frm 7990			
23N10E	29	7250	Downend, Robt	Dunford, H.	"	WD	4/9/79	642186

CHART 2

**COMPANION SHEET FOR LAND SUBDIVIDED
QUARTER SECTION BREAKDOWN KEY**

<i>City No</i>	<i>Sub No</i>	<i>Blk No</i>	<i>Lot & Spt No</i>	<i>Grantor</i>	<i>Grantee</i>	<i>Remarks</i>	<i>Deed Type</i>	<i>Date</i>	<i>Inst No</i>
A	0054	001	0090	Long, Phil	Dick, Carol		WD	1/11/69	190624
A	0054	001	009A	Dick, Carol		Retaining N1/2 of Lot 9			
A	0054	001	0096	Dick, Carol	Lusk, Earl	S1/2 of Lot 9	WD	2/12/77	299486
A	0054	001	0098	Lusk, Earl	Craig, Ron	S1/2 of Lot 9	WD	6/9/79	299999

THIS KEY IS TO BE USED ONLY FOR LAND NOT SUBDIVIDED

CHART 3

QUARTER SECTION BREAKDOWN KEY

THIS KEY IS TO BE USED ONLY FOR LAND NOT SUBDIVIDED

NORTH ↑				Govt Lot	Poss. long sec.
	↙ ↘	↙ ↘	↙ ↘	↙ ↘	↙ ↘
	3000 3599	2400 2999	600 1199	0 599	↙ ↘
	↙ ↘	↙ ↘	↙ ↘	↙ ↘	↙ ↘
	3600 4199	4200 4799	1200 1799	1800 2399	↙ ↘
					↙ ↘
	↙ ↘	↙ ↘	↙ ↘	↙ ↘	↙ ↘
	5400 5999	4800 5399	7800 8399	7200 7799	↙ ↘
	↙ ↘	↙ ↘	↙ ↘	↙ ↘	↙ ↘
Govt Lot	6000 6599	6600 7199	8400 8999	9000 9999	↙ ↘

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0105
NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 63-105A and 63-3624, 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:

Property Tax Rule 609 - Property Exempt From Taxation - Residential Improvements is being amended to clarify that the term "owner" includes a partner of a limited partnership, member of a limited liability company or a shareholder of a corporation. The 2001 Legislature passed legislation, requiring a five percent (5%) interest for ownership in limited liability company, partnership, corporation, estate or trust to be eligible for the homeowner's exemption. Legislation passed changing the date that a claimant may file a claim for the homeowner's exemption to be between January 1 and April 15.

Property Tax Rule 700 - Definitions For Property Tax Reduction Benefit is being amended to state 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. The rule is also being amended to clarify that the reduction is to value and not to benefits for partial ownerships.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Not applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because nature of the rule is conferring a benefit and the time constraints of having the benefits in effect for the year 2001.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Dornfest, at (208) 334-7530.

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

DATED this 22nd day of August, 2001.

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

EDITOR'S NOTE

PARTS OF THE FOLLOWING SECTIONS OF THIS RULE HAVE BEEN PREVIOUSLY ADOPTED AS TEMPORARY RULES IN A SEPARATE RULEMAKING AND ARE CURRENTLY ENFORCEABLE RULES. IN SOME INSTANCES THE SAME LANGUAGE HAS BEEN STRUCK (REMOVED) AND THEN PUT BACK IN AND UNDERSCORED. THIS IS BECAUSE THE TEMPORARY RULE WILL EXPIRE AT THE END OF THE NEXT LEGISLATIVE SESSION AND SOME OF THE LANGUAGE OF THE TEMPORARY RULE IS BEING RETAINED IN THE PROPOSED RULE SO THAT IT WILL BE REVIEWED FOR ADOPTION AS A FINAL RULE AFTER THE COMPLETION OF THIS RULEMAKING.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0105

609. PROPERTY EXEMPT FROM TAXATION RESIDENTIAL IMPROVEMENTS (Rule 609).

~~Section 63-602G, Idaho Code.~~ Section 63-602G, Idaho Code. ~~(1-1-01)F()~~

01. Homeowner's Exemption. This exemption shall also be known as the homeowner's exemption. ~~(3-23-94)()~~

02. Residential Improvements. Primary dwelling place means the claimant's dwelling place ~~on~~ ~~January 1~~ before April 15 of the year for which the claim is made. If the residential improvement becomes the claimant's primary dwelling place between January 1 and April 15, the claimant shall not have previously applied for the exemption under Section 63-602G, Idaho Code, for the same year. The primary dwelling place is the single place where a claimant has his true, fixed, and permanent home and principal establishment, and to which whenever the individual is absent he has the intention of returning. A claimant must establish the dwelling to which the claim relates as his primary dwelling place by clear and convincing evidence or by establishing that the dwelling is where the claimant resided ~~on January 1~~ before April 15 of the year for which the claim is made and: ~~(3-23-94)()~~

- a. At least six (6) months during the prior year; or (3-23-94)
- b. The majority of the time the claimant owned the dwelling if owned by the claimant less than one (1) year; or (3-23-94)
- c. The majority of the time after the claimant first occupied the dwelling if occupied by the claimant less than one (1) year. (3-23-94)

03. Requirements. If these requirements are not met, the property upon which the claimant makes application shall be deemed to be the claimant's primary dwelling place if the claimant is otherwise qualified and resides in a care facility and does not allow the property upon which the claimant has made application to be occupied by persons paying a consideration excluding utilities to occupy the dwelling. A care facility is a hospital, skilled nursing facility, intermediate care facility or intermediate care facility for the mentally retarded as defined in Section 39-1301, Idaho Code, or a facility as defined in Section 39-3302(15), Idaho Code, or a dwelling other than the one upon which the applicant makes application where a claimant who is unable to reside in the dwelling upon which the application is made lives and receives help in daily living, protection, and security. ~~(3-23-94)()~~

04. Owner. "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate. "Owner" shall also include any person who as grantor created a revocable ~~or an irrevocable~~ or an irrevocable trust and named himself ~~or herself~~ or herself as beneficiary of that trust. "Owner" shall not include any person that otherwise occupies property as beneficiary of a trust. "Owner" includes a vendee in possession under a land sale contract. ~~On the tax rolls for 2001 and later, "owner" shall also include a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation.~~ An "owner" shall also include a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation if that person has no

less than a five percent (5%) ownership interest in the entity.

~~(1-1-01)F()~~

05. Partial Ownership. Any partial ownership shall be considered ownership for determining qualification for the homeowner's exemption, however, the amount of the exemption shall be decided on the reduced ~~to a~~ proportion of the value commensurate with the proportion of partial ownership. Partial ownership, for purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person. The combined community property interests of both spouses shall not be considered partial ownership. The proportional reduction required under this subsection shall not apply to community property interests. ~~Additionally, on tax rolls for 2001 and later, there is no reduction to the ownership interests of a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation unless any interests are shared by any entity other than the limited partnership, limited liability company or corporation.~~ Additionally, there is no reduction to the ownership interests of a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation when that person has no less than five percent (5%) ownership interest in the entity unless any ownership interest is shared by any entity other than the limited partnership, limited liability company or corporation.

~~(1-1-01)F()~~

~~**06. Certification.** Beginning January 1, 2001, as an owner, the applying partner of a limited partnership, member of a limited liability company or shareholder of a corporation must certify to the county assessor that he has not made application for this exemption in any other county or on any other residential improvement in this county. Although more than one (1) residential improvement owned by the same partnership, limited liability company or corporation may qualify for this exemption, each partner, member or shareholder shall not receive this exemption on more than one (1) residential improvement.~~

~~(1-1-01)F~~

06. Certification. As an owner, the applying partner of a limited partnership, member of a limited liability company or shareholder of a corporation with no less than a five percent (5%) ownership interest in the entity must certify to the county assessor that he has not made application for this exemption in any other county or on any other residential improvement in this county. Although more than one residential improvement owned by the same partnership, limited liability company or corporation may qualify for this exemption, each partner, member or shareholder shall not receive this exemption on more than one residential improvement.

()

~~**067. Determination Of Residency.** The State Tax Commission may release pertinent information from any Idaho income tax return to the county assessor and the county board of equalization for the sole purpose of providing one indicator of eligibility for the homeowner's exemption. According to Section 63-3077(d4), Idaho Code, this information is confidential and is not subject to public disclosure.~~

~~(7-1-98)()~~

(BREAK IN CONTINUITY OF SECTIONS)

700. DEFINITIONS FOR PROPERTY TAX REDUCTION BENEFIT (Rule 700).

~~Section 63-701, Idaho Code. Section 63-701, Idaho Code.~~

~~(1-1-01)F()~~

01. Blind. A person for whom there exists the medically documented opinion that the person is functionally blind as defined in Section 67-5402(2), Idaho Code.

(3-30-01)

02. Burden Of Proof. See Rule ~~6400~~ of these rules.

~~(3-30-01)()~~

03. Claimant's Income. All income defined in Section 63-701(5), Idaho Code, that is received by either spouse is included in household income even if one spouse lives in a medical care facility or otherwise lives outside the home except as provided in Rule 709 of these rules.

~~(3-30-01)()~~

04. Fatherless/Motherless Child. Fatherless/Motherless child for purposes of Section 63-701(1), Idaho Code, means a child judicially determined to be abandoned, as defined by Sections 16-1602 or 16-2005, Idaho Code, by the child's male/female parent or a child whose male/female parent has had his parental rights terminated pursuant to court order or is deceased.

(3-30-01)

05. Proportional Reduction of ~~Benefits~~ Value. Proportional reduction of ~~benefits~~ value pursuant to Section 63-701(~~§~~7), Idaho Code, is required for partial ownership of otherwise eligible property. (~~3-30-01~~)()

a. There is no reduction of ~~benefits~~ value for community property with no other interests ~~except as provided in Rules 610.07 and 709.04 of these rules. Additionally, on the tax rolls for 2001 and later, there is no reduction for the ownership interests of a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation unless any interests are shared by any entity other than the limited partnership, limited liability company or corporation.~~ Additionally, there is no reduction in value for the ownership interests of a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation when that person has no less than a five percent (5%) interest in the entity unless any interests are shared by any entity other than the limited partnership, limited liability company or corporation. (~~1-1-01~~)()

b. In other cases, benefits are to be calculated by applying the claimant's property tax reduction benefit to the eligible net taxable value of the claimant's share of the property. This value is determined by multiplying ~~gross~~ the market value of the land and of the improvement times the claimant's percent of ownership and subtracting the claimant's ~~share of the~~ homeowner's exemption. For example:

Land Market Value	\$ 50,000
Improvement Market Value	\$150,000
Gross Market Value	\$200,000
Maximum Allowable Homeowner's Exemption (Based on Improvement Market Value)	<\$ 50,000>
Percent of Ownership of Claimant	50%
Claimant's Share of Land Market Value (Land Market Value x Percentage of Ownership)	\$ 25,000
Claimant's Share of Improvement Market Value (Improvement Market Value x Percentage of Ownership)	\$ 75,000
Claimant's Share of Homeowner's Exemption (Maximum Allowable Homeowner's Exemption x Percentage of Ownership) Claimant's Share of Improvement Market Value x 50% (not to exceed \$50,000)	<\$ 25,000> <\$ 37,500>
Claimant's Eligible Net Taxable Value equals Land plus Improvement less Homeowner's Exemption (\$25,000 + \$75,000 - \$25,000 <u>\$25,000 + \$75,000 - \$37,500 = \$62,500</u>)	\$ 75,000 <u>\$ 62,500</u>

In this example, the claimant's property tax reduction benefit will be applied to the tax on his/her net taxable market value of ~~\$75,000~~62,500. (~~3-30-01~~)()

06. Physician. Physician shall mean a licensed physician, as defined in Section 54-1803(3), Idaho Code. (3-30-01)

07. Widow/Widower. A widow/widower is a person who has not remarried after the death of their spouse or whose subsequent marriage has been annulled. (~~3-30-01~~)()

IDAPA 35 - STATE TAX COMMISSION
35.01.08 - MINE LICENSE TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0108-0101
NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 63-105 and 63-3039, Idaho Code.

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

Mine License Rule 001 is being amended to remove the reference to the mine license tax rate which is now addressed in new Rule 035. Mine License Rule 035 is being promulgated to identify the effective dates for the different mine license tax rates and discuss the application of the tax rate change due to 2001 legislation.

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

No fees applicable.

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

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

Anyone may submit written comments regarding this proposed rule-making. 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.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0108-0101

001. TITLE AND SCOPE (Rule 001).

These rules shall be cited as IDAPA 35.01.08.000, et seq., Idaho State Tax Commission Rules, IDAPA 35.01.08, "Mine License Tax Administrative Rules". They shall be construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a license tax ~~to be measured by two percent (2%) of the net value of ores mined.~~

(7-1-97)()

(BREAK IN CONTINUITY OF SECTIONS)

031. -- 0394. (RESERVED).

035. MINE LICENSE TAX RATE (Rule 035).

Section 47-1201, Idaho Code.

()

01. Tax Rate Prior To July 1, 2001. The mine license tax shall be two percent (2%) of the net value of the royalties received or the ores mined or extracted prior to July 1, 2001.

()

02. Tax Rate After June 30, 2001. The mine license tax shall be one percent (1%) of the net value of the royalties received or the ores mined or extracted after June 30, 2001.

()

03. Application Of Tax Rate Change. If a taxpayer's taxable year includes days before and after July 1, 2001, the taxpayer shall separately compute the net value of royalties received and the ores mined or extracted as if the taxable year were two (2) separate tax periods. For the period prior to July 1, 2001, the mine license tax rate of two percent (2%) shall apply. For the period after June 30, 2001, the mine license tax rate of one percent (1%) shall apply. The two (2) tax amounts shall then be added together to arrive at the total mine license tax for that taxable year.

()

036. -- 039. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION
35.02.01 - TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES
DOCKET NO. 35-0201-0101
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) 63-105 and 63-3039, 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:

Rule 007 - Purpose Of Rules - is being promulgated to move the information contained in Rule 005 to a new Rule 007.

Rule 010 - Definitions – is being amended to add a definition for “Date of Filing.”

Rule 130 - Electronic Transfer Of Funds – is being amended to clarify when individuals are not required to pay amounts over \$100,000 to the Tax Commission using electronic funds transfer due to 2001 legislation that changed this requirement.

Rule 140 - Application Of Partial Payment – is being amended to clarify how the taxpayer may direct the Tax Commission to apply partial payments when the taxpayer has multiple tax obligations.

Rule 310 - Interest On Amounts Of Tax Accruing Or Unpaid - is being amended to add the interest rate for calendar year 2002.

Rule 400 - Penalties - General Rules - is being amended to correct code references for changes made in 2001 legislation.

Rule 430 – Penalty For Failure To File, Failure To Pay, Or Delinquent Filing - is being amended to clarify the calculation of penalties and to update information for 2001 legislation.

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 proposed change is of a simple nature.

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

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

DATED this 22nd day of August, 2001.

Janice Boyd, Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV, P. O. Box 36
Boise, ID 83722
(208) 334-7513 FAX (208) 334-7844

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0201-0101

0057. PURPOSE OF RULES (Rule 0057).

Section 63-3039, Idaho Code. If statutes appear to be clear and unambiguous without need for interpretation, expansion or construction, generally no rules have been promulgated. An effort has been made to prevent the rules from being merely repetitive of statutory provisions. Consequently, the rules do not stand alone as a statement of Idaho tax laws. Instead, each rule shall be read with the statute to which it relates. The title that introduces each rule is provided for the convenience of the reader and is not part of the rule. (3-20-97)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS (Rule 010).

Section 63-3003, Idaho Code.

(3-20-97)

01. Date Of Filing. When returns or other documents are mailed, the date of filing means the date shown by the post office cancellation mark. If a cancellation mark is omitted, illegible or erroneous, the document will be deemed filed on the date the taxpayer establishes by competent evidence that the material was deposited with the United States Postal Service. A postage meter cancellation shall not be deemed a post office cancellation mark. Refer to Section 63-217, Idaho Code. Materials not mailed with the United States Postal Service are filed when physically received by the Tax Commission. ()

02. Pay, Paid, Payable Or Payment. When used in reference to an amount of tax, penalty, interest, fee or other amount of money due to the Tax Commission, the words pay, paid, payable, or payment mean an irrevocable tender to the Tax Commission of lawful money of the United States. As used herein, lawful money of the United States means currency or coin of the United States at face value and negotiable checks that are payable in money of the United States. Acceptance by the Tax Commission of a check that is subsequently dishonored by the bank on which it is drawn does not constitute payment. Nothing herein shall limit the authority of the Tax Commission to refuse to accept a check drawn on the account of a taxpayer who has previously tendered a check dishonored by the bank on which it was drawn. (3-20-97)

03. Return Or Tax Return. Return and tax return mean a form or other document that an individual, corporation or other legal entity reports information, including information necessary to calculate taxes due to the Tax Commission or another governmental agency that requires a return be filed. See Rule 150 of these rules for the requirements of a valid tax return. (3-20-97)

04. Tax Commission. Tax Commission means the Idaho State Tax Commission established by Article VII, Section 12 of the Idaho Constitution and referred to in Sections 63-101 and 63-3038, Idaho Code. (3-20-97)

05. These Rules. The term these rules refers to IDAPA 35.02.01, relating to the administration and enforcement of taxes. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

130. ELECTRONIC TRANSFER OF FUNDS (Rule 130).

Section 67-2026, Idaho Code.

()

01. In General. All taxes, interest, penalties, fees, and other amounts due the state of Idaho shall be paid by electronic funds transfer when the amount is one hundred thousand dollars (\$100,000) or greater, in accordance with Sections 67-2026 and 67-2026A, Idaho Code. See Subsection 130.02 for the exception for

individuals who pay amounts related to individual income taxes. (3-20-97)()

02. Individuals Paying Amounts Pursuant To Section 63-3024, Idaho Code. An individual taxpayer is not required to pay his individual income taxes, fees or amounts payable pursuant to Section 63-3024, Idaho Code, by electronic funds transfer. If an individual elects to pay such amounts by electronic funds transfer, he must comply with the requirements of Section 67-2026, Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

140. APPLICATION OF PARTIAL PAYMENT (Rule 140).
Sections 63-4001 and 63-4007, Idaho Code. ()

01. In General. If bad check charges, penalties, or interest accrue as a result of any deficiency in tax, partial payments shall apply in the following order: to bad check charges, ~~penalty~~, interest, ~~and tax~~, and penalty. (3-20-97)()

02. Taxpayers With Multiple Tax Obligations. If a taxpayer owes multiple tax obligations, the taxpayer may direct how the Tax Commission will apply payments not made with a tax return. Such directions shall apply to tax types or tax years. ()

03. Examples. ()

a. A taxpayer has an income tax liability and a sales tax liability for a previous year. The taxpayer directs the Tax Commission to apply a partial payment to his income tax liability. The Tax Commission will apply the payment first to any bad check charge related to the income tax liability, then to interest, next to the income tax, and finally to any penalty for that year as provided in Subsection 140.01. The Tax Commission will apply any remaining payment to the sales tax liability in the same order. ()

b. A taxpayer has an income tax liability for three (3) previous tax years. The taxpayer directs the Tax Commission to apply a partial payment to his income tax liability for the earliest year. The Tax Commission will apply the payment to the income tax liability in the earliest year by first applying the payment to any bad check charge related to that year, then to interest, next to the income tax, and finally to any penalty for that year as provided in Subsection 140.01. ()

(BREAK IN CONTINUITY OF SECTIONS)

310. INTEREST ON AMOUNTS OF TAX ACCRUING OR UNPAID (Rule 310).
Section 63-3045, Idaho Code. (3-20-97)

01. July 1, 1981, Through December 31, 1993. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of the period from July 1, 1981, through December 31, 1993, subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is twelve percent (12%) simple interest. (3-20-97)

02. Calendar Year 1994. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1994 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Ruling 93-64. (3-20-97)

03. Calendar Year 1995. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1995 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is nine percent (9%) simple interest. See Revenue Ruling 94-61. (3-20-97)

04. Calendar Year 1996. The annual rate of interest applicable to delinquent taxes accruing or unpaid

during all or any part of calendar year 1996 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 95-67. (3-20-97)

05. Calendar Year 1997. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1997 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is nine percent (9%) simple interest. See Revenue Ruling 96-49. (3-20-97)

06. Calendar Year 1998. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1998 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 97-41. (3-19-99)

07. Calendar Year 1999. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1999 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Ruling 98-50. (4-5-00)

08. Calendar Year 2000. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 2000 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 99-41. (4-5-00)

09. Calendar Year 2001. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 2001 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 2000-45. (2-23-01)

10. Calendar Year 2002. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 2002 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is 7 percent (7%) simple interest. See Revenue Ruling 2001-49. ()

(BREAK IN CONTINUITY OF SECTIONS)

400. PENALTIES -- GENERAL RULES (Rule 400).
Section 63-3046, Idaho Code. (3-20-97)

01. Penalty Presumed Appropriate. If a taxpayer becomes liable to pay the Internal Revenue Service a penalty similar to one provided in Section 63-3046, Idaho Code, it shall be presumed the penalty is appropriate as part of the related state tax deficiency. (3-20-97)

02. Credits To Be Considered. The penalties referred to in this rule apply to the net amount of the tax due after applicable credits. (3-20-97)

03. Minimum Penalty. A ten dollar (\$10) minimum penalty applies to each penalty imposed by Subsection (a), (b), (c)(1), (d) or (e) of Sections 63-3046(a) through 63-3046(f) and by Section 63-3033, Idaho Code. For example, if a taxpayer fails to file only one (1) withholding tax statement, which generally results in a penalty of two dollars (\$2) pursuant to Section 63-3046~~(f)~~(e)(1), Idaho Code, a penalty of ten dollars (\$10) will be applied. ~~(2-23-01)~~()

04. Dishonored Checks. The charge provided by Section 63-3046(h), Idaho Code, for each dishonored check or instrument is: (2-23-01)

- a. Ten dollars (\$10) if dishonored prior to July 1, 2001. (2-23-01)
- b. Twenty dollars (\$20) if dishonored on or after July 1, 2001. (2-23-01)
- c. This charge may be added even if sufficient funds are in the taxpayer's account after the date of dishonor. (2-23-01)

(BREAK IN CONTINUITY OF SECTIONS)

430. PENALTY FOR FAILURE TO FILE, FAILURE TO PAY, OR DELINQUENT FILING (Rule 430).
Sections 63-3033 and 63-3046~~(e)~~, Idaho Code. ~~(2-23-01)~~(_____)

01. In General. (2-23-01)

- a. As used in this rule, due date means the date prescribed for filing without regard to extensions. (2-23-01)
- b. A penalty of two percent (2%) of the tax due per month may be imposed on a taxpayer who fails to meet the extension criteria provided in Section 63-3033, Idaho Code. (2-23-01)
- c. A penalty of five percent (5%) of the tax due per month, may be imposed on a taxpayer who files a delinquent return or who fails to file a return as provided in Section 63-3046, Idaho Code. (2-23-01)
- d. If a taxpayer files a return but does not pay the tax due, a penalty of one-half percent (0.5%) of the tax due per month may be imposed. (2-23-01)
- e. The penalties computed in this subsection may not exceed twenty-five percent (25%) of the tax due. (2-23-01)
- f. For purposes of computing the penalties in Subsection 430.01, tax due includes subsequent adjustments. (2-23-01)

02. Calculations Of Penalty When A Taxpayer Satisfies The Extension Of Time Criteria. (2-23-01)

- a. A taxpayer is entitled to an automatic extension of time for filing the Idaho income tax return if, by the due date, the taxpayer satisfies either of the following extension criteria provided in Section 63-3033, Idaho Code: (2-23-01)
- i. Paying eighty percent (80%) of the total tax due on his income tax return when it is filed; or (2-23-01)
- ii. Paying the total tax due on the income tax return for the prior year if one was filed. (2-23-01)
- b. If the payment computed in Subsection 430.02.a. is fifty dollars (\$50) or less, a payment is not required to qualify for the extension. (_____)

bc. If the taxpayer satisfies the extension criteria and files the return and pays the tax on or before the extended due date, no penalties apply from the due date of the return to the extended due date unless the taxpayer fails to file the return and pay the tax due on or before the extended due date. In such case a penalty of five percent (5%) of the tax due per month shall apply from the return's due date to the earlier of the date the return is filed. ~~(2-23-01)~~(_____)

ed. If the taxpayer satisfies the extension criteria and files the return on or before the extended due date, but pays the tax after the extended due date, a penalty of one-half percent (0.5%) of the tax due per month shall apply from the return's extended due date to the date the tax is paid. (2-23-01)

e. If the taxpayer satisfies the extension criteria but fails to file the return and pay the tax due on or before the extended due date, a penalty of five percent (5%) of the tax due per month shall apply from the return's extended due date to the earlier of the date the return is filed or the date the tax is paid. If the tax is paid after the

return is filed, a penalty of one-half percent (0.5%) of the tax due per month shall apply from the date the return is filed until the date the tax is paid. ()

03. Calculations Of Penalty When A Taxpayer Fails To Satisfy The Extension Of Time Criteria. If a taxpayer fails to satisfy the extension criteria, the following penalties may apply: (2-23-01)

a. If the return is filed by the due date, but the tax is paid after the due date, a penalty of one-half percent (0.5%) of the tax due per month shall apply from the return's due date to the date the tax is paid. (2-23-01)

b. If the return is filed and the tax is paid on or before the extended due date, a penalty of two percent (2%) of the tax due per month shall apply from the return's due date to the earlier of the date the return is filed or the date the tax is paid. If the tax is paid after the return is filed, a penalty of one-half percent (0.5%) of the tax due per month shall apply from the date the return is filed to the date the tax is paid. (2-23-01)

c. If the return is filed after the extended due date but the tax is paid on or before the extended due date, a penalty of two percent (2%) of the tax due per month shall apply from the return's due date to the date the tax is paid. (2-23-01)

d. If the return is filed after the extended due date and the tax is paid after the extended due date, a penalty of five percent (5%) of the tax due per month shall apply from the due date of the return to the earlier of the date the return is filed or the date the tax is paid. If the tax is paid after the return is filed, a penalty of one-half percent (0.5%) of the tax due per month shall apply from the date the return is filed to the date the tax is paid. (~~2-23-01~~)()

04. Other Penalties. Imposing a penalty for failure to meet the extension criteria, failure to file a return timely, or failure to pay the tax due timely does not preclude the imposition of another penalty pursuant to Section 63-3046, Idaho Code. (2-23-01)

05. Insufficient Postage. The proper amount of prepaid postage is required on returns mailed to the Tax Commission. If a tax return is returned to the sender due to insufficient postage, it may result in the return becoming delinquent and subject to the delinquency penalty specified by Section 63-3046(c), Idaho Code. (3-20-97)

06. Month Defined. If the due date falls on the last day of a calendar month, each succeeding calendar month, or fraction of it, during which the failure to file continues constitutes a month. If the due date is not the last day of the calendar month, the period that ends with the same date of the next month constitutes a month. If the succeeding month has no corresponding date, the last day of the month is substituted. Any fraction of a month from the date ending the preceding monthly period to the date of payment constitutes a full month. (3-20-97)

IDAPA 37 - DEPARTMENT OF WATER RESOURCES
37.02.01 - COMPREHENSIVE STATE WATER PLAN RULES

DOCKET NO. 37-0201-0101

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 42-1734D and 67-5203, 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:

Rule 035.08 – Remove the need to review the Comprehensive State Water Plan every five years. The deletion will align the rules with Sections 42-1734A and 42-1734B, Idaho Code.

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

Not applicable, no fee or charge imposed.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the purpose of the proposed rule change is to align the rules with the statute, Sections 42-1734A and 42-1734B.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Bill Graham, Planning Bureau Chief, Idaho Department of Water Resources, (208) 327-7966.

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

DATED this 17th day of August, 2001.

Joseph L. Jordan, Chairman
Idaho Water Resource Board
1301 North Orchard
Boise, Idaho 83706
Phone: (208) 327-7880
Fax: (208) 327-7866

THE FOLLOWING IS THE TEXT OF DOCKET NO. 37-0201-0101

035. AMENDING THE COMPREHENSIVE STATE WATER PLAN (Rule 35).

01. Petitions. The board will accept written petitions seeking amendment of the comprehensive state water plan only from a state agency. (7-1-93)

02. Form. Petitions shall be in writing, signed by the agency head, and shall describe those portions of the comprehensive water plan to be amended and the reasons for the proposed amendments. (7-1-93)

03. Filing. Petitions shall be filed with the director. No petition shall be considered by the board at a board meeting unless filed with the director at least thirty (30) days prior to such board meeting. (7-1-93)

04. Notice Of Consideration. The petitioning state agency will be notified at least ten (10) days prior to the meeting of the time, place, and agenda for the board meeting at which the agency's petition will first be considered. (7-1-93)

05. Board Agenda. The board agenda will include time for representatives of the petitioning agency to explain why amending the comprehensive state water plan is considered necessary. (7-1-93)

06. Board Determination. At a board meeting not more than six (6) months after a petition to amend the comprehensive state water plan has been filed with the director, the board shall either commence action to amend the comprehensive plan or set forth its reason for denying the request in writing. (7-1-93)

07. Amending Procedure. If the board chooses to amend the comprehensive state water plan, the board shall do so in the same manner as provided for adoption of the original plan. (7-1-93)

08. Amendment By Board Initiative. Nothing in these rules shall prevent the board from reviewing and reevaluating portions of the plan upon its own initiative, and amending the plan in the same manner as provided for adoption of the original plan. ~~The board shall review and reevaluate the comprehensive state water plan at least every five (5) years.~~ (7-1-93)(____)

09. Requests To Amend. The board will entertain requests from individuals to amend a component of the comprehensive state water plan. (7-1-93)

10. Board Evaluation. The board shall determine whether to consider a proposed amendment based on those factors contained in Section 42-1734A(3), Idaho Code, and their charge to plan for the conservation, development, management and optimum use of all unappropriated water resources and waterways of the state in the public interest. (7-1-93)

11. Legislative Review. The board shall submit the comprehensive state water plan and any component thereof for a particular waterway, or any modification of the plan, to the legislature for review and possible amendment by law at the next regular legislative session following adoption by the board. (7-1-93)

IDAPA 38 - DEPARTMENT OF ADMINISTRATION
38.05.01 - RULES OF THE DIVISION OF PURCHASING
DOCKET NO. 38-0501-0101 (REPEAL)
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(s) 67-5717(11), 67-5732 and 67-2356(1), 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. This chapter is being repealed in its entirety and is being replaced by a new chapter that is being promulgated under Docket No. 38-0501-0102. Docket No. 38-0501-0102 is being published in this Bulletin following this docket. The original text of the proposed rule was published in the July 4, 2001 Idaho Administrative Bulletin, Volume 01-7, pages 115.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration at (208) 332-1832.

DATED this 17th day of August, 2001.

Joanna L. Guilfooy
Deputy Attorney General
Department of Administration
650 W. State Street, Room 100
P.O. Box 83720
Boise, ID 83720-0003
Ph: (208) 332-1832
Fax: (208) 334-2307

IDAPA 38, TITLE 05, Chapter 01

RULES OF THE DIVISION OF PURCHASING

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, page 115.

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 38 - DEPARTMENT OF ADMINISTRATION
38.05.01 - RULES OF THE DIVISION OF PURCHASING
DOCKET NO. 38-0501-0102 (REWRITE)
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(s) 67-5717(11), 67-5732 and 67-2356(1), 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 July 4, 2001 Idaho Administrative Bulletin, Volume 01-7, pages 116 through 135.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration at (208) 332-1832.

DATED this 17th day of August, 2001.

Joanna L. Guilfooy
Deputy Attorney General
Department of Administration
650 W. State Street, Room 100
P.O. Box 83720
Boise, ID 83720-0003
Ph: (208) 332-1832
Fax: (208) 334-2307

IDAPA 38, TITLE 05, Chapter 01

RULES OF THE DIVISION OF PURCHASING

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 116 through 135.](#)

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 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.81 - RULES GOVERNING ISSUANCE OF INTRANSIT PERMITS
DOCKET NO. 39-0381-0101
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(s) 49-201 and 49-432, Idaho Code.

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

This rule is being amended to reflect changes to code in H270 and H369, passed by the 2001 Legislature. H270 modified the duration and fees charged for temporary permits. H369 added language to provide a new type of permit to authorize temporary operation of vehicles in excess of their registered maximum gross weight.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 01-7, pages 136 through 141.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Frew, Port of Entry Manager, 334-8694.

DATED this 22nd day of August, 2001.

Linda L. Emry, Management Assistant
Office of Budget, Policy, Intergovernmental Relations
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-334-8195

IDAPA 39, TITLE 03, Chapter 81

RULES GOVERNING ISSUANCE OF INTRANSIT PERMITS

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 136 through 141.](#)

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 45 - IDAHO HUMAN RIGHTS COMMISSION
45.01.01 - RULES OF THE IDAHO HUMAN RIGHTS COMMISSION
DOCKET NO. 45-0101-0101
NOTICE OF PROPOSED 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 67-5906(12), Idaho Code.

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

Friday, October 19, 2001 from 9:30 a.m. to 11:30 a.m.
Office of the Idaho Human Rights Commission
1109 Main Street, Suite 400
Boise, Idaho, 83720

Members of the public may offer comments at the public hearing in person or by telephone. The telephone numbers for the Idaho Human Rights Commission are (208) 334-2873 and (888) 249-7025.

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: Currently, the Commission rules define "religion," "because of sex," and "substantially limits" by incorporating by reference the definitions for those terms in federal law, specifically the Civil Rights Act of 1964 (42 U.S.C.A. 2000e(j) and (k)) and the regulations implementing the Americans With Disabilities Act (29 CFR 1630.2). The proposed rulemaking sets forth the definitions rather than incorporating by reference the federal definitions.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the nature of the changes being made.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jo-Ann Bowen at (208) 334-2873.

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 2nd day of August, 2001.

Leslie R. Goddard, Director
Idaho Human Rights Commission
1109 Main Street, Suite 400
P.O. Box 83720, Boise, Idaho 83720
(208) 334-2873 / fax: (208) 334-2664

THE FOLLOWING IS THE TEXT OF DOCKET NO. 45-0101-0101

010. DEFINITIONS.

- 01. Commission.** The Idaho Human Rights Commission as created by the Human Rights Act. (7-1-93)
- 02. Commissioner.** A duly appointed member of the Idaho Human Rights Commission. (7-1-93)

03. Complainant. Any person who files a complaint with the Commission pursuant to the Human Rights Act. (7-1-93)

04. Complaint. A statement filed with the Commission pursuant to these Rules alleging an unlawful practice within the meaning of the Human Rights Act. The complaint may be in the form of a letter but, whenever timely possible, should be written on a complaint form provided by the Commission or on the complaint form used by the Equal Employment Opportunity Commission, and signed by the Complainant or their legal representative. (7-1-97)

05. Conciliation Agreement. A written agreement settling the issues raised by the complaint and signed by the parties after a determination on the merits of the complaint by the Commission. (7-1-93)

06. Covered Entity. Those persons and organizations within the jurisdiction of the Human Rights Act, as set forth in Sections 65-5901 and 67-5902, Idaho Code. (7-1-98)

07. Discriminatory Wage Act. The Act set forth in Title 44, Chapter 17, Idaho Code, "Discriminatory Wage Rates Based Upon Sex". (7-1-93)

08. E.E.O.C. The United States Equal Employment Opportunity Commission or any of its designated representatives. (7-1-93)

~~**09. Federal Civil Rights Act Terms.** Religion shall have the meaning set forth in the Civil Rights Act of 1964, as codified in 42 U.S.C.A. 2000e(j). The term "because of sex" shall have the meaning set forth in the Civil Rights Act of 1964, as codified in 42 U.S.C.A. 2000e(k). The term "substantially limits" shall have the meaning set forth in the Americans With Disabilities Act, as codified in 29 CFR 1630.2. (7-1-98)~~

109. Human Rights Act. As used herein, the term "Human Rights Act" shall mean the Human Rights Commission Act of 1969, as amended and codified as Title 67, Chapter 59, Idaho Code. (7-1-93)

110. Mental Condition. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and learning disabilities. (7-1-93)

121. Party Or Parties. The Complainant, the Respondent, the Commission, and any other person authorized by the Commission to intervene in any proceeding. (7-1-93)

132. Physical Condition. Any physiological disorder, condition, cosmetic disfigurement, anatomical loss, or abnormality affecting one (1) or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin and endocrine. (7-1-93)

143. Record Of Such A Disability. A person may have "a record of such a disability" when he/she has a history of or has been misclassified as having a physical or mental condition that substantially limits one (1) or more major life activities. (7-1-97)

154. Regarded As Having Such A Disability. A person may be "regarded as having such a disability" when he/she: (7-1-97)

a. Has a physical or mental impairment that does not substantially limit a major life activity but is treated by a covered entity as constituting such a limitation; (7-1-98)

b. Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others towards such an impairment; or (7-1-93)

c. Has none of the impairments listed above but is treated by a covered entity as having such an impairment. (7-1-98)

15. Religion. All aspects of religious observance and practice, as well as belief, unless an employer

demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business. ()

16. Respondent. Any person against whom a complaint is filed in accordance with the Human Rights Act and these Rules. (7-1-93)

17. Settlement Agreement. A written agreement settling the issues raised by the complaint and signed by the parties prior to the Commission's making a determination on the merits of the complaint. (7-1-93)

18. Sex. The terms "because of sex" or "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work. Subsection 010.18 shall not require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion: Provided, that nothing herein shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion. ()

189. Staff Director. The Staff Director appointed by the Commission pursuant to the Human Rights Act. (7-1-93)

1920. Substantial Disability Limitation. A physical or mental condition constitutes a "substantial disability limitation" when ~~it interferes with or affects, over a significant period of time, one (1) or more of a person's~~ is unable to perform a major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working, ~~that the average person in the general population can perform or is significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.~~ (7-1-93)()

a. The following factors should be considered in determining whether a physical or mental condition constitutes a substantial limitation: ()

i. The nature and severity of the impairment; ()

ii. The duration or expected duration of the impairment; and ()

iii. The permanent or long term impact, or the expected permanent or long term impact of or resulting from the impairment. ()

b. With respect to the major life activity of working, a physical or mental condition constitutes a "substantial limitation" when a person is significantly restricted in the ability to perform either a class of jobs or a broad range of jobs in various classes as compared to the average person having comparable training, skills and abilities. The inability to perform a single, particular job does not constitute a substantial limitation in the major life activity of working. ()

c. The following factors may be considered in determining whether a physical or mental condition constitutes a "substantial limitation" on the major life activity of "working": ()

i. The geographical area to which the individual has reasonable access; ()

ii. The job from which the individual has been disqualified because of an impairment, and the number and types of jobs utilizing similar training, knowledge, skills or abilities, within that geographical area, from which the individual is also disqualified because of the impairment (class of jobs); and/or ()

iii. The job from which the individual has been disqualified because of an impairment, and the number and types of other jobs not utilizing similar training, knowledge, skills or abilities, within that geographical area, from which the individual is also disqualified because of the impairment (broad range of jobs in various classes). ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.14 - RULES FOR ADMINISTRATION OF AGRICULTURAL
WATER QUALITY PROGRAM IN IDAHO

DOCKET NO. 58-0114-0101 (REPEAL)

NOTICE OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105, 39-107, and 39-3601, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before 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 State Agricultural Water Quality Program previously run by the Department of Environmental Quality (DEQ) has been turned over to the Idaho Soil Conservation Commission. The Commission has developed a new program and has adopted Rules for Administration of Agricultural Water Quality Cost-Share Program for Idaho, IDAPA 02.05.03. The purpose of this rulemaking is to repeal DEQ's Rules for Administration of Agricultural Water Quality Program, IDAPA 58.01.14.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2001 for adoption of a pending rule. The repeal is expected to be final and effective upon the conclusion of the 2002 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact the undersigned.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before October 24, 2001.

DATED this 4th day of September, 2001.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/ Fax No. (208)373-0481
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THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.

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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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