

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 RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN

The state of Idaho administrative rulemaking process comprises five distinct activities; Negotiated, Proposed, Temporary, Pending, and Final rulemaking. Not all rulemakings consist of all five. At a minimum a rulemaking includes proposed, pending, and final rulemaking. Many rules are adopted as temporary rules when meeting required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. 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 RULEMAKING

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 RULEMAKING

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 RULEMAKING

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 RULEMAKING

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 RULEMAKING

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, BYU Idaho 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, 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 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 27, 2002	May 1, 2002	May 22, 2002
02-6	June, 2002	April 24, 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 25, 2002	November 6, 2002	November 27, 2002
02-12	December, 2002	October 23, 2002	December 4, 2002	December 25, 2002

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2003

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
03-1	January, 2003	*November 13, 2002	January 1, 2003	January 22, 2003
03-2	February, 2003	December 18, 2002	February 5, 2003	February 26, 2003
03-3	March, 2003	January 22, 2003	March 5, 2003	March 26, 2003
03-4	April, 2003	February 19, 2003	April 2, 2003	April 23, 2003
03-5	May, 2003	March 26, 2003	May 7, 2003	May 28, 2003
03-6	June, 2003	April 23, 2003	June 4, 2003	June 25, 2003
03-7	July, 2003	May 21, 2003	July 2, 2003	July 23, 2003
03-8	August, 2003	June 25, 2003	August 6, 2003	August 27, 2003
03-9	September, 2003	July 23, 2003	September 3, 2003	September 24, 2003
03-10	October, 2003	**August 20, 2003	October 1, 2003	October 22, 2003
03-11	November, 2003	September 24, 2003	November 5, 2003	November 26, 2003
03-12	December, 2003	October 22, 2003	December 3, 2003	December 24, 2003

****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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THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 2002-05

ESTABLISHMENT OF THE STATEWIDE INDEPENDENT LIVING COUNCIL

WHEREAS, the 1992 Amendments to the Rehabilitation Act of 1973 mandate the creation of a statewide Independent Living Council; and

WHEREAS, it is in the best interest of the citizens of the state of Idaho to engage in activities that will enhance the opportunities of people with disabilities to become independent, participating, and supporting members of society; and

WHEREAS, a statewide council is necessary to assist citizens with disabilities to have a greater voice in obtaining services that are cost effective, consumer-responsive, and community-based.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me by the Constitution and laws of the State of Idaho, do hereby establish the Statewide Independent Living Council for the State of Idaho.

I. The Council shall:

- 1. Develop and submit, in conjunction with the State Board of Education's Division of Vocational Rehabilitation and the Idaho Commission for the Blind and Visually Impaired, the Statewide Independent Living Plan mandated by section 704 of the 1992 Amendments to the Rehabilitation Act of 1973;*
- 2. Monitor, review, and evaluate the implementation of the state plan;*
- 3. Coordinate its activities with the State Rehabilitation Advisory Council and other councils that address the needs of specific disability populations and issues addressed pursuant to other federal laws;*
- 4. Ensure that all regularly scheduled meetings of the Council are accessible and open to the public and that sufficient advance notice of said meetings is provided;*
- 5. Submit periodic reports as required by law, keep such records, and afford access to such records as may be necessary to verify such reports; and*
- 6. Follow the guidelines contained in the 1992 Amendments to the Rehabilitation Act of 1973, Section 705.*

II. The Council shall be composed of members: who provide statewide representation; who represent a broad range of individuals with disabilities; who are knowledgeable about centers for independent living and independent living services; and a majority of whom are individuals with disabilities and not employed by any state agency or center for independent living. Each member of the Council shall serve for a term of three years, except that a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term. Members of the Council shall select a chair from among their number.

III. Membership of the Council shall include:

- 1. At least one director of a center for independent living chosen by the directors of centers for*

independent living within the state; and

2. *As ex officio, nonvoting members: a representative from the Idaho Board of Education's Vocational Rehabilitation office and representatives from other state agencies (such as the Industrial Commission, the Commission for the Blind and Visually Impaired, etc.) that provide services for individuals with disabilities.*
3. *Additional members: the Council may also include other representatives from centers for independent living; parents and guardians of individuals with disabilities; advocates of and for individuals with disabilities; representatives from private businesses; representatives from*

organizations that provide services for individuals with disabilities; and other appropriate persons.

This Executive Order shall cease to be effective four years after its entry into force.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this twenty-third day of May in the year of our Lord two thousand and two, and of the Independence of the United States of America the two hundred twenty-fifth and of the Statehood of Idaho the one hundred eleventh.

DIRK KEMPTHORNE
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2002-07

DESIGNATING THE IDAHO PUBLIC UTILITIES COMMISSION AS THE STATE AGENCY (CLEARINGHOUSE) TO RECEIVE NOTICES OF ENVIRONMENTAL AND ENERGY MATTERS UNDER THE SURFACE TRANSPORTATION BOARD'S IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969; AND DESIGNATING THE IDAHO PUBLIC UTILITIES COMMISSION AS THE AGENCY TO REPRESENT THE STATE ON MATTERS PERTAINING TO RAILROADS BEFORE THE SURFACE TRANSPORTATION BOARD

REPEALING AND REPLACING EXECUTIVE ORDER NO. 98-08

WHEREAS, the issues of railroad abandonments, acquisitions, consolidations, and sales are significant to the state of Idaho and particularly its more sparsely populated rural areas; and

WHEREAS, it is the policy of the state of Idaho to promote the development and viability of railroad transportation within the state; and

WHEREAS, the state of Idaho has a significant interest in maintaining and promoting rail access to Idaho communities for vital goods, services, and markets; and

WHEREAS, the Surface Transportation Board (STB), under: (1) the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §4332; (2) 49 U.S.C. §10502; (3) 49 U.S.C. §§ 10903-06; and (4) 49 C.F.R. Parts 1105, 1121, 1150, 1152, and 1180, requires railroads operating within the state of Idaho to serve notice of certain required actions upon a designated state agency; and

WHEREAS, Idaho Code §62-424 vests the Idaho Public Utilities Commission with the authority to make findings and represent the state of Idaho before the STB.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:

To designate the Idaho Public Utilities Commission to represent the state on matters pertaining to railroads before the Surface Transportation Board and to receive notices of environmental and energy matters from railroads operating within the state of Idaho, as provided under the applicable federal statutes and regulations. I further direct all state agencies to notify the Public Utilities Commission of information received by them of potential railroad abandonments and to cooperate with the Public Utilities Commission on all matters pertaining to railroads. The Public Utilities Commission is designated as the lead agency for railroad matters and shall approve all state agency submissions to the STB prior to transmittal.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this first day of July in the year of our Lord two thousand and two, and of the Independence of the United States of America the two hundred twenty-fifth and of the Statehood of Idaho the one hundred eleventh.

DIRK KEMPTHORNE
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-0201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rules is January 1, 2003.

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 71-111, 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 September 18, 2002.

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

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

To amend the current rule to adopt the 2003 edition of the National Institute of Standards and Technology (NIST) Handbook (HB) 44 by reference.

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

Compliance with amendments to the updated national standards handbook, effective January 1, 2003, is appropriate to protect the health, safety, and welfare of the citizens of Idaho.

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 this change is being made to support national and international uniformity for device manufacturers, device owners and consumers.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tom Schafer at 332-8690.

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 September 25, 2002.

DATED this 11th day of July, 2002.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
2270 Old Penitentiary Rd
Boise, ID 83712
phone 332-8500 / Fax 334-2170

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0214-0201

050. CHECKING, TESTING AND EXAMINING OF DEVICES, PACKAGES AND LABELS.

01. Required Reference Materials. The 2002~~3~~ edition of Handbook No. 44 of the National Institute of Standards and Technology, United States Department of Commerce, "Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices," hereby incorporated by reference, shall be the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in the Department of Agriculture Rules for Weights and Measures. ~~(3-15-02)~~(1-1-03)T

02. Ticket Printer - Customer Ticket. Vehicle-mounted metering systems shall be equipped with a ticket printer which shall be used for all sales where product is delivered through the meter. A copy of the ticket issued by the device shall be left with the customer at the time of delivery or as otherwise specified by the customer. This Section shall apply to vehicles put into service on or after January 1, 1995. (3-15-02)

03. Required Reference Materials For Checking Prepackaged Commodities. The 4th Edition of Handbook No. 133 of the National Institute of Standards and Technology, United States Department of Commerce, "Checking the Net Contents of Packaged Goods," hereby incorporated by reference, shall be the authority in checking packaged commodities, unless otherwise stated in the Department of Agriculture Rules for Weights and Measures. (3-15-02)

04. Local Availability. Copies of Handbook No. 44 ~~(2002 Edition)~~ and Handbook No. 133 ~~(4th Edition)~~ are on file with the State Law Library and the Idaho Department of Agriculture, 2216 Kellogg Lane, Boise, Idaho, 83712, or may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402. Copies are available for downloading on the internet by going to <http://nist.gov>. Go to "NIST Products and Services" then "Weights and Measures," scroll down to "General Information" and click on "Publications including Uniform Laws and Regulations". Documents are available in PDF or WP formats. ~~(3-15-02)~~(1-1-03)T

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.03 - RULES GOVERNING ANIMAL INDUSTRY

DOCKET NO. 02-0403-0201

NOTICE OF RULEMAKING

RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5221, 67-5224, and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Section 25-[3504] 3704, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for rescinding the temporary rule.

This temporary rule is being rescinded because the sections it amends are being repealed and incorporated into a new rule chapter 02.04.19.

The complete text of the temporary rule was published in the Idaho Administrative Bulletin, Volume 02-5, May 1, 2002, pages 36 and 37.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the rescission of this temporary rule, contact John Chatburn or Dr. Phil Mamer, Idaho State Department of Agriculture at (208) 332-8543.

DATED this 30th Day of July, 2002.

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

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.03 - RULES GOVERNING ANIMAL INDUSTRY

DOCKET NO. 02-0403-0203

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rules is September 15, 2002.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 25-203 and 25-[3504] 3704, Idaho Code.

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

**September 11, 2002, 7 p.m.
College of Southern Idaho
315 Falls Ave
Twin Falls, ID 83303**

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

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

This temporary and proposed rule deletes Section 075, which is obsolete. Additionally this rule deletes from IDAPA 02.04.03, Sections 364 through 405, which have been amended and consolidated into new chapters IDAPA 02.04.19, 02.04.20, and 02.04.21.

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

The rule is necessary to protect the public health, safety or welfare and it confers a benefit.

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

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. However, the advisory committees that worked on the negotiated rulemaking for the new chapters 02.04.19 and 02.04.20 did discuss the repeal of these sections.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2002.

DATED this 18th day of July, 2002.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0403-0202

~~071.—074. (RESERVED).~~

~~075. GLANDERS.~~

~~01. Prohibiting Treatment. It has been determined that there is no known remedy for the cure of the disease known as glanders, therefore, any attempt to treat this disease is prohibited. (9-6-61)~~

~~02. Sale Of Infested Animal. It shall be unlawful for any person, firm or corporation, or agent or employee thereof, knowingly to sell, offer for sale, or in any manner to part with to another, any animal infected with or affected with the disease known as glanders. (9-6-61)~~

~~03. Movement In/From Quarantined Areas. No horses, mules or asses shall be sold, offered for sale, shipped, transported, driven or trailed or otherwise moved from any area or premises quarantined by the representative of this bureau or the U.S. Agricultural Research Service without state or federal inspection and certification of freedom from the disease, for the purpose of such movement. Owners and custodians of horses, mules and asses for whom inspection is made shall provide such reasonable facilities and render such assistance as may be required by the inspector. (9-6-61)~~

~~04. Determination Of Disease. The fact of the infection with this disease shall be determined by the ophthalmic, intradermic, intrapalpebral, or other test approved by the U.S. Agricultural Research Service, and the diseased animals shall be disposed of as provided in Section 030 and Subsection 050.02. (9-6-61)~~

~~05. Ophthalmic Method. When the ophthalmic method of applying the test is used the chart shall show that the first observation taken after the installation of mallein shall not be later than the sixteenth hour, and that the final observation is not earlier than the twenty fourth hour and not later than the thirtieth hour after installation of mallein. (9-6-61)~~

~~06. Intradermic Method. When the intradermic method of applying the mallein test is used the chart shall show first, that the first observation was made not later than eight (8) to ten (10) hours after injection of mallein; second, that the final observations have been made between the twenty fifth (25th) and thirty sixth (36th) hour after injection. (9-6-61)~~

~~07. Destroying Infected Animals. When it becomes necessary to destroy animals in order to prevent the spread of glanders, and to aid in its extermination, and an appropriation is not available therefore, the bureau is hereby authorized to dispose of the diseased animals in the following manner. The fact of the infection of this disease shall be determined as provided in these rules and when an animal is found by the officer making such test, to give what the U.S. Agricultural Research Service shall specify by its regulations to be a clearly defined reaction to such test, the diseased animals shall be slaughtered or destroyed and the carcass disposed of in the manner designated in Subsection 050.02. (9-6-61)~~

~~08. Indemnity Of Animal Value. When it becomes necessary to destroy diseased animals in order to prevent the spread of glanders, and to aid in its extermination and an appropriation is available therefore, the owners may be indemnified by this bureau, not to exceed fifty percent (50%) of the appraised value; provided, however, such animal so destroyed shall not be appraised at a greater amount than the assessed valuation of such animals for the year in which the same are destroyed. Provided further, that no payment shall be made for any horses, mules or asses destroyed in the following cases: (9-6-61)~~

~~a. Animals not on the tax assessor's rolls in the state of Idaho. (9-6-61)~~

~~b. If the owner does not clean and disinfect premises, etc., as directed by the state of Idaho Bureau of Animal Industry. (9-6-61)~~

- ~~e. For any animal destroyed where the owner has not complied with all lawful quarantine rules. (9-6-61)~~
- ~~d. Horses, mules and asses reacting to the mallein test applied by anyone other than a licensed veterinarian in the state of Idaho, in accordance with requirements of Subsections 075.04 through 075.06. (9-6-61)~~
- ~~e. Animals brought into the state in violation of state laws and rules. (9-6-61)~~
- ~~f. Animals which the owner or claimant knew to be diseased, or had notice thereof, at the time they came into his possession. (9-6-61)~~
- ~~g. Where the owner has failed to submit the necessary reports as required by the Idaho Bureau of Animal Industry. (9-6-61)~~
- ~~h. Unless full description of horses, mules and asses is furnished the department of agriculture by the assessor when making returns on animals so assessed to each owner. (9-6-61)~~
- ~~09. **Cleaning.** The Idaho Bureau of Animal Industry will have complete supervision over the work of cleaning and disinfecting. (9-6-61)~~
- ~~10. **Standard Disinfection.** A solution of not less than five percent (5%) U.S.P. strength of a recognized standard disinfectant must be used on premises where glanders have prevailed. (9-6-61)~~
- ~~11. **Cleaning Premise.** All stalls, mangers, harness, etc., sheds, corrals, etc., must be thoroughly cleaned and disinfected. (9-6-61)~~
- ~~12. **Destroying Litter.** All litter, horse matter such as manure, etc., must be destroyed by burying or burning. (9-6-61)~~
- ~~13. **Premise Quarantine.** All premises which have been used by animals found to be infected or affected with glanders, shall be placed in quarantine restricting all movements of animals as provided in Subsection 015.02 and shall not be released from such quarantine until the same have been cleaned and disinfected under the supervision of this bureau. (9-6-61)~~
0761. -- 144. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~364. **DOMESTIC CERVIDAE FARMING.**~~

~~365. **DEFINITIONS FOR DOMESTIC CERVIDAE FARMING.**~~

- ~~01. **Accredited Veterinarian.** A veterinarian approved by the Deputy Administrator of United State Department of Agriculture (USDA), Animal and Plant Health Inspection Services (APHIS), Veterinary Services (VS), and the state veterinarian in accordance with 9 C.F.R. Part 161 (January 1, 1997) to perform functions required by cooperative state federal animal disease control and eradication programs. (2-28-02)~~
- ~~02. **Adjacent Herd.** Any or all of the following: (2-28-02)~~
- ~~a. A herd of cervidae occupying premises that border a premise occupied by an affected herd, including herds separated by roads or streams; (2-28-02)~~
- ~~b. A herd of cervidae occupying premises that were previously occupied by an affected herd within the~~

- ~~past five (5) years as determined by the designated epidemiologist; (2-28-02)~~
- ~~e. Two (2) herds that are maintained on a single premise even if they are managed separately, have no commingling, and have separate herd records. (2-28-02)~~
- ~~03. **Administrator.** Administrator of the division of animal industries or his designee. (3-20-97)~~
- ~~04. **Approved Laboratory.** An American Association of Veterinary Laboratory Diagnosticians (AAVLD) accredited laboratory or a laboratory designated by the Administrator to perform the Program required Chronic Wasting Disease diagnostic procedures. Designated laboratories include Colorado State University, Wyoming State Veterinary Diagnostic Laboratory, National Veterinary Services Laboratory (NVSL), Ames, Iowa or other laboratories designated by the Administrator. (2-28-02)~~
- ~~05. **Area Veterinarian In Charge (AVIC).** The veterinary official of Veterinary Services, APHIS, United States Department of Agriculture. (2-28-02)~~
- ~~06. **Breed Associations And Registries.** Organizations maintaining permanent records of ancestry or pedigrees of animals, individual animal identification records and records of ownership. (2-28-02)~~
- ~~07. **Certificate.** An official document issued by a state or federal animal health official or an accredited veterinarian at the point of origin of a shipment of cervidae, which contains information documenting the age, sex, species, individual identification of the animals, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, the status of the animals relative to official diseases, test results and any other information required by the state animal health official for importation or translocation. (2-28-02)~~
- ~~08. **Certified Chronic Wasting Disease (CWD) Cervid Herd.** (2-28-02)~~
- ~~a. A herd of cervidae that has qualified for and has been issued a certified CWD cervid herd certificate signed by the administrator; (2-28-02)~~
- ~~b. A herd of cervidae that has qualified for and has been issued a CWD Certificate by the animal health official of the state of origin and the herd status has been approved by the administrator in writing. (2-28-02)~~
- ~~09. **Cervidae.** Deer, elk, moose, caribou, reindeer, and related species and hybrids including all members of the cervidae family and hybrids. (2-28-02)~~
- ~~10. **Cervid Dealer.** Any individual or legal entity who engages in the business of buying, selling, trading, or negotiating the transfer of Cervidae. (2-28-02)~~
- ~~11. **Cervidae Farms Or Ranches.** A location where domestic cervidae are held, raised, propagated or otherwise controlled. (3-20-97)~~
- ~~12. **Cervid Herd.** One (1) or more groups of Cervidae maintained on common ground or under common ownership or supervision that may be geographically separated but can have interchange or movement. Herds of different status may be maintained on a single premise if they are managed separately, have no commingling, or interchange, have separate working facilities, have one (1) mile physical separation, have separate herd records and there is complete disinfection using best available technology as directed by the administrator, before people or implements or vehicles move between herds. Changes in ownership of a cervid herd does not change the status of the herd or the applicable regulatory requirements. (2-28-02)~~
- ~~13. **Cervid Herd Of Origin.** A cervid herd, on any farm or other premises, where the animals were born, or where they were kept for at least one (1) year prior to date of shipment. (2-28-02)~~
- ~~14. **Commingling.** Animals having less than thirty (30) yards physical separation. (2-28-02)~~
- ~~15. **Chronic Wasting Disease (CWD).** A transmissible spongiform encephalopathy of cervids, which is a nonfebrile, transmissible, insidious, and degenerative disease affecting the central nervous system of cervidae.~~

~~CWD is a reportable disease as described in Section 25-211, Idaho Code, and is a reportable emergency disease as defined in Section 25-212, Idaho Code. CWD may cause one (1) or more of the following signs or symptoms in affected animals:~~ (2-28-02)

- ~~a. Weight loss despite retention of appetite;~~ (2-28-02)
- ~~b. Behavioral abnormalities;~~ (2-28-02)
- ~~c. Motor abnormalities including, but not limited to, incoordination;~~ (2-28-02)
- ~~d. Tremor;~~ (2-28-02)
- ~~e. Star-gazing;~~ (2-28-02)
- ~~f. Recumbency;~~ (2-28-02)
- ~~g. Drooling;~~ (2-28-02)
- ~~h. Aspiration pneumonia; or~~ (2-28-02)
- ~~i. Death.~~ (2-28-02)

~~16. **CWD Positive Cervid Herd.** A cervid herd in which any animal(s) has been diagnosed as affected with CWD, based on CWD positive laboratory results confirmed at NVSL.~~ (2-28-02)

~~17. **CWD Exposed Cervid Animal Or Herd.** A designation applied to Cervidae that are not exhibiting symptoms of CWD and are either part of a CWD positive herd, adjacent herd, or a herd from which an epidemiological investigation indicates that contact with CWD positive animals or contact with animals from a CWD positive herd has occurred in the previous five (5) years.~~ (2-28-02)

~~18. **CWD Monitored Cervid Herd.** A herd of cervidae for which the requirements of the MCCWDMP have been complied with.~~ (2-28-02)

~~19. **CWD Positive Cervid Animal.** An animal, which has had a clinical diagnosis of CWD confirmed through positive test results on any official cervid CWD test by an approved laboratory or has been declared by state or federal animal health officials to be infected with CWD based on clinical symptoms or other evidence of infection. A positive diagnosis at any approved laboratory other than NVSL must be confirmed by the NVSL.~~ (2-28-02)

~~20. **CWD Suspect Cervid Animal.** A designation applied to Cervidae for which laboratory evidence or clinical signs suggests a diagnosis of CWD, but for which laboratory results are inconclusive. The herd and the suspect animal or its carcass will be quarantined until a diagnosis is completed through laboratory testing. The owner of any suspect cervid destroyed at the direction of the administrator may be compensated in accordance with Section 25-212, Idaho Code.~~ (2-28-02)

~~21. **Department Of Agriculture.** The Idaho Department of Agriculture.~~ (3-20-97)

~~22. **Designated Epidemiologist.** A state or federal veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the state veterinarian to fulfill the epidemiology duties relative to the state CWD program.~~ (2-28-02)

~~23. **Disposal.** Any cervidae condemned, appraised, and slaughtered or destroyed by direction of the administrator in accordance with Section 25-212, Idaho Code, shall be disposed of as directed by the administrator.~~ (2-28-02)

~~24. **Division.** Division of Animal Industries.~~ (3-20-97)

~~25. **Domestic Cervidae.** Domestically raised, owned or controlled fallow deer (*Dama dama*), elk~~

- ~~(Cervus elaphus) or reindeer (Rangifer tarandus). (3-20-97)~~
- ~~26. Domestic Cervidae Licenses. (2-28-02)~~
- ~~a. Annual License. A license issued by the Division of Animal Industries, Idaho Department of Agriculture, that allows raising of domestic cervidae on a cervidae farm. (2-28-02)~~
- ~~b. Conditional Cervidae License. A temporary license, issued by the administrator for a cervidae farm which specifies corrective measures necessary to gain compliance with these rules and provide a specified time frame for compliance in order to be eligible for an annual license. (2-28-02)~~
- ~~c. Inactive Cervidae License. A license for cervidae farms that have not met the facility requirements of these rules and for those farms that do not contain cervidae. (2-28-02)~~
- ~~d. Cervid Dealer License. A license for any individual or legal entity who engages in the business of buying, selling, trading, obtaining, controlling, or negotiating the transfer of cervidae. (2-28-02)~~
- ~~27. Herd Status. Classification of a cervidae herd with regard to CWD including the Mandatory Cervid Chronic Wasting Disease Monitoring Program (MCCWDMP) or Voluntary Cervidae Chronic Wasting Disease Certification Program (VCCWDCP). The VCCWDCP herd's status and enrollment time may remain with the herd when a change of ownership, management or premises occurs, if there is no contact with cervidae of lesser status, and no previous history of CWD on the premises. The possible statuses include Monitored Category, Certified, Exposed, CWD positive, affected, trace, source, suspect, adjacent, and nonparticipating. (2-28-02)~~
- ~~28. High Risk Animal. All cervids having greater than limited contact with a CWD positive cervid. (2-28-02)~~
- ~~29. Individual Herd Plan. A written herd management agreement and testing plan approved by the administrator to identify and eradicate CWD from a positive, source, suspect, exposed, or adjacent herd. The herd plan shall be developed by the herd owner, a designated epidemiologist, the owner's accredited veterinarian, if requested, APHIS representative and state animal health official. (2-28-02)~~
- ~~30. Limited Contact. Incidental contacts between animals of different herds, in separate pens off of the herd's premises at fairs, shows, exhibitions and sales. (2-28-02)~~
- ~~31. Mandatory Cervid CWD Monitoring Program (MCCWDMP). A CWD monitoring and surveillance program requiring all owners of licensed domestic cervid herds to perform individual identification of all cervids, maintenance of records showing all cervid identification numbers, sex, age, source and disposition for all cervidae on the premises, and laboratory diagnosis at owners expense. MCCWDMP requires examination of brain tissue or other tissues as directed by the administrator, on all deaths of cervids sixteen (16) months of age or older. Where samples are not submitted for evaluation due to postmortem changes or unavailability, the administrator shall conduct an investigation to determine compliance with MCCWDMP. Owners may collect and submit samples as directed by the administrator to be in compliance with the Mandatory Chronic Cervid Wasting Disease Monitoring Program. Fallow deer and Reindeer are exempt from the requirements of this program unless part of an elk herd, or a CWD positive, exposed, trace, source, or suspect herd. (2-28-02)~~
- ~~32. Nonparticipating Herd. A herd that is not enrolled in the MCCWDMP or VCCWDCP Programs. Nonparticipating herds shall be placed and held under quarantine until the herd has qualified for and has been enrolled in either the MCCWDMP or VCCWDCP Programs. (2-28-02)~~
- ~~33. Official Cervid CWD Test. A test approved by the administrator and conducted at an approved laboratory to diagnose CWD. (2-28-02)~~
- ~~34. Official Cervid Identification. A USDA, APHIS, VS approved identification cartag that conforms to the alphanumeric National Uniform Eartagging System as defined in 9 C.F.R. Part 71.1 (January 1, 1997) or other identification device, approved by the administrator, which uniquely and permanently identifies each cervid. (2-28-02)~~

- ~~35. **Owner.** An individual, partnership, company, corporation, or other legal entity that has legal or rightful title to an animal (cervidae) or a herd of animals (cervidae). (2-28-02)~~
- ~~36. **Premises.** The ground, area, buildings, and equipment communally shared by a herd or herds of animals. (2-28-02)~~
- ~~37. **Quarantine.** An order issued on authority of the administrator by a state or federal animal health official or accredited veterinarian prohibiting movement of cervids from any location without a written restricted movement permit. (2-28-02)~~
- ~~38. **Quarantine Facility.** A confined area where selected domestic cervidae can be secured and isolated from all other cervidae and livestock. (3-20-97)~~
- ~~39. **Restricted Movement Permit.** An official document that is issued by the administrator or Area Veterinarian-in-Charge or an accredited veterinarian for movement of affected, suspect, or exposed animals. (2-28-02)~~
- ~~40. **Source Herd.** A herd from which at least one (1) cervid has originated within the previous five (5) years and that cervid has been diagnosed CWD positive. A herd will no longer be considered a source herd after it has completed the "Mandatory Cervid CWD Monitoring or Voluntary Cervid CWD Certification Program" herd plan requirements or an epidemiologic investigation determines that there is no evidence CWD infection exists and that the herd is not the source of infection as determined by the administrator. Methods for identification of a source herd include, but are not limited to, the following: (2-28-02)~~
- ~~a. DNA identification; (2-28-02)~~
- ~~b. Movement, production, or registry records; and (2-28-02)~~
- ~~c. Possessing the original ear-tag, or tamper-resistant ear-tag, or skin tattoo in ear or butt tissue, that was applied in herd of origin. (2-28-02)~~
- ~~41. **State Or Zone.** Any state or zone of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or Guam or other province or country. (2-28-02)~~
- ~~42. **State Animal Health Official.** A state or federal employee working in animal health activities who is authorized by the administrator to perform VCCWDCP and MCCWDMD duties or other CWD control duties. (2-28-02)~~
- ~~43. **State Chronic Wasting Disease Voluntary Oversight Committee.** A voluntary committee composed of seven (7) members including the administrator or his designee, two (2) accredited veterinarians appointed by the administrator, and three (3) cervidae ranchers nominated by the cervidae industry and appointed by the administrator and one (1) representative nominated by Idaho Fish & Game Director and appointed by the administrator. The oversight committee shall select its own chairman and advise the administrator regarding management of the chronic wasting disease program. (2-28-02)~~
- ~~44. **Status Date.** The date on which the administrator approves in writing a herd status change with regard to CWD. (2-28-02)~~
- ~~45. **Trace Herd.** A herd in which one (1) CWD positive animal originated within the previous five (5) years but does not meet the requirements outlined under the "Source Herd" definition. (2-28-02)~~
- ~~46. **Trace Forward.** A trace forward herd is any herd that has received high risk animals from a positive herd within thirty-six (36) months prior to the death of the positive animal. (2-28-02)~~
- ~~47. **Traceback.** The process of identifying the movements and the herd of origin of CWD positive high risk, or exposed animals, including herds that were sold for slaughter. (2-28-02)~~

~~48. **Traceback Herd.** A traceback herd is any herd where a positive animal has resided prior to death within the previous five (5) years but does not meet the requirements under the "Source Herd" definition. (2-28-02)~~

~~49. **Ungulate.** Hoofed animal. (3-20-97)~~

~~50. **Voluntary Cervid CWD Certification Program (VCCWDCP).** A voluntary CWD certification program requiring monitoring, individual identification of all cervids, maintenance of records showing all cervid identification numbers, sex, age, source, and disposition for all cervidae on the premises, and laboratory diagnosis at owners expense. The program requires examination of brain tissue or other tissues, as directed by the administrator, on all deaths of cervids sixteen (16) months of age or greater. In case of death loss where samples are not submitted for evaluation due to postmortem changes or unavailability, the administrator shall conduct an investigation to determine compliance. Owners may collect and submit samples as directed by the Administrator to be in compliance with the VCCWDCP. (2-28-02)~~

366. LICENSE AND FEES.

~~01. **Domestic Cervidae License.** No person shall possess, obtain, control, or propagate domestic cervidae in this state unless first securing a domestic cervidae license from the Division of Animal Industries. A form will be provided by the division which sets forth such reasonable information as may be required by the Administrator. The facility shall be inspected and approved by the Division prior to issuing a license. (2-28-02)~~

~~02. **Application For Cervidae License.** The application for such license shall be made prior to construction of a new facility. (2-28-02)~~

~~03. **Application Fee For Cervidae License.** The initial application shall be accompanied by a one hundred dollar (\$100) fee to cover the cost of inspections and the licensing process. An annual fifty dollar (\$50) renewal fee will be required each January 1. A license shall be valid from January 1 through December 31 of each year. (2-28-02)~~

~~04. **License For Each Cervidae Farm Or Ranch.** A valid license shall be obtained for each separate location of a cervidae farm or ranch. (2-28-02)~~

~~05. **Fee Assessed On All Domestic Cervidae.** In addition to the cervidae license, a fee, not to exceed five dollars (\$5) per head on elk or three dollars (\$3) per head on fallow deer and reindeer, is to be assessed on all domestic cervidae in the state to cover the cost of administering the program covered in these rules. This fee is due January 1 of each year. (2-28-02)~~

367. FACILITIES.

~~All domestic cervidae will be held in a secure enclosure. For the purpose of this rule, a secure enclosure is one so constructed as to prevent danger to the surrounding environment, wildlife or livestock of the state, including the escape of domestic cervidae or ingress of native wildlife ungulates. (3-20-97)~~

368. FENCING REQUIREMENTS.

~~01. **Perimeter Fence Construction.** A perimeter fence shall be constructed of high tensile, non-slip woven wire or other fencing material approved by the administrator. (2-28-02)~~

~~a. For elk and fallow deer, the fence shall be a minimum of eight (8) feet in height for its entire length. (3-20-97)~~

~~b. For reindeer, the fence shall be six (6) feet in height for its entire length. (3-20-97)~~

~~c. The top two (2) feet of each fence may be smooth, barbed or woven wire (at least twelve and one-half (12-1/2) gauge) with horizontal strands spaced not more than six (6) inches apart. Wire shall be placed on the animal side of the fence to prevent pushing the wire away from the posts. (3-20-97)~~

~~02. Fence Posts. Posts used in the perimeter fence constructed of high-tensile, non-slip woven wire shall be at least butt end treated with a commercially available preservative and have a minimum of four (4) inch top for line posts and a minimum of five (5) inch top for corner posts. Posts shall be spaced no more than twenty-four (24) feet apart, with stays, supports or braces as needed, and be placed in the ground a minimum of three (3) feet. Any deviations from these specifications shall be approved by the administrator. (2-28-02)~~

~~03. Fence Maintenance. Fences shall be maintained at all times to prevent domestic cervidae from escaping or native wildlife ungulates from entering the enclosure. If such animals do pass through, under, or over the fence because of any topographic feature or other conditions, the owner of the enclosure shall immediately repair or supplement the fence to prevent continued passage. (2-28-02)~~

~~04. Gates. Each enclosure shall have adequate gates that prohibit the escape of domestic cervidae. (2-28-02)~~

~~369. RESTRAINING SYSTEM.~~

~~Each cervidae farm shall have a system of restraining domestic cervidae for the purpose of inspection and testing of animals by division personnel. Minimum requirements include a working pen, an alley way and a restraining chute where animals can be humanely handled. The restraint facility shall be approved by the division each year as part of the relicensing process. (3-20-97)~~

~~370. QUARANTINE FACILITY.~~

~~If animals are to be imported onto the domestic cervidae farm, a quarantine facility shall be provided for holding animals until tuberculosis retesting is accomplished. (3-20-97)~~

~~371. IDENTIFICATION.~~

~~01. Identification Of All Domestic Cervidae. All domestic cervidae shall be individually and uniquely identified by two (2) of the three (3) following methods: (2-28-02)~~

~~a. Official USDA eartag or other eartag approved by the administrator. (3-20-97)~~

~~b. Ear tattoo using an alpha numeric tattoo sequence that has been recorded with the Division of Animal Industries. The tattoo shall be applied in the left ear. (3-20-97)~~

~~c. Microchip approved by the division, in cooperation with the Idaho Brand Department, with an identifying number/frequency that has been recorded with the division. (3-20-97)~~

~~02. Eartags. It is recommended that cervidae breeders place an additional visible eartag in each animal so that identification of individual animals is possible without restraint of the animal. (2-28-02)~~

~~03. All Progeny Of Domestic Cervidae Shall Be Permanently Identified. All progeny of domestic cervidae shall be permanently identified by December 31 of the year of birth or upon leaving the cervidae farm, whichever is earlier. Official identification, once assigned to an individual animal, shall not be changed or transferred to another animal. Animals that lose identification devices shall be reidentified in accordance with Subsection 371.01. (2-28-02)~~

~~372. DISEASE CONTROL AND GENETICS.~~

~~01. Incorporated Documents. "Bovine Tuberculosis Eradication, Uniform Methods and Rules", Effective January 22, 1999, as amended, and "Brucellosis in Cervidae", effective September 30, 1998, as amended, both of which methods and rules are hereby incorporated by reference will be used as the standards for tuberculosis and brucellosis eradication in domestic cervidae. Copies of the methods and rules are on file at the division of animal industry offices located at 2270 Old Penitentiary Road, Boise, Idaho. (2-28-02)~~

~~02. Testing Of Domestic Cervidae. The administrator may require, when sufficient risk exists, that domestic cervidae in the state be tested for brucellosis (Brucella abortus or Brucella suis), tuberculosis~~

~~(Mycobacterium bovis), meningeal worm (Parelaphostrongylus tenuis) or muscle worm (Elaphostrongylus cervus), CWD and/or for other diseases or parasites determined to pose a risk to other domestic cervidae, livestock or wildlife. The administrator shall determine appropriate testing procedures and methods. (2-28-02)~~

~~03. **Red Deer Genetic Influence.** Any animals identified as having red deer genetic influence shall be destroyed, removed from the state, or neutered. (2-28-02)~~

~~373. **REPORTING:**~~

~~01. **Annual Report.** A person possessing domestic cervidae shall submit a completed annual report of all animals held, no later than December 31 of each year, on a form provided by the division. Such annual report is required for yearly license renewal. (2-28-02)~~

~~02. **Change Of Address.** Persons possessing domestic cervidae shall notify the Division of Animal Industries within thirty (30) days of any change of address and/or location of the domestic cervidae farm. (2-28-02)~~

~~03. **Escape Of Domestic Cervidae.** Whenever any domestic cervidae escape from a domestic cervidae farm, the owner, manager or caretaker shall notify the division immediately. The division shall then be responsible to notify the Department of Fish and Game of such escape. The division or its designee may dispose of domestic cervidae that have escaped the owner's control in order to insure the health and genetic purity of Idaho's wild ungulate populations. (2-28-02)~~

~~04. **Death Of Domestic Cervidae.** The death of a domestic cervidae over one (1) year of age shall be reported to the division within twenty four (24) hours of such death, excluding slaughter animals. (2-28-02)~~

~~374. **INSPECTION:**~~

~~01. **Domestic Cervidae Located In The State.** All domestic cervidae located in the state and records related thereto, are subject to inspection for compliance with the provisions of this section. (2-28-02)~~

~~02. **Inspections Conducted At Reasonable Times.** Such inspections shall be conducted at reasonable times and locations, with the owner or the owner's representative present. (2-28-02)~~

~~375. **NOTIFICATION AND DISPOSITION OF DISEASED ANIMALS:**~~

~~01. **Notification Of Division Of Domestic Cervidae Exposure To Disease.** Any owner, caretaker, or dealers in domestic cervidae, and any veterinarian practicing in the state, and any lab conducting cervidae testing who has reason to believe that domestic cervidae are exposed to a dangerous or reportable disease or parasite shall notify the Division immediately. The Administrator may order inspection, quarantine, examination or testing of such animals by a licensed accredited veterinarian, or representative of the division. (2-28-02)~~

~~02. **Issuance Of Order For Testing, Treatment, Quarantine, or Disposal Of Domestic Cervidae.** The administrator shall determine when testing, treatment, quarantine, or disposal of domestic cervidae is required at any domestic cervidae farm or ranch, pursuant to Idaho Code, Title 25, Chapters 2, 3, 4, 6 and [37] 35. If the administrator determines that testing, treatment, quarantine, or disposal of domestic cervidae or disinfection or sterilization of facilities is required, a written order shall be issued to the owner describing the procedure to be followed and the time period for carrying out such actions. (2-28-02)~~

~~376. **UNLAWFULLY POSSESSED CERVIDAE:**~~

~~01. **Unlawfully Possessed Domestic Cervidae.** The department may seize, require removal from the state, or require disposal of any unlawfully possessed domestic cervidae. (2-28-02)~~

~~02. **Reindeer.** Reindeer shall not be owned, possessed, propagated or held in the state north of the Salmon River in order to protect the wild caribou herd in northern Idaho. (3-20-97)~~

377. ~~IMPORTED DOMESTIC CERVIDAE.~~

~~01. **Inspection And Certification Of Domestic Cervidae.** Domestic cervidae may enter the state of Idaho provided that they are accompanied by a Certificate of Veterinary Inspection attesting to the fact that they have been inspected within thirty (30) days of date of shipment, that they are free from evidence of infectious, contagious, or communicable diseases, or known exposure thereto during the preceding sixty (60) days and that they meet the following requirements:~~ (2-28-02)

~~a. The animals must have tested negative for brucellosis if six (6) months of age or older, by at least two (2) types of official brucellosis tests, one (1) of which shall be the rivanol, the PCFIA or the CITE test, within thirty (30) days prior to entry; and~~ (2-28-02)

~~b. If animals originate from an accredited herd in an accredited free state or zone, a modified accredited advanced state or zone, or a modified accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, they may be imported without further tuberculosis testing provided that they are accompanied by a certificate stating that such domestic cervidae originated from an accredited herd; or~~ (2-28-02)

~~c. If the animals originate in an accredited free state or zone, as defined by USDA in Title 9, Part 77, CFR, they may be imported without tuberculosis testing provided that they are accompanied by a certificate stating that such domestic cervidae originated from an accredited free state or zone; or~~ (2-28-02)

~~d. If the animals originate in a modified accredited advanced state or zone, as defined by USDA in Title 9, Part 77, CFR, they may be imported if they are not known to be infected with or exposed to tuberculosis and have been subjected to an official tuberculosis test, with negative results, within ninety (90) days of entry into Idaho, and are accompanied by a certificate stating such, or the domestic cervidae are consigned directly to an approved slaughter establishment for immediate slaughter; or~~ (2-28-02)

~~e. If the animals originate in a modified accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, they may be imported if they are not known to be infected with or exposed to tuberculosis and have been subjected to two (2) official tuberculosis tests, with negative results and which have been conducted at least ninety (90) days and not more than six (6) months apart, the second test of which was conducted not more than ninety (90) days prior to entry into Idaho, or the domestic cervidae are consigned directly to an approved slaughter establishment for immediate slaughter; or~~ (2-28-02)

~~f. If the animals originate in an accredited preparatory state or zone, as defined by USDA in Title 9, Part 77, CFR, are not known to be infected with or exposed to tuberculosis, the animals being imported must meet one (1) of the following conditions:~~ (2-28-02)

~~i. The animals are from an accredited free herd and have been subjected to an official tuberculosis test, with negative results, within ninety (90) days of importation; or~~ (2-28-02)

~~ii. The animals have been subjected to an official whole herd test conducted within twelve (12) months of the date of importation and have been subjected to two (2) additional official tuberculosis tests, with negative results, which have been conducted at least ninety (90) days and no more than six (6) months apart, the second test of which was conducted within ninety (90) days prior to the date of importation; or~~ (2-28-02)

~~g. If the animals originate in a non accredited state or zone, as defined by USDA in Title 9, Part 77, CFR, they may only be imported into Idaho under a permit issued by the administrator and under such conditions that the administrator may impose at the time the permit is issued; or~~ (2-28-02)

~~h. If animals originate from a qualified herd, in an accredited free state or zone or a modified accredited advanced state or zone, they may be imported if accompanied by a certificate stating that such domestic cervidae originated from a qualified herd and have been classified negative to an official tuberculosis test that was conducted within ninety (90) days prior to the movement date. If the qualifying test was administered within ninety (90) days of movement, the animals to be moved do not require an additional test. If the qualified herd is located in a modified accredited state or zone, an accredited preparatory state or zone, or a non accredited state or zone, the animals shall be tested as indicated in Subsections 377.01.e. through 377.01.g., respectively, in this section; or~~

(2-28-02)

~~i.~~ If animals originate from a monitored herd in an accredited free state or zone or a modified accredited advanced state or zone, they may be imported if accompanied by a certificate stating that such domestic cervidae originated from a monitored herd and have been classified negative to an official tuberculosis test that was conducted within ninety (90) days prior to the date of movement. If the monitored herd originates in a modified accredited state or zone, an accredited preparatory state or zone or a nonaccredited state or zone, the animals shall meet the requirements provided in Subsections 377.01.e. through 377.01.g., respectively, in this section. (2-28-02)

~~j.~~ Elk shall be tested negative for red deer genetic factor by a lab approved by the Division of Animal Industries; and (3-20-97)

~~k.~~ Be from a region not known to be endemic with *Parelaphostrongylus tenuis* (meningeal worm), as reported by the Southeastern Cooperative Wildlife Disease Study; and (3-20-97)

~~l.~~ Be individually identified, by an official USDA identification tag or microchip, on a Certificate of Veterinary Inspection issued by the veterinarian who conducted the tests, and one (1) of the following notices shall appear on the certificate of veterinary inspection: (2-28-02)

i. "These cervidae originate from a herd in which they have resided for at least one (1) year or into which they were born and none of the cervidae identified on this certificate are from a CWD exposed, suspect, affected, source, positive, pending, trace or adjacent herd. There has been no diagnosis, signs, or epidemiological evidence of CWD in this herd. The herd of origin has been in a CWD monitoring program for the past year on January 1, 2002, for the past two (2) years on January 1, 2003, and for the past three (3) years from January 1, 2004, as certified by the State animal health official Records and causes of death for the past five (5) years in this herd shall be made available to the State animal health official"; or (2-28-02)

ii. "These cervidae originate from a herd which has been determined to have certified CWD cervid herd status by the animal health official of the state of origin. Records and causes of death for the past five (5) years in this herd shall be made available to the State animal health official." (2-28-02)

~~m.~~ Be destined for a domestic cervidae farm currently licensed by the division; and (3-20-97)

~~n.~~ Enter on an import permit issued by the Idaho Division of Animal Industries. (3-20-97)

~~02. Movement Of Cervidae Between Accredited American Zoological Association (AZA) Facilities. Movement of cervidae between accredited AZA facilities is exempt from the tuberculosis testing requirements of this rule. All other movement from AZA accredited facilities shall comply with the tuberculosis requirements. (2-28-02)~~

~~378. INTRASTATE MOVEMENT OF DOMESTIC CERVIDAE.~~

~~01. Movement Of Domestic Cervidae From One Premise To Another. All live domestic cervidae six (6) months of age or older moving from one (1) premise to another premise within the state of Idaho, except those consigned directly to an approved slaughter facility, shall be accompanied by an official negative test for tuberculosis conducted within the last ninety (90) days or written permission from the administrator. Animals originating from an accredited, qualified or monitored herds, as described in "Bovine Tuberculosis Eradication, Uniform Methods and Rules", effective January 22, 1999, as amended, shall be exempted from test requirements, if they are accompanied by a certificate signed by an accredited veterinarian or the administrator stating such domestic cervidae have originated directly from such herd; and (2-28-02)~~

~~02. Intrastate Movement Of Domestic Cervidae. All intrastate movements of cervidae in the MCCWDMP and the VCCWDMP shall be accompanied by an intrastate movement certificate which shall be provided by the Division of Animal Industry, and which is signed by the consignor and consignee of the cervidae. (2-28-02)~~

~~03. Intrastate Movement Certificate. The intrastate movement certificate shall include the following: (2-28-02)~~

- ~~a. Consignor's name, address, phone number; (2-28-02)~~
- ~~b. Consignee's name, address, phone number; (2-28-02)~~
- ~~c. Individual animal identification and premise identification numbers; (2-28-02)~~
- ~~d. Age, sex and species of the animal(s); and (2-28-02)~~
- ~~e. One (1) of the following notices shall appear on the certificate of veterinary inspection: (2-28-02)~~
 - ~~i. "These cervidae originate from a herd in which they have resided for at least one (1) year or into which they were born and none of the cervidae identified on this certificate are from a CWD exposed, suspect, affected, source, positive, pending, trace or adjacent herd. There has been no diagnosis, signs, or epidemiological evidence of CWD in this herd. The herd of origin must be in a CWD monitoring program for the past year on January 1, 2002, for the past two (2) years on January 1, 2003, and for the past three (3) years from January 1, 2004, as certified by the State animal health official. Records and causes of death for the past five (5) years in this herd shall be made available to the State animal health official"; or (2-28-02)~~
 - ~~ii. "These cervidae originate from a herd which has been determined to have certified CWD cervid herd status by the State animal health official. Records and causes of death for the past five (5) years in this herd shall be made available to the State animal health official." (2-28-02)~~
- ~~f. The intrastate movement certificate shall be mailed to the Division of Animal Industry within five (5) business days of date of shipment. (2-28-02)~~

~~379.—383. (RESERVED).~~

~~384. SUPERVISION OF THE CERVIDAE CWD PROGRAMS.~~

~~The Administrator shall provide routine supervision of the Cervidae CWD programs. The Administrator shall meet at least annually with the State Chronic Wasting Disease Oversight Committee regarding management of the Cervidae CWD programs. (2-28-02)~~

~~385. SURVEILLANCE PROCEDURES FOR THE MCCWDMP AND VCCWDCP.~~

~~01. MCCWDMP Surveillance Procedures. MCCWDMP Surveillance procedures shall include the following: (2-28-02)~~

~~a. Cervid Slaughter Surveillance. Brain or other tissues from one hundred percent (100%) of all cervidae sixteen (16) months or older that are slaughtered, and not less than ninety percent (90%) of all cervidae killed during hunts shall be submitted to official laboratories and tested or examined for CWD, as provided for in these rules. (2-28-02)~~

~~b. Cervid Herd Surveillance. Surveillance for CWD as defined by examination of brain tissue or other tissues as directed by the Administrator, on all deaths of cervids sixteen (16) months of age or older must be maintained for all cervid herds. Reindeer and fallow deer are exempt from this program unless part of a CWD positive, exposed, trace, source or suspect herd or part of an elk herd. (2-28-02)~~

~~c. Annual Inspection. Annual inspection, verification of individual animal identification, herd inventory records, movement records by a representative of the Division of Animal Industry. (2-28-02)~~

~~02. VCCWDCP Surveillance Procedures. VCCWDCP Surveillance procedures shall include the following: (2-28-02)~~

~~a. Surveillance for CWD as defined by examination of brain tissue or other tissues as directed by the Administrator, on all deaths of cervids sixteen (16) months of age or greater must be maintained for all cervid herds. (2-28-02)~~

~~b. Annual inspection, verification of individual animal identification, herd inventory records, movement records by a representative of the Division of Animal Industry. (2-28-02)~~

~~e. Surveillance at one hundred percent (100%) level shall continue until certification is granted by the Administrator, at which time the level of surveillance testing in CWD certified herds may be reduced upon the recommendation of the CWD Advisory Committee and with approval of the administrator. (2-28-02)~~

~~386. OFFICIAL CERVID CWD TESTS. Official cervid tests for CWD include: (2-28-02)~~

~~01. Histopathology; (2-28-02)~~

~~02. Immunohistochemistry; (2-28-02)~~

~~03. Western Blot; (2-28-02)~~

~~04. Negative Stain Electron Microscopy; (2-28-02)~~

~~05. Bioassay; and (2-28-02)~~

~~06. Any Other Scientifically Validated Test. Any other scientifically validated laboratory or diagnostic test approved by the Administrator to confirm a diagnosis of CWD. (2-28-02)~~

~~387. INVESTIGATION OF CERVID CWD AFFECTED ANIMALS.~~

~~01. Traceback. Traceback and traceforward investigations shall be performed for all animals diagnosed as affected with CWD as provided in Subsections 365.46 and 365.47. An epidemiological investigation shall be conducted on all herds of origin, all adjacent herds, all exposed animals or herds, all CWD suspect animals, and all trace herds as determined by the administrator. All herds of origin, adjacent herds, and herds having contact with positive or exposed animals shall be quarantined. (2-28-02)~~

~~02. Quarantine Of CWD Positive Herds And Herds Not Participating In The CWD Certification Program. Nonparticipating herds, CWD positive herds, source and trace herds, suspect herds, exposed animals or herds, or herds that have received high risk animals shall be placed and held under quarantine until the affected or infected or high risk animals have been slaughtered or depopulated in accordance with Section 25-212, Idaho Code, and the owner has developed an individual herd plan and the herd has qualified for and has been enrolled in the MCCWDMD or the YCCWDPCP. Premises containing CWD positive herds that are not depopulated shall have double exterior fencing with a minimum of six (6) feet spacing between the exterior fences. Positive herds not participating in the monitoring or certification program shall remain under quarantine until the entire herd has been depopulated in accordance with Section 25-212, Idaho Code. (2-28-02)~~

~~388. DURATION OF QUARANTINE. Quarantines imposed in accordance with this chapter shall remain in effect until one (1) of the following criteria is met: (2-28-02)~~

~~01. Source Herds And Herds Of Origin. The quarantine may be released after a minimum of five (5) years of compliance with all provisions of these rules, during which there was no evidence of CWD or an epidemiologic investigation determines that there is no evidence CWD exists in the herd and that the herd is not the source of infection as determined by the administrator. (2-28-02)~~

~~02. Herds Having Contact With Affected Or Exposed Animals. The quarantine may be released after a minimum of five (5) years of compliance with all provisions of these rules and during which there was no evidence of CWD or an epidemiologic investigation determines that there is no evidence CWD exists in the herd and that the herd is not the source of infection as determined by the administrator. (2-28-02)~~

~~03. Adjacent Herds. As directed by the Administrator in consultation with the epidemiologist.~~

- ~~(2-28-02)~~
- ~~04. **Quarantine May Be Released After Complete Depopulation.** The quarantine may be released after:~~
- ~~after:~~
- ~~Code;~~
- ~~a. Complete depopulation of all cervidae on the premises in accordance with Section 25-212, Idaho Code;~~
- ~~b. The soil and facilities have been treated or disinfected as recommended by the administrator; and~~
- ~~c. The premises is repopulated in complete compliance with the MCCWDMP.~~
- ~~d. The premises has been free of all ungulates for at least one (1) year and cervidae for at least five (5) years;~~
- ~~(2-28-02)~~
~~(2-28-02)~~
~~(2-28-02)~~
~~(2-28-02)~~
~~(5-15-02)F~~
- ~~05. **Nonparticipating Herds.** Nonparticipating herds will be placed and held under quarantine until the herd has qualified for and has been enrolled in either the MCCWDMP or VCCWDMP for five years.~~

~~389. **DECLARATION OF EMERGENCY AND DEPOPULATION OF AFFECTED HERDS.**~~

~~01. **Declaration Of An Emergency.** The Director is authorized to declare CWD a disease which constitutes an emergency.~~

~~02. **Condemnation Of Animals.** In the event that the Director determines that an emergency exists, animals that are found to be infected, or affected with, or exposed to CWD may be condemned. Animals condemned shall be handled as provided by Section 25-212, Idaho Code.~~

~~03. **Notification Of Administrator.** Every owner of cervidae and every breeder or dealer in cervidae and anyone bringing cervidae into this state who observes the appearance of, or symptoms of any disease or diseases, or who has knowledge of exposure of the cervidae to diseases as herein set forth among the cervidae, livestock or other animals owned by him or under his care, shall give immediate notice, by telephone or facsimile to the Administrator, of the facts discovered by him of the aforesaid. Any owner of cervidae who fails to make report as herein provided shall forfeit all claims for indemnity for animals condemned and slaughtered or destroyed on account of CWD.~~

~~390. **HERD PLAN.**~~

~~The owner (of any CWD exposed, CWD suspect, CWD Positive, CWD affected, CWD source, CWD trace, high risk or CWD adjacent herd that is not depopulated as described in Subsection 388.04, a designated epidemiologist, the owner's accredited veterinarian, if requested, APHIS Representative and state animal health official shall develop a plan for monitoring and eradication of CWD in each affected, exposed, suspect, source, trace or adjacent herd. The plan must be designed to reduce and eliminate CWD from the herd, to prevent spread of the disease to other herds, and to prevent reintroduction of CWD after the herd becomes a certified CWD cervid herd. The herd plan shall be developed and signed within sixty (60) days after completion of the epidemiological evaluation of the herd. The herd plan shall address herd management and adherence to all provisions of this chapter. The plan shall be formalized as a memorandum of agreement between the owner and program officials, shall be approved by the administrator, and shall include plans to obtain certified CWD cervid herd status.~~

~~391. **IDENTIFICATION AND DISPOSAL REQUIREMENTS.**~~

~~Positive, high risk, suspect and exposed animals shall be identified and remain on the premises where they are found until they are identified and disposed of at the direction of the administrator in accordance with Section 25-212, Idaho Code.~~

~~392. **CLEANING AND DISINFECTION.**~~

~~Premises shall be cleaned and disinfected under state or federal supervision as directed by the administrator within fifteen (15) days after CWD positive, high risk, suspect animals have been removed.~~

~~393.—398. (RESERVED).~~

~~399. METHODS FOR OBTAINING CERTIFIED CWD CERVID HERD STATUS.~~

~~Certified CWD cervid herd status shall include all cervidae under common ownership. A herd, or herds, shall not be commingled with other cervids that are not certified or are of lesser CWD program status. To qualify a certified CWD cervid herd for status, as a certified CWD cervid herd, the owner shall apply to the administrator, comply with all requirements of the VCCWDCP, and document that the herd has no evidence of CWD. The administrator shall determine the herd certification status. (2-28-02)~~

~~01. Purchasing A Certified CWD Cervid Herd. Upon request, and with proof of purchase, the Administrator may issue a new VCCWDCP certificate in the new owner's name. The VCCWDCP status date shall remain the same, and if part or all of the purchased herd is moved directly to premises that have no other cervidae or history of CWD, the herd may retain certified CWD status. The VCCWDCP status date of the new herd is the date of the most recent herd VCCWDCP certification status certificate. (2-28-02)~~

~~02. Complete Requirements For Certification. Upon request and with proof by records, a herd may achieve a certified CWD cervid herd status by the herd owner complying with the VCCWDCP as defined in these rules and documenting the herd does not exhibit evidence of CWD for a period of at least five (5) years. (2-28-02)~~

~~400. RE-CERTIFICATION OF CWD CERVID HERDS.~~

~~Herd certification is valid for twelve (12) months so long as the certification requirements are met. For continuous certification, adherence to the provisions in these rules and all other state laws and rules pertaining to cervids is required. A herd's certification status is immediately terminated and a herd investigation shall be initiated if CWD affected or exposed animals are determined to be in or from the herd. (2-28-02)~~

~~401. MOVEMENT INTO A CERTIFIED CWD CERVID HERD.~~

~~01. Imported Cervids. To achieve or maintain certified CWD cervid herd status only animals from herds of equal or higher status in the CWD program may be imported. (2-28-02)~~

~~02. Animals Originating From Certified CWD Cervid Herds. Animals originating from certified CWD cervid herds may move into another certified CWD cervid herd without affecting the status of the destination herd. (2-28-02)~~

~~03. Animals Originating From Non-Certified CWD Cervid Herds. Animals originating from non-certified CWD cervid herds and moved into certified CWD cervid herds will reduce the status of the destination herd to that of the herd of origin. (2-28-02)~~

~~402. MOVEMENT INTO A MONITORED CWD CERVID HERD.~~

~~01. Animals Originating From A Monitored CWD Cervid Herd. Animals originating from a monitored CWD cervid herd may move into another monitored CWD cervid herd of the same status with no change in status for the destination herd. (2-28-02)~~

~~02. Certified CWD Cervid Herd Moving Into A Monitored Cervid Herd. Animals originating from a certified CWD cervid herd moving into a monitored cervid herd or other herd assume the status of the destination herd. (2-28-02)~~

~~403. RECOGNITION OF MONITORED CWD CERVID HERDS.~~

~~Herds that meet or exceed the surveillance, recordkeeping, and herd inspection requirements of these rules may be granted monitored herd status by the administrator. The administrator shall issue a monitored CWD cervid herd certificate indicating the number of years of CWD monitoring. (2-28-02)~~

~~404. RECOGNITION OF CERTIFIED CWD CERVID HERDS.~~

~~Herds that meet or exceed the surveillance, recordkeeping, and herd inspection requirements of these rules may be granted certified herd status by the administrator. The administrator shall issue a certified CWD cervid herd certificate when the herd first qualifies and the owner has made application for certification. For re-certification, the~~

~~administrator shall issue a renewal certificate annually so long as the herd continues to meet all the certification requirements. (2-28-02)~~

~~405. PENALTY FOR VIOLATIONS.~~

~~Pursuant to the provisions of Title 25, Section 3706, Idaho Code, the following penalties are authorized: (2-28-02)~~

~~**01. Civil Penalty.** Any person violating the provisions of Title 25, Chapters 2, 3, 4, and 6, Idaho Code, applicable to domestic cervidae, or these rules may be assessed a civil penalty by the department or its duly authorized agent not to exceed five thousand dollars (\$5,000) for each offense. (5-15-02)F~~

~~**a.** Civil penalties may be assessed in conjunction with any other department administrative action. No civil penalty may be assessed against a person unless the person was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act as set forth in Chapter 52, Title 67, Idaho Code. If the department is unable to collect an assessed civil penalty, or if a person fails to pay all or a set portion of an assessed civil penalty as determined by the department, the department may file an action to recover the civil penalty in the district court of the county in which the violation is alleged to have occurred. In addition to the assessed penalty, the department shall be entitled to recover reasonable attorney's fees and costs incurred in such action or on appeal from such action. (5-15-02)F~~

~~**b.** A person against whom the department has assessed a civil penalty under these rules may, within thirty (30) days of the final agency action making the assessment, appeal the assessment to the district court of the county in which the violation is alleged to have occurred. (5-15-02)F~~

~~**c.** Moneys collected pursuant to these rules shall be deposited in the state treasury and credited to the livestock disease control and T.B. indemnity fund. (5-15-02)F~~

~~**d.** The imposition or computation of monetary penalties shall take into account the seriousness of the violation, good faith efforts to comply with the law, the economic impact of the penalty on the violator and such other matters as justice requires. (5-15-02)F~~

~~**02. Criminal Penalty.** Any person, firm, or corporation violating any of the provisions of Title 25, Chapters 2, 3, 4, and 6 or [37] 35, Idaho Code, applicable to domestic cervidae, or these rules shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine of not less than one hundred dollars (\$100) and not more than five thousand dollars (\$5,000) for each offense. (2-28-02)~~

~~**03. Minor Violations.** Nothing in these rules shall be construed as requiring the director to report minor violations when the director believes that the public interest will be best served by suitable warnings or other administrative action. (2-28-02)~~

~~406351. -- 999. (RESERVED).~~

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE
DOCKET NO. 02-0419-0201 (FEE RULE)
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rules is September 15, 2002.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 25-[3504] 3704, Idaho Code.

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

September 11, 2002, 7 p.m.
College of Southern Idaho
315 Falls Ave
Twin Falls, ID 83303

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

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

This temporary and proposed rule updates and amends the domestic Cervidae rules that were removed from IDAPA 02.04.03 and adopted into this new chapter. Changes account for new and varied disease control issues.

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

The rule is necessary to protect the public health, safety or welfare and it confers a benefit.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Pursuant to Section 25-[3708] 3508, Idaho Code, a fee of \$5 per head (\$3 for fallow deer and reindeer), will be assessed on domestic cervidae ranches and feedlots to cover the cost of administering this program.

NEGOTIATED RULEMAKING: Negotiated rulemaking was conducted with an advisory committee comprised of persons having an interest in domestic cervidae.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2002.

DATED this 18th day of July, 2002.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0419-0201

IDAPA 02
TITLE 04
Chapter 19

02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 25, Chapters 2, 3, 4, 6, and [37] 35, Idaho Code. (9-15-02)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing Domestic Cervidae". (9-15-02)T

02. Scope. These rules shall govern procedures for the detection, prevention, control and eradication of diseases among domestic cervidae, and facilities, record keeping, and reporting requirements of domestic cervidae ranches. The official citation of this chapter is IDAPA 02.04.19.000 et.seq. For example, this Section's citation is IDAPA 02.04.19.001. (9-15-02)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (9-15-02)T

003. ADMINISTRATIVE APPEAL.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (9-15-02)T

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference and copies of these documents may be obtained from the Idaho State Department of Agriculture central office and the State Law Library. (9-15-02)T

01. Bovine Tuberculosis Eradication, Uniform Methods and Rules, Effective January 22, 1999. (9-15-02)T

02. Code Of Federal Regulations, Title 9, Part 161, January 1, 2002. (9-15-02)T

03. Code Of Federal Regulations, Title 9, Part 55, February 5, 2002. (9-15-02)T

04. Code Of Federal Regulations, Title 9, Subchapter A, Part 1 and 2, February 5, 2002. (9-15-02)T

005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.

01. Physical Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (9-15-02)T

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (9-15-02)T

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (9-15-02)T

04. Telephone Number. The telephone number of the Division of Animal Industries at the central

office is (208) 332-8540.

(9-15-02)T

05. Fax Number. The fax number of the Division of Animal Industries at the central office is (208) 334-4062.

(9-15-02)T

006. IDAHO PUBLIC RECORDS ACT.

These rules are public records and are available for inspection and copying at the ISDA central office and the State Law Library.

(9-15-02)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Accredited Veterinarian. A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with Title 9, Part 161, CFR, January 1, 2002, to perform functions required by cooperative state-federal animal disease control and eradication programs.

(9-15-02)T

02. Administrator. Administrator of the Division of Animal Industries or his designee.

(9-15-02)T

03. Approved Laboratory. NVSL, an AAVLD accredited laboratory that is qualified to perform CWD diagnostic procedures, or a laboratory designated by the Administrator to perform CWD diagnostic procedures.

(9-15-02)T

04. Approved Slaughter Establishment. A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors.

(9-15-02)T

05. Area Veterinarian In Charge. The USDA/APHIS/VS veterinary official who is assigned to supervise and perform official animal health activities in Idaho.

(9-15-02)T

06. Breed Associations And Registries. Organizations maintaining permanent records of ancestry or pedigrees of animals, individual animal identification records and records of ownership.

(9-15-02)T

07. Certificate. An official document issued by a state or federal animal health official or an accredited veterinarian at the point of origin of a shipment of cervidae, which contains information documenting the age, sex, species, individual identification of the animals, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, the status of the animals relative to official diseases, test results and any other information required by the state animal health official for importation or translocation.

(9-15-02)T

08. Cervid Herd. One (1) or more domestic cervidae or groups of domestic cervidae maintained on common ground or under common ownership or supervision that may be geographically separated but can have interchange or movement.

(9-15-02)T

09. Cervidae. Deer, elk, moose, caribou, reindeer, and related species and hybrids including all members of the cervidae family and hybrids.

(9-15-02)T

10. Chronic Wasting Disease. A transmissible spongiform encephalopathy of cervids, which is a nonfebrile, transmissible, insidious, and degenerative disease affecting the central nervous system of cervidae.

(9-15-02)T

11. Commingling. Within the last five (5) years, the animals have had direct contact with each other, had less than thirty (30) feet of physical separation, or shared management equipment, pasture, or surface water sources, except for periods of less than forty-eight (48) hours at sales or auctions when a state or federal animal health official has determined such contact presents minimal risk of CWD transmission.

(9-15-02)T

12. Custom Exempt Slaughter Establishment. A slaughter establishment that is subject to facility inspection by USDA, but which does not have ante-mortem and post-mortem inspection of animals by USDA inspectors.

(9-15-02)T

- 13. CWD-Adjacent Herd.** A herd of domestic cervidae occupying premises that border a premise occupied by a CWD positive herd, including herds separated by roads or streams. (9-15-02)T
- 14. CWD-Exposed Animal.** A cervid animal that is not exhibiting any signs of CWD, but has had contact within the last five (5) years with cervids from a CWD-positive herd or the animal is a member of a CWD-exposed herd. (9-15-02)T
- 15. CWD-Exposed Herd.** A herd of cervidae in which no animals are exhibiting signs of CWD, but:
- a.** An epidemiological investigation indicates that contact with CWD positive animals or contact with animals from a CWD positive herd has occurred in the previous five (5) years; or (9-15-02)T
 - b.** A herd of cervidae occupying premises that were previously occupied by a CWD positive herd within the past five (5) years as determined by the designated epidemiologist; or (9-15-02)T
 - c.** Two (2) herds that are maintained on a single premise even if they are managed separately, have no commingling, and have separate herd records. (9-15-02)T
- 16. CWD-Positive Cervid.** A domestic cervid on which a diagnosis of CWD has been confirmed through positive test results on any official cervid CWD test by an approved laboratory. (9-15-02)T
- 17. CWD-Positive Herd.** A domestic cervidae herd in which any animal(s) has been diagnosed with CWD, based on positive laboratory results, from an approved laboratory. (9-15-02)T
- 18. CWD-Suspect Cervid.** A domestic cervid for which laboratory evidence or clinical signs suggests a diagnosis of CWD. (9-15-02)T
- 19. CWD-Suspect Herd.** A domestic cervidae herd in which any animal(s) has been determined to be a CWD-suspect. (9-15-02)T
- 20. Department.** The Idaho State Department of Agriculture. (9-15-02)T
- 21. Death Certificate.** A form provided by the Division for the reporting of cervidae deaths and for reporting sample submission for CWD testing. (9-15-02)T
- 22. Designated Epidemiologist.** A state or federal veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the Administrator to fulfill the epidemiology duties relative to the state domestic cervidae disease control program. (9-15-02)T
- 23. Director.** The Director of the Idaho State Department of Agriculture, or his designee. (9-15-02)T
- 24. Disposal.** Final disposition of dead cervidae. (9-15-02)T
- 25. Division.** Idaho State Department of Agriculture, Division of Animal Industries. (9-15-02)T
- 26. Domestic Cervidae.** Fallow deer (*Dama dama*), elk (*Cervus elaphus*) or reindeer (*Rangifer tarandus*) owned by a person. (9-15-02)T
- 27. Domestic Cervidae Approved Feedlot.** A domestic cervidae ranch, which is a confined dry-lot area, where selected domestic cervidae can be secured and isolated from all other domestic and wild cervidae and livestock for the purpose of feeding for slaughter only with no provisions for grazing. (9-15-02)T
- 28. Domestic Cervidae Ranch.** A premise where domestic cervidae are held or kept, including multiple premises under common ownership. (9-15-02)T

29. **Escape.** Any domestic cervidae located outside the perimeter fence of a domestic cervidae ranch and not under the immediate control of the owner or operator of the domestic cervidae ranch. (9-15-02)T
30. **Federal Animal Health Official.** An employee of USDA, APHIS, VS who is authorized to perform animal health activities. (9-15-02)T
31. **Herd Of Origin.** A cervid herd, on any domestic cervidae ranch or other premise, where the animals were born, or where they were kept for at least one (1) year prior to date of shipment. (9-15-02)T
32. **Herd Status.** Classification of a cervidae herd with regard to CWD. (9-15-02)T
33. **Intrastate Movement Certificate.** A form approved by the Administrator, and available from the Division, to document the movement of domestic cervidae between premises within Idaho. (9-15-02)T
34. **Individual Herd Plan.** A written herd management agreement and testing plan developed by the herd owner and approved by the Administrator to identify and eradicate CWD from a positive, source, suspect, exposed, or adjacent herd. (9-15-02)T
35. **Limited Contact.** Incidental contact between animals of different herds in separate pens off of the herd's premises at fairs, shows, exhibitions and sales. (9-15-02)T
36. **Official CWD Test.** A test approved by the Administrator and conducted at an approved laboratory to diagnose CWD. (9-15-02)T
37. **Official Identification.** Identification, approved by the Administrator, that individually, uniquely, and permanently identifies each cervid. (9-15-02)T
38. **Operator.** A person who has authority to manage or direct a domestic cervidae ranch. (9-15-02)T
39. **Owner.** The person that has legal title to, or has financial control of, any domestic cervidae or domestic cervidae ranch (9-15-02)T
40. **Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (9-15-02)T
41. **Premises.** The ground, area, buildings, and equipment utilized to raise, propagate, control, or harvest domestic cervidae. (9-15-02)T
42. **Quarantine.** An order issued on authority of the Administrator, by a state or federal animal health official or accredited veterinarian, prohibiting movement of cervids from any location without a written restricted movement permit. (9-15-02)T
43. **Quarantine Facility.** A confined area where selected domestic cervidae can be secured and isolated from all other cervidae and livestock. (9-15-02)T
44. **Reidentification.** The identification of a domestic cervid which had been officially identified, as provided by this chapter, but which has lost the official identification device, or the tattoo or official identification device has become illegible. (9-15-02)T
45. **Restrain.** The immobilization of domestic cervidae in a chute, other device, or by other means for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (9-15-02)T
46. **Restricted Movement Permit.** An official document that is issued by the Administrator, AVIC, or an accredited veterinarian for movement of animals from positive, suspect, or exposed herds. (9-15-02)T
47. **Source Herd.** A herd from which at least one (1) cervid has originated within the previous five (5)

years and that cervid has been diagnosed CWD positive. (9-15-02)T

48. State Animal Health Official. The Administrator, or his designee. (9-15-02)T

49. Status Date. The date on which the Administrator approves in writing a herd status change with regard to CWD. (9-15-02)T

50. Trace Back Herd. An exposed herd in which at least one (1) CWD positive animal resided within any of the previous sixty (60) months prior to diagnosis with CWD. (9-15-02)T

51. Trace Forward Herd. A herd that has received exposed animals from a positive herd within sixty (60) months prior to the diagnosis of CWD in the positive herd or from the identified point of entry of CWD into the positive herd. (9-15-02)T

52. Traceback. The process of identifying the movements and the herd of origin of CWD positive, or exposed animals, including herds that were sold for slaughter. (9-15-02)T

53. Wild Cervidae. Any cervid animal not owned by a person. (9-15-02)T

011. ABBREVIATIONS.

01. AAVLD. American Association of Veterinary Laboratory Diagnosticians. (9-15-02)T

02. APHIS. Animal Plant Health Inspection Service. (9-15-02)T

03. AVIC. Area Veterinarian in Charge. (9-15-02)T

04. AZA. American Zoological Association. (9-15-02)T

05. CFR. Code of Federal Regulations. (9-15-02)T

06. CWD. Chronic Wasting Disease. (9-15-02)T

07. CWDP. Chronic Wasting Disease Program. (9-15-02)T

08. ISDA. Idaho State Department of Agriculture. (9-15-02)T

09. NAEBA. North American Elk Breeders Association. (9-15-02)T

10. NVSL. National Veterinary Services Laboratory. (9-15-02)T

11. TB. Tuberculosis. (9-15-02)T

12. UM&R. Uniform Methods and Rules. (9-15-02)T

13. USDA. United States Department of Agriculture. (9-15-02)T

14. VS. Veterinary Services. (9-15-02)T

012. APPLICABILITY.

These rules apply to all domestic cervidae located in, imported into, exported from, or transported through the state of Idaho. (9-15-02)T

013. AZA ACCREDITED FACILITIES AND USDA LICENSED FACILITIES.

AZA accredited facilities and facilities licensed by USDA under 9CFR Subchapter A Parts 1 and 2 as licensees, dealers, exhibitors, research facilities and zoos are exempt from the provisions of this chapter provided that:

(9-15-02)T

01. Movement Between AZA And USDA Facilities. AZA accredited and USDA licensed facilities shall not sell, give, or in any way transfer cervidae to persons or domestic cervidae ranches within Idaho, except other to AZA accredited or USDA licensed facilities. (9-15-02)T

02. Transfer Of Cervidae. Any AZA accredited or USDA licensed facility that in any way transfers cervidae, or title to cervidae, to any person in Idaho, except to other AZA accredited or USDA licensed facilities, shall comply with all of the provisions of this chapter. (9-15-02)T

014. IMPORTATION OF DOMESTIC CERVIDAE.

All domestic cervidae imported into the state of Idaho shall comply with the requirements of IDAPA 02.04.21 "Rules Governing the Importation of Animals," which apply to domestic cervidae. (9-15-02)T

015. -- 019. (RESERVED).

020. LOCATION OF DOMESTIC CERVIDAE.

Any person who owns or has control of domestic cervidae in Idaho which are not located on a domestic cervidae ranch, which is in compliance with the applicable provisions of this chapter, or on an AZA accredited or USDA licensed facility in compliance with this chapter, is in violation of these rules. (9-15-02)T

01. Department Action. In addition to any other administrative or civil action, the department may seize, require removal from the state, require removal to a domestic cervidae ranch that is in compliance with the provisions of this chapter, or require disposal of any domestic cervidae that are not located on a domestic cervidae ranch, an AZA accredited facility, or a USDA licensed facility which is in compliance with the provisions of this chapter. (9-15-02)T

02. Reindeer. Reindeer shall not be owned, possessed, propagated or held in Idaho north of the Salmon River in order to protect the wild caribou herd in northern Idaho. (9-15-02)T

03. Exceptions. The Administrator may grant exceptions from the provisions of Section 020 on a case specific basis. (9-15-02)T

04. Natural Disasters. Damage caused to domestic cervidae ranch facilities by natural disasters shall not constitute a violation of this chapter, provided that the owner or operator acts expeditiously to make any necessary repairs and reports the extent and cause of any damage to the Division within twenty-four (24) hours of the occurrence of the damage. (9-15-02)T

021. OFFICIAL IDENTIFICATION.

All domestic cervidae shall be individually, permanently, and uniquely identified, with two (2) types of official identification approved by the Administrator. (9-15-02)T

01. Reporting Of Identification. The unique individual identification number, type of identification, and the name, address, and telephone number of the owner of each animal identified shall be reported to the Administrator, in writing, by the owner or operator. (9-15-02)T

02. Identification Assigned. Official identification, once assigned to an individual animal, shall not be changed or transferred to another animal. Animals that lose identification devices shall be reidentified in accordance with Section 023. (9-15-02)T

03. Progeny. All progeny of domestic cervidae shall be officially identified by December thirty-first of the year of birth, upon sale or transfer of ownership, or upon leaving the domestic cervidae ranch, whichever is earlier. (9-15-02)T

022. TYPES OF OFFICIAL IDENTIFICATION.

All domestic cervidae shall be individually identified by two (2) of the following types of official identification. (9-15-02)T

- 01. Official USDA Eartag.** (9-15-02)T
- 02. Tattoo.** Legible skin tattoo using an alphanumeric tattoo sequence that has been recorded with the Division of Animal Industries. The tattoo shall be applied either ear or escutcheon. (9-15-02)T
- 03. Microchip.** A microchip approved by the Administrator, in cooperation with the Idaho Brand Department, with an identifying number/frequency that has been recorded with the division. The owner of the domestic cervidae shall provide the microchip reader. (9-15-02)T
- 04. Official NAEBA Eartag.** (9-15-02)T
- 05. Official ISDA Cervidae Program Eartag.** A tamper resistant, unique number sequenced, individual identification tag approved by the Administrator. (9-15-02)T
- 06. Official HASCO Brass Lamb Tag.** This brass lamb tag shall be engraved with farm name and individual animal identification number. (9-15-02)T
- 023. REIDENTIFICATION OF DOMESTIC CERVIDAE.**
No domestic cervidae that were marked with official identification shall be re-tattooed for the purpose of reestablishing their identification nor shall any domestic cervidae be re-ear-tagged with an official identification eartag at any time subsequent to the original identification, except that re-tattooing or re-ear-tagging for the purpose of reestablishing the official identification shall be allowed under the following conditions: (9-15-02)T
- 01. Supervision.** Reidentification shall be accomplished under the supervision of an accredited veterinarian, or state or federal animal health officials. (9-15-02)T
- 02. Permanent Identification.** Animals that are presented for reidentification shall have some permanent identification which will identify the animals as those originally officially identified such as an individual animal registration tattoo, or other approved permanent identification, provided that such identification was submitted on the annual inventory report or other official record. (9-15-02)T
- 03. Inventory Evaluation.** In absence of permanent identification, the Administrator may conduct an investigation or inventory evaluation to determine identity of the animal that is being presented for reidentification. (9-15-02)T
- 04. Reproduction Of Original Tattoo.** Re-tattooing shall reproduce the original tattoo, which was placed in the animal's ear at the time of official identification. (9-15-02)T
- 05. Records.** The accredited veterinarian, or state or federal animal health official, who supervises the reidentification shall correlate the new identification with previous identification and record the eartag or other identification numbers, the tattoo symbols and the owner's name and address and submit the reidentification record to the Division within ten (10) days of the date of reidentification. (9-15-02)T
- 024. INSPECTIONS.**
To prevent the introduction and dissemination, or to control and eradicate diseases, state and federal animal health officials are authorized to inspect cervidae records, premises, facilities, and domestic cervidae to ensure compliance with the provisions of this chapter and other state or federal laws or rules applicable to domestic cervidae. (9-15-02)T
- 025. GENETICS.**
Domestic cervidae that have red deer genetic influence shall not be imported into Idaho. Additionally, any domestic cervidae located in Idaho that are identified as having red deer genetic influence shall be destroyed, removed from the state, or neutered. (9-15-02)T
- 026. WILD CERVIDAE.**
Wild cervidae shall not be confined, kept or held on a domestic cervidae ranch. (9-15-02)T
- 01. Duty Of Ranch Owner.** It shall be the duty of owners of all domestic cervidae ranches to take

precautions, and to conduct periodic inspections, to ensure that wild cervidae are not located within the perimeter fence of any domestic cervidae ranch. (9-15-02)T

02. Notification Of Administrator. All owners or operators of domestic cervidae ranches shall notify the Administrator immediately upon gaining knowledge of the presence of wild cervidae inside the perimeter fence of the domestic cervidae ranch. (9-15-02)T

03. Failure To Notify The Administrator. The failure of any owner or operator of a domestic cervidae ranch to notify the Administrator of the presence of wild cervidae within the perimeter fence of a domestic cervidae ranch is a violation of this chapter. (9-15-02)T

04. Idaho Department Of Fish And Game. Upon receiving notification that wild cervidae are on a domestic cervidae ranch the Administrator shall notify the Idaho Department of Fish and Game. (9-15-02)T

027. SUPERVISION OF DOMESTIC CERVIDAE PROGRAM.

A department veterinary medical officer shall provide routine supervision of the domestic cervidae program. (9-15-02)T

028. DISPOSAL OF DOMESTIC CERVIDAE.

All domestic cervidae carcasses and parts of carcasses not utilized for human consumption, except parts of carcasses utilized for taxidermy purposes, shall be disposed of in compliance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement And Disposal". (9-15-02)T

029. FEES.

01. Domestic Cervidae Ranches. A fee, not to exceed five dollars (\$5) per head on elk or three dollars (\$3) per head on fallow deer and reindeer, is to be assessed on all domestic cervidae in the state to cover the cost of administering the program covered in these rules. This fee is due January first of each year. (9-15-02)T

02. Domestic Cervidae Approved Feedlots. A fee of five dollars (\$5) per head on elk and three dollars (\$3) per head on fallow deer and reindeer, shall be paid on all cervidae entering domestic cervidae approved feedlots to cover the cost of administering the program covered in these rules. This fee is due January first of each year. (9-15-02)T

030. -- 099. (RESERVED).

100. DOMESTIC CERVIDAE RANCHES.

In order to prevent the introduction or dissemination of diseases, and to control or eradicate diseases, all domestic cervidae ranches shall comply with the disease control, facility, and record keeping requirements and all other provisions of this chapter. (9-15-02)T

01. Each Premise. Each separate premise where domestic cervidae are kept or held shall comply with all of the provisions of this chapter. (9-15-02)T

02. Vehicle Access. Domestic cervidae ranches shall have motorized vehicle access to the restraining system on each premise, during the portion of the year that cervidae are held or kept on the premise, adequate to facilitate disease prevention and control as determined by the Administrator. (9-15-02)T

101. DOMESTIC CERVIDAE RANCH FACILITY REQUIREMENTS.

All domestic cervidae ranches are required to have facilities, including but not limited to perimeter fence, restraining system, gathering system, water system, and if required, a quarantine facility. (9-15-02)T

01. Maintenance. All facilities shall be maintained, at all times that domestic cervidae are present, to prevent the escape of domestic cervidae or ingress of wild cervidae. (9-15-02)T

02. Inspections. To ensure compliance with this chapter, state or federal animal health officials shall inspect all premises where domestic cervidae are, or will be, possessed, controlled, harvested, propagated, held, or

- kept. (9-15-02)T
- a. Each domestic cervidae ranch shall be inspected at least annually. (9-15-02)T
 - b. All facilities relating to the handling or raising of domestic cervidae shall be inspected. (9-15-02)T

102. PERIMETER FENCE REQUIREMENTS.

A perimeter fence, completely enclosing the domestic cervidae ranch shall be constructed of high-tensile, non-slip woven wire or other fencing material approved by the Administrator. (9-15-02)T

01. Elk And Fallow Deer. For elk and fallow deer, the fence shall be a minimum of eight (8) feet in height for its entire length at all times. (9-15-02)T

02. Reindeer. For reindeer, the fence shall be at least six (6) feet in height for its entire length at all times. (9-15-02)T

03. Wire. The top two (2) feet of each fence may be smooth, barbed or woven wire (at least twelve and one-half (12-1/2) gauge) with horizontal strands spaced not more than six (6) inches apart. (9-15-02)T

a. Wire shall be placed on the animal side of the fence to prevent pushing the wire away from the posts. (9-15-02)T

b. Wire shall be attached to all posts at the top, bottom, and not more than twelve (12) inches apart between the top and bottom of the wire. (9-15-02)T

04. Posts. Posts used in the perimeter fence shall be at least butt-end treated with a commercially available preservative and have a minimum of four (4) inch top for line posts and a minimum of five (5) inch top for corner posts. Posts shall be spaced no more than twenty-four (24) feet apart, with stays, supports or braces as needed, and be placed in the ground a minimum of three (3) feet. (9-15-02)T

05. Gates. Each domestic cervidae ranch shall have gates that prohibit the escape of domestic cervidae or the ingress of wild cervidae. (9-15-02)T

06. Fence Maintenance. Fences shall be maintained, at all times that domestic cervidae are present, to prevent domestic cervidae from escaping or native wild cervidae from entering the enclosure. (9-15-02)T

07. Exceptions. The Administrator may grant exceptions to the specifications in Section 102 on a case specific basis. (9-15-02)T

103. GATHERING AND RESTRAINING SYSTEM.

Each domestic cervidae ranch shall have a system for humanely and effectively gathering and restraining domestic cervidae for the purpose of inspecting, identifying, treating, or testing of animals by state or federal animal health officials. (9-15-02)T

01. Gathering System. Each domestic cervidae ranch shall have a system that facilitates the gathering of domestic cervidae so as to be able to move the domestic cervidae through the restraining system, at any time of the year that domestic cervidae are present. (9-15-02)T

02. Restraining System. A system approved by the Administrator, to immobilize domestic cervidae for the purpose of efficient, effective, and safe handling for inspecting, treating, vaccinating, or testing. (9-15-02)T

03. Exceptions. The Administrator may grant exceptions to the provisions of this section on a case specific basis. (9-15-02)T

104. WATER SYSTEM.

Each domestic cervidae ranch shall have a water system adequate to supply the need of the cervidae herd. (9-15-02)T

105. QUARANTINE FACILITY.

If animals are to be imported onto the domestic cervidae ranch, a quarantine facility, approved by the Administrator, shall be provided for holding animals until any disease retesting is accomplished or other requirements are met. (9-15-02)T

106. -- 199. (RESERVED).

200. RECORDS AND REPORTING.

01. Reports. Owners of domestic cervidae ranches shall submit complete and accurate reports to the Administrator. Failure to submit complete and accurate reports within the designated time frames is a violation of this chapter. (9-15-02)T

02. Records. All owners of domestic cervidae ranches shall, during normal business hours, present to state or federal animal health officials, for inspection, review, or copying, any cervidae records deemed necessary to ensure compliance with the provisions of this chapter. (9-15-02)T

03. Notification. State or federal animal health officials shall attempt to notify the owners or operators of domestic cervidae ranches, and premises where records are kept prior to any inspections. (9-15-02)T

04. Emergencies. In the event of an emergency, as determined by the Administrator, the notification requirements of Section 200 may be waived. (9-15-20)T

201. ANNUAL INVENTORY REPORT.

01. Inventory Report. All owners of domestic cervidae ranches shall annually submit, to the Administrator, a complete and accurate inventory of all animals held no later than December 31st of each year, on a form approved by the Administrator. The annual inventory report shall contain the following minimum information: (9-15-02)T

- a. Name and address of the domestic cervidae ranch. (9-15-02)T
- b. Name and address of the owner of the domestic cervidae ranch. (9-15-02)T
- c. Date the inventory was completed. (9-15-02)T

02. Individual Domestic Cervidae. For each individual domestic cervidae that was located on the domestic cervidae ranch during the year for which the report is being made, the following information shall be provided: (9-15-02)T

- a. All types of official and unofficial identification; (9-15-02)T
- b. Species; (9-15-02)T
- c. Sex; (9-15-02)T
- d. Age or year born; (9-15-02)T
- e. Disposition, including the date of sale, death, or purchase; and (9-15-02)T
- f. Name and address of the owner of the domestic cervidae. (9-15-02)T

202. INVENTORY VERIFICATION.

State or federal animal health officials shall verify all domestic cervidae ranch inventories of animals held and individual animal identification annually. (9-15-02)T

01. Bangle Tag. Individual animal identification verification may be accomplished by visually noting the bangle tag or other readily visible identification on each animal so long as this identification is correlated with two (2) forms of official identification on the inventory report and permanent domestic cervidae ranch records.

(9-15-02)T

02. Duty To Gather And Restrain. It shall be the duty of the owner of each domestic cervidae ranch to gather and restrain any domestic cervidae, which state or federal animal health officials determine are not readily identifiable, for inventory verification purposes. The Administrator shall determine the suitability of the restraint system.

(9-15-02)T

203. CHANGE OF ADDRESS.

Owners of domestic cervidae ranches shall notify the Division, within thirty (30) days, of any change in the address of the owners of domestic cervidae, the owner of the domestic cervidae ranch, or the domestic cervidae ranch.

(9-15-02)T

204. ESCAPE OF DOMESTIC CERVIDAE.

When any domestic cervidae escape from a domestic cervidae ranch, the owner or operator of the domestic cervidae ranch shall notify the Administrator within twenty-four (24) hours of the escape.

(9-15-02)T

01. Duty To Retrieve Escaped Cervidae. It shall be the duty of each owner or operator of a domestic cervidae ranch to retrieve or otherwise bring under control all domestic cervidae that escape from a domestic cervidae ranch.

(9-15-02)T

02. Fish And Game. The Administrator shall notify the Idaho Department of Fish and Game of each escape.

(9-15-02)T

03. Sheriff And State Brand Inspector. When domestic cervidae escape from a domestic cervidae ranch and the owner or operator is unable to retrieve the animals within twenty-four (24) hours, the Administrator may notify the county sheriff or the state brand inspector of the escape pursuant to Title 25, Chapter 23, Idaho Code.

(9-15-02)T

04. Capture. In the event that the owner or operator of a domestic cervidae ranch is unable to retrieve escaped domestic cervidae in a timely manner, as determined by the Administrator, the Administrator may effectuate the capture of the escaped domestic cervidae to ensure the health of Idaho's livestock and wild cervidae populations.

(9-15-02)T

05. Failure To Notify. Failure of any owner or operator of a domestic cervidae ranch to notify the Administrator within twenty-four (24) hours of the escape of domestic cervidae is a violation of this chapter.

(9-15-02)T

205. NOTICE OF DEATH OF DOMESTIC CERVIDAE.

The death of a domestic cervidae over one (1) year of age shall be reported by the owner or operator to the division by telephone, electronic mail, or facsimile transmission of a CWD sample submission form/death certificate: (9-15-02)T

01. Domestic Cervidae Ranches. The owner or operator of a domestic cervidae ranch shall notify the division within five (5) business days of when the owner or operator knew or reasonably should have known of the death.

(9-15-02)T

02. Approved And Custom Exempt Slaughter Establishments. The owners of cervidae that are slaughtered shall report the death within five (5) business days of the date that the cervidae was slaughtered.

(9-15-02)T

206. CWD SAMPLE SUBMISSION FORM/DEATH CERTIFICATE.

The owner or operator of a domestic cervidae ranch shall submit, to the Administrator, a complete and accurate copy of all CWD sample submission forms/death certificates at the same time that CWD samples are submitted to an approved laboratory.

(9-15-02)T

207. NOTIFICATION OF EXPOSURE TO DISEASE.

Any owner, operator, veterinarian practicing in Idaho, laboratory conducting cervidae testing, or any other person who has reason to believe that domestic cervidae are exposed to or infected with a dangerous or reportable disease or parasite shall notify the Division immediately. (9-15-02)T

208. INTRASTATE MOVEMENT CERTIFICATE.

All owners of domestic cervidae ranches who move cervidae, from one premise to another, within the state of Idaho shall submit, to the Administrator, a complete and accurate intrastate movement certificate signed by the consignor, within five (5) business days of the movement. The Administrator shall provide blank intrastate movement certificates to the owners of domestic cervidae ranches upon request. (9-15-02)T

209. -- 249. (RESERVED).

250. INTRASTATE MOVEMENT OF DOMESTIC CERVIDAE.

All live domestic cervidae moving from one premise to another premise within the state of Idaho shall be officially identified, except calves during the year of birth accompanying their dam, and accompanied by: (9-15-02)T

01. TB Test. An official negative test for tuberculosis of all cervidae over twelve (12) months of age, conducted within the last ninety (90) days, or written permission from the Administrator, except: (9-15-02)T

a. Animals originating from an accredited, qualified or monitored herd, as described in "Bovine Tuberculosis Eradication, Uniform Methods and Rules", effective January 22, 1999, if they are accompanied by a certificate signed by an accredited veterinarian or the Administrator stating such domestic cervidae have originated directly from such herd; or (9-15-02)T

b. Those domestic cervidae consigned directly to an approved slaughter establishment or domestic cervidae approved feedlot; or (9-15-02)T

c. Those domestic cervidae moving from one premise to another premise owned by the same person. (9-15-02)T

02. Intrastate Movement Certificate. All intrastate movements of live domestic cervidae shall be accompanied by a complete and accurate intrastate movement certificate, which has been signed by the owner or operator of the domestic cervidae ranch where the movement originates and includes a statement of the CWD and TB status of the cervidae. (9-15-02)T

03. Movement Of Cervidae Between Accredited AZA Or USDA Licensed Facilities. Movement of cervidae between accredited AZA and USDA licensed facilities is exempt from the requirements of this chapter. All other movement from AZA accredited or USDA licensed facilities shall comply fully with all of the provisions of this chapter. (9-15-02)T

251. -- 299. (RESERVED).

300. DISEASE CONTROL.

The Administrator may require domestic cervidae in the state to be tested for brucellosis (*Brucella abortus* or *Brucella suis*), tuberculosis (*Mycobacterium bovis*), meningeal worm (*Parelaphostrongylus tenuis*), muscle worm (*Elaphostrongylus cervus*), CWD or for other diseases or parasites determined to pose a risk to other domestic cervidae, livestock, or wildlife. (9-15-02)T

301. DUTY TO RESTRAIN.

It shall be the duty of the owner of each domestic cervidae ranch to gather and restrain domestic cervidae for testing when directed to do so in writing by the Administrator. The Administrator shall determine the suitability of the restraint system. (9-15-02)T

302. TESTING METHODS.

The Administrator shall determine appropriate testing procedures and methods. (9-15-02)T

303. TESTING, TREATMENT, QUARANTINE, OR DISPOSAL REQUIRED.

The Administrator shall determine when testing, treatment, quarantine, or disposal of domestic cervidae is required at any domestic cervidae ranch pursuant to Title 25, Chapters 2, 3, 4, 6 and [37] 35, Idaho Code. If the Administrator determines that testing, treatment, quarantine, disposal of domestic cervidae, or cleaning or disinfection of premises is required, a written order shall be issued to the owner describing the procedure to be followed and the time period for carrying out such actions. (9-15-02)T

304. QUARANTINES.

All domestic cervidae animals or herds that are determined to be exposed to, or infected with, any disease that constitutes an emergency, as provided in Title 25, Chapter 2, Idaho Code, shall be quarantined. (9-15-02)T

01. Infected Herds. Infected herds or animals shall remain under quarantine until such time that the herd has been completely depopulated and the premise has been cleaned and disinfected as provided by the Administrator, or the provisions for release of a quarantine established in these rules have been met. (9-15-02)T

02. Exposed Herds. The quarantine for exposed herds or animals may take the form of a hold-order which shall remain in effect until the exposed animals have been tested and the provisions for release of a quarantine as established in these rules have been met. (9-15-02)T

03. Validity Of Quarantine. The quarantine shall be valid whether or not acknowledged by signature of the owner. (9-15-02)T

305. DECLARATION OF ANIMAL HEALTH EMERGENCY.

The Director is authorized to declare an animal health emergency. (9-15-02)T

01. Condemnation Of Animals. In the event that the Director determines that an emergency exists, animals that are found to be infected, or affected with, or exposed to an animal health emergency disease may be condemned and destroyed. (9-15-02)T

02. Indemnity. Any indemnity shall be paid in accordance with Sections 25-212 and 25-213, Idaho Code. (9-15-02)T

03. Notification To Administrator. Every owner of cervidae, every breeder or dealer in cervidae, every veterinarian, and anyone bringing cervidae into this state who observes the appearance of, or signs of any disease or diseases, or who has knowledge of exposure of the cervidae to diseases that constitute an emergency shall give immediate notice, by telephone or facsimile to the Administrator. (9-15-02)T

04. Failure To Notify. Any owner of cervidae who fails to report as herein provided shall forfeit all claims for indemnity for animals condemned and slaughtered or destroyed on account of the animal health emergency. (9-15-02)T

306. -- 399. (RESERVED).

400. BRUCELLOSIS.

Owners of domestic cervidae ranches shall comply with IDAPA 02.04.20, "Rules Governing Brucellosis," that apply to domestic cervidae. (9-15-02)T

401. -- 449. (RESERVED).

450. TUBERCULOSIS.

01. Change Of Ownership. All domestic cervidae that are sold, or are in any way transferred from one person to another person in Idaho are required to be tested negative for TB within ninety (90) days prior to the change of ownership or transfer, except: (9-15-02)T

a. Animals originating from an accredited, qualified or monitored herd, as described in "Bovine Tuberculosis Eradication, Uniform Methods and Rules," effective January 22, 1999, if they are accompanied by a

certificate signed by an accredited veterinarian or the Administrator stating such domestic cervidae have originated directly from such herd; or (9-15-02)T

b. Those domestic cervidae consigned directly to an approved slaughter establishment or domestic cervidae approved feedlot. (9-15-02)T

02. Rules And UM&R. Owners of domestic cervidae ranches shall comply with IDAPA 02.04.03, "Rules of the Department of Agriculture Governing Animal Industry," that apply to domestic cervidae, and the Bovine Tuberculosis Eradication, UM&R, Effective January 22, 1999. (9-15-02)T

451. -- 499. (RESERVED).

500. SURVEILLANCE FOR CWD.

01. Slaughter Surveillance. Brain or other tissues, from one hundred percent (100%) of all domestic cervidae sixteen (16) months of age or older that are slaughtered at approved slaughter establishments or custom exempt slaughter establishments, shall be submitted, by the owner of the slaughtered cervidae, to official laboratories to be tested or examined for CWD as provided for in these rules. (9-15-02)T

02. Domestic Cervidae Ranch Surveillance. Brain or other tissues, from one hundred percent (100%) of all domestic cervidae sixteen (16) months of age or older that die, are slaughtered, or harvested by hunting on domestic cervidae ranches shall be submitted, by the owner or operator of the domestic cervidae ranch, to official laboratories to be tested or examined for CWD, as provided for in these rules, except Reindeer and fallow deer unless the Reindeer or fallow deer are part of a CWD positive, exposed, trace, source or suspect herd or part of an elk herd. (9-15-02)T

501. COLLECTION OF SAMPLES FOR CWD TESTING.

Only accredited veterinarians, state and federal animal health officials, and other persons, approved by the Administrator, shall collect brain or other tissue samples for CWD testing. Samples shall be collected immediately upon discovery of the death of a domestic cervid. (9-15-02)T

01. Brain Samples. Persons trained by state or federal animal health officials, and approved by the Administrator, may remove the brain stem containing the obex portion for submission as the sample for CWD testing. (9-15-02)T

02. Submission Of Head. Persons trained by state or federal animal health officials, and approved by the Administrator, may submit a head with the official identification attached to the head as the sample for CWD testing. (9-15-02)T

03. Handling Of Samples. All CWD samples shall be handled in a manner that prevents degradation of the sample. (9-15-02)T

04. Sample Submission Time. Fresh samples for CWD testing shall be submitted, to an approved laboratory, within seventy-two (72) hours of the date of collection. Formalin preserved samples shall be submitted, to an approved laboratory, within five (5) business days of the date of collection. (9-15-02)T

05. Non-Testable Or Samples That Do Not Contain Appropriate Tissues. The Administrator may conduct an investigation to determine if a domestic cervidae ranch is complying with the provisions of Section 500 if: (9-15-02)T

a. The owner or operator of a domestic cervidae ranch submits samples for CWD testing which are non-testable; or (9-15-02)T

b. The owner or operator of a domestic cervidae ranch submits samples for CWD testing that do not contain appropriate tissues for CWD testing. (9-15-02)T

06. Failure To Submit Samples For CWD Testing. An owner or operator of a domestic cervidae

ranch that fails to submit samples for CWD testing as required in this chapter is in violation of these rules, except the Administrator may approve, in writing, a variance from sample submission requirements on a case specific basis. (9-15-02)T

502. OFFICIAL CWD TESTS.

01. Official Tests. Official tests for CWD, approved by the Administrator, include: (9-15-02)T

a. Histopathology; (9-15-02)T

b. Immunohistochemistry; (9-15-02)T

c. Western Blot; (9-15-02)T

d. Negative Stain Electron Microscopy; (9-15-02)T

e. Bioassay; and (9-15-02)T

02. Other Scientifically Validated Test. The Administrator may approve other scientifically validated laboratory or diagnostic tests to confirm a diagnosis of CWD. (9-15-02)T

503. CWD STATUS.

CWD status shall be based on the number of years that a herd of domestic cervidae has been determined to be in compliance with the provisions of this chapter, during which there is no evidence of CWD in the herd. (9-15-02)T

01. Status Review. The Administrator shall review the CWD status of each domestic cervidae herd located in Idaho on at least an annual basis. (9-15-02)T

02. Status Date. The status date is the date that the Administrator approves a change in the CWD status of a domestic cervidae herd in Idaho. (9-15-02)T

03. Cervidae Of Lesser Status. If a herd of domestic cervidae has contact with cervidae of a lesser status, the status of the herd with the higher status shall be lowered to the status of the cervidae with the lesser status. (9-15-02)T

04. Change Of Ownership. A herd's status may remain with the herd when a change of ownership, management or premises occurs, if there is no contact with cervidae of lesser status, and no previous history of CWD on the premises. (9-15-02)T

05. Contact With CWD Positive Animals. Any herd of domestic cervidae that has contact with CWD positive or exposed animals may have its status reduced or removed. (9-15-02)T

504. INVESTIGATION OF CWD.

An epidemiological investigation shall be conducted on all CWD positive, suspect, and exposed animals and herds, herds of origin, source herds, all adjacent herds, and all trace herds as determined by the Administrator. (9-15-02)T

01. Quarantine. All positive, suspect, and exposed herds or animals, herds of origin, adjacent herds, and herds having contact with positive or exposed animals shall be quarantined; and (9-15-02)T

02. Identification. CWD suspect and exposed animals shall be identified and remain on the premises where they are found until they have met the provisions for release of quarantine established in this chapter, are destroyed and disposed of as directed by the Administrator, or are moved at the Administrator's direction on a restricted movement permit. (9-15-02)T

505. DURATION OF CWD QUARANTINE.

Quarantines imposed because of CWD in accordance with this chapter shall remain in effect until one (1) of the following criteria are met: (9-15-02)T

01. CWD Positive Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after five (5) years of compliance with an individual herd plan and all provisions of these rules, during which there was no evidence of CWD. (9-15-02)T

02. CWD Suspect Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after a minimum of five (5) years of compliance with an individual herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd as determined by the Administrator. (9-15-02)T

03. Source Herds And Herds Of Origin. The quarantine may be released after a minimum of five (5) years of compliance with an individual herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd and that the herd is not the source of infection as determined by the Administrator. (9-15-02)T

04. Exposed Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after a minimum of five (5) years of compliance with an individual herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd as determined by the Administrator. (9-15-02)T

05. Adjacent Herds. As directed by the Administrator based upon an epidemiological investigation and in consultation with the designated epidemiologist. (9-15-02)T

06. Fencing Requirements. Any owner of a domestic cervidae ranch who chooses to remain under quarantine for five (5) years shall construct a second perimeter fence that meets the requirements for perimeter fence, as provided in Section 102, such that no domestic cervidae on the domestic cervidae ranch can get within ten (10) feet of the original exterior perimeter fence or as approved by the Administrator. (9-15-02)T

07. Complete Depopulation. The quarantine may be released after: (9-15-02)T

a. Complete depopulation of all cervidae on the premises as directed by the Administrator; and (9-15-02)T

b. The premises have been free of all livestock as specified in an individual herd plan approved by the Administrator; and (9-15-02)T

c. The soil and facilities have been cleaned, treated, decontaminated, or disinfected as directed by the Administrator. (9-15-02)T

08. Disposal Of Positive Or Exposed Cervidae. All CWD positive or exposed domestic cervidae shall be disposed of as directed by the Administrator. (9-15-02)T

506. CLEANING, TREATING, DECONTAMINATING, OR DISINFECTING.

Premises shall be cleaned, treated, decontaminated, or disinfected under state or federal supervision as directed by the Administrator within fifteen (15) days after CWD positive or suspect animals have been removed. (9-15-02)T

01. Exemptions. The Administrator may authorize, in writing, an exemption from cleaning, treating, decontaminating, or disinfection requirements on a case-by-case basis. (9-15-02)T

02. Extension Of Time. The Administrator may authorize, in writing, an extension of time for cleaning and disinfection under extenuating circumstances. (9-15-02)T

03. Requests For Extensions or Exemptions. The owner of the contaminated facility shall submit requests for extensions or exemptions to the Administrator in writing. (9-15-02)T

507. -- 599. (RESERVED).

600. DOMESTIC CERVIDAE APPROVED FEEDLOTS.

Domestic cervidae may be fed for slaughter in an Idaho Domestic Cervidae Approved Feedlot for a time period of up to six (6) months, except for domestic cervidae calves born in the feedlot. (9-15-02)T

01. Grazing. No Domestic Cervidae Approved Feedlot shall permit pasturing or grazing. (9-15-02)T

02. Maintain All Original Identification. All original animal identification devices shall be maintained and records of new identification devices shall show original identification and disposition. These records shall be maintained for three (3) years following disposition of the domestic cervidae for animal health tracing purposes. (9-15-02)T

03. All Cervidae Shall Be Separated By Sex. All cervidae on the facility shall be penned separately by sex so that no breeding can occur. (9-15-02)T

04. Pregnant Female Cervidae Allowed To Calve. Female cervidae, which are pregnant at the time of entry into the feedlot, may be allowed to calve in the feedlot. All calves may remain in the feedlot up to sixteen (16) months of age prior to moving to an approved slaughter establishment. (9-15-02)T

05. All Cervidae Leaving The Facility. All cervidae leaving the facility shall move only to slaughter at an approved slaughter establishment. (9-15-02)T

06. Escapes. All domestic cervidae that escape from a Domestic Cervidae Approved Feedlot shall immediately be destroyed. (9-15-02)T

07. Domestic Cervidae Deaths. All deaths of domestic cervidae shall be reported, by the owner or operator of the domestic cervidae feedlot, to the Administrator within twenty-four (24) hours of the death. (9-15-02)T

08. CWD Testing. The owner or operator of the domestic cervidae feedlot shall collect and submit tissue samples for CWD testing in accordance with Section 501 for all cervidae that enter the feedlot. (9-15-02)T

09. Notification Of Disease. Every owner or operator of a Domestic Cervidae Approved Feedlot that observes the appearance of, or signs of any disease or diseases, or who has knowledge of exposure of the cervidae to diseases that constitute an emergency shall give immediate notice, by telephone or facsimile to the Administrator. (9-15-02)T

601. APPLICATION FOR DOMESTIC CERVIDAE APPROVED FEEDLOT.

Application for Domestic Cervidae Approved Feedlot status shall be made on application forms available from the Administrator. (9-15-02)T

602. ADMINISTRATOR APPROVAL.

The Administrator may approve Domestic Cervidae Approved Feedlot Applications after the domestic cervidae feedlot has been inspected by state or federal animal health officials and meets all requirements for a Domestic Cervidae Approved Feedlot as described in this Section: (9-15-02)T

01. Cervidae Secured. The feedlot management has demonstrated that domestic cervidae can be secured in the feedlot and the feedlot has met the facility requirements in Section 603; and (9-15-02)T

02. Adequate Records. Domestic Cervidae Approved Feedlot records are adequate to show the origin and disposition of the domestic cervidae in the feedlot; and (9-15-02)T

03. Adequate Resources. The Administrator determines that the Division of Animal Industries has adequate personnel and fiscal resources to assure that the feedlot abides by the provisions of this Chapter; and (9-15-02)T

04. Past History. The Administrator may take past enforcement or violation history into consideration when making the final determination of whether or not to approve a feedlot. (9-15-02)T

603. DOMESTIC CERVIDAE APPROVED FEEDLOT REQUIREMENTS.

All Domestic Cervidae Approved Feedlots shall comply with the facility requirements for domestic cervidae ranches in this Chapter, and the following: (9-15-02)T

01. Perimeter Fence. A double perimeter fence, constructed in accordance with Section 102, with a minimum of thirty (30) feet of separation between the perimeter fences. (9-15-02)T

02. Interior Fence. All interior fences shall have a visual barrier such that domestic cervidae cannot see the exterior fence. (9-15-02)T

03. Access To Live Water. There can be no access to live surface water by the animals in the facility. (9-15-02)T

04. Prohibited In Areas With Resident Or Migratory Wild Cervidae Herds. Domestic Cervidae Approved Feedlots are not allowed in areas with preexisting wild cervidae herds during any part of the year as determined by the Administrator. (9-15-02)T

05. Geographically Separate From Any Other Domestic Cervidae Ranch Or Other Livestock Facility. Domestic Cervidae Approved Feedlots are to be geographically separated from any other domestic cervidae ranch or other livestock facility as determined by the Administrator. (9-15-02)T

06. Waste Containment. All manure, runoff and wastewater shall be contained on the facility in a manner approved by the Administrator. (9-15-02)T

604. DOMESTIC CERVIDAE APPROVED FEEDLOT NUMBER.

Feedlots approved by the Administrator shall receive a Domestic Cervidae Approved Feedlot Number. (9-15-02)T

605. EXPIRATION OF APPROVED STATUS.

Approved domestic cervidae feedlot status shall expire on September 1 of each year. It shall be the responsibility of feedlot management to apply each year for renewal of approved status. (9-15-02)T

606. CONTENT OF RECORDS FOR DOMESTIC CERVIDAE APPROVED FEEDLOTS.

All domestic cervidae approved feedlots shall keep accurate and complete records of all cervidae in the feedlot. These records shall readily show: (9-15-02)T

01. Animals Received. The number, species, age, sex, origin, date of entry, individual identification, and final disposition of all cervidae received at the feedlot. (9-15-02)T

02. Animals Removed From Feedlot. The date of removal or sale, and destination of any animals removed. (9-15-02)T

03. Death Loss. That the deaths of all cervidae have been accurately recorded. (9-15-02)T

04. Requirements. That all applicable permit, test, examination, identification, and vaccination requirements have been met. (9-15-02)T

607. RECORDS RETENTION.

Feedlot records shall be retained by the feedlot for a period of not less than three (3) years following removal of the cervidae from the feedlot. (9-15-02)T

608. ENTRY REQUIREMENTS.

Idaho Domestic Cervidae Approved Feedlots are allowed to feed all classes of cervidae, which are not known to be exposed to brucellosis, tuberculosis, or CWD, except that no cervidae from a CWD endemic area, as determined by the Administrator, shall be imported into a Domestic Cervidae Approved Feedlot. (9-15-02)T

609. DOMESTIC CERVIDAE APPROVED FEEDLOT CLOSURE.

Domestic Cervidae Approved Feedlot owners may close the facility by shipping all domestic cervidae to slaughter at an approved slaughter establishment. (9-15-02)T

01. Records. Feedlot records shall be retained by the feedlot owner for a period of not less than three (3) years following removal of the cervidae from the feedlot, or transferred to the Division. (9-15-02)T

02. Repopulation Of Facility. The Administrator shall determine the method and timeframes for repopulation of the facility with domestic cervidae or other livestock, and any required cleaning and decontamination. (9-15-02)T

610. -- 619. (RESERVED).

620. INSPECTION.

The feedlot premises, the domestic cervidae therein, and the feedlot records shall be presented for inspection, during normal business hours, to the Administrator. (9-15-02)T

621. REVOCATION OF APPROVED FEEDLOT STATUS.

The Administrator may revoke approved feedlot status by notifying the owner in writing. (9-15-02)T

01. Failure To Comply. In addition to any other department administrative or civil action, failure on the part of the feedlot operator to comply with the requirements of this chapter shall result in revocation of the Idaho Domestic Cervidae Approved Feedlot status. (9-15-02)T

02. Operator Request. Operators may have the approved feedlot status revoked by emptying the feedlot and requesting in writing that the status be revoked. (9-15-02)T

03. Regulation Changes. Idaho Domestic Cervidae Approved Feedlot status may be revoked at such time as revocation is required by changes in state or federal rules or regulations. (9-15-02)T

04. Disposition Of Domestic Cervidae. Should the Idaho Domestic Cervidae Approved Feedlot status be revoked, domestic cervidae still in the feedlot shall be removed from the feedlot as provided in Section 600 of this chapter. The Administrator shall have the authority to impose time limits for removal of domestic cervidae. (9-15-02)T

622. -- 989. (RESERVED).

990. PENALTY FOR VIOLATIONS.

Any person violating any of the provisions of this Chapter shall be subject to the penalty provisions of Title 25, Chapters 2, 3, 4, 6, and [35] 37, Idaho Code, applicable to domestic cervidae. (9-15-02)T

01. Monetary Penalties. The imposition or computation of monetary penalties shall take into account the seriousness of the violation, good faith efforts to comply with the law, the economic impact of the penalty on the violator and such other matters as justice requires. (9-15-02)T

02. Minor Violations. Nothing in this Chapter shall be construed as requiring the director to report minor violations when the director believes that the public interest will be best served by suitable warnings or other administrative action. (9-15-02)T

991. -- 999. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.23 - RULES GOVERNING COMMERCIAL LIVESTOCK TRUCK WASHING FACILITIES

DOCKET NO. 02-0423-0201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rules is August 1, 2002.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-103 (17), Idaho Code.

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

**September 10, 2002
Nampa Civic Auditorium
11 3rd Street South
Nampa, ID 83651**

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

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

This temporary and proposed rule regulates the permitting, construction, and operation of commercial livestock truck washing facilities in accordance with the authorities contained in HB 529, which was passed by the 2002 Idaho Legislature.

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

The rule is necessary to protect the public health, safety or welfare; and comply with deadlines in amendments to governing law.

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

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted for the development of this rule.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2002.

DATED this 18th day of July, 2002.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0423-0201

IDAPA 02
TITLE 04
Chapter 23

02.04.23 - RULES GOVERNING COMMERCIAL LIVESTOCK TRUCK WASHING FACILITIES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 22, Chapter 103 (17), Idaho Code. (8-1-02)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.23, "Rules Governing Commercial Livestock Truck Washing Facilities". (8-1-02)T

02. Scope. These rules shall govern the permitting, construction, and management of commercial livestock truck washing facilities. The official citation of this chapter is IDAPA 02.04.23.000 et.seq. For example, this Section's citation is IDAPA 02.04.23.001. (8-1-02)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (8-1-02)T

003. ADMINISTRATIVE APPEAL.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (8-1-02)T

004. INCORPORATION BY REFERENCE.

Copies of these documents may be obtained from the Idaho State Department of Agriculture central office and the State Law Library. (8-1-02)T

01. The 1997 United States Department of Agriculture Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10 D. (8-1-02)T

02. The 2000 American Society of Agricultural Engineers Standard EP393.3. (8-1-02)T

03. The 1999 Publication By The United States Department Of Agriculture, Natural Resource Conservation Service, Conservation Practice Standard, Nutrient Management Code 590. (8-1-02)T

005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.

01. Physical Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (8-1-02)T

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

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (8-1-02)T

04. Telephone Number. The telephone number of the central office is (208) 332-8500. (8-1-02)T

- 05. Fax Number.** The fax number of the central office is (208) 334-2170. (8-1-02)T
- 006. IDAHO PUBLIC RECORDS ACT.**
These rules are public records available for inspection and copying at the central office of ISDA and the State Law Library. (8-1-02)T
- 007. -- 009. (RESERVED).**
- 010. DEFINITIONS.**
The following definitions shall apply in the interpretation and enforcement of this chapter. (8-1-02)T
- 01. Commercial Livestock Truck Washing Facilities.** Livestock truck washing facilities that charge a fee to wash livestock trucks and trailers, or those facilities where the process wastewater is not regulated pursuant IDAPA 02.04.14 "Rules Governing Dairy Waste," or 02.04.15 "Rules of the Department of Agriculture Governing Beef Cattle Animal Feeding Operations". (8-1-02)T
- 02. Compost.** A biologically stable material derived from the biological decomposition of organic matter. (8-1-02)T
- 03. Director.** The Director of the Idaho State Department of Agriculture or his designee. (8-1-02)T
- 04. Discharge.** Release of process wastewater or manure from a commercial livestock truck washing facility to waters of the state. (8-1-02)T
- 05. Land Application.** The spreading on, or incorporation of manure or process wastewater into the soil. (8-1-02)T
- 06. Livestock.** Bovidae, ovidae, suidae, and equidae. (8-1-02)T
- 07. Livestock Truck Washing Facilities.** Those facilities utilized primarily for washing and cleaning trucks and trailers that haul livestock. (8-1-02)T
- 08. Manure.** Livestock excrement that may also contain bedding, spilled feed, water, or soil. (8-1-02)T
- 09. Modified.** Structural or management changes, or alterations to the livestock truck washing facility which would require increased storage or containment capacity or such changes, which would alter the function of the wastewater storage or containment facility. (8-1-02)T
- 10. Non-Compliance.** A practice or condition that causes an unauthorized discharge or a practice or condition that if left uncorrected will cause an unauthorized discharge. (8-1-02)T
- 11. Non-Land Application Season.** The portion of the year during which land application is not allowed pursuant to an approved NMP. (8-1-02)T
- 12. Nutrient Management Plan.** A plan prepared in conformance with the nutrient management standard or other equally protective standard for managing the amount, source, placement, form, and timing of the land application of nutrients or soil amendments. (8-1-02)T
- 13. Nutrient Management Standard.** The 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service, Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director. (8-1-02)T
- 14. Operate.** Washing or cleaning livestock trucks. (8-1-02)T
- 15. Operator.** The person who has power or authority to manage, or direct, or has financial control of a commercial livestock truck washing facility. (8-1-02)T

16. Person. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state, or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties. (8-1-02)T

17. Process Wastewater. Any water generated on a commercial livestock truck washing facility that comes into contact with manure, compost, bedding, or feed. (8-1-02)T

18. Runoff. Any precipitation that comes into contact with manure, compost, bedding, or feed on a commercial livestock truck washing facility. (8-1-02)T

19. Unauthorized Discharge. A discharge of process wastewater or manure from a commercial livestock truck washing facility to surface waters of the state that is not authorized by a National Pollutant Discharge Elimination System permit issued by the United States Environmental Protection Agency. (8-1-02)T

20. Wastewater Storage And Containment Facility. That portion of a CLTWF where manure or process wastewater is stored or collected. This includes, but is not limited to, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons and evaporative ponds. (8-1-02)T

21. Waters Of The State. All surface and ground water located within the boundaries of the state or boundary streams, rivers and lakes except for private waters as defined in Title 42, Chapter 2, Idaho Code. (8-1-02)T

011. ABBREVIATIONS.

01. CLTWF. Commercial Livestock Truck Washing Facility. (8-1-02)T

02. FEMA. Federal Emergency Management Agency. (8-1-02)T

03. ISDA. Idaho State Department of Agriculture. (8-1-02)T

04. NMP. Nutrient Management Plan. (8-1-02)T

05. NPDES. National Pollutant Discharge Elimination System. (8-1-02)T

06. NRCS. Natural Resources Conservation Service. (8-1-02)T

07. USDA. United States Department of Agriculture. (8-1-02)T

012. APPLICABILITY.

These rules apply to all CLTWF. (8-1-02)T

013. -- 099. (RESERVED).

100. PERMIT REQUIRED.

No person shall construct or operate a CLTWF without first obtaining a permit to do so from the Director. (8-1-02)T

101. APPLICATION FOR PERMIT.

Applications for permits submitted to the Director shall contain the following: (8-1-02)T

01. Name, Telephone Number, And Address. The name, telephone number, and address of the owner and operator of the CLTWF. (8-1-02)T

02. Physical Address. The physical address of the CLTWF. (8-1-02)T

03. Scaled Vicinity Map With Site Location. A detailed sketch of the proposed or existing CLTWF site location, on an aerial photograph if available, which includes the following: (8-1-02)T

a. The location of all homes, schools, churches, etc. within a one (1) mile radius of the proposed

CLTWF; and (8-1-02)T

b. Private and community domestic water wells, irrigation wells, existing monitoring wells, and existing injection wells as documented by Idaho Department of Water Resources or other sources, which are within a one (1) mile radius of the proposed or existing CLTWF; and (8-1-02)T

c. Irrigation canals, irrigation laterals, rivers, streams, springs, lakes, reservoirs, and designated wetlands, which are within a one (1) mile radius of the proposed CLTWF; and (8-1-02)T

d. Location of all land application sites; and (8-1-02)T

e. FEMA flood zones or other appropriate flood data for the CLTWF site and all land application sites. (8-1-02)T

04. Scaled Site Plan. A site plan showing all buildings, process wastewater and manure storage areas, piping, and roadways. (8-1-02)T

05. Land Application System. A detailed description of the current or proposed management practices and methods used to make land application including: (8-1-02)T

a. Timing, frequency, and duration of practices. (8-1-02)T

b. Proximity of land application sites to residential and public use areas. (8-1-02)T

06. Nutrient Management Plan. A NMP for all land where manure or process wastewater from the CLTWF is land applied. (8-1-02)T

102. -- 109. (RESERVED).

110. DURATION OF PERMIT.
Permits issued pursuant to this chapter shall be valid for a period of two (2) years. (8-1-02)T

111. RENEWAL OF PERMIT.
The operator of a CLTWF shall submit an application to renew the permit to the Director for approval ninety (90) days prior to the expiration of the existing permit. (8-1-02)T

112. -- 119. (RESERVED).

120. REVOCATION OF PERMIT.
The Director may revoke the permit of any CLTWF that violates any of the provisions of this Chapter. (8-1-02)T

121. -- 199. (RESERVED).

200. UNAUTHORIZED DISCHARGES.
Unauthorized discharges of manure or process wastewater from CLTWF or land application sites owned or controlled by a CLTWF are prohibited. (8-1-02)T

201. -- 209. (RESERVED).

210. NOTIFICATION OF DISCHARGE.
Within twenty-four (24) hours of learning of a discharge, the operator of a CLTWF shall verbally notify the Director of such a discharge. (8-1-02)T

211. WRITTEN NOTIFICATION.
If the ISDA has not begun a discharge investigation within five (5) days of the verbal notification to the director, the operator shall submit a written report to the Director which includes: (8-1-02)T

- 01. A Description Of The Discharge.** A description of the flow path to the receiving water body; and (8-1-02)T
- 02. Flow Rate.** An estimation of the flow rate and volume discharged; and (8-1-02)T
- 03. Dates And Time.** The period of discharge, including dates and times, and if not already corrected, the anticipated time the discharge is expected to continue; and (8-1-02)T
- 04. Steps Taken.** Steps taken to reduce, eliminate, and prevent recurrence of the discharge. (8-1-02)T

212. -- 299. (RESERVED).

300. WASTEWATER STORAGE AND CONTAINMENT FACILITIES.

All CLTWF shall have wastewater storage and containment facilities designed, constructed, operated, and maintained sufficient to contain: (8-1-02)T

- 01. Process Wastewater.** All process wastewater generated on the CLTWF during the non-land application season; and (8-1-02)T
- 02. Rainfall.** The runoff from a twenty-five (25) year, twenty-four (24) hour rainfall event; and (8-1-02)T
- 03. Winter Precipitation.** Either three (3) inches of runoff from the accumulation of winter precipitation or the amount of runoff from the accumulation of precipitation from a one-in-five (1 in 5) year winter. (8-1-02)T

301. -- 309. (RESERVED).

310. CONSTRUCTION REQUIREMENTS.

All CLTWF shall have wastewater storage and containment facilities designed and constructed in accordance with the engineering standards and specifications contained in the Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10D or the American Society of Agricultural Engineers Standard EP393.3, or other equally protective standards approved by the Director. (8-1-02)T

311. -- 319. (RESERVED).

320. SUBSTANCES ENTERING WASTEWATER STORAGE AND CONTAINMENT FACILITIES.

Only manure and process wastewater from the operation of the CLTWF shall be allowed to enter wastewater storage and containment facilities. The disposal of any other materials into a wastewater storage and containment facility, including, but not limited to oil, grease, heavy metals, chlorinated solvents, and human waste is prohibited. (8-1-02)T

321. -- 329. (RESERVED).

330. NUTRIENT MANAGEMENT.

Each CLTWF shall submit, to the Director for approval, a NMP that conforms to the nutrient management standard. (8-1-02)T

- 01. Odor.** Each NMP shall address odors generated on the CLTWF, and land application sites. Odors shall not be generated in excess of odors normally associated with livestock production in Idaho. (8-1-02)T
- 02. Land Application.** Each NMP shall include all land to which manure or process wastewater from the CLTWF is land applied. (8-1-02)T
- 03. Duty Of Operator.** It shall be the duty of the operator of a CLTWF to ensure that the NMP, for any land included in the NMP, is implemented. (8-1-02)T
- 04. Implementation Of NMP.** Failure to implement and abide by an approved NMP is a violation of

this chapter. (8-1-02)T

331. -- 349. (RESERVED).

350. EXISTING CLTWF.

CLTWF that are operating on or before July 1, 2002 shall submit a NMP to the director for approval no later than January 1, 2003. (8-1-02)T

351. -- 359. (RESERVED).

360. NEW CLTWF.

Any new CLTWF, commencing operations after July 1, 2002, shall submit a NMP to the Director for approval with its application for a permit to operate a CLTWF. The Director shall respond to or approve such NMP within sixty (60) days of submission. (8-1-02)T

361. -- 999. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.06.08 - ORDER IN THE MATTER OF THE CONTROL OF CHERRY FRUIT FLY IN CERTAIN PRESCRIBED PORTIONS OF CANYON COUNTY

DOCKET NO. 02-0608-0201 (REPEAL OF CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Title 22, Chapter 20, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2002.

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

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

To repeal the rule in its entirety and combine the common provisions of this rule and three other related rules that are being repealed into one comprehensive rule.

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

The repeal of IDAPA 02.06.08 will confer benefits to the fruit industry, reduce annual printing costs and remove pesticide recommendations; some of which may be illegal under Federal law.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael E. Cooper, Acting Administrator or Curtis Thornburg, Program Manager at (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2002.

DATED this 22nd day of July, 2002

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

IDAPA 02.06.08 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.06.08 - QUARANTINE RULES PERTAINING TO APPLES AND CHERRIES
DOCKET NO. 02-0608-0202
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Title 22, Chapter 20, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2002.

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

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

To combine the common provisions of IDAPA 02.06.08, 02.06.10, 02.06.19 and 02.06.23 into a new and comprehensive rule by eliminating duplications in the definitions, regulated articles and pests, restrictions, exemptions, etc. and update the pesticide recommendations, some of which may be illegal under Federal law.

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

The adoption of IDAPA 02.06.08 will confer benefits to the fruit industry. Cherry fruit fly and Apple maggot are insect pests known to be injurious to apples and cherries. The Apple maggot is known to exist in several counties in Idaho, as well as in several other states. Cherry fruit fly are known to exist in portions of Gem and Canyon counties. The further spread of these pests would adversely affect the production and domestic and international marketing of Idaho fruit. This rule also consolidates the requirements into one rule, making it easier for growers and shippers to access. The rule will ensure that survey techniques conform with national and international recommendations for these pests.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael E. Cooper, Acting Administrator or Curtis Thornburg, Program Manager at (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2002.

DATED this 22nd day of July, 2002.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0608-0202

IDAPA 02
TITLE 06
Chapter 08

IDAPA 02.06.08 - QUARANTINE RULES PERTAINING TO APPLES AND CHERRIES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 22, Chapter 20, Idaho Code. (8-1-02)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.08, "Quarantine Rules Pertaining to Apples and Cherries". (8-1-02)T

02. Scope. These rules restrict the movement of regulated articles into and within Idaho from infested states, countries, and infested portions of Idaho, and set forth treatment procedures to minimize the chance of spreading regulated pests. (8-1-02)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (8-1-02)T

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeal before the Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (8-1-02)T

004. INCORPORATION BY REFERENCE.

IDAPA 02.06.08 does not incorporate any material by reference. (8-1-02)T

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

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

02. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (8-1-02)T

03. Street Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (8-1-02)T

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the department. (8-1-02)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

The Idaho State Department of Agriculture adopts the definitions set forth in Title 22, Chapter 20, Idaho Code. In addition, as used in this chapter: (8-1-02)T

01. Commercial Fruit. Means fruit harvested from a commercial orchard and destined to a commercial processing plant, packing plant, or for retail or wholesale sales. (8-1-02)T

02. Commercial Orchard. Means an orchard in which fruit is grown for commercial purposes under accepted industry, university agricultural extension service, and regulatory guidelines. (8-1-02)T

03. Graded Culls. Means apples which have failed to meet industry quality standards for fresh markets, yet meet industry quality standards for processing purposes. (8-1-02)T

04. Infested Area. Means an area where a regulated pest is known to be present and is capable of reproducing and maintaining a viable population. (8-1-02)T

05. Threatened With Infestation. Means the entire commercial orchard is threatened with infestation when an outside boundary is within one-half (1/2) mile of an established regulated pest even if a portion of the commercial orchard is beyond one-half (1/2) mile of an established regulated pest. (8-1-02)T

011. (RESERVED).

012. FINDINGS.

The adoption of IDAPA 02.06.08 will confer benefits to the fruit industry. Cherry fruit fly and Apple maggot are insect pests known to be injurious to apples and cherries. The Apple maggot is known to exist in several counties in Idaho, as well as in several other states. Apple maggot is known to not exist in the commercial apple growing areas of Idaho. Cherry fruit fly is known to exist in portions of Gem and Canyon counties. The establishment of regulated areas and enforcement of restrictions placed on those areas prevents the further spread of these pests that would adversely affect the production and domestic and international marketing of Idaho fruit. (8-1-02)T

013. -- 099. (RESERVED).

100. REGULATED PESTS.

01. Apple Maggot (*Rhagoletis pomonella*). (8-1-02)T

02. Cherry Fruit Fly (*Rhagoletis cingulata* complex, including *R. indifferens* and *R. fausta*). (8-1-02)T

101. REGULATED ARTICLES.

01. Apple Maggot. All fresh fruit of apple, apricot, cherry, crabapple, hawthorn (native and ornamental), nectarine, peach, pear plum, prune, quince, rose hips and any other commodity subsequently found to be a host of the Apple maggot. (8-1-02)T

02. Cherry Fruit Fly. All domestic and wild cherries and cherry trees. (8-1-02)T

102. -- 189. (RESERVED).

190. REGULATED AREAS - APPLE MAGGOT.

01. Non-Infested Areas - Within Idaho. The entire counties of Canyon, Owyhee and Payette; portions of the counties of Gem and Washington lying south of the quarantine areas as outlined in Subsections 190.02.a. and 190.02.b. (8-1-02)T

02. Infested Areas - Within Idaho. The following areas are declared by the director to be under quarantine for Apple maggot: the counties of Franklin, Oneida, Caribou, Ada, Boise and Gooding; and portions of Gem and Washington counties as outlined in Subsections 190.02.a. and 190.02.b. (8-1-02)T

a. Gem County Quarantine Area. Those portions of Gem county lying northerly of a line described as follows: Commencing at the Northwest corner of Section 3, T.7N, R.2W; thence East along section lines to the Northwest corner of Section 6, T.7N, R.1W; thence South along section lines to the Southwest corner of Section 7; thence East along section lines to the Northeast corner of Section 15, T.7N, R.1W; thence South along section lines to the middle of the main channel of the Payette River; thence easterly along said river to the East line of the county.

(8-1-02)T

b. Washington County Quarantine Area. Those portions of Washington county lying northerly of a line described as follows. Commencing at the Snake River at the Southern boundary of T.12N, R.7W; thence East along section lines to the Southwest corner of Section 35, T.12N, R.5W; thence North along section lines to the Northwest corner of Section 23, T.12N, R.5W; thence East along section lines to the Northwest corner of Section 21, T.12N, R.4W; thence South along section lines to the Southwest corner of Section 33, T.12N, R.4W; thence East along section lines to the Southwest corner of Section 31, T.12N, R.1E; thence East along section lines to the East line of the county. (8-1-02)T

03. Infested Areas - Outside Of Idaho. All states or foreign countries or portion thereof where Apple maggot is known to occur. (8-1-02)T

191. -- 299. (RESERVED).

300. RESTRICTIONS - APPLE MAGGOT.

01. Certification Required. Regulated articles described in this quarantine that are produced in or shipped from infested areas are prohibited movement into or within the state of Idaho unless a certificate accompanies the shipment evidencing compliance with Subsections 300.03, 300.04, 300.05, or 300.07. No certificate is required for regulated articles meeting the requirements of Subsections 300.02 or 300.06. (8-1-02)T

02. Reshipments In Original Containers. Regulated articles in original unopened containers, each bearing labels or other identifying marks evidencing origin outside an infested area, may be reshipped to the regulated area from any point within the area under quarantine. (8-1-02)T

03. Repacked Regulated Articles. Regulated articles may be repacked and shipped by common carrier from any point within an infested regulated area provided that each lot or shipment is accompanied by a certificate stating that the regulated articles have been grown outside an infested regulated area and have had their identity continuously maintained while in an infested regulated area. The certificate shall contain the following information: (8-1-02)T

- a.** The county in which the regulated articles were grown. (8-1-02)T
- b.** The point of repacking and reshipment. (8-1-02)T
- c.** The amount and kind of regulated articles comprising the lot or shipment. (8-1-02)T
- d.** The names and addresses of the shipper and consignee. (8-1-02)T

04. Apples Exposed To Controlled Atmosphere Storage. Apples exposed for a continuous period of ninety (90) days, during which period the temperature within the storage room has been maintained at thirty-eight (38) degrees Fahrenheit or less, may be admitted into the regulated area, provided that the storage room or building is approved by the Director of Agriculture as a controlled atmosphere facility, and each lot or shipment of such apples to the regulated area is accompanied by a certificate, as provided in Subsection 300.01. (8-1-02)T

05. Shipments From Cold Storage. Regulated articles described in Subsection 101.01 which are held in cold storage for a continuous period of forty (40) days or more, during which period the temperature within the storage room is maintained at thirty-two (32) degrees Fahrenheit or less, may be admitted into the regulated area, provided that each lot or shipment is accompanied by a certificate as stated in Subsection 300.01 evidencing compliance with the minimum temperature requirements. (8-1-02)T

06. Solid Frozen Fruits Exempt. No restrictions are placed on the movement of fruits which upon arrival are frozen solid and which are under refrigeration to assure their solid frozen state. (8-1-02)T

07. Regulatory And Control Measures. Regulatory and control measures may be prescribed by the Director within designated areas to prevent or minimize the possible movement of Apple maggot from commercial

orchards. When it has been determined that commercial fruit of apple (including crabapple), hawthorn (both native and ornamental), plum, prune, peach and apricot trees (except graded culls – see Subsection 300.07.b.iii.) may be infested with or threatened with infestation by Apple maggot, the fruit shall be sampled by an investigator, following accepted industry procedures for sampling and inspection for presence of Apple maggot. (8-1-02)T

a. If found to be free from Apple maggot, a certificate as provided for in Subsection 300.01 shall be issued. (8-1-02)T

b. If found to be infested with Apple maggot, one (1) or more of the following procedures shall be prescribed before fresh fruit of apple (including crabapple) and hawthorn (both native and ornamental) are moved from designated or regulated areas. (8-1-02)T

i. Fresh fruit to be exposed to controlled atmosphere storage as provided in Subsection 300.04. (8-1-02)T

ii. Fresh fruit to be exposed to cold storage as provided in Subsection 300.05. (8-1-02)T

iii. Graded culls shall be subject to Subsections 300.07.b.i. or 300.07.b.ii. (8-1-02)T

08. Infested Or Damaged Regulated Articles. All regulated articles as described in Section 101.01 known, or found to be infested with, or damaged by Apple maggot shall not be sold, held for sale, or offered for sale, except as provided for in Subsections 300.04 and 300.05. (8-1-02)T

301. -- 399. (RESERVED).

400. REGULATED AREAS - CHERRY FRUIT FLY.

01. Canyon County, Idaho. The following is hereby designated an area of mandatory control for Cherry fruit fly: Commencing at the corner common to Sections 22, 23, 26 and 27 of Township 4 North, Range 5 West, Boise, Meridian; thence South to the Snake River to the point formed by section line between Sections 11 and 14 in Township 2 North, Range 4 West, Boise, Meridian; then East along said section line projected to where said line meets Lake Lowell; thence northwesterly across Lake Lowell to a point on the section line between Sections 26 and 27 of Township 3 West, Range 3 North, Boise, Meridian where said line meets Lake Lowell; then North along said section line to a point which is the corner common to Sections 10, 11, 14 and 15 of Township 3 North, Range 3 West, Boise, Meridian; thence West to a point, the west corner common to Sections 7, 12, 13 and 18, Township 3 North, Range 3 West Boise, Meridian; thence North to a point the east corner common to Sections 1 and 12, Township 3 North, Range 4 West, Boise, Meridian; thence West to a point the corner common to Sections 2, 3, 10 and 11, Township 3 North, Range 4 West, Boise, Meridian; thence North to a point which is the section corner common to Sections 26, 27, 34 and 35 of Township 4 North, Range 4 West, Boise, Meridian; thence West to a point which is the section corner common to Sections 27, 28, 33 and 34 of Township 4 North, Range 4 West, Boise, Meridian; thence North to a point which is the section corner common to Sections 21, 22, 27 and 28, Township 4 North, Range 4 West, Boise, Meridian; thence West to the point of beginning. (8-1-02)T

02. Gem County, Idaho. The following is hereby designated an area of mandatory control for Cherry fruit fly: Commencing at the corner common to Sections 4 and 5 of T. 6 N., R. 3 W. B. M. and Sections 32 and 33 of T. 7 N., R. 3 W., B. M., which corner is on the West line of Gem County, Idaho; thence South along said county line to a point which is the Southwest corner of Section 33 of T. 6 N., R. 3 W., B. M.; thence East along the South line of said Section 33 to its Southeast corner; thence North along the East line of said Section 33; and continuing North along the extension of said line to a point which is the corner common to Sections 15, 16, 22 and 23 of T. 6 N., R. 3 W., B. M.; thence East along the section line between Sections 15 and 22 of T. 6 N., R. 3 W., B. M. to a point on the division line between Ranges 2 and 3 W., T. 6 N., B. M.; thence South along the division line between the said Ranges 2 and 3 W., T. 6 N., B. M., to the East corner common to Sections 24 and 25, T. 6 N., R. 3 W., B. M.; thence East to a point which is the East corner common to Sections 19 and 30 of T. 6 N., R. 2 W., B. M.; thence South to a point which is the East corner common to Sections 30 and 31, T. 6 N., R. 2 W., B. M.; thence East along the section line between said Sections 30 and 31, extended to a point which is the East corner common to Sections 29 and 32, T. 6 N., R. 1 W., B. M.; thence North to a point which is the East corner common to Sections 20 and 29, T. 6 N., R. 1 W., B. M.; thence East to a point which is the East corner common to Sections 21 and 28, T. 6 N., R. 1 W., B. M.; thence North to a

point which is the East corner common to Sections 16 and 21, T. 6 N., R. 1 W., B. M.; thence East to a point which is the East corner common to Sections 15 and 22, T. 6 N., R. 1 W., B. M.; thence North to a point which is the East corner common to Sections 8 and 10, T. 6 N., R. 1 W., B. M.; thence East to a point which is the East corner common to Sections 2 and 11, T. 6 N., R. 1 W., B. M.; thence North to a point which would be the East corner common to Sections 23 and 26, T. 7 N., R. 1 W., B. M.; thence West to a point which is the Northwest corner of Section 25, T. 7 N., R. 2 W., B. M.; thence South to a point which is the Northwest corner of Section 1, T. 6 N., R. 2 W., B. M.; thence West to the point of beginning. (8-1-02)T

401. -- 499. (RESERVED).

500. RESTRICTIONS - CHERRY FRUIT FLY.

01. Treatments Required. Each person, or his agent, located in Cherry fruit fly regulated areas as stated in Section 400 shall treat, or cause to be treated at his own expense, each of the regulated articles as listed in Subsection 101.02 on their property in order to minimize the population of the Cherry fruit fly. (8-1-02)T

02. Chemical Treatments. Chemical treatments shall be carried out utilizing proper timing, methods and pesticides as recommended by the University of Idaho Cooperative Extension Service, approved for use on the commodity by the Environmental Protection Agency, and registered with the Idaho State Department of Agriculture. The regulated articles will be treated so as to effect the best control of the Cherry fruit fly, as per the pesticide label and University recommendations. (8-1-02)T

03. Emergence. The date of the emergence of the first Cherry fruit fly in the county will be made public in the Cherry fruit fly regulated areas by the Department. The date of first emergence shall be determined by historical evidence, a population model utilizing degree-day accumulations or by actual trapping of adult individuals. (8-1-02)T

04. Additional Spraying Responsibilities. The duty to treat cherry trees includes a similar duty to treat all parts of any type of tree within twenty (20) feet of any portion of a cherry tree, using methods specified in Subsection 500.02. (8-1-02)T

05. Failure To Treat. In the event that the person or his agent fails or refuses to effect the treatment specified in Subsection 500.02, the Director shall carry out the treatment at the expense of the person in charge or possession of the tree(s), as provided under Title 22, Chapter 20, Idaho Code. (8-1-02)T

501. -- 509. (RESERVED).

510. SURVEY AND DETECTION METHODS.

Survey and detection methods for the Apple maggot will follow accepted national and international guidelines as they pertain to Idaho environment, host distribution, and growing conditions. (8-1-02)T

511. -- 609. (RESERVED).

610. SPECIAL PERMITS.

The Director may issue special permits admitting regulated articles covered in this quarantine not otherwise eligible for entry from the area under quarantine, subject to conditions and provisions, which the Director may prescribe to prevent introduction, escape or spread of the quarantine pests. (8-1-02)T

611. -- 649. (RESERVED).

650. VIOLATIONS.

Any person violating any portion of these rules shall be subject to the penalty provisions of Title 22, Chapter 20, Idaho Code. (8-1-02)T

651. -- 999. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.06.10 - ORDER IN THE MATTER OF THE CONTROL OF CHERRY FRUIT FLY IN CERTAIN PRESCRIBED PORTIONS OF GEM COUNTY

DOCKET NO. 02-0610-0201 (REPEAL OF CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Title 22, Chapter 20, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2002.

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

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

To repeal the rule in its entirety and combine the common provisions of this rule and three other related rules that are being repealed into one comprehensive rule.

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

The repeal of IDAPA 02.06.10 will confer benefits to the fruit industry, reduce annual printing costs and remove pesticide recommendations; some of which may be illegal under Federal law.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael E. Cooper, Acting Administrator or Curtis Thornburg, Program Manager at (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2002.

DATED this 22nd day of July, 2002.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503 / Fax: (208) 334-2170

IDAPA 02.06.10 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.06.19 - APPLE AND CHERRY QUARANTINE RULES
DOCKET NO. 02-0619-0201 (REPEAL OF CHAPTER)
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Title 22, Chapter 20, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2002.

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

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

To repeal the rule in its entirety and combine the common provisions of this rule and three other related rules that are being repealed into one comprehensive rule.

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

The repeal of IDAPA 02.06.19 will confer benefits to the fruit industry, reduce annual printing costs and remove pesticide recommendations; some of which may be illegal under Federal law.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael E. Cooper, Acting Administrator or Curtis Thornburg, Program Manager at (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2002.

DATED this 22nd day of July, 2002.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

IDAPA 02.06.19 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.06.23 - INTERIOR APPLE MAGGOT QUARANTINE
DOCKET NO. 02-0623-0201 (REPEAL OF CHAPTER)
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Title 22, Chapter 20, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2002.

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

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

To repeal the rule in its entirety and combine the common provisions of this rule and three other related rules that are being repealed into one comprehensive rule.

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

The repeal of IDAPA 02.06.23 will confer benefits to the fruit industry and reduce annual printing costs by being consolidated into a single rule covering all aspects of the Apple Maggot Program.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Michael E. Cooper, Acting Administrator or Curtis Thornburg, Program Manager at (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2002.

DATED this 22nd day of July, 2002.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

IDAPA 02.06.23 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.03 - RULES OF ELECTRICAL LICENSING AND REGISTRATION - GENERAL

DOCKET NO. 07-0103-0201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221(1) and 65-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-1006(5) and 54-1007, 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 September 18, 2002.

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

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

The proposed rule change will coordinate licensing requirements with Idaho Code. The change deletes the requirement for apprentices to wait until four (4) years have elapsed to apply for a journeyman license. An apprentice may apply after proof of completion of the prescribed educational training and at least two thousand (2000) hours of on-the-job training experience each year for four (4) years. The Idaho State Electrical Board also establishes by rule the requirements for out-of-state applicants for journeyman.

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

Prompt enactment of a temporary rule is necessary to comply with HB585a, which was passed during the 2002 Legislative Session and became effective July 1, 2002.

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 prompt enactment of a temporary rule is necessary to comply with HB585a, which was passed during the 2002 Legislative Session and became effective July 1, 2002.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rulemaking, contact Gary Malmen, Electrical Bureau Chief, Division of Building Safety, (208) 332-7147.

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 September 25, 2002.

DATED this 24th day of July, 2002.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0103-0201

012. APPRENTICE ELECTRICIAN.

01. Qualifications Requirements For Apprentice Electrician. ~~An apprentice electrician shall be required to work four (4) years, defined as eight thousand (8,000) hours of work experience, under the constant on-the-job supervision of a journeyman electrician. That work shall include three (3) categories: (1) residential, (2) commercial, and (3) industrial installations. Experience shall not exceed seventy-five percent (75%) of the work time in any one category. The requirements of the preceding sentence shall not apply to a registered apprentice enrolled in an apprenticeship program accredited by the Electrical Bureau.~~ (7-1-02)T

a. A person wishing to become an apprentice electrician must be employed in the electrical trade and shall register with the Division of Building Safety prior to going to work. Said person shall carry a current registration certificate on his person at all times and shall present it upon request to personnel of the Division of Building Safety for examination. Each apprentice shall re-register prior to each July 31, furnishing proof of ~~required instruction~~ completion of a minimum of one hundred forty-four (144) hours of an organized sequence of instruction in technical subjects related to the electrical trade as approved by the Idaho State Electrical Board and the Idaho State Board for Professional and Technical Education and work experience performed during the previous year with notarized letters from each employer and a certificate of achievement from the vocational institution attended. This requirement shall continue each year until the minimum requirements of Chapter 10, Title 54, Idaho Code, have been fulfilled. Any apprentice failing to register by August 1 of each year shall pay an additional fee of ten dollars (\$10) to revive his registration certificate. Time shall not be credited while the apprentice is inactive or not registered, nor shall time be allowed for any year which is not accompanied by proof of required instruction for that year of apprenticeship. (2-25-95)(7-1-02)T

b. In order to qualify to take the journeyman electrician examination an apprentice electrician shall be required to work four (4) years, defined as a minimum of eight thousand (8,000) hours of work experience, under the constant on-the-job supervision of a journeyman electrician. That work shall include three (3) categories: (7-1-02)T

i. Residential; (7-1-02)T

ii. Commercial; and (7-1-02)T

iii. Industrial installations. (7-1-02)T

c. Experience shall not exceed seventy-five percent (75%) of the work time in any one (1) category. The requirements of Subsection 012.01.b. shall not apply to a registered apprentice enrolled in an apprenticeship program accredited by the Electrical Bureau. (7-1-02)T

02. Direct Supervision. It shall be the responsibility of the employing electrical contractor to insure that the apprentice performs electrical work only under the constant on-the-job supervision of a journeyman electrician. Any contractor who employs more than two (2) apprentice electricians for each licensed journeyman electrician employed is presumed to be in violation of the direct supervision requirements of Section 54-1010, Idaho Code, and of the constant on-the-job supervision requirement of Section 54-1003A, Idaho Code. This presumption may be rebutted by a showing by the contractor that special circumstances exist which are peculiar to the work done by that contractor which allows for effective supervision by each journeyman electrician of more than two (2) apprentice electricians. Prior to employing more than two (2) apprentice electricians for each journeyman electrician, a contractor must obtain permission from the Electrical Bureau to do so. Failure to comply with this requirement will be grounds for suspension or revocation of the electrical contractor's license. (4-1-91)

013. JOURNEYMAN ELECTRICIAN.

01. Experience And Education Required. (7-1-02)T

a. An applicant for a journeyman electrician license must have ~~at least four (4) years experience~~

~~working in the trade, in compliance with the requirements of the state in which the applicants received his experience, or worked~~ as an apprentice electrician making electrical installations for four (4) years, defined as a minimum of eight thousand (8,000) hours under the constant on-the-job supervision of a qualified journeyman electrician and ~~meeting the~~ minimum vocational educational requirements of the Idaho ~~Vocational Education Board~~ State Electrical Board and the Idaho State Board for Professional and Technical Education as provided by Section 54-1007 of the Idaho Code and Subsection 012.01.a. That work shall include three (3) categories: (7-1-02)T

- i. Residential; (7-1-02)T
- ii. Commercial; and (7-1-02)T
- iii. Industrial installations. (7-1-02)T

b. Experience shall not exceed seventy-five percent (75%) of the work time in any one (1) category. The requirements of Subsection 013.01.a. shall not apply to a registered apprentice enrolled in an apprenticeship program accredited by the Electrical Bureau. (7-1-02)T

c. An applicant with out-of-state experience from a state that does not have a current reciprocal agreement with Idaho must meet the experience and vocational education requirements as set forth in Subsection 013.01.a. or if the applicant has not completed the vocational education requirement, the applicant may alternately submit verification of twice the amount of experience (eight (8) years defined as a minimum of sixteen thousand (16,000) hours)). That work shall include three (3) categories: (7-1-02)T

- i. Residential; (7-1-02)T
- ii. Commercial; and (7-1-02)T
- iii. Industrial installations. (7-1-02)T

d. Experience shall not exceed seventy-five percent (75%) of the work time in any one (1) category and must have been legally obtained in the state in which the applicant received his or her experience. (7-1-02)T

e. An applicant from a state that has a current reciprocal agreement with the state of Idaho may be issued a journeyman electrician license without testing in accordance with Section 54-1007, Idaho Code, upon verification that: (7-1-02)T

- i. The license is current and active and in good standing; (7-1-02)T
- ii. The license was obtained by testing from the issuing state;
- iii. The license has been in effect for a minimum of one year; and (7-1-02)T
- iv. The applicant has not previously taken and failed the Idaho State journeyman electrical examination. (7-1-02)T

f. Experience in appliance repairing, motor winding, and communications will not be accepted towards qualification for a journeyman electrician license. (1-14-87)(7-1-02)T

02. Application And Examination. A qualified journeyman electrician not holding an Idaho state license shall make application for a journeyman electrician license with the Electrical Bureau prior to going to work in the state of Idaho as provided by Section 54-1002(2), Idaho Code. An applicant will be permitted a maximum of thirty (30) days in which to take the examination after making application unless mutual agreements have been made between the applicant and the Electrical Division. (1-14-87)

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING
DOCKET NO. 07-0104-0201
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221(1) and 65-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1006(5), 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 September 18, 2002.

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

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

The proposed rule change removes the specialty license fee from rule to make it consistent with Section 54-1014, Idaho Code, which changed the cost of a one-year license to the cost of a three-year license.

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

Prompt enactment of a temporary rule is necessary to comply with changes to Section 54-1014, Idaho Code, which passed during the 2002 Legislative Session and became effective July 1, 2002.

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 prompt enactment of a temporary rule is necessary to comply with changes to Section 54-1014, Idaho Code, which passed during the 2002 Legislative Session and became effective July 1, 2002.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rulemaking, contact Gary Malmen, Electrical Bureau Chief, Division of Building Safety, (208) 332-7147.

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 September 25, 2002.

DATED this 24th day of July, 2002.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0104-0201

015. APPLICATIONS FOR SPECIALTY LICENSES.

Applications for any of the above specialty licenses may be obtained from the Electrical Bureau, Division of Building Safety. The forms shall be returned with the ~~fifteen dollar (\$15)~~ application fee, as provided by Section 54-1014, Idaho Code, with proof of the required two (2) years of experience in the field of specialty, and all applications shall be signed and notarized. Upon receiving a passing grade, the applicant may remit the ~~twenty five dollar (\$25)~~ license fee for issuance of the license. ~~(7-1-97)~~(7-1-02)T

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE

DOCKET NO. 07-0106-0201

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2003 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1001 and 54-1006(5), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the June 5, 2002 Idaho Administrative Bulletin, Vol. 02-6, pages 23 and 24.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Gary Malmen, Electrical Bureau Chief, Division of Building Safety, (208) 332-7147.

DATED this 24th day of July, 2002.

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

IDAPA 07, TITLE 01, Chapter 06

RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE

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 02-6, June 5, 2002, pages 23 and 24.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0201

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2003 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 Article IX, Section 2 of the Idaho Constitution and under 33-116, 33-1612, Title 33, Chapter 20, 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 June 5, 2002 Idaho Administrative Bulletin, Volume 02-6, pages 25 through 30.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Randi McDermott at 334-2270 or Jana Jones at 332-6800.

DATED this 3rd day of July, 2002.

Randi McDermott
State Board of Education
650 W. State St.
PO Box 83720
Boise, ID 83720-0037
Phone: 208-334-2270

IDAPA 08, TITLE 02, Chapter 03

RULES GOVERNING THOROUGHNESS

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 02-5, June 5, 2002, pages 25 through 30.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.

IDAPA 09 - IDAHO DEPARTMENT OF LABOR

09.01.30 - RULES OF THE BENEFITS BUREAU

DOCKET NO. 09-0130-0201

NOTICE OF RULEMAKING - PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2002.

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 rulemaking amends IDAPA 09.01.30.475.07 to provide that if a claimant declines work with his or her ongoing employer and the employment relationship is not severed, the claimant's availability for work will be examined, but the claimant will not be considered to have refused an offer of work for the purposes of Sections 72-1366(6) or (21)(a)(ii)(A), Idaho Code.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being amended to clarify an existing rule which has caused confusion.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Roger Holmes at 208/332-3570 ext. 3233.

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 September 25, 2002.

DATED this 24th day of July, 2002.

Roger Holmes
UI Benefits Bureau Chief
Benefit Programs Bureau
Idaho Department of Labor
317 W. Main St., Boise, ID 83735
208/332-3570 ext. 3233 / 208/334-6301 Fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-0201

475. REFUSAL OF WORK/FAILURE TO APPLY.

Ref. Sec. 72-1366(6), (7), Idaho Code.

(3-19-99)

01. Citizenship Or Residency Requirements. An employer's restrictions on citizenship or residency shall be deemed good cause for a claimant's failure to apply for available work if he does not meet the requirements.

(3-19-99)

02. Claimant Conduct. A claimant who, by his conduct, causes an employer to withdraw an offer of suitable work or terminate the offer after the claimant has accepted it shall be ineligible.

(3-19-99)

- 03. Claimant Responsibility.** A claimant has the responsibility to apply for and accept suitable work. (3-19-99)
- 04. Conscientious Objection.** A claimant may refuse employment that requires him to work on his Sabbath if his religious convictions do not permit him to work on that day. (3-19-99)
- 05. Employer Requirements.** Claimants are expected to comply with reasonable, lawful requirements that are typical of certain occupations, such as a requirement that a worker be bonded. Unreasonable requirements by employers shall not be used as a basis to deny benefits. However, a claimant must have good cause to refuse or fail to meet an employer's reasonable, lawful employment requirements to be eligible for benefits. (3-19-99)
- 06. Failure To Report.** A claimant who fails to report to a local office when so directed, fails to follow explicit instructions for applying for suitable, available work, or fails to report to work after accepting employment, without good cause, shall be ineligible. Ref. Sec. 72-1366(2), (6), Idaho Code. (3-19-99)
- 07. Failure To Return To Work After Layoff.** A claimant who has been laid off, but fails to return to work on the date specified by the employer at the time of layoff, or ~~who~~ fails to respond to a callback after a layoff, shall be considered to have refused an offer of work if the ongoing employment relationship is severed as a result. Whether the work was suitable and whether there was good cause for the refusal will be decided on the merits of the case. If the claimant declines work with the employer but the ongoing employment relationship is not severed as a result, the claimant's availability for work will be examined, but the claimant will not be considered to have refused an offer of work for the purposes of Sections 72-1366(6) or (21)(a)(ii)(A), Idaho Code. (~~3-19-99~~)()
- 08. Government Requirements.** A claimant who cannot meet government requirements (such as obtaining a civil service rating) within a reasonable period of time shall have good cause for refusing that opportunity to work. (3-19-99)
- 09. License Or Permits.** A claimant must provide or be capable of obtaining a license or permit if required by law for performance of the work. (3-19-99)
- 10. Moral Objections.** A claimant shall not be ineligible for failing to apply for or accept employment if the claimant has reasonable, serious objections to the work or the workplace on moral or ethical grounds. (3-19-99)
- 11. Offer Of Work.** A claimant whose unemployment is due to his failure without good cause to accept available, suitable work shall be ineligible. The job offer must have been genuine and known to the claimant. (3-19-99)
- 12. Part-Time Work.** A claimant must be available for and willing to accept suitable part-time work in the absence of suitable full-time work. (3-19-99)
- 13. Personal Circumstances.** To have good cause to refuse to apply for or accept available, suitable work because of personal circumstances, a claimant must show that his circumstances were so compelling that a reasonably prudent individual would have acted in the same manner under the same circumstances. (3-19-99)
- 14. Prospect Of More Suitable Work.** A claimant shall not be ineligible for failing to accept employment if he has excellent prospects for more suitable work with his former employer or in his regular occupation. (3-19-99)
- 15. Suitable Work.** Every claimant has the right to restrict his availability to suitable work. (3-19-99)
- 16. Travel Distance.** A claimant shall not be ineligible if the travel distance to available work is excessive or unreasonable. A claimant shall be ineligible if he fails to apply for and accept suitable work within a commuting area similar to other workers in his area and occupation. (3-19-99)
- 17. Working Conditions.** Employment shall be considered suitable if the working conditions are as favorable as those prevailing for similar work in the same locality. (3-19-99)

IDAPA 10 - IDAHO BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

10.01.01 - RULES OF PROCEDURE

DOCKET NO. 10-0101-0201

NOTICE OF RULEMAKING - 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 54-1208, 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 September 18, 2002.

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:

Current office hours are 8 am to Noon and 1 pm to 5 pm. The proposed rule change would modify the hours to 7 am to 4 pm. Currently license and certificate holders must be age 65 in order to qualify for Retired Status. The proposed rule change would modify this to age 60. The proposed rule change would require professional engineer applicants, who have a related science degree rather than an engineering degree, to provide the same evidence of equivalent education as those applicants who apply for certification as an Engineer-in-Training. The proposed rule change would clarify that the Board has the right to publish disciplinary action on the internet for a period of up to ten (10) years.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are primarily housekeeping in nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David L. Curtis at (208) 334-3860.

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 September 25, 2002

DATED this 9th day of July, 2002.

David L. Curtis, P.E., Executive Director
Board of Registration of Professional Engineers and Professional Land Surveyors
600 S. Orchard, Suite A
Boise, Idaho 83705-1242
Telephone (208) 334-3860
Fax (208) 334-2008

THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0101-0201

004. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS -- TELEPHONE NUMBERS.

The office of the Board shall be at 600 South Orchard, Suite A, Boise, Idaho 83705-1242. Normal office hours shall be from ~~8~~7:00 am to ~~12:00 Noon and 1:00 pm to~~ 54:00 pm Monday through Friday except holidays as recognized by the state of Idaho. The mailing address shall be the same as the street address. The telephone number shall be (208) 334-3860. The telephone number for the facsimile machine shall be (208) 334-2008. The telephone number for the TDD relay shall be 1-800-377-3529. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

013. PUBLICATIONS.

01. Annual Report. An annual report shall be submitted to the governor, the contents of which shall comply with the provisions of Section 54-1210, Idaho Code. (7-1-93)

02. Roster. A roster of professional engineers, professional land surveyors, engineers-in-training, land surveyors-in-training, and engineering and land surveying business entities in good standing and registrants and certificate holders in the retired status as provided in these rules shall be maintained in an electronic format available to the public. (3-15-02)

03. Retired Status. Those registrants who have reached the age of ~~sixty-five~~ (65) (or are totally and permanently disabled) and are retiring from practice may be listed in the retired section of the Roster, upon application to the Board. The biennial fee for being thus listed shall be established by the Board. Such listing does not permit a registrant to engage in the practice of engineering or land surveying. The fee for reinstatement to active practice shall be as required for delayed renewals in Section 54-1216, Idaho Code. (3-30-01)(____)

(BREAK IN CONTINUITY OF SECTIONS)

017. EXAMINATIONS.

01. Semiannually Or Annually; Special Or Oral Examination. Examinations for professional engineer, professional land surveyor, engineer-in-training and land surveyor-in-training will be held annually or semi-annually, the exact time and place to be determined by the Board. Special oral or written examinations during the year may be given by the Board. (7-1-93)

02. Eligibility For Examinations; Educational Requirements. The application for registration for professional engineer, professional land surveyor or certification of engineer-in-training or land surveyor-in-training, together with the written examination, shall be considered in the determination of the applicant's eligibility. Each applicant must meet the minimum requirements as set forth in Section 54-1212, Idaho Code, before admittance to any examination. (7-1-93)

a. In regard to educational requirements, the Board will consider as unconditionally approved only those engineering curricula which are accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET). Non-ABET accredited engineering curricula will be considered by the Board on their specific merits. The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee. An approved four-year Bachelor of Technology (B.T.) engineering curriculum is not considered equal to an approved Bachelor of Science engineering curriculum. The Board will require additional experience for applicants with B.T. degrees. (7-1-93)

b. An applicant who has completed a four-year bachelor degree program in a major other than engineering must have completed a minimum of fifteen (15) semester credits of Engineering Science at a Sophomore

and Junior level, six (6) semester credits of Engineering Design related courses at a Senior level, twelve (12) semester credits of Advanced Mathematics including Calculus and Differential Equations, and twelve (12) semester credits of basic science courses including Chemistry, calculus-based Physics and other appropriate basic science courses before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for assignment to the examination for certification as an Engineer-in-Training or as required by Section 54-1212(1)(b), Idaho Code, for assignment to the examination for licensure as a professional engineer. (~~3-15-02~~)()

i. Standard, regularly scheduled courses from accredited university programs, (on campus, correspondence, video, etc.) are normally acceptable without further justification other than transcript listing. The Board may require detailed course descriptions for seminar, directed study, special problem and similar courses to insure that the above requirements are met. (7-1-93)

ii. Graduate level engineering courses, i.e. courses which are available only to graduate students, are normally not acceptable since the Board believes graduate engineering courses may not provide the proper fundamental foundation to meet the broad requirements of professional engineering. (7-1-93)

c. In addition to the minimum requirements set forth in Section 54-1212, Idaho Code, a person who desires to be qualified by examination in the field of structural engineering shall meet the following requirements: (4-22-94)

i. Be a registered professional engineer in Idaho. (7-1-93)

ii. Have two (2) years of work experience in the field of structural engineering after being registered as a professional engineer. The Principles and Practice of Engineering examination for Structural Engineering will cover the practice of structural engineering to test the applicant's fitness to assume responsibility for engineering work affecting the public health, safety and welfare. The examination shall be sixteen (16) hours. (7-1-93)

d. The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has received a master's degree from an U.S. institution which has a bachelor degree program accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology in the discipline of the applicant's master's degree, and, in addition, has completed the coursework requirements of Subsection 017.02.b. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (4-5-00)

03. Notification To Applicant By Board. Notification of assignment or non-assignment to the examination will be furnished to the applicant at least thirty (30) days prior to the date of the examination. (4-5-00)

04. Notification To Board By Applicant. The applicant shall, at least fifteen (15) days before an examination, notify the Executive Director of the Board whether or not he will appear for the examination. Examinations will be given only to those who have so notified the Board. (4-5-00)

05. Excused Non-Attendance At Exam. In the event that an applicant cannot attend an examination, he shall immediately notify the Board to that effect and shall state the reason for non-attendance. Normally, no more than one (1) valid excuse and reassignment shall be granted to an applicant. If an applicant fails to appear for two (2) administrations of an examination their application may be terminated and they may be required to submit a new application and pay a new application fee in order to be reconsidered. (3-30-01)

06. Two (2) Examinations For Engineering Registration. The complete examining procedure for registration as a professional engineer consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer-in-training certification, and the second is the Principles and Practice of Engineering for professional engineer registration. Each examination shall be eight (8) hours in length. Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering curriculum. A certificate as an Engineer-in-

Training will be issued only to those student applicants who earn a passing grade on the examination and who receive a degree. Having passed the Fundamentals of Engineering examination, applicants will be required to take the Principles and Practice of Engineering examination at a later date when qualified by experience. (4-22-94)

07. Fundamentals Of Engineering. The Fundamentals of Engineering examination will cover such subjects as are ordinarily given in engineering college curricula and which are common to all fields of practice. The examination may also cover subject matters that are specific to the engineering discipline of the applicants education. (4-5-00)

08. Principles And Practice of Engineering - Disciplines. The Principles and Practice of Engineering examination will cover the practice of engineering to test the applicant's fitness to assume responsibility for engineering works affecting the public health, safety and welfare. Separate examinations will be given to test the applicant's fitness in any discipline for which there is an examination which, in the opinion of the Board, meets the requirements of duration and difficulty necessary to adequately test the applicant's fitness to practice in that particular discipline. The Board may use examinations prepared by the National Council of Examiners for Engineering and Surveying (NCEES) or it may prepare or commission the preparation of examinations in disciplines other than those for which examinations may be available from NCEES. (4-22-94)

09. Two Examinations For Land Surveying Registration. The complete examining procedure for registration as a professional land surveyor consists of two (2) separate written examinations. The first is the Fundamentals of Land Surveying examination for land surveyors-in-training certification, and the second is the Principles and Practice of Land Surveying registration. Each examination will be a total of eight (8) hours in length. Having passed the Fundamentals of Land Surveying examination, applicants will be required to take the Principles and Practice of Land Surveying examination at a later date when qualified by experience. The examination shall cover the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of Land Surveying examination may consist of separate modules, each of which must be passed. (4-5-00)

10. Oral Or Unassembled Examinations. An oral examination or unassembled written examination, in addition to the prescribed written examination, may be required for professional engineer and professional land surveyor applicants. (7-1-93)

11. Special Examinations. A special examination, written or oral or both, may be required in certain instances where the applicant is seeking registration through comity with another state or political entity having required written examinations that are not wholly comparable in length, nature or scope. This examination supplements the certified qualifying record of the applicant and establishes a more common basis for judging the application and awarding a certificate of qualification or registration in this state. The length of these special examinations shall be determined by the Board, but shall in no case exceed the lengths specified for the regular examination. Special examinations may be given at any date and need not conform with regular examination dates. (7-1-93)

12. Grading. Each land surveyor-in-training, engineer-in-training and professional engineer applicant must normally attain a scaled score of seventy (70) or above on the entire eight (8) hour examination before being awarded certification or registration. Examinees on the Principles and Practice of Land Surveying examination must normally attain a scaled score of seventy (70) or above on each section of the examination. (4-5-00)

13. Use Of NCEES Examinations. Examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) for professional engineer, engineers-in-training, professional land surveyors, and land surveyors-in-training may be used by the Board. The examination for the field of structural engineering shall be the sixteen (16) hour examination as determined by the Board. (7-1-93)

14. Review Of Examination By Examinee. (3-15-02)

a. Examinees who fail an examination which includes any "free-response" or "essay" type problems shall be allowed to review only the "free-response" or "essay" type problems on their examination. Examinees will only be allowed to review those questions attempted during the examinee's last taking of the examination. Examinees shall be allowed a review time equal to one-half (1/2) the time originally allowed to take the "free-response or

“essay” portion of the examination. The review shall be monitored by a Board member or Board representative. Paper will be provided by the Board and may not be taken away from the review site. A hand-held calculator not having word processing capabilities and not having a “QWERTY” keyboard may be used by the applicant during the review. Examinees in the Principles and Practice of Engineering examination may submit a rescoring request on the “free-response” or “essay” type problems attempted. Examinees who submit a rescoring request may use their own reference materials to complete the rescoring request. (3-15-02)

b. Examinees who fail an examination which consists partly of “free-response” or “essay” and partly of other type problems shall be provided a diagnostic analysis of their performance on the non “free-response” or non “essay” problems, but they will not be allowed to review the non “free-response” or non “essay” type problems attempted in the examination. (3-15-02)

c. Examinees who fail an examination which does not contain “free-response” or “essay” type problems shall be provided a diagnostic analysis of their performance, but they will not be allowed to review the actual problems attempted in the examination. (3-15-02)

15. Disposal Of Used Examination Pamphlets And Answer Sheets. The Executive Director of the Board is authorized by the Board to dispose of used examination solution pamphlets and answer sheets after the first anniversary date after the examination was given. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

021. RIGHT TO PUBLISH DISCIPLINARY ACTIONS.

The Board office may disclose the filing and the nature of a complaint, but may not disclose the details of an investigation. Final, formal enforcement, including, but not limited to actions such as fines, assessment of expenses, revocations or suspensions shall be public information. Probations and conditions may be subject to public disclosure whenever the Board believes it is in the public interest. Following a hearing or the entry of a consent agreement, the Board may publish a summary of any order issued by it, in a newsletter or newspaper of general circulation or, for a period of up to ten (10) years, may post it on the Internet. The Board may also advise anyone requesting such information of the contents of any order issued by it. (4-5-00)()

IDAPA 10 - IDAHO BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY

DOCKET NO. 10-0102-0201

NOTICE OF RULEMAKING - 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 54-1208, 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 September 18, 2002.

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 term "infraction" under Idaho Code means a "civil public offense, not constituting a crime, which is punishable only by a penalty not exceeding one hundred dollars (\$100) and for which no period of incarceration may be imposed". The term "infraction" is being replaced by the term "violation" which is more accurate. The current rules address rule infractions, but not violations of Idaho Code. This rule change would address violations of both rules and statutes.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are primarily housekeeping in nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David L. Curtis at (208) 334-3860.

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 September 25, 2002.

DATED this 9th day of July, 2002.

David L. Curtis, P.E., Executive Director
Board of Registration of Professional Engineers and Professional Land Surveyors
600 S. Orchard, Suite A
Boise, Idaho 83705-1242
Telephone (208) 334-3860
Fax (208) 334-2008

THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0102-0201

011. RULE AND STATUTE ~~INFRACTIONS~~ VIOLATIONS.

01. Affidavits For Rule And Statute ~~Infractions~~ Violations. Any person who believes that a Registrant or Certificate Holder by his actions, or failure to properly act, is guilty of fraud, deceit, negligence, incompetency, misconduct, or violation of these rules, or any applicable statute, may file a written affidavit with the Executive Director of the Board which shall be sworn to or affirmed under penalty of perjury, signed and in which the alleged rule and statute ~~infractions~~ violations shall be clearly set forth and that the applicable Registrant or Certificate Holder, or both, should be considered for the appropriate disciplinary action by the Board. Following the receipt of such affidavit, the Board shall investigate, hold hearings and adjudicate the charges, ~~in accordance with the provisions of the statutes~~. Proceedings ~~under these rules~~ shall be exempt from all statutes of limitations.

(4-5-00)()

02. Investigation Of Statute Or Rule ~~Infractions~~ Violations. The Board may, at its own discretion, initiate investigation of alleged or possible statute or rule ~~infractions~~ violations that have come to its attention.

(7-1-93)()

IDAPA 11 - IDAHO STATE POLICE

11.07.01 - MOTOR VEHICLE RULES - GENERAL RULES

DOCKET NO. 11-0701-0201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective August 1, 2002, and remains effective until rescinded or superseded by replacement rule or the approval of the final rule by the legislature or such other date specified in the concurrent resolution, or upon the conclusion of the 2003 legislative session, whichever is sooner.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Title 67, Chapter 29, 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 September 18, 2002.

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

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

The proposed rule is intended to add mandatory language addressing legal authority, title and scope, written interpretations, and administrative appeals at the beginning of the rule.

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

It is necessary to protect the health, safety, and welfare of the public by clarifying the rule by adding mandatory language at beginning of the rule.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Margaret P. White at 884-7050.

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 September 25, 2002.

DATED this 17th day of July, 2002.

Margaret P. White
Deputy Attorney General
Idaho State Police
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050 (208)
(208) 884-7090 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0701-0201

IDAPA 11
TITLE 07
Chapter 01

11.07.01 - RULES GOVERNING MOTOR VEHICLES ~~RULES~~ - GENERAL RULES

~~000.~~ ~~003.~~ **(RESERVED).**

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to the authority granted to the Idaho State Police pursuant to Section 67-2901(4), Idaho Code. (8-1-02)T

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.07.01, "Rules Governing Motor Vehicles - General Rules". (8-1-02)T

02. Scope. The rules apply to motor vehicles under the jurisdiction of the Idaho State Police. (8-1-02)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (8-1-02)T

003. ADMINISTRATIVE APPEALS.

All administrative appeals under these rules are conducted under IDAPA 04.11.01 et. seq. "Idaho Rules of Administrative Procedure of the Attorney General". (8-1-02)T

004. INCORPORATION BY REFERENCE.

These rules do not incorporate any documents by reference. (8-1-02)T

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

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

02. Mailing Address. The mailing address for the central office is Idaho State Police, P.O. Box 700, Meridian, Idaho 83680. (8-1-02)T

03. Street Address. The central office of the Idaho State Police is located at 700 S. Stratford Drive, Meridian, Idaho 83642. (8-1-02)T

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the department. (8-1-02)T

~~0057.~~ -- ~~0409.~~ **(RESERVED).**

00410. DEFINITION.

01. Department. The "department," as used herein, means the Idaho State Police. (7-1-93)

02. Director. The "Director," as used herein, means the Director of the Idaho State Police. (7-1-93)

IDAPA 11 - IDAHO STATE POLICE

11.07.02 - MOTOR SAFETY RULES - RULES GOVERNING SAFETY GLAZING MATERIAL

DOCKET NO. 11-0702-0201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective August 1, 2002, and remains effective until rescinded or superseded by replacement rule or the approval of the final rule by the legislature or such other date specified in the concurrent resolution, or upon the conclusion of the 2003 legislative session, whichever is sooner.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Title 67, Chapter 29, 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 September 18, 2002.

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

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

The proposed rule is intended to add mandatory language addressing legal authority, title and scope, written interpretations, incorporation by reference, and administrative appeals at the beginning of the rule.

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

It is necessary to protect the health, safety, and welfare of the public by clarifying the rule by adding mandatory language at beginning of the rule.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Margaret P. White at 884-7050.

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 September 25, 2002.

DATED this 17th day of July, 2002.

Margaret P. White, Deputy Attorney General
Idaho State Police
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050
(208) 884-7090 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0702-0201

IDAPA 11
TITLE 07
Chapter 02

11.07.02 - ~~MOTOR VEHICLE RULES~~ - RULES GOVERNING SAFETY GLAZING MATERIAL

000. LEGAL AUTHORITY.

By the authority of Section 49-944, Idaho Code, 1992 Session Laws, Chapter 88, Section 3, the director hereby adopts rules and regulations for the implementation of Section 49-944, Idaho Code, 1992 Session Laws, Chapter 88, Section 3. These rules are promulgated pursuant to the authority granted to the Idaho State Police pursuant to Section 67-2901(4), Idaho Code. (7-1-93)(8-1-02)T

~~001. — 002. (RESERVED).~~

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.07.02, “Rules Governing Safety Glazing Material”. (8-1-02)T

02. Scope. The rules apply to safety glazing material on motor vehicles under the jurisdiction of the Idaho State Police. (8-1-02)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (8-1-02)T

003. ADMINISTRATIVE APPEALS.

Rules of Procedure in contested cases shall be governed by the Administrative Procedures Act. (Title 67, Chapter 52 of the Idaho Code). All administrative appeals under these rules are conducted under IDAPA 04.11.01 et. seq. “Idaho Rules of Administrative Procedure of the Attorney General”. (7-1-93)(8-1-02)T

004. INCORPORATION BY REFERENCE.

01. Incorporated Document. Pursuant to Section 49-901, Idaho Code, the director hereby adopts by reference the standards and specifications set forth in 49 C.F.R. Sections 571.1 through 571.500, revised as of December 1998. (8-1-02)T

02. Availability of Reference Material. The federal regulations adopted by reference in these rules are maintained at the following locations: (7-2-97)

a. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174; and (8-1-02)T

b. Idaho State Police, Central Office, 700 S. Stratford Drive, Meridian, Idaho 83642. (8-1-02)T

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

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (7-18-2)T

02. Mailing Address. The mailing address for the central office is Idaho State Police, P.O. Box 700, Meridian, Idaho 83680. (8-1-02)T

03. Street Address. The central office of the Idaho State Police is located at 700 S. Stratford Drive, Meridian, Idaho 83642. (8-1-02)T

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the department.

(8-1-02)T

~~0057.~~ -- ~~0409.~~ (RESERVED).

~~00410.~~ DEFINITIONS.

01. Light Transmission. Light transmission is the ratio of the amount of total light, expressed in percentages, which is allowed to pass through the product or material to the amount of total light falling on the product or material and the glazing. (7-1-93)

02. Luminous Reflectance. Luminous reflectance is the ratio of the amount of total light, expressed in percentages, which is reflected outward by the product or material to the amount of total light falling on the product or material. (7-1-93)

03. Own Or Owning. "Own" or "owning" means having the property in or title to a motor vehicle. These terms include persons, other than lienholders, who are entitled to the use and possession of a vehicle subject to a security interest in another person, but shall exclude a lessee under a lease not intended as security. (7-1-93)

04. Person. "Person" means every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors, political subdivision, state or federal governmental department, agency, or instrumentality. (7-1-93)

05. Window Tinting Films Or Sunscreening Devices. Window tinting films or sunscreening devices are materials or devices which are designed to be used in conjunction with approved vehicle glazing materials for the purpose of reducing the effects of the sun. (7-1-93)

011. STANDARDS FOR SAFETY GLAZING MATERIAL.

~~**01. Incorporation By Reference.** Pursuant to Section 49-838, Idaho Code, the director hereby adopts by reference the standards and specifications set forth in 49 C.F.R. Section 571.205, Standard 205, as if set forth herein in full.~~ (7-1-93)

021. General. It is unlawful for any person to place, install, affix or apply any window tinting film or sunscreening device to the windows of any motor vehicle, except as follows: (7-1-93)

a. Nonreflective window tinting film or sunscreening devices shall not be applied to the windshield below the AS-1 line; if no AS-1 line is identifiable on the windshield, nonreflective window tinting film or sunscreening devices shall not be applied to the windshield below a line extending six (6) inches below and parallel to the roof line; (7-1-93)

b. Nonreflective window tinting film or sunscreening devices that have a light transmission of not less than thirty-five percent (35%) with a tolerance limit of plus or minus three percent (3%) and a luminous reflectance of no more than thirty-five percent (35%) with a tolerance limit of plus or minus three percent (3%) may be applied to the front side vents, front side windows to the immediate right and left of the driver, and the rear window; (7-1-93)

c. Nonreflective window tinting film or sunscreening devices that have a light transmission of not less than twenty percent (20%) with a tolerance limit of plus or minus three percent (3%) and a luminous reflectance of no more than thirty-five percent (35%) with a tolerance limit of plus or minus three percent (3%) may be applied to the side windows to the rear of the driver. (7-1-93)

032. Restriction. No person shall operate on the public highways, sell or offer to sell any motor vehicle with a windshield or windows which are not in compliance with the provisions of this rule and the standards of Section 40-944, Idaho Code. (7-1-93)

043. Limitation. Nothing in this section shall be construed to make illegal the operation or sale of any

motor vehicle, the windshield or windows of which are composed of, covered by, or treated with, any material, substance, system, or component with which such motor vehicle was sold when new or could have been equipped for sale when new as standard or optional equipment under any United States government statute or regulation governing such sale at the time of manufacture. (7-1-93)

054. Exception. Conditional exception for motor vehicles with windows not in compliance with the standards of Section 49-944, Idaho Code, on or before June 30, 1992. (7-1-93)

a. Persons who own a motor vehicle with a windshield or windows not in compliance with the standards of Section 49-944, Idaho Code, on June 30, 1992, shall not be charged with a violation of the standards of Section 49-944, Idaho Code, until January 1, 1993. (7-1-93)

b. Persons owning a motor vehicle with a windshield or windows not in compliance with the standards of Section 49-944, Idaho Code, on June 30, 1992, shall have until January 1, 1993, to obtain a certificate of non-compliance from the Idaho State Police indicating that the person owned the motor vehicle containing a windshield or windows not in compliance with the standards of Section 49-944, Idaho Code, on or before June 30, 1992. (See Appendix "A") (7-1-93)

c. The person owning the vehicle shall obtain a certificate of non-compliance from any Idaho State Police Officer. The owner of the vehicle if a natural person or the duly authorized agent of a dealer, firm, or other entity identified in Subsection 004.04 owning the vehicle, shall provide to the Idaho State Police Officer the following required information: (1) The owner's name and driver's license number/dealer number; (2) The color, year, make and body of the automobile; and (3) The VIN number of the automobile. The ISP officer shall then verify the information, including the VIN number, and briefly examine the windows of the automobile, comparing the windows with the tinting sample provided him/her by the department, to determine whether the windows and/or windshield of the motor vehicle are in violation of the standards of Section 49-944, Idaho Code, and that certification is necessary. The officer shall sign the certificate of non-compliance if he/she deems certification necessary. (7-1-93)

d. The certificate of non-compliance shall be carried in the vehicle at all times. If the automobile is sold, the seller must turn the certificate over to the buyer of the automobile. (7-1-93)

e. The certificate of non-compliance is the only valid proof that a vehicle had windows not in compliance with the standards of Section 49-944, Idaho Code, on or before June 30, 1992. (7-1-93)

f. A person operating a motor vehicle with a valid certificate as provided in this subsection shall not be deemed to be violating the standards of Section 49-944, Idaho Code, on or after January 1, 1993. (7-1-93)

g. The department shall revoke any certificate of noncompliance if statements made in the procurement of said certificate are discovered to have been false. (7-1-93)

IDAPA 11 - IDAHO STATE POLICE

11.07.03 - EMERGENCY VEHICLES/AUTHORIZED EMERGENCY VEHICLES

DOCKET NO. 11-0703-0201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule is effective August 1, 2002, and remains effective until rescinded or superseded by replacement rule or the approval of the final rule by the legislature or such other date specified in the concurrent resolution, or upon the conclusion of the 2003 legislative session, whichever is sooner.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Title 67, Chapter 29, 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 September 18, 2002.

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

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

The proposed rule is intended to add mandatory language addressing authority, title and scope, written interpretations, and administrative appeals at the beginning of the rule and to correct a code section error and scrivener's error within the rule.

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

It is necessary to protect the health, safety, and welfare of the public by clarifying the rule by adding mandatory language at beginning of the rule.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Margaret P. White at 884-7050.

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 September 25, 2002.

DATED this 17th day of July, 2002.

Margaret P. White
Deputy Attorney General
Idaho State Police
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7050
(208) 884-7090 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0703-0201

IDAPA 11
TITLE 07
Chapter 03

11.07.03 - RULES GOVERNING EMERGENCY VEHICLES/AUTHORIZED EMERGENCY VEHICLES

~~000.~~ ~~003.~~ **(RESERVED).**

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to the authority granted to the Idaho State Police pursuant to Section 67-2901(4), Idaho Code. (8-1-02)T

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.07.03, “Rules Governing Emergency Vehicles/Authorized Emergency Vehicles”. (8-1-02)T

02. Scope. The rules apply to emergency vehicles/authorized emergency vehicles under the jurisdiction of the Idaho State Police. (8-1-02)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (8-1-02)T

003. ADMINISTRATIVE APPEALS.

All administrative appeals under these rules are conducted under IDAPA 04.11.01 et. seq. “Idaho Rules of Administrative Procedure of the Attorney General”. (8-1-02)T

004. INCORPORATION BY REFERENCE.

These rules do not incorporate any documents by reference. (8-1-02)T

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

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

02. Mailing Address. The mailing address for the central office is Idaho State Police, P.O. Box 700, Meridian, Idaho 83680. (8-1-02)T

03. Street Address. The central office of the Idaho State Police is located at 700 S. Stratford Drive, Meridian, Idaho 83642. (8-1-02)T

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the department. (7-18-02)T

~~007.~~ ~~009.~~ **(RESERVED).**

~~004~~**10. DEFINITIONS.**

01. Authorized Emergency Vehicle. Authorized emergency vehicle means any vehicle that the Director shall designate, upon a finding that the vehicle is necessary for the preservation of life or property or to the

execution of an emergency governmental function. (7-1-93)

02. Limited Authorized Vehicle. Limited authorized emergency vehicle means a vehicle to which a limited authorization is issued by the Director for limited emergency uses as defined by the Director upon agreement with an applicant under terms specified therein. (7-1-93)

03. Driver. Driver means every person who is in actual physical control of an authorized emergency vehicle. (7-1-93)

04. Operation. Operation means the driving or moving by any driver on a public highway of any emergency vehicle which requires authorization from the Director. (7-1-93)

~~005-010.~~ **(RESERVED).**

011. PURPOSE.

01. General. The purpose of this chapter is to specify a procedure to be followed to obtain approval for authorized emergency vehicles. Pursuant to Section 49-~~597~~218, Idaho Code, the Director shall designate any particular vehicle as an authorized emergency vehicle upon a finding that designation of that vehicle is necessary to the preservation of life or property or to the execution of an emergency governmental function. ~~(7-1-93)~~(8-1-02)T

02. Emergency Vehicles. This chapter will not pertain to emergency vehicles as defined by Section 49-~~578~~123, Idaho Code, i.e., vehicles operated by any fire department or law enforcement agency of the state of Idaho or political subdivision thereof, and ambulances of any public utility or public service corporation. ~~(7-1-93)~~(8-1-02)T

012. AUTHORIZATION REQUIREMENTS.

01. General. Any person, firm, corporation, or municipal corporation, desiring to have a vehicle registered as an authorized emergency vehicle, pursuant to Section 49-~~597~~218, Idaho Code, shall apply for authorization to the Director on forms provided by the department. ~~(7-1-93)~~(8-1-02)T

02. Required. The applicant shall furnish the following information to the department and do the following: (7-1-93)

a. A description of the specific geographic area in which the vehicle shall be used as an authorized emergency vehicle. (7-1-93)

b. A description of the specific purposes for which the vehicle shall be used as an emergency vehicle. (7-1-93)

c. A description of the emergency vehicle listing year, make, model, vehicle identification number and license plate number. (7-1-93)

d. A description of the emergency lighting equipment to be used on the emergency vehicle. (7-1-93)

e. A description of the emergency horns or warning devices to be used on the emergency vehicle. (7-1-93)

f. Written documentation indicating the emergency vehicle will have radio communications between a central dispatch location and, when applicable, between other emergency vehicles. (7-1-93)

g. Maintain a certificate or liability and property damage insurance executed by an insurer authorized to transact insurance business with the state. A copy of such certificate shall be on file in the Director's office and shall be updated upon each renewal period, with notice of renewal being filed with the Director. The certificate shall show expiration date, liability (single event and aggregate) and property damage coverage. (7-1-93)

h. An explanation of the nature and the scope of the duties, responsibilities and the authority of the vehicle driver which necessitates the vehicle's registration as an authorized emergency vehicle. (7-1-93)

i. A list of the names, addresses, birthdates, social security numbers of all persons who use the vehicle as an authorized emergency vehicle. (7-1-93)

j. Written documentation as to the emergency vehicle driving courses and hours of instruction completed by each driver. (7-1-93)

k. A recommendation by the chief law enforcement officer or fire chief, if the vehicle is to be used for fire fighting purposes, of each jurisdiction in which the vehicle is to be used as an authorized emergency vehicle stating that a need exists in such jurisdiction for the vehicle to be used as described in the application. The Director may issue emergency vehicle authorization to vehicles which operate throughout the state. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

021. EQUIPMENT REQUIRED.

01. Authority. Pursuant to Section 49-~~8309~~01, Idaho Code, the Director has authority to approve and disapprove warning lighting devices on emergency vehicles and to issue and enforce regulations for such emergency warning lighting devices. (~~7-1-93~~)(8-1-02)T

02. Equipment. Every authorized emergency vehicle shall be equipped in conformance with Section 49-~~60623~~(3), Idaho Code, with at least one (1) red light visible in a three hundred and sixty (360) degree arc at a distance of one thousand feet (1000') under normal atmospheric conditions and/or an audible signaling device having a decibel rating of at least one hundred ~~feet~~ (100') decibels at a distance ~~of~~ of ten feet (10'). (~~7-1-93~~)(8-1-02)T

**IDAPA 15 - OFFICE OF THE GOVERNOR -
IDAHO FOREST PRODUCTS COMMISSION**

15.03.01 - RULES OF ADMINISTRATIVE PROCEDURE OF THE FOREST PRODUCTS COMMISSION

DOCKET NO. 15-0301-0201

NOTICE OF RULEMAKING - PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 38-1508, 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 September 18, 2002.

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 rulemaking will eliminate unnecessary definitions and make clear the methodology for assessing fees to financial supporters of the Commission.

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 of the general housekeeping and non-controversial nature of the proposed rule changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Betty Munis, Director, at (208) 334-3292.

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 September 25, 2002.

DATED this 24th day of July, 2002.

Betty Munis
Director
Idaho Forest Products Commission
350 N. 9th St., Ste. 304
P. O. Box 855
Boise, ID 83701
Phone: (208) 334-3292
Fax: (208) 334-3449

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0301-0201

004. DEFINITIONS.

As used in this chapter:

(11-22-93)

01. Assessment. The fee authorized by Section 38-1515, Idaho Code, which is levied upon all logs harvested within the state of Idaho or measured or processed within the state of Idaho, even though such logs may have originally been cut in another state and transported into Idaho for processing, and upon all employees, including self-employed, engaged in the harvest or transport of timber, logs, unfinished lumber, chips, sawdust, shavings or hog fuel in Idaho, and upon each acre of forest land owned by a business that owns more than fifty thousand (50,000) acres of forest land and has no manufacturing facilities within the state against financial supporters for their individual share of the commission budget for the assessment year. The assessment shall be based upon data compiled from the base year. (7-1-98)()

032. ~~Fiscal Year And~~ Assessment Year. January 1 through December 31 of any calendar year in which the commission levies an assessment. (11-22-93)()

03. Base Year. The calendar year immediately preceding the assessment year. ()

024. Commission. The Idaho Forest Products Commission created by Section 38-1503, Idaho Code. (11-22-93)()

05. ~~Substantial Source Of Income.~~ ~~Essential part of a person's income.~~ (11-22-93)

065. Financial Supporter. Person who pays an assessment to the ~~C~~commission. (11-22-93)

06. Forest Product Manufacturer. Means a person that engages in the processing, cutting, fabricating or other process which converts timber, chips, sawdust or shavings into lumber, paper, plywood, particle board or other usable products for sale in commerce, provided, however, as used in this chapter, forest products manufacturers shall not include the following business entities engaged in: ()

a. The production of fence or corral posts or rails; ()

b. Producing shingles or shakes; ()

c. Producing firewood or pellets for energy; or ()

d. Producing logs which have been shaped or scribed and used in the construction of log structures. ()

047. ~~Person, Firm, And Business Organizations.~~ An individual, partnership, association, ~~or~~ corporation or other entity qualified to do business in the state of Idaho. (11-22-93)()

07. ~~Communication Skills.~~ ~~Demonstrated ability to effectively transfer thoughts, opinions or information orally or in writing.~~ (11-22-93)

08. ~~Natural Resource Education.~~ ~~Scientific or technical knowledge or experience in the fields of forestry, wildlife management, biology and range sciences.~~ (11-22-93)

(BREAK IN CONTINUITY OF SECTIONS)

200. ASSESSMENTS AND FEES.

01. Assessments. An assessment for all logs harvested, measured or processed within the state of Idaho and for all employees, including self employed, engaged in the harvest or transport of timber, logs, unfinished lumber, chips, sawdust, shavings or hog fuel in Idaho, and for each acre of forest land owned by a business that has no Idaho manufacturing facilities and owns more than fifty thousand (50,000) acres of forest land shall be set by the ~~C~~commission no later than January 1 ~~for that~~ of the assessment year, ~~and~~ Notice of the assessment shall be ~~invoiced~~ mailed no later than the last day of the fourth week of May of ~~that~~ the assessment year to the last known address of

~~each financial supporter. Each assessment will be based on an equal percentage of the maximum allowable amount shall not be reduced for financial supporters who cease business during an assessment year. (7-1-98)()~~

~~a. Financial supporters of the Commission may choose to pay their assessment in either one (1) full payment due thirty (30) days after the posting date of the invoice notice of assessment is mailed, or in four (4) equal payments with payment in full made by December 31 of that the assessment year. (7-1-98)()~~

~~b. Assessments on logs processed into various manufactured products shall be levied against the forest products manufacturer which initiates the manufacturing process. (11-22-93)~~

~~c. The Commission shall establish a policy and schedule for insufficient fund checks which will be reviewed annually. This policy and schedule shall be available to the public under the procedures set forth by the Public Records Act, Chapter 9, Title 3 of the Idaho Code. (7-1-98)()~~

~~02. Exemptions. No assessment shall be levied against the materials, transportation or processing activities used in the harvest, transport or manufacturing of: (7-1-98)~~

~~a. Fence or corral posts or rails; (7-1-98)~~

~~b. Shingles or shakes; (7-1-98)~~

~~c. Firewood or pellets for energy or heating purposes; or (7-1-98)~~

~~d. Logs used in building log homes or other structures. Assessments shall not be levied upon logs that are transferred, in their original form, to another manufacturing entity within the state of Idaho that then initiates the manufacturing process. (7-1-98)~~

~~e. Assessments shall be levied against all other harvesting, transporting or manufacturing of other forest products except those transported by railroad. (7-1-98)~~

~~03. Billing. Annually, the Commission shall bill each financial supporter for their pro rata share of the Commission budget and provide each financial supporter the opportunity to pay the annual assessment in full thirty (30) days after the posting date of the first invoice or in four (4) equal installments. (7-1-98)~~

~~04. Cooperation With Other Departments. In determining assessments levied by the Commission, the Commission may access the records of the department of labor and employment, the board of scaling practices, the tax commission, the transportation department, and the department of lands. Such records may include, but are not limited to those reports filed pursuant to Sections 49-434, 49-1001, 38-122, and 38-123, Idaho Code. (7-1-98)()~~

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.17 - SURPLUS LINES - DELEGATION OF RESPONSIBILITY
DOCKET NO. 18-0117-0201
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 41-211, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2002.

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

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

This rule is being amended to bring it into compliance with changes to Title 41, Chapter 12, Idaho Code, which removed the Idaho residency requirement for licensing surplus lines brokers and allows non-residents to be licensed to write surplus lines insurance business in Idaho. This proposed rule change also allows changes in surplus lines by-laws to become effective without prior approval if changes submitted for approval are not acted upon within 60 days of receipt by the department.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the revisions are primarily modifications made to comply with new statutory provisions.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Genetti, 208-334-4340.

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 September 25, 2002.

DATED this 23rd day of July, 2002.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0117-0201

011. DECLARATION.

In accordance with Section 41-1232, Idaho Code, Rules of Chapter 12, Unauthorized Insurers and Surplus Lines, as amended by the First Regular Session of the 40th Legislature, the Director declares: (7-1-93)

01. Delegation Of Responsibility To Surplus Lines Association. That the Surplus Lines Association

of Idaho, hereinafter called the Association, under the general supervision of the Department of Insurance, state of Idaho, has had delegated to it the responsibility for determination of eligibility for export of particular proposed coverages to eligible unauthorized insurers. (7-1-93)

02. Broker Compliance. That the Association is to examine ~~each~~ all submissions from licensed resident and non-resident Idaho Surplus Lines Brokers to assure compliance with Section 41-1217, Idaho Code - ELIGIBLE SURPLUS LINES INSURERS. Section 41-1217, Idaho Code, provides that while any list of eligible Surplus Lines Insurers, which has been compiled by the Director, is in effect, the broker shall restrict to the insurers so listed all surplus lines business placed by him. (7-1-93)()

03. Fees And Charges. That responsibility is granted to the Association so that it may, with the approval of the Director, effect such additional equitable fees and charges to be required of the insured in addition to the premium as fixed by the unauthorized insurer and the premium tax due the State of Idaho. (7-1-93)

04. Requirements Of Surplus Lines Association. That the Association, in addition to the responsibilities outlined above, shall: (7-1-93)

a. For the protection of all concerned have its Articles, By-Laws, Rules, and Procedures approved by the Director. Any changes made therein should receive prior approval before being put into effect. However, any submitted change, if not acted on within sixty (60) days of receipt by the Director, will be deemed approved. (7-1-93)()

b. File with the Director, and keep current, a list of its members. (7-1-93)

c. Keep complete records of all transactions concerning Surplus Lines to the end that proper tax may be collected on surplus lines policies and that proper reports will be forwarded to the Director as concerns all submissions. Submissions are to be made by licensed Idaho Surplus Lines Brokers through the Association to the Director on forms approved by the Director, and shall comply with requirements of Chapter 12, Idaho Code. (7-1-93)

d. Make its records available at any time for examination by the Director. (7-1-93)

e. Report through its manager to the Director any known violations of the Surplus Lines Law as cited in Title 41, Chapter 12, Idaho Code. (7-1-93)

012. ~~RULE NO. 3 AND RULE NO. 4 (RESERVED).~~

~~Of the Insurance Department, both dated March 1, 1962, were hereby repealed on the adoption date of IDAPA 18.01.17, "General Health and Safety Standards," and are no longer in force or effect. (7-1-93)~~

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.18 - OPEN LINES FOR EXPORT - SURPLUS LINES
DOCKET NO. 18-0118-0201
NOTICE OF RULEMAKING - PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 41-211, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2002.

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

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

This rule is being amended to allow the director to approve a class or classes of business for export through the surplus lines market without conducting a formal hearing, by issuing an order or rule.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the revisions are primarily modifications made to facilitate the process of approving classes of business for export and is less restrictive than the present rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Genetti, 208-334-4340.

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 September 25, 2002.

DATED this 23rd day of July, 2002.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0118-0201

004. DEFINITIONS.

01. Open Lines For Export. The term "Open Lines for Export" shall mean the class or classes of business which ~~after formal hearing, for which notice was given to each insurer authorized to transact such class or classes of business within this state,~~ the Director by order or by rule has declared eligible for export in accordance with Section 41-1216, Idaho Code, and for which there appears to be no reasonable or adequate market among authorized insurers, either to acceptance of risk, contract terms, or premium or premium rate. (1-1-94)()

02. Lines Other Than Open Lines For Export. The term “Lines Other than Open Lines for Export” shall mean the class or classes of business not on the list of open lines for export which are to be offered to eligible surplus lines insurers in accordance with Sections 41-1214, and 41-1215, Idaho Code. (1-1-94)

03. Diligent Search. Diligent search or effort by the Surplus Line producer, for purposes of Section 41-1214(2), Idaho Code, shall be deemed to have been exercised if the Surplus Line producer or the referring insurance producer shall submit a risk to at least three authorized companies, which are engaged in writing in Idaho the type of coverage sought, or if there are no companies actually engaged in writing such coverage, the risk shall be submitted to at least three companies which, in the Surplus Line producer’s or the insurance producer’s professional judgment, are the most likely to accept the risk. (1-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

011. PROCEDURE.

01. Open Lines. Insurance written in those classes that have been declared open lines for export need not comply with Sections 41-1214(2), 41-1214(3) and 41-1215, Idaho Code, but the proper submission ~~form~~ must be ~~forwarded~~ provided to the Director or to a delegated association, if one has been delegated pursuant to Section 41-1232(c), Idaho Code, within thirty (30) days after the insurance policy is received by the Idaho broker. (1-1-94)()

02. Other Lines. Insurance written in those classes termed lines other than open lines for export are to be carefully processed to assure all concerned that the intent of Sections 41-1214 and 41-1215, Idaho Code, has been satisfied. The required broker’s affidavit and submission ~~form~~ must be ~~filed with~~ provided to the Director or a delegated association, if one has been delegated, within thirty (30) days after the insurance policy is received by the Idaho broker. (1-1-94)()

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.48 - PRIVACY OF CONSUMER FINANCIAL INFORMATION
DOCKET NO. 18-0148-0201
NOTICE OF RULEMAKING - PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Sections 41-211 and 41-1334, 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 September 18, 2002.

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:

A permanent rule is being proposed to implement requirements of federal law and Idaho Code Section 41-1334 relating to privacy. The proposed permanent rule will replace the existing rule relating to privacy of personal financial information.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this change is made to conform to new state law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Shad Priest at (208) 334-4250.

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 September 25, 2002.

DATED this 23rd day of July, 2002.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0148-0201

IDAPA 18
TITLE 01
Chapter 48

**18.01.48 - RULE TO IMPLEMENT THE PRIVACY OF CONSUMER
FINANCIAL AND HEALTH INFORMATION**

000. LEGAL AUTHORITY.

This rule is promulgated pursuant to the authority granted by Title 41, Chapter 13, Section 41-1334, Idaho Code.

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001. TITLE AND SCOPE.

01. Title. This chapter shall be cited in full as IDAPA 18.01.48, "Rule to Implement the Privacy of Consumer Financial and Health Information".

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02. Scope. This rule governs the treatment of nonpublic personal financial information about individuals by all licensees of the Idaho Department of Insurance. This rule:

()

a. Requires a licensee to provide notice to individuals about its privacy policies and practices;

()

b. Describes the conditions under which a licensee may disclose nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties; and

()

c. Provides methods for individuals to prevent a licensee from disclosing that information.

()

03. Applicability. This rule applies to nonpublic personal financial information about individuals who obtain or are claimants or beneficiaries of products or services primarily for personal, family, or household purposes from licensees. This rule does not apply to information about companies or individuals who obtain products or services for business, commercial, or agricultural purposes.

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002. WRITTEN INTERPRETATIONS.

The Department of Insurance may have written statements that pertain to the interpretation of the rules in this chapter. Any written statements shall be available for review at the Department of Insurance, 700 W. State Street, Boise, ID 83720.

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003. ADMINISTRATIVE APPEALS.

All hearings before the Director of the Department of Insurance shall be governed by Chapter 2, Title 41, and Chapter 52, Title 67, Idaho Code. Any appeal from a decision of the Director can be taken to District Court pursuant to Chapter 52, Title 67, Idaho Code and the Idaho Rules of Civil Procedure.

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004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules.

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

01. Office Hours. This office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays.

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02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, PO Box 83720, Boise, Idaho 83720-0043.

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03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043.

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006. PUBLIC RECORDS.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code.

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007. -- 009. (RESERVED).

010. DEFINITIONS -- A Through D.

As used in this rule, unless the context requires otherwise:

()

01. Affiliate. A company that controls, is controlled by, or is under common control with another company. ()

02. Clear And Conspicuous. A notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice. ()

a. Reasonably understandable. A notice is reasonably understandable if it: ()

i. Presents the information in clear, concise sentences, paragraphs, and sections; ()

ii. Uses short explanatory sentences or bullet lists whenever possible; ()

iii. Uses definite, concrete, everyday words and active voice whenever possible; ()

iv. Avoids multiple negatives; ()

v. Avoids legal and highly technical business terminology whenever possible; and ()

vi. Avoids explanations that are imprecise and readily subject to different interpretations. ()

b. Designed to call attention. A licensee designs its notice to call attention to the nature and significance of the information in it if the licensee: ()

i. Uses a plain-language heading to call attention to the notice; ()

ii. Uses a typeface and type size that are easy to read; ()

iii. Provides wide margins and ample line spacing; ()

iv. Uses boldface or italics for key words; and ()

v. In a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars. ()

c. Notices on web sites. If a licensee provides a notice on a web page, the notice must call attention to the nature and significance of the information in the notice. The licensee must use text or visual cues to encourage scrolling down the page, if necessary, to view the entire notice and ensure that other elements on the web site (such as text, graphics, hyperlinks or sound) do not distract attention from the notice; and: ()

i. Place the notice on a screen that consumers frequently access, such as a page on which transactions are conducted; or ()

ii. Place a link on a screen that consumers frequently access, such as a page on which transactions are conducted that connects directly to the notice and is labeled appropriately to convey the importance, nature, and relevance of the notice. ()

03. Collect. To obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifying particular assigned to the individual, irrespective of the source of the underlying information. ()

04. Company. A corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship, or similar organization. ()

05. Consumer. An individual who seeks to obtain, obtains, or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes, and about whom the licensee has nonpublic personal information, or that individual's legal representative. ()

- a.** An individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship. ()
- b.** An applicant for insurance prior to the inception of insurance coverage is a licensee's consumer. ()
- c.** An individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution. ()
- d.** An individual is a licensee's consumer if: ()
- i. The individual is: ()
- (1) A beneficiary of a life insurance policy underwritten by the licensee; ()
- (2) The individual is a claimant under an insurance policy issued by the licensee; ()
- (3) The individual is an insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee; or ()
- (4) The individual is a mortgagor of a mortgage covered under a mortgage insurance policy; and ()
- ii. The licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under Sections 450, 451 and 452 of this rule. ()
- e.** If the licensee provides the initial, annual, and revised notices under Sections 100, 150, and 300 of this rule to the plan sponsor, group or blanket insurance policyholder, or group annuity contract holder, and if the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about an individual other than as permitted under Sections 450, 451, and 452 of this rule, an individual is not the consumer of the licensee solely because he is: ()
- i. A participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer, or fiduciary; ()
- ii. Covered under a group or blanket insurance policy or group annuity contract issued by the licensee; or ()
- iii. A beneficiary in a workers' compensation plan. ()
- f.** The individuals described in Subparagraphs 010.05.e.i. through 010.05.e.iii. of this rule are consumers of a licensee if the licensee does not meet all the conditions of Paragraph 010.05.e. In no event shall the individuals, solely by virtue of the status described in Subparagraphs 010.05.e.i. through 010.05.e.iii. of this rule, be deemed to be customers for purposes of this rule. ()
- g.** An individual is not a licensee's consumer solely because he is a beneficiary of a trust for which the licensee is a trustee. ()
- h.** An individual is not a licensee's consumer solely because he is designated the licensee as trustee for a trust. ()
- 06. Consumer Reporting Agency.** Is the same meaning as found in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)). ()

- 07. Control:** ()
- a.** Ownership, control, or power to vote twenty-five percent (25%) or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one (1) or more other persons; ()
- b.** Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the company; or ()
- c.** The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the director determines. ()
- 08. Customer.** A consumer who has a customer relationship with a licensee. ()
- 09. Customer Relationship.** A continuing relationship between a consumer and a licensee under which the licensee provides one (1) or more insurance products or services to the consumer that are to be used primarily for personal, family, or household purposes. ()
- a.** A consumer has a continuing relationship with a licensee if: ()
- i.** The consumer is a current policyholder of an insurance product issued by or through the licensee; ()
- or
- ii.** The consumer obtains financial, investment, or economic advisory services relating to an insurance product or service from the licensee for a fee. ()
- b.** A consumer does not have a continuing relationship with a licensee if: ()
- i.** The consumer applies for insurance but does not purchase the insurance; ()
- ii.** The licensee sells the consumer airline travel insurance in an isolated transaction; ()
- iii.** The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee; ()
- iv.** The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee; ()
- v.** The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option; ()
- vi.** The customer's policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive months, other than annual privacy notices, material required by law or rule, communication at the direction of a state or federal authority, or promotional materials; ()
- vii.** The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or ()
- viii.** The individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful. ()
- 10. Director.** The Director of the Idaho Department of Insurance. ()
- 011. DEFINITIONS -- E Through Z.**

As used in this rule, unless the context requires otherwise: ()

01. Financial Institution. Any institution that engages in activities that are financial in nature or incidental to such financial activities as described in Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)). Financial institution does not include: ()

a. Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.); ()

b. The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); or ()

c. Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party. ()

02. Financial Product Or Service. A product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)). Financial service includes a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service. ()

03. Insurance Product Or Service. Any product or service that is offered by a licensee pursuant to the insurance laws of this state. Insurance service includes a licensee's evaluation, brokerage, or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service. ()

04. Licensee. All licensed insurers, producers, and other persons licensed, or required to be licensed; authorized, or required to be authorized; or registered, or required to be registered, pursuant to Title 41 of the Idaho Code. ()

a. A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information set forth in this rule if the licensee is an employee, agent, or other representative of another licensee ("the principal") and: ()

b. The principal otherwise complies with, and provides the notices required by, the provisions of this rule; and ()

c. The licensee does not disclose any nonpublic personal information to any person other than the principal or its affiliates in a manner permitted by this rule. ()

d. Subject to Paragraph 011.04.e., "licensee" shall also include an unauthorized insurer that accepts business placed through a licensed surplus lines broker in this state, but only in regard to the surplus lines placements placed pursuant to Title 41, Chapter 12, Idaho Code. ()

e. A surplus lines broker or surplus lines insurer shall be deemed to be in compliance with the notice and opt out requirements for nonpublic personal financial information set forth in this rule provided: ()

i. The broker or insurer does not disclose nonpublic personal information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under Section 450, except as permitted by Section 451 or 452 of this rule; and ()

ii. The broker or insurer delivers a notice to the consumer at the time a customer relationship is established on which the following is printed in sixteen (16) point type: ()

PRIVACY NOTICE

Neither the U.S. brokers that handled this insurance nor the insurers that have underwritten this insurance will

disclose nonpublic personal information concerning the buyer to nonaffiliates of the brokers or insurers except as permitted by law. ()

05. Nonaffiliated Third Party. ()

a. Any person except: ()

i. A licensee's affiliate; or ()

ii. A person employed jointly by a licensee and any company that is not the licensee's affiliate (but nonaffiliated third party includes the other company that jointly employs the person). ()

b. Nonaffiliated third party includes any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in Section 4(k)(4)(H) or insurance company investment activities of the type described in Section 4(k)(4)(I) of the federal Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)). ()

06. Nonpublic Personal Information. Nonpublic personal financial information. ()

07. Nonpublic Personal Financial Information. ()

a. Means: ()

i. Personally identifiable financial information; and ()

ii. Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available. ()

b. Nonpublic personal financial information does not include: ()

i. Health information; ()

ii. Publicly available information, except as included on a list described in Subparagraph 011.07.a.ii., of this rule; or ()

iii. Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information that is not publicly available. ()

c. Examples of lists: ()

i. Nonpublic personal financial information includes any list of individuals' names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers. ()

ii. Nonpublic personal financial information does not include any list of individuals' names and addresses that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution. ()

08. Opt Out. A direction by the consumer that the licensee not disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by Sections 450, 451, and 452. ()

09. Personally Identifiable Financial Information. ()

- a. Any information: ()
 - i. A consumer provides to a licensee to obtain an insurance product or service from the licensee; ()
 - ii. About a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer; or ()
 - iii. The licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer. ()
- b. Personally identifiable financial information includes: ()
 - i. Information a consumer provides to a licensee on an application to obtain an insurance product or service; ()
 - ii. Account balance information and payment history; ()
 - iii. The fact that an individual is or has been one (1) of the licensee's customers or has obtained an insurance product or service from the licensee; ()
 - iv. Any information about the licensee's consumer if it is disclosed in a manner that indicates that the individual is or has been the licensee's consumer; ()
 - v. Any information that a consumer provides to a licensee or that the licensee or its agent otherwise obtains in connection with collecting on a loan or servicing a loan; ()
 - vi. Any information the licensee collects through an Internet cookie (an information-collecting device from a web server); and ()
 - vii. Information from a consumer report. ()
- c. Personally identifiable financial information does not include: ()
 - i. Health information; ()
 - ii. A list of names and addresses of customers of an entity that is not a financial institution; and ()
 - iii. Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names or addresses. ()
- 10. Publicly Available Information. ()**
 - a. Any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from: ()
 - i. Federal, state, or local government records; ()
 - ii. Widely distributed media; or ()
 - iii. Disclosures to the general public that are required to be made by federal, state or local law. ()
 - b. A licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine: ()
 - i. That the information is of the type that is available to the general public; and ()

ii. Whether an individual can direct that the information not be made available to the general public and, if so, that the licensee's consumer has not done so. ()

c. Examples of publicly available information: ()

i. Government records. Publicly available information in government records includes information in government real estate records and security interest filings. ()

ii. Widely distributed media. Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or a web site that is available to the general public on an unrestricted basis. A web site is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so long as access is available to the general public. ()

iii. Reasonable basis. ()

(1) A licensee has a reasonable basis to believe that mortgage information is lawfully made available to the general public if the licensee has determined that the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded. ()

(2) A licensee has a reasonable basis to believe that an individual's telephone number is lawfully made available to the general public if the licensee has located the telephone number in the telephone book or the consumer has informed the licensee that the telephone number is not unlisted. ()

012. -- 099. (RESERVED).

100. INITIAL PRIVACY NOTICE TO CONSUMERS REQUIRED.

01. Initial Notice Requirement. A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to: ()

a. Customer. An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in Subsection 100.05 of this rule; and ()

b. Consumer. A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by Sections 451 and 452. ()

02. When Initial Notice To Consumer Not Required. A licensee is not required to provide an initial notice to a consumer under Paragraph 100.01.b. of this rule if: ()

a. The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by Sections 451 and 452, and the licensee does not have a customer relationship with the consumer; or ()

b. A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee and the other institutions. ()

03. When Licensee Establishes A Customer Relationship. ()

a. General rule. A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship. ()

b. Examples of establishing customer relationship. A licensee establishes a customer relationship when the consumer: ()

i. Becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance

policy or contract to the consumer, or in the case of a licensee that is an insurance producer or insurance broker, obtains insurance through that licensee; or ()

ii. Agrees to obtain financial, economic or investment advisory services relating to insurance products or services for a fee from the licensee. ()

04. Existing Customers. When an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes, the licensee satisfies the initial notice requirements of Subsection 100.01 of this rule as follows: ()

a. The licensee may provide a revised policy notice, under Section 300 that covers the customer's new insurance product or service; or ()

b. If the initial, revised, or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under Subsection 100.01 of this rule. ()

05. Exceptions Allowing Subsequent Delivery Of Notice. ()

a. A licensee may provide the initial notice required in Paragraph 100.01.a. of this rule within a reasonable time after the licensee establishes a customer relationship if: ()

i. Establishing the customer relationship is not at the customer's election; or ()

ii. Providing notice not later than the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time. ()

b. Examples of Exceptions: ()

i. Not at customer's election. Establishing a customer relationship is not at the customer's election if a licensee acquires or is assigned a customer's policy from another financial institution or residual market mechanism and the customer does not have a choice about the licensee's acquisition or assignment. ()

ii. Substantial delay of customer's transaction. Providing notice not later than when a licensee establishes a customer relationship would substantially delay the customer's transaction when the licensee and the individual agree over the telephone to enter into a customer relationship involving prompt delivery of the insurance product or service. ()

iii. No substantial delay of customer's transaction. Providing notice not later than when a licensee establishes a customer relationship would not substantially delay the customer's transaction when the relationship is initiated in person at the licensee's office or through other means by which the customer may view the notice, such as on a web site. ()

06. Delivery. When a licensee is required to deliver an initial privacy notice, by Section 100, the licensee shall deliver it according to Section 350. If the licensee uses a short-form initial notice for non-customers according to Section 203, the licensee may deliver its privacy notice according to Subsection 203.03. ()

101. -- 149. (RESERVED).

150. ANNUAL PRIVACY NOTICE TO CUSTOMERS REQUIRED.

01. General Rule. ()

a. A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of twelve (12) consecutive months during which that relationship exists. A licensee may define the twelve (12) consecutive-month period, but the licensee shall apply it to the customer on a consistent

basis. ()

b. Example. A licensee provides a notice annually if it defines the twelve (12) consecutive month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice. For example, if a customer opens an account on any day of year one (1), the licensee shall provide an annual notice to that customer by December 31 of year two (2).

()

02. Termination Of Customer Relationship. ()

a. A licensee is not required to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship. ()

b. Examples: ()

i. If the individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee. ()

ii. If the individual's policy is lapsed, expired or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive-months, other than to provide annual privacy notices, material required by law or rule, or promotional materials. ()

iii. If the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful. ()

iv. In the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later. ()

03. Delivery. When a licensee is required by Section 150 to deliver an annual privacy notice, the licensee shall deliver it according to Section 350. ()

151. -- 199. (RESERVED).

200. INFORMATION TO BE INCLUDED IN PRIVACY NOTICES.

The initial, annual and revised privacy notices that a licensee provides, under Sections 100, 150, and 300, must include each of the following items of information, in addition to any other information the licensee wishes to provide, that applies to the licensee and to the consumers to whom the licensee sends its privacy notice. ()

01. Information Licensee Collects. The categories of nonpublic personal financial information that the licensee collects. ()

02. Information Licensee Discloses. The categories of nonpublic personal financial information that the licensee discloses. ()

03. Parties To Whom Licensee Discloses. The categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under Sections 451 and 452. ()

04. Disclosures Of Information About Former Customers. The categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses, and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to whom the licensee discloses information under Sections 451

and 452. ()

05. Disclosures Under Section 450. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under Section 450 (and no other exception in Sections 451 and 452 applies to that disclosure), a separate description of the categories of information the licensee discloses and the categories of third parties with whom the licensee has contracted shall be provided. ()

06. Explanation Of Right To Opt Out. An explanation of the consumer's right under Subsection 400.01 to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time. ()

07. Disclosures Under Federal Law. Any disclosures that the licensee makes under Section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (that is, notices regarding the ability to opt out of disclosures of information among affiliates); ()

08. Confidentiality And Security Practices. The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information; and ()

09. Categories As Permitted By Law. Any disclosure that the licensee makes under Section 201 of this rule. ()

201. DESCRIPTION OF PARTIES SUBJECT TO EXCEPTIONS.

If a licensee discloses nonpublic personal financial information as authorized under Sections 451 and 452, the licensee is not required to list those exceptions in the initial or annual privacy notices required by Sections 100 and 150. When describing the categories of parties to whom disclosure is made, the licensee is required to state only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable, as permitted by law. ()

202. SATISFYING THE PRIVACY NOTICE INFORMATION REQUIREMENTS.

01. Categories Of Nonpublic Personal Financial Information That The Licensee Collects. A licensee satisfies the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes it according to the source of the information, as applicable: ()

- a. Information from the consumer; ()
- b. Information about the consumer's transactions with the licensee or its affiliates; ()
- c. Information about the consumer's transactions with nonaffiliated third parties; and ()
- d. Information from a consumer reporting agency. ()

02. Categories Of Nonpublic Personal Financial Information A Licensee Discloses. ()

a. A licensee satisfies the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes the information according to source, as described in Subsection 202.01 of this rule, as applicable, and provides a few examples to illustrate the types of information in each category. These might include: ()

- i. Information from the consumer, including application information, such as assets and income and identifying information, such as name, address and social security number; ()
- ii. Transaction information, such as information about balances, payment history and parties to the transaction; and ()
- iii. Information from consumer reports, such as a consumer's creditworthiness and credit history. ()

(1) A licensee does not adequately categorize the information that it discloses if the licensee uses only general terms, such as transaction information about the consumer. ()

(2) If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information that the licensee discloses. ()

03. Categories Of Affiliates And Nonaffiliated Third Parties To Whom The Licensee Discloses. ()

a. A licensee satisfies the requirement to categorize the affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which they engage. ()

b. Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business. For example, a licensee may use the term financial products or services if it includes appropriate examples of significant lines of businesses, such as life insurer, automobile insurer, consumer banking, or securities brokerage. ()

c. A licensee also may categorize the affiliates and nonaffiliated third parties to which it discloses nonpublic personal financial information about consumers using more detailed categories. ()

04. Disclosures Under Exception For Service Providers And Joint Marketers. If a licensee discloses nonpublic personal financial information under the exception in Section 450 to a nonaffiliated third party to market products or services that it offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of Subsection 200.05 of this rule if it: ()

a. Lists the categories of nonpublic personal financial information it discloses, using the same categories and examples the licensee used to meet the requirements of Subsection 200.02 of this rule, as applicable; and ()

b. States whether the third party is: ()

i. A service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or ()

ii. A financial institution with whom the licensee has a joint marketing agreement. ()

05. Simplified Notices. If a licensee does not disclose, and does not wish to reserve the right to disclose, nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under Sections 451 and 452, the licensee may simply state that fact, in addition to the information it shall provide under Subsections 200.01, 200.08, 200.09, and Section 201 of this rule. ()

06. Confidentiality And Security. A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following: ()

a. Describes in general terms who is authorized to have access to the information; and ()

b. States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. The licensee is not required to describe technical information about the safeguards it uses. ()

203. SHORT-FORM INITIAL NOTICE WITH OPT OUT NOTICE FOR NON-CUSTOMERS.

01. Short-Form Initial Notice Allowed. A licensee may satisfy the initial notice requirements in Paragraph 100.01.b. and Subsection 251.02, for a consumer who is not a customer, by providing a short-form initial

notice at the same time as the licensee delivers an opt out notice as required in Section 250. ()

02. Short-Form Initial Notice Requirements. A short-form initial notice shall: ()

a. Be clear and conspicuous; ()

b. State that the licensee's privacy notice is available upon request; and ()

c. Explain a reasonable means by which the consumer may obtain that notice. ()

03. Delivery Of Short-Form Initial Notice. The licensee shall deliver its short-form initial notice according to Section 350. The licensee is not required to deliver its privacy notice with its short-form initial notice. The licensee instead may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the licensee's privacy notice, the licensee shall deliver its privacy notice according to Section 350. ()

04. Examples Of Obtaining Privacy Notice. The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee: ()

a. Provides a toll-free telephone number that the consumer may call to request the notice; or ()

b. For a consumer who conducts business in person at the licensee's office, maintains copies of the notice on hand that the licensee provides to the consumer immediately upon request. ()

204. FUTURE DISCLOSURES.

The licensee's notice may include: ()

01. Nonpublic Personal Financial Information. Categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future, but does not currently disclose; and ()

02. Affiliates Or Nonaffiliated Third Parties. Categories of affiliates or nonaffiliated third parties to whom the licensee reserves the right in the future to disclose, but to whom the licensee does not currently disclose, nonpublic personal financial information. ()

205. SAMPLE CLAUSES.

Sample clauses illustrating some of the notice content required by Section 200 are included in Appendix A of this rule. ()

206. -- 249. (RESERVED).

250. FORM OF OPT OUT NOTICE TO CONSUMERS.

01. Opt Out Notice Form. If a licensee is required to provide an opt out notice under Subsection 400.01, it shall provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under Section 400. The notice shall state: ()

a. That the licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party; ()

b. That the consumer has the right to opt out of that disclosure; and ()

c. A reasonable means by which the consumer may exercise the opt out right. ()

02. Adequate Opt Out Notice. A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee: ()

a. Identifies all of the categories of nonpublic personal financial information that it discloses or

reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, and states that the consumer can opt out of the disclosure of that information; and ()

b. Identifies the insurance products or services that the consumer obtains from the licensee, either singly or jointly, to which the opt out direction would apply. ()

03. Reasonable Means To Exercise An Opt Out Right. A licensee provides a reasonable means to exercise an opt out right if it: ()

a. Designates check-off boxes in a prominent position on the relevant forms with the opt out notice; ()

b. Includes a reply form together with the opt out notice; ()

c. Provides an electronic means to opt out, such as a form that can be sent via electronic mail or a process at the licensee's web site, if the consumer agrees to the electronic delivery of information; or ()

d. Provides a toll-free telephone number that consumers may call to opt out. ()

04. Unreasonable Means Of Opting Out. A licensee does not provide a reasonable means of opting out if: ()

a. The only means of opting out is for the consumer to write his own letter to exercise the opt out right; or ()

b. The only means of opting out as described in any notice subsequent to the initial notice is to use a check-off box that the licensee provided with the initial notice but did not include with the subsequent notice. ()

05. Specific Opt Out Means. A licensee may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer. ()

251. PROVIDING OPT OUT NOTICE TO CONSUMERS AND COMPLYING WITH OPT OUT DIRECTION.

01. Same Form As Initial Notice Permitted. A licensee may provide the opt out notice together with or on the same written or electronic form as the initial notice the licensee provides in accordance with Section 100. ()

02. Initial Notice Required When Opt Out Notice Delivered Subsequent To Initial Notice. If a licensee provides the opt out notice later than required for the initial notice in accordance with Section 100, the licensee shall also include a copy of the initial notice with the opt out notice in writing or, if the consumer agrees, electronically. ()

03. Joint Relationships. ()

a. If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice. The licensee's opt out notice shall explain how the licensee will treat an opt out direction by a joint consumer (as explained in Paragraph 251.03.e of this rule). ()

b. Any of the joint consumers may exercise the right to opt out. The licensee may either: ()

i. Treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or ()

ii. Permit each joint consumer to opt out separately. ()

c. If a licensee permits each joint consumer to opt out separately, the licensee shall permit one (1) of

the joint consumers to opt out on behalf of all of the joint consumers. ()

d. A licensee may not require all joint consumers to opt out before it implements any opt out direction. ()

e. Example. If John and Mary are both named policyholders on a homeowner's insurance policy issued by a licensee and the licensee sends policy statements to John's address, the licensee may do any of the following, but it shall explain in its opt out notice which opt out policy the licensee will follow: ()

i. Send a single opt out notice to John's address, but the licensee shall accept an opt out direction from either John or Mary. ()

ii. Treat an opt out direction by either John or Mary as applying to the entire policy. If the licensee does so and John opts out, the licensee may not require Mary to opt out as well before implementing John's opt out direction. ()

iii. Permit John and Mary to make different opt out directions. If the licensee does so: ()

(1) It shall permit John and Mary to opt out for each other; ()

(2) If both opt out, the licensee shall permit both of them to notify it in a single response (such as on a form or through a telephone call); and ()

(3) If John opts out and Mary does not, the licensee may only disclose nonpublic personal financial information about Mary, but not about John and not about John and Mary jointly. ()

04. Time To Comply With Opt Out. A licensee shall comply with a consumer's opt out direction as soon as reasonably practicable after the licensee receives it. ()

05. Continuing Right To Opt Out. A consumer may exercise the right to opt out at any time. ()

06. Duration Of Consumer's Opt Out Direction. ()

a. A consumer's direction to opt out under Sections 250 and 251 is effective until the consumer revokes it in writing or, if the consumer agrees, electronically. ()

b. When a customer relationship terminates, the customer's opt out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the licensee, the opt out direction that applied to the former relationship does not apply to the new relationship. ()

07. Delivery. When a licensee is required to deliver an opt out notice by Section 250, the licensee shall deliver it according to Section 350. ()

252. -- 299. (RESERVED).

300. REVISED PRIVACY NOTICES.

01. General Rule. Except as otherwise authorized in this rule, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to that consumer under Section 100, unless: ()

a. The licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices; ()

b. The licensee has provided to the consumer a new opt out notice; ()

c. The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and ()

d. The consumer does not opt out. ()

02. Application of General Rule. ()

a. Except as otherwise permitted by Sections 450, 451, and 452, a licensee shall provide a revised notice before it: ()

i. Discloses a new category of nonpublic personal financial information to any nonaffiliated third party; ()

ii. Discloses nonpublic personal financial information to a new category of nonaffiliated third party; or ()

iii. Discloses nonpublic personal financial information about a former customer to a nonaffiliated third party, if that former customer has not had the opportunity to exercise an opt out right regarding that disclosure. ()

b. A revised notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in its prior notice. ()

03. Delivery. When a licensee is required to deliver a revised privacy notice by Section 300, the licensee shall deliver it according to Section 350. ()

301. -- 349. (RESERVED).

350. DELIVERY.

01. How To Provide Notices. A licensee shall provide any notices that this rule requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically. ()

02. Examples Of Reasonable And Unreasonable Expectation Of Actual Notice. ()

a. A licensee may reasonably expect that a consumer will receive actual notice if the licensee: ()

i. Hand-delivers a printed copy of the notice to the consumer; ()

ii. Mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing or other written communication; ()

iii. For a consumer who conducts transactions electronically, posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service; ()

iv. For an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, posts the notice, and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular insurance product or service. ()

b. A licensee may not reasonably expect that a consumer will receive actual notice of its privacy policies and practices if it: ()

i. Only posts a sign in its office or generally publishes advertisements of its privacy policies and practices; or ()

ii. Sends the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically. ()

03. Annual Notices Only. A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if: ()

a. The customer uses the licensee's web site to access insurance products and services electronically and agrees to receive notices at the web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the web site; or ()

b. The customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request. ()

04. Oral Description Of Notice Insufficient. A licensee may not provide any notice required by this rule solely by orally explaining the notice, either in person or over the telephone. ()

05. Retention Or Accessibility Of Notices For Customers. ()

a. For customers only, a licensee shall provide the initial notice required by Paragraph 100.01.a., the annual notice required by Paragraph 150.01.a, and the revised notice required by Section 300 so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically. ()

b. Examples of retention or accessibility. A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee: ()

i. Hand-delivers a printed copy of the notice to the customer; ()

ii. Mails a printed copy of the notice to the last known address of the customer; or ()

iii. Makes its current privacy notice available on a web site (or a link to another web site) for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the web site. ()

06. Joint Notice With Other Financial Institutions. A licensee may provide a joint notice from the licensee and one (1) or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution. ()

07. Joint Relationships. If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual, and revised notice requirements of Subsections 100.01, 150.01, and 300.01, respectively, by providing one (1) notice to those consumers jointly. ()

351. -- 399. (RESERVED).

400. LIMITS ON DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION TO NONAFFILIATED THIRD PARTIES.

01. Conditions For Disclosure. ()

a. Except as otherwise authorized in this rule, a licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless: ()

i. The licensee has provided to the consumer an initial notice as required under Section 100; ()

ii. The licensee has provided to the consumer an opt out notice as required in Sections 250 and 251; ()

iii. The licensee has given the consumer a reasonable opportunity, before it discloses the information to the nonaffiliated third party, to opt out of the disclosure; and ()

iv. The consumer does not opt out. ()

b. If a consumer opts out, the licensee may not disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by Sections 450, 451, and 452. ()

c. Examples of reasonable opportunity to opt out. A licensee provides a consumer with a reasonable opportunity to opt out if: ()

i. By mail. The licensee mails the notices required in Subsection 400.01 of this rule to the consumer and allows the consumer to opt out by mailing a form, calling a toll-free telephone number or any other reasonable means within thirty (30) days from the date the licensee mailed the notices. ()

ii. By electronic means. A customer opens an on-line account with a licensee and agrees to receive the notices required in Subsection 400.01 of this rule electronically, and the licensee allows the customer to opt out by any reasonable means within thirty (30) days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account. ()

iii. Isolated transaction with consumer. For an isolated transaction such as providing the consumer with an insurance quote, a licensee provides the consumer with a reasonable opportunity to opt out if the licensee provides the notices required in Subsection 400.01 of this rule at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction. ()

02. Application Of Opt Out To All Consumers And All Nonpublic Personal Financial Information. ()

a. A licensee shall comply with Section 400, regardless of whether the licensee and the consumer have established a customer relationship. ()

b. Unless a licensee complies with Section 400, the licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer. ()

03. Partial Opt Out. A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out. ()

401. LIMITS ON REDISCLOSURE AND REUSE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION.

01. Information The Licensee Receives Under An Exception. ()

a. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception in Sections 451 or 452 of this rule, the licensee's disclosure and use of that information is limited as follows: ()

i. The licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information; ()

ii. The licensee may disclose the information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information; and ()

iii. The licensee may disclose and use the information pursuant to an exception in Section 451 or 452 of this rule, in the ordinary course of business to carry out the activity covered by the exception under which the

licensee received the information. ()

b. Example. If a licensee receives information from a nonaffiliated financial institution for claims settlement purposes, the licensee may disclose the information for fraud prevention, or in response to a properly authorized subpoena. The licensee may not disclose that information to a third party for marketing purposes or use that information for its own marketing purposes. ()

02. Information A Licensee Receives Outside Of An Exception. ()

a. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution other than under an exception in Section 451 or 452 of this rule, the licensee may disclose the information only: ()

i. To the affiliates of the financial institution from which the licensee received the information; ()

ii. To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and ()

iii. To any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the licensee received the information. ()

b. Example. If a licensee obtains a customer list from a nonaffiliated financial institution outside of the exceptions in Section 451 or 452: ()

i. The licensee may use that list for its own purposes; and ()

ii. The licensee may disclose that list to another nonaffiliated third party only if the financial institution from which the licensee purchased the list could have lawfully disclosed the list to that third party. That is, the licensee may disclose the list in accordance with the privacy policy of the financial institution from which the licensee received the list, as limited by the opt out direction of each consumer whose nonpublic personal financial information the licensee intends to disclose, and the licensee may disclose the list in accordance with an exception in Section 451 or 452, such as to the licensee's attorneys or accountants. ()

03. Information A Licensee Discloses Under An Exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in Section 451 or 452 of this rule, the third party may disclose and use that information only as follows: ()

a. The third party may disclose the information to the licensee's affiliates; ()

b. The third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and ()

c. The third party may disclose and use the information pursuant to an exception in Section 451 or 452 in the ordinary course of business to carry out the activity covered by the exception under which it received the information. ()

04. Information A Licensee Discloses Outside Of An Exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in Section 451 or 452 of this rule, the third party may disclose the information only: ()

a. To the licensee's affiliates; ()

b. To the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and ()

c. To any other person, if the disclosure would be lawful if the licensee made it directly to that person.

()

402. LIMITS ON SHARING ACCOUNT NUMBER INFORMATION FOR MARKETING PURPOSES.

01. General Prohibition On Disclosure Of Account Numbers. A licensee shall not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer. ()

02. Exceptions. Subsection 402.01 of this rule does not apply if a licensee discloses a policy number or similar form of access number or access code: ()

a. To the licensee's service provider solely in order to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account; ()

b. To a licensee who is a producer solely in order to perform marketing for the licensee's own products or services; or ()

c. To a participant in an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program. ()

03. Information Not Considered To Be A Policy Number Or Account. ()

a. Policy number. A policy number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code. ()

b. Policy or transaction account. For the purposes of Section 402, a policy or transaction account is an account other than a deposit account or a credit card account. A policy or transaction account does not include an account to which third parties cannot initiate charges. ()

403. -- 449. (RESERVED).

450. EXCEPTION TO OPT OUT REQUIREMENTS FOR DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION FOR SERVICE PROVIDERS AND JOINT MARKETING.

01. General Rule. ()

a. The opt out requirements in Sections 250, 251 and 400 do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee: ()

i. Provides the initial notice in accordance with Section 100; and ()

ii. Enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in Section 451 or 452 in the ordinary course of business to carry out those purposes. ()

b. Example. If a licensee discloses nonpublic personal financial information under Section 450 to a financial institution with which the licensee performs joint marketing, the licensee's contractual agreement with that institution meets the requirements of Subparagraph 450.01.a.ii. of this rule if it prohibits the institution from disclosing or using the nonpublic personal financial information except as necessary to carry out the joint marketing or under an exception in Section 451 or 452 in the ordinary course of business to carry out that joint marketing. ()

02. Service May Include Joint Marketing. The services a nonaffiliated third party performs for a licensee under Subsection 450.01 of this rule may include marketing of the licensee's own products or services or marketing of financial products or services offered pursuant to a written agreement between the licensee and one (1) or more financial institutions to jointly offer, endorse, or sponsor a financial product or service. ()

451. EXCEPTIONS TO NOTICE AND OPT OUT REQUIREMENTS FOR DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION FOR PROCESSING AND SERVICING TRANSACTIONS.

01. Exceptions For Processing Transactions At Consumer's Request. The requirements for initial notice in Paragraph 100.01.b., the opt out in Sections 250, 251, and 400, and service providers and joint marketing in Section 450 do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with: ()

- a. Servicing or processing an insurance product or service that a consumer requests or authorizes; ()
- b. Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity; ()
- c. A proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer; or ()
- d. Reinsurance or stop loss or excess loss insurance. ()

02. Necessary To Effect, Administer Or Enforce A Transaction. Necessary to effect, administer or enforce a transaction means that the disclosure is: ()

- a. Required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or ()
- b. Required, or is a usual, appropriate or acceptable method: ()
 - i. To carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer's account in the ordinary course of providing the insurance product or service; ()
 - ii. To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part; ()
 - iii. To provide a confirmation, statement or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer's agent or broker; ()
 - iv. To accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party; ()
 - v. To underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects or as otherwise required or specifically permitted by federal or state law; or ()
 - vi. In connection with: ()

(1) The authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited or otherwise paid using a debit, credit or other payment card, check or account number, or

- by other payment means; ()
- (2) The transfer of receivables, accounts, or interests therein; or ()
- (3) The audit of debit, credit, or other payment information. ()

452. OTHER EXCEPTIONS TO NOTICE AND OPT OUT REQUIREMENTS FOR DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION.

01. Exceptions To Opt Out Requirements. The requirements for initial notice to consumers in Paragraph 100.01.b., the opt out in Sections 250, 251, and 400, and service providers and joint marketing in Section 450 do not apply when a licensee discloses nonpublic personal financial information: ()

a. With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction; ()

b. To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product or transaction; ()

c. To protect against or prevent actual or potential fraud or unauthorized transactions; ()

d. For required institutional risk control or for resolving consumer disputes or inquiries; ()

e. To persons holding a legal or beneficial interest relating to the consumer; or ()

f. To persons acting in a fiduciary or representative capacity on behalf of the consumer; ()

g. To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating a licensee, persons that are assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants and auditors; ()

h. To the extent specifically permitted or required under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.), to law enforcement agencies (including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, and the Federal Trade Commission), with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping), a state insurance authority, self-regulatory organizations or for an investigation on a matter related to public safety; ()

i. To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or from a consumer report reported by a consumer reporting agency; ()

j. In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business or unit; ()

k. To comply with federal, state or local laws, rules, and other applicable legal requirements; to comply with a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by federal, state or local authorities; or to respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance, or other purposes as authorized by law; ()

l. For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan or a workers' compensation plan; or ()

m. With the consent of or at the direction of a liquidator or rehabilitator appointed pursuant to Chapter 33, Title 41, Idaho Code. ()

02. Example Of Revocation Of Consent. A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under Subsection 251.05. ()

453. -- 499. (RESERVED).

500. PROTECTION OF FAIR CREDIT REPORTING ACT.

Nothing in this rule shall be construed to modify, limit, or supersede the operation of the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), and no inference shall be drawn on the basis of the provisions of this rule regarding whether information is transaction or experience information under Section 603 of that Act. ()

501. NONDISCRIMINATION.

A licensee shall not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of his nonpublic personal financial information pursuant to the provisions of this rule. ()

502. VIOLATION.

Any person who releases nonpublic personal information in violation of these rules, or otherwise fails to comply with these rules, is in violation of Chapter 13, Title 41, Idaho Code, and subject to penalties as set forth in that chapter. ()

503. -- 999. (RESERVED).

APPENDIX A - SAMPLE CLAUSES

Licenses, including a group of financial holding company affiliates that use a common privacy notice, may use the following sample clauses, if the clause is accurate for each institution that uses the notice. (Note that disclosure of certain information, such as assets, income and information from a consumer reporting agency, may give rise to obligations under the federal Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.)

A-1-Categories of information a licensee collects (all institutions)

A licensee may use this clause, as applicable, to meet the requirement to describe the categories of nonpublic personal information the licensee collects.

Sample Clause A-1:

We collect nonpublic personal information about you from the following sources:

- Information we receive from you on applications or other forms;
- Information about your transactions with us, our affiliates or others; and
- Information we receive from a consumer reporting agency.

A-2-Categories of information a licensee discloses (institutions that disclose outside of the exceptions)

A licensee may use one of these clauses, as applicable, to meet the requirement to describe the categories of nonpublic personal information the licensee discloses. The licensee may use these clauses if it discloses nonpublic personal information other than as permitted by the exceptions in Sections 450, 451, and 452.

Sample Clause A-2, Alternative 1:

We may disclose the following kinds of nonpublic personal information about you:

- Information we receive from you on applications or other forms, such as [provide illustrative examples, such as “your name, address, social security number, assets, income, and beneficiaries”];
- Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as “your policy coverage, premiums, and payment history”]; and
- Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as “your creditworthiness and credit history”].

Sample Clause A-2, Alternative 2:

We may disclose all of the information that we collect, as described [describe location in the notice, such as “above” or “below”].

A-3-Categories of information a licensee discloses and parties to whom the licensee discloses (institutions that do not disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirements to describe the categories of nonpublic personal information about customers and former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses. A licensee may use this clause if the licensee does not disclose nonpublic personal information to any party, other than as permitted by the exceptions in Sections 451 and 452.

Sample Clause A-3:

We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law.

A-4-Categories of parties to whom a licensee discloses (institutions that disclose outside of the exceptions)

A licensee may use this clause, as applicable, to describe the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal information. This clause may be used if the licensee discloses nonpublic personal information other than as permitted by the exceptions in Sections 450, 451, and 452, as well as

when permitted by the exceptions in Sections 451 and 452.

Sample Clause A-4:

We may disclose nonpublic personal information about you to the following types of third parties:

Financial service providers, such as [provide illustrative examples, such as “life insurers, automobile insurers, mortgage bankers, securities broker-dealers, and insurance agents”];

Non-financial companies, such as [provide illustrative examples, such as “retailers, direct marketers, airlines, and publishers”]; and

Others, such as [provide illustrative examples, such as “non-profit organizations”].

We may also disclose nonpublic personal information about you to nonaffiliated third parties as permitted by law.

A-5-Service provider/joint marketing exception

A licensee may use one of these clauses, as applicable, to meet the requirements related to the exception for service providers and joint marketers in Section 450. If a licensee discloses nonpublic personal information under this exception, the licensee shall describe the categories of nonpublic personal information the licensee discloses and the categories of third parties with which the licensee has contracted.

Sample Clause A-5, Alternative 1:

We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with which we have joint marketing agreements:

Information we receive from you on applications or other forms, such as [provide illustrative examples, such as “your name, address, social security number, assets, income, and beneficiaries”];

Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as “your policy coverage, premium, and payment history”]; and

Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as “your creditworthiness and credit history”].

Sample Clause A-5, Alternative 2:

We may disclose all of the information we collect, as described [describe location in the notice, such as “above” or “below”] to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.

A-6-Explanation of opt out right (institutions that disclose outside of the exceptions)

A licensee may use this clause, as applicable, to provide an explanation of the consumer's right to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. The licensee may use this clause if the licensee discloses nonpublic personal information other than as permitted by the exceptions in Sections 450, 451, and 452.

Sample Clause A-6:

If you prefer that we not disclose nonpublic personal information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may [describe a reasonable means of opting out, such as “call the following toll-free number: (insert number)”].

A-7-Confidentiality and security (all institutions)

A licensee may use this clause, as applicable, to describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

Sample Clause A-7:

We restrict access to nonpublic personal information about you to [provide an appropriate description, such as “those employees who need to know that information to provide products or services to you”]. We maintain physical, electronic, and procedural safeguards that comply with federal rules to guard your nonpublic personal information.

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.50 - ADOPTION OF 1997 UNIFORM FIRE CODE

DOCKET NO. 18-0150-0201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

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

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 41-211, 41-253, and 41-254 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 September 18, 2002.

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

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

The proposed rule adopts by reference the 2000 International Fire Code. Minor modifications have been made in order to adapt the International Fire Code for use by state and local jurisdictions.

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

For the protection of the public health, safety and welfare by providing uniformity in the plan review process for state owned and maintained buildings and to maintain consistency and conformity with the International Building Code.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Mark Larson, (208) 334-4371.

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 September 25, 2002.

DATED this 23rd day of July, 2002.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0150-0201

IDAPA 18
TITLE 01
Chapter 50

18.01.50 - ADOPTION OF ~~1997 UNIFORM~~ THE 2000 INTERNATIONAL FIRE CODE

(BREAK IN CONTINUITY OF SECTIONS)

001. TITLE AND SCOPE.

01. **Title.** These rules shall be cited as IDAPA 18.01.50, Rules of the Idaho Department of Insurance, Title 01, Chapter 50, "Adoption of the ~~1997 Uniform~~ 2000 International Fire Code". ~~(7-1-99)~~(7-1-02)T

02. **Scope.** Pursuant to the authority provided by Section 41-253, Idaho Code, the Idaho Fire Marshal hereby adopts the ~~1997~~ 2000 edition of the ~~Uniform International~~ International Fire Code ~~as published by the International Fire Code Institute in cooperation with the International Conference of Building Officials, Western Fire Chiefs Association and the International Association of Fire Chiefs with the following revisions, additions, deletions and appendixes~~ in order to provide uniformity in the plan review process for state owned and maintained buildings and to maintain consistency and conformity with the International Building Code. ~~(7-1-99)~~(7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.

~~All contested cases shall be governed by the provisions of~~ Any administrative appeal regarding this chapter should be made in accordance with Chapter 2, Title 41, Idaho Code, and to the extent not in conflict therewith, Chapter 52, Title 67, Idaho Code, as well as IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ~~(7-1-99)~~(7-1-02)T

004. INCORPORATION BY REFERENCE.

01. **2000 International Fire Code.** In accordance with Section 67-5229, Idaho Code, and pursuant to the authority provided by Section 41-253, Idaho Code, the Idaho Fire Marshal hereby adopts the 2000 edition of the International Fire Code as published by the International Code Council in cooperation with the Building Officials and Code Administrators International, Inc., the International Conference of Building Officials, and the Southern Building Code Congress International, Inc., with the following revisions, additions, deletions and appendixes. (7-1-02)T

02. **Availability Of Referenced Material.** Copies of the 2000 edition of the International Fire Code are available for public inspection at the office of the State Fire Marshal, the State Law Library, and the State Legislative Council. Copies of the 2000 International Fire Code may be procured by writing the International Conference of Building Officials, Northwest Resource Center, 2122 112th Ave NE, Suite C, Bellevue, WA 98004. (7-1-02)T

005, -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

**010. ~~NEW CONSTRUCTION AND ALTERATIONS DESIGN PROVISIONS, SECTION 103.3-~~
~~UNIFORM 102.1, INTERNATIONAL FIRE CODE.~~**

~~Approval as a result of plan reviews shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Plans reviews presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. Delete Item No. 3 of Section 102.1, International Fire Code.~~ (7-1-99)(7-1-02)T

**011. ~~RECORD RETENTION GENERAL AUTHORITY AND RESPONSIBILITIES, SECTION 104.3.2-~~
~~UNIFORM 104.1, INTERNATIONAL FIRE CODE.~~**

~~The fire department shall retain for not less than five (5) years a record of each investigation made showing the cause, the findings and disposition of each investigation. Add the following second paragraph to Section 104.1, General, International Fire Code:~~ (7-1-99)(7-1-02)T

01. Fire Chief's Authority. The fire chief is authorized to administer and enforce this code. Under the chief's direction, the fire department is authorized to enforce all ordinances of the jurisdiction pertaining to: (7-1-02)T

- a.** The prevention of fires; (7-1-02)T
- b.** The suppression or extinguishment of dangerous or hazardous fires; (7-1-02)T
- c.** The storage, use and handling of hazardous materials; (7-1-02)T
- d.** The installation and maintenance of automatic, manual and other private fire alarm systems and fire-extinguishing equipment; (7-1-02)T
- e.** The maintenance and regulation of fire escapes; (7-1-02)T
- f.** The maintenance of fire protection and the elimination of fire hazards on land and in buildings, and other property, including those under construction; (7-1-02)T
- g.** The maintenance of means of egress; and (7-1-02)T
- h.** The investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials, for authority related to control and investigation of emergency scenes, see Section 104.11. (7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

016. PERMIT REQUIRED, SECTION 105.8.1, UNIFORM INTERNATIONAL FIRE CODE.

A permit, if required by the local jurisdiction, shall be obtained from the designated official prior to engaging in activities requiring a permit within the local jurisdiction. (7-1-99)(7-1-02)T

017. VIOLATION PENALTIES, SECTION 109.3, INTERNATIONAL FIRE CODE.

In Section 109.3, Violation Penalties, International Fire Code, delete everything after the phrase "shall be guilty of a," and replace with the word "misdemeanor". (7-1-02)T

018. FAILURE TO COMPLY, SECTION 111.4, INTERNATIONAL FIRE CODE.

In Section 111.4, International Fire Code, delete this entire section. (7-1-02)T

~~017.~~—019. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

020. DEFINITION OF ~~CHIEF CODE OFFICIAL~~, SECTION ~~204. UNIFORM~~ 202, INTERNATIONAL FIRE CODE.

~~Chief is the chief of the fire department serving the jurisdiction, the chief's authorized representative,~~ Add "or as appropriate the Idaho State Fire Marshal" to the end of the definition for code official. (7-1-99)(7-1-02)I

~~021. INSPECTION AND TESTING, SECTION 1001.5.2. UNIFORM FIRE CODE.~~

~~The chief is authorized to require periodic inspection and testing of fire sprinkler systems, fire hydrant systems, standpipe systems, fire alarm systems, portable fire extinguishers, smoke and heat ventilators, smoke removal systems and other fire protection or fire extinguishing systems or appliances.~~ (7-1-99)

~~01. Systems Shall Be Inspected And Tested As Follows:~~ (7-1-99)

~~a. Automatic fire extinguishing systems shall be inspected and tested at least annually, see the current edition of National Fire Protection Association Standard 25. (7-1-99)~~

~~b. Fire alarm systems shall be inspected and tested at least annually, see the current edition of National Fire Protection Association Standard 72. (7-1-99)~~

~~c. Standpipe systems shall be inspected and tested at least every five (5) years, see the current edition of National Fire Protection Association Standard 25. (7-1-99)~~

~~02. Owner Of Property.~~ An owner of a property or the authority having jurisdiction may establish a more stringent inspection and testing schedule. (7-1-99)

~~03. Exceptions:~~ (7-1-99)

~~a. Automatic fire extinguishing equipment associated with commercial cooking operations when in compliance with Section 1006. (7-1-99)~~

~~b. Systems in high rise buildings when in compliance with Section 1001.5.4. (7-1-99)~~

~~04. Inspection And Test Results.~~ All inspection and test reports shall be sent to the Chief by the contractor (person) doing the maintenance or inspection. Reports of inspections and tests shall be maintained on the premises and made available to the Chief when requested. (7-1-99)

~~022.—025. (RESERVED).~~

~~026. INSTALLATION REQUIREMENTS, SECTION 1003.1.1. UNIFORM FIRE CODE.~~

~~Fire extinguishing systems shall be installed in accordance with the Uniform Fire Code and the current appropriate edition of the National Fire Protection Association Standards. (7-1-99)~~

~~027.—030. (RESERVED).~~

~~031. STANDARDS, SECTION 1003.1.2. UNIFORM FIRE CODE.~~

~~Fire extinguishing systems shall comply with the Uniform Fire Code and the current appropriate edition of the National Fire Protection Association Standards. (7-1-99)~~

~~032.—035. (RESERVED).~~

~~036. APPLICABILITY, SECTION 1007.1.1. UNIFORM FIRE CODE.~~

~~Fire Alarm systems shall be installed and maintained in accordance with the Uniform Fire Code and the current edition of National Fire Protection Association Standards 72. (7-1-99)~~

021. -- 036. (RESERVED).

037. ~~DESIGN STANDARDS FIRE ALARM AND DETECTION SYSTEMS, SECTION 1007.3.1. UNIFORM 907.1, INTERNATIONAL FIRE CODE.~~

~~Fire Alarm systems, automatic fire detectors, emergency voice alarm communication systems and notification devices shall be designed, installed and maintained in accordance with the Uniform Fire Code and the current edition of National Fire Protection Association Standards 72-~~ (7-1-99)

01. Notification Devices. When fire alarm systems not required by the *Uniform International Fire Code* are installed, the notification devices shall meet the minimum design and installation requirements for systems which are required by this code. Intent: (Non-required fire alarm systems shall provide the same level of occupant notification that required systems provide). (7-1-99)(7-1-02)T

02. Partial Or Limited Detection Systems Are Allowed. If notification devices are provided, they must meet Subsection 037.01 above. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

041. Explosives And Fireworks, And Pyrotechnic Special Effects Material Article 78 Chapter 33, Uniform International Fire Code.

Delete Sections ~~7801.3 through 7801.3.1.2, and Sections 7802.1 through 7802.4.3~~ 3301.1.3, 3301.2.2, 3301.2.3, 3301.2.4.2, and 3308.1 through 3308.3. (7-1-99)(7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

046. UNDERGROUND TANKS OUT OF SERVICE FOR ONE YEAR, SECTION ~~7902.1.7.2.3. UNIFORM 3404.2.13.1.3~~ INTERNATIONAL FIRE CODE.

Add to Section 3404.2.13.1.3, International Fire Code, the following paragraph: Upon approval of the Chief underground tanks that comply with the performance standards for new or upgraded underground tanks set forth in Title 40 Section 280.20 or 280.21 of the Code of Federal Regulations may remain out of service indefinitely so long as they remain in compliance with the operation, maintenance and release detection requirements of the federal rule. (7-1-99)(7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

051. TREATMENT SYSTEMS, SECTION ~~8003.3.1.3.5.1. UNIFORM 3704.2.2.7,~~ INTERNATIONAL FIRE CODE.

Add to Section 3704.2.2.7, International Fire Code, the following paragraph: Upon approval of the Chief, emergency response kits recommended by the Chlorine Institute may be used for chlorine gas product leaks in lieu of the treatment system requirements of this section, as long as there are adequate responders immediately available, who are trained in their use and acceptable to the Chief. (7-1-99)(7-1-02)T

052. REFERENCED STANDARDS, CHAPTER 45, INTERNATIONAL FIRE CODE.

Beginning on Page 351, of the NFPA Referenced Standards, make the following changes to the referenced editions:

Delete	Add	Delete	Add	Delete	Add
<u>12-98</u>	<u>12-200</u>	<u>51A-96</u>	<u>51A-2001</u>	<u>481-95</u>	<u>481-2000</u>
<u>13-96</u>	<u>12-1999</u>	<u>58-98</u>	<u>58-2001</u>	<u>485-96</u>	<u>495-2001</u>
<u>13D-96</u>	<u>13D-1999</u>	<u>59A-96</u>	<u>59A-2001</u>	<u>498-96</u>	<u>498-2001</u>
<u>13R-96</u>	<u>13R-1999</u>	<u>61-95</u>	<u>61-1999</u>	<u>505-96</u>	<u>505-1999</u>
<u>13-96</u>	<u>14-2000</u>	<u>72-96</u>	<u>72-1999</u>	<u>654-98</u>	<u>654-2000</u>
<u>15-96</u>	<u>15-2001</u>	<u>86-95</u>	<u>86-1999</u>	<u>655-93</u>	<u>655-2001</u>
<u>20-96</u>	<u>20-1999</u>	<u>96-98</u>	<u>96-2001</u>	<u>701-96</u>	<u>701-1999</u>
<u>25-98</u>	<u>25-2002</u>	<u>99-99</u>	<u>99-2002</u>	<u>703-95</u>	<u>703-2000</u>
<u>30-96</u>	<u>30-2000</u>	<u>101-97</u>	<u>101-2000</u>	<u>704-96</u>	<u>704-2001</u>
<u>30A-96</u>	<u>30A-2000</u>	<u>110-99</u>	<u>110-2002</u>	<u>750-96</u>	<u>750-2000</u>
<u>31-97</u>	<u>30-2001</u>	<u>111-96</u>	<u>111-2001</u>	<u>780-97</u>	<u>780-2000</u>
<u>32-96</u>	<u>32-2000</u>	<u>211-96</u>	<u>211-2000</u>	<u>909-97</u>	<u>909-2001</u>
<u>33-95</u>	<u>33-2000</u>	<u>241-96</u>	<u>241-2000</u>	<u>1123-95</u>	<u>1123-2000</u>
<u>34-95</u>	<u>34-2000</u>	<u>255-96</u>	<u>255-2000</u>	<u>1125-95</u>	<u>1125-2001</u>
<u>40-97</u>	<u>40-2001</u>	<u>385-98</u>	<u>385-2000</u>	<u>1126-96</u>	<u>1126-2001</u>
<u>50-96</u>	<u>50-2001</u>	<u>407-96</u>	<u>407-2001</u>	<u>2001-96</u>	<u>2001-2001</u>
<u>51-97</u>	<u>51-2002</u>	<u>430-95</u>	<u>430-2000</u>		

(7-1-02)T

0523. -- 055. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

056. REFERENCES TO APPENDIX, UNIFORM INTERNATIONAL FIRE CODE SECTION 101.8.

When this code references the appendix, the provisions of the appendix shall not apply unless specifically incorporated by reference. The following appendixes of the UFC International Fire Code are incorporated by reference: ~~(7-1-99)~~(7-1-02)T

01. **Appendix H-4B, Fire Flow Requirements For Buildings.** ~~Suppression And Control Of Hazardous Fire Areas.~~ ~~(7-1-99)~~(7-1-02)T

02. **Appendix H-C, Fire Hydrant Location And Distribution.** ~~Marinas.~~ ~~(7-1-99)~~(7-1-02)T

03. **Appendix H-FE, Hazard Categories.** ~~Protected Above Ground Tanks For Motor Vehicle Fuel Dispensing Stations Outside Buildings.~~ ~~(7-1-99)~~(7-1-02)T

04. **Appendix H-JF, Hazard Rankings.** ~~Storage Of Flammable And Combustible Liquids In Tanks Located Within Below Grade Vaults.~~ ~~(7-1-99)~~(7-1-02)T

05. **Appendix III-A, Fire Flow Requirements For Buildings.** ~~(7-1-99)~~

- ~~06. Appendix III-B. Fire Hydrant Locations And Distribution. (7-1-99)~~
- ~~07. Appendix V-A. Nationally Recognized Standards Of Good Practice. (7-1-99)~~
- ~~08. Appendix VI-A. Hazardous Materials Classifications. (7-1-99)~~
- ~~09. Appendix VI-E. Reference Tables From The Uniform Building Code. (7-1-99)~~

057. ~~1997 UNIFORM FIRE CODE.~~

~~The 1997 edition of the Uniform Fire Code, incorporated by reference, is adopted under Idaho Code, Section 67-5229. Copies of the 1997 Uniform Fire Code may be procured by writing the International Fire Code Institute, 5360 Workman Mill Road, Whittier, CA. 90601-2298. (7-1-99)~~

058. ~~COPIES.~~

~~Copies of the 1997 Uniform Fire Code are available for public inspection at the office of the State Fire Marshal, the State Law Library, and the State Legislative Council. (7-1-99)~~

0597. -- 999. (RESERVED).

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.52 - RULES GOVERNING DISCLOSURE REQUIREMENTS FOR INSURANCE PRODUCERS WHEN CHARGING FEES

DOCKET NO. 18-0152-0201

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 41-211, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2002.

The hearing site will be accessible to persons with disabilities. Requests for accommodations 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:

Section 41-1030, Idaho Code, allows a retail producer to charge a fee for services but mandates that the producer must provide a written statement to the consumer that will describe the services to be performed and the fees that will be charged to the consumer for those services. This rule will clarify and illustrate those disclosure requirements.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule further clarifies and illustrates the fee disclosure requirements as required by Section 41-1030, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Genetti, 208-334-4340.

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 September 25, 2002.

DATED this 23rd day of July, 2002.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0152-0201

IDAPA 18, TITLE 01, Chapter 52

18.01.52 - RULES GOVERNING DISCLOSURE REQUIREMENTS FOR INSURANCE PRODUCERS WHEN CHARGING FEES

000. LEGAL AUTHORITY.

The statutory authority for this rule is Section 41-211, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 18.01.52, "Rules Governing Disclosure Requirements For Insurance Producers When Charging Fees". ()

02. Scope. This chapter shall apply to all resident and non-resident insurance producers who charge a fee to consumers as authorized by Section 41-1030, Idaho Code, and who: ()

a. Sell, solicit, or negotiate insurance in Idaho, or to Idaho residents, or regarding subjects of insurance located in Idaho, or otherwise where a license by the director is required; or ()

b. Offer advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages under any policy of insurance that could be issued in Idaho. ()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. ()

003. ADMINISTRATIVE APPEALS.

Any administrative appeal regarding this chapter should be made in accordance with Chapter 2, Title 41, Idaho Code, and to the extent not in conflict therewith, Chapter 52, Title 67, Idaho Code, as well as IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," promulgated by the Office of the Attorney General. ()

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

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

01. Office Hours. This office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. ()

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, PO Box 83720, Boise, Idaho 83720-0043. ()

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. ()

006. PUBLIC RECORDS.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Consumer. Consumers means an insured, a prospective insured, or an employer group. ()

02. Retail Producer. A retail producer is a producer who solicits, negotiates with or sells an insurance contract directly to a consumer. ()

011. DISCLOSURE REQUIREMENTS.

01. Before Charging A Fee. Before charging a fee to a consumer, a retail producer shall furnish to each consumer a written disclosure statement containing at least the following information: ()

- a. A description of the nature of the work to be performed by the insurance producer. ()
- b. The fee schedule and any other expenses that the insurance producer charges, and whether fees may be negotiated. ()

02. Prior Information Disclosure. A retail producer shall disclose information required under this chapter to each consumer to whom a fee will be charged prior to engaging in any act for or on behalf of the consumer where a license is required under Section 41-1004, Idaho Code. ()

03. Fee For Intended Services. A retail producer may charge a fee for those services that are intended to be provided and that are not contingent upon some future event occurring outside of the terms of the insurance contract. ()

04. Non-Chargeable Fee. A retail producer may not charge a fee for services in connection with statutorily mandated insurance coverage, e.g. mandated health plans. ()

012. INSURANCE PRODUCER FEE DISCLOSURE FORM - SAMPLE.

INSURANCE PRODUCER FEE DISCLOSURE

Date: _____

Consumer: Name
Street Address
City, State Zip

Retail Producer: Name
Insurance Agency
Street Address
City, State Zip
(Area Code) Telephone Number
License No.
Firm No.

Services To Be Provided:

Financial Planning and research and recommendation on health care, disability, long-term care and life insurance coverage. Completion of forms for medical savings account.

Date Work Is To Be Completed By: _____

Fee Schedule: Financial Plan \$ _____
Research and Recommend Coverage \$ _____
Total \$ _____

Fee(s) Negotiated: Yes _____ No _____

Type of Other Fee(s) Received (Optional): Life Commissions \$ _____
Disability Commissions \$ _____
Long-Term Care Commissions \$ _____

Qualifications - Occupational/ Educational Background (Optional):

Twenty-five years as a licensed agent in all lines of insurance. Securities licensed in 1986. Designated as Certified Financial Planner 1990. Twelve years' experience in financial planning, college education in accounting and economics. Other designations include CLU and FLMI.

CLIENT ATTESTATION:

By signing below I acknowledge that I have reviewed the information provided in this disclosure and have received a copy of this form.

Client Signature _____ Date _____

I attest that I have disclosed all relevant facts concerning services to be provided and the fees, charges or commissions that will be charged or received for providing the services described.

Producer's Signature _____ Date _____

()

013. -- 999. (RESERVED).

IDAPA 18 - DEPARTMENT OF INSURANCE

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

DOCKET NO. 18-0154-0201

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 41-211, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2002.

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:

Changes to this rule are required to comply with federal standards based on amendments to Section 1882 of the Social Security Act made by the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, and which became effective upon the President's signature in December of 2000. Adoption of these amendments will bring our Idaho Medicare Supplement Rule into compliance with the new federal standards created by Benefits Improvement and Protection Act.

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 revisions are required to comply with federal standards based on amendments to Section 1882 of the Social Security Act made by the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joan Krosch, (208) 334-4250.

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 September 25, 2002.

DATED this 23rd day of July, 2002.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0154-0201

009. MINIMUM BENEFIT STANDARDS FOR POLICIES OR CERTIFICATES ISSUED FOR DELIVERY PRIOR TO JULY 1, 1992.

No policy or certificate may be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy or certificate unless it meets or exceeds the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

(4-5-00)

01. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of IDAPA 18.01.54, "Rule To Implement The NAIC Medicare Supplement Insurance Minimum Standards Model Act".

(4-5-00)

a. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

(4-5-00)

b. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(4-5-00)

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and co-payment percentage factors. Premiums may be modified to correspond with such changes.

(4-5-00)

d. A "non-cancelable," "guaranteed renewable," or "non-cancelable and guaranteed renewable" Medicare supplement policy shall not:

(4-5-00)

i. Provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or

(4-5-00)

ii. Be canceled or non-renewed by the issuer solely on the grounds of deterioration of health.

(4-5-00)

e. Except as authorized by the director of this state, an issuer shall neither cancel nor non-renew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

(4-5-00)

f. If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in Subsection 009.01.h., the issuer shall offer certificate holders an individual Medicare supplement policy. The issuer shall offer the certificate holder at least the following choices:

(4-5-00)

i. An individual Medicare supplement policy currently offered by the issuer having comparable benefits to those contained in the terminated group Medicare supplement policy; and/or

(4-5-00)

ii. An individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in Subsection 010.02.

(4-5-00)

g. If membership in a group is terminated, the issuer shall:

(4-5-00)

i. Offer the certificate holder the conversion opportunities described in Subsection 009.01.f.; or

(4-5-00)

ii. At the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.

(4-5-00)

h. If a group Medicare supplement policy is replaced by another group Medicare supplement policy

purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced. (4-5-00)

i. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits. (4-5-00)

02. Minimum Benefit Standards. (4-5-00)

a. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth day in any Medicare benefit period; (4-5-00)

b. Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount; (4-5-00)

c. Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days; (4-5-00)

d. Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent (90%) of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days; (4-5-00)

e. Coverage under Medicare Part A for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B; (4-5-00)

f. Coverage for the coinsurance amount or in the case of hospital outpatient department services paid under a prospective payments system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible ~~one hundred dollars (\$100);~~ (4-5-00)(____)

g. Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount. (4-5-00)

010. BENEFIT STANDARDS FOR POLICIES OR CERTIFICATES ISSUED OR DELIVERED ON OR AFTER JULY 1, 1992.

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after July 1, 1992. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards. (4-5-00)

01. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of IDAPA 18.01.54, "Rule To Implement The NAIC Medicare Supplement Insurance Minimum Standards Model Act". (4-5-00)

a. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage. (4-5-00)

b. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents. (4-5-00)

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and co-payment percentage factors. Premiums may be modified to correspond with such changes. (4-5-00)

d. No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium. (4-5-00)

e. Each Medicare supplement policy shall be guaranteed renewable. (4-5-00)

i. The issuer shall not cancel or non-renew the policy solely on the ground of health status of the individual. (4-5-00)

ii. The issuer shall not cancel or non-renew the policy for any reason other than nonpayment of premium or material misrepresentation. (4-5-00)

iii. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under Subsection 010.01.e.v., the issuer shall offer certificate holders an individual Medicare supplement policy which (at the option of the certificate holder): (4-5-00)

(1) Provides for continuation of the benefits contained in the group policy; or (4-5-00)

(2) Provides for benefits that otherwise meet the requirements of this subsection. (4-5-00)

iv. If an individual is a certificate holder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall offer the certificate holder the conversion opportunity described in Subsection 010.01.e.iii.; or, at the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy. (4-5-00)

v. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced. (4-5-00)

f. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. (4-5-00)

i. A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificate holder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificate holder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificate holder notifies the issuer of the policy or certificate within ninety (90) days after the date the individual becomes entitled to assistance. (4-5-00)

ii. If suspension occurs and if the policyholder or certificate holder loses entitlement to medical assistance, the policy or certificate shall be automatically re-instituted (effective as of the date of termination of entitlement) as of the termination of entitlement if the policyholder or certificate holder provides notice of loss of entitlement within ninety (90) days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement. (4-5-00)

iii. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for ~~the~~ any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group

health plan (as defined in Section 1862(b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstated (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within ninety (90) days after the date of ~~such~~ the loss and pays the premium attributable to the period, effective as of the date of termination of ~~entitlement~~ enrollment in the group health plan. (3-15-02)(____)

~~iv. NOTE: The right to suspend a Medigap policy due to coverage under a group health plan, created by the Ticket To Work and Work Incentives Improvement Act of 1999 does not specify the period of time that a policy may be suspended under Section 8A(7)(c). It is anticipated that the Health Care Financing Administration (HCFA) will provide states with guidance on this issue. In anticipation of HCFA providing such guidance the phrase "as provided by federal law" has been inserted into this provision in parentheses so that any time period prescribed is incorporated by reference.~~ (3-15-02)

~~g. Reinstitution of coverages as defined in Subsections 010.01.f.ii. and 010.01.f.iii.: (4-5-00)(____)~~

i. Shall not provide for any waiting period with respect to treatment of preexisting conditions; (4-5-00)

ii. Shall provide for coverage which is substantially equivalent to the coverage in effect before the date of suspension; and (4-5-00)

iii. Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage not been suspended. (4-5-00)

02. Standards For Basic (Core) Benefits Common To All Benefit Plans. Every issuer shall make available a policy or certificate including only the following basic "core" package of benefits to each perspective insured. An issuer may make available to prospective insureds any of the other Medicare supplement insurance benefit plans in addition to the basic core package, but not in lieu of it. (4-5-00)

a. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty first day through the ninetieth day in any Medicare benefit period; (4-5-00)

b. Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used; (4-5-00)

c. Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of the Medicare Part A eligible expenses for hospitalization paid at the diagnostic related group (DRG) day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty five (365) days; (4-5-00)

d. Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations; (4-5-00)

e. Coverage for the coinsurance amount (or in the case of hospital outpatient department services under a prospective payment system, the co-payment amount) of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible. NOTE: In this context copayment amount means the least of "copayment amount," "beneficiary copayment amount," and the "hospital-elected reduced copayment amount" as those terms are used in applicable federal law and regulation. Provisions governing copayment for hospital outpatient department services under a prospective payment system apply to all Medicare supplement policies or certificates issued prior to and after the effective date of this payment system. In all cases involving hospital outpatient department services paid under a prospective payment system, the issuer is required to pay the copayment amount established by federal requirements, which will be either the amount established for the Ambulatory Payment Classification (APC) group, or a provider-elected reduced copayment amount. (3-15-02)(____)

03. Standards For Additional Benefits. The following additional benefits shall be included in

Medicare Supplement Benefit Plans “B” through “J” only as provided by Section 011 of IDAPA 18.01.54, “Rule To Implement The NAIC Medicare Supplement Insurance Minimum Standards Model Act”. (4-5-00)

a. Medicare Part A deductible: Coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period. (4-5-00)

b. Skilled nursing facility care: Coverage for the actual billed charges up to the coinsurance amount from the twenty first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A. (4-5-00)

c. Medicare Part B deductible: Coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement. (4-5-00)

d. Eighty percent (80%) of the Medicare Part B excess charges: Coverage for eighty percent (80%) of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge. (4-5-00)

e. One hundred percent (100%) of the Medicare Part B excess charges: Coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge. (4-5-00)

f. Basic outpatient prescription drug benefit: Coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollars (\$250) calendar year deductible, to a maximum of one thousand two hundred fifty dollars (\$1,250) in benefits received by the insured per calendar year, to the extent not covered by Medicare. (4-5-00)

g. Extended outpatient prescription drug benefit. Coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollars (\$250) calendar year deductible, to a maximum of three thousand dollars (\$3,000) in benefits received by the insured per calendar year, to the extent not covered by Medicare. (4-5-00)

h. Medically necessary emergency care in a foreign country: Coverage to the extent not covered by Medicare for eighty-percent (80%) of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician, and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars (\$250), and a lifetime maximum benefit of fifty thousand dollars (\$50,000). For purposes of this benefit, “emergency care” shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset. (4-5-00)

04. Preventive Medical Care Benefit. Coverage for the following preventive health services: (4-5-00)

a. An annual clinical preventive medical history and physical examination that may include tests and services from Subsection 010.04.b., and patient education to address preventive health care measures. (4-5-00)

b. Any one (1) or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate: (4-5-00)

i. Digital rectal examination; (3-15-02)

ii. Dipstick urinalysis for hematuria, bacteriuria, and proteinuria; (4-5-00)

iii. Pure tone (air only) hearing screening test, administered or ordered by a physician; (4-5-00)

iv. Serum cholesterol screening (every five (5) years); (4-5-00)

v. Thyroid function test; (4-5-00)

vi. Diabetes screening. (4-5-00)

c. Tetanus and diphtheria booster (every ten (10) years). (3-15-02)

d. Any other tests or preventive measures determined appropriate by the attending physician. Reimbursement shall be for the actual charges up to one hundred percent (100%) of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of one hundred twenty dollars (\$120) annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare. (4-5-00)

05. At-Home Recovery Benefit. Coverage for services to provide short-term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery. For purposes of this benefit, the following definitions shall apply: (4-5-00)

a. Activities of daily living include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings. (4-5-00)

b. Care provider. A duly qualified or licensed home health aide or homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses' registry. (4-5-00)

c. Home. Any place used by the insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence. (4-5-00)

d. At-home recovery visit. The period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except each consecutive four (4) hours in a twenty-four (24) hour period of services provided by a care provider is one (1) visit. (4-5-00)

06. Coverage Requirements And Limitations. (4-5-00)

a. At-home recovery services provided must be primarily services which assist in activities of daily living. (4-5-00)

b. The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare. (4-5-00)

c. Coverage is limited to: (4-5-00)

i. No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment; (4-5-00)

ii. The actual charges for each visit up to a maximum reimbursement of forty dollars (\$40) per visit; (4-5-00)

iii. One thousand six hundred dollars (\$1,600) per calendar year; (4-5-00)

iv. Seven (7) visits in any one week; (4-5-00)

v. Care furnished on a visiting basis in the insured's home; (4-5-00)

vi. Services provided by a care provider as defined in this section; (4-5-00)

vii. At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded; (4-5-00)

viii. At-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than eight (8) weeks after the service date of the last Medicare approved home health care visit. (4-5-00)

d. Coverage is excluded for: (4-5-00)

i. Home care visits paid for by Medicare or other government programs; and (4-5-00)

ii. Care provided by family members, unpaid volunteers or providers who are not care providers. (4-5-00)

07. New Or Innovative Benefits. An issuer may, with the prior approval of the director, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

014. GUARANTEED ISSUE FOR ELIGIBLE PERSONS.

01. Guaranteed Issue. (4-5-00)

a. Eligible persons are those individuals described in Subsection 014.02 who ~~subject to Subsection 014.02.b., apply to seek to enroll under the policy not later than sixty-three (63) days after the date of the termination of enrollment described in Subsection 014.02 during the period specified in Subsection 014.03, and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.~~ (3-15-02)()

b. With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in Subsection 014.03 that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy. (4-5-00)

02. Eligible Persons. An eligible person is an individual described in any of the following paragraphs: (4-5-00)

a. The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual; or the individual is enrolled under an employee welfare benefits plan that is primary to Medicare and the plan terminates or the plan ceases to provide all health benefits to the individual because the individual leaves the plan; (4-5-00)

b. The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, and any of the following circumstances apply, or the individual is sixty-five (65) years of age or older and is enrolled with a Program of All-Inclusive Care for the Elderly (PACE) provider under Section 1894 of the Social Security Act, and there are circumstances similar to those described below that would permit discontinuance of the individual's enrollment with such provider if such individual were enrolled in a Medicare+Choice plan: (3-15-02)

- i. The certification of the organization or plan under this part has been terminated, ~~or the organization or plan has notified the individual of an impending termination of such certification~~; or (3-15-02)(____)
- ii. The organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides, ~~or has notified the individual of an impending termination or discontinuance of such plan~~; or (3-15-02)(____)
- iii. The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856), or the plan is terminated for all individuals within a residence area; (4-5-00)
- iv. The individual demonstrates, in accordance with guidelines established by the Secretary, that the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or the organization, or agent, or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or the individual meets such other exceptional conditions as the Secretary may provide. ~~An individual described in Subsection 014.02.a. may elect to apply Subsection 014.01 by substituting, for the date of termination of enrollment, the date on which the individual was notified by the Medicare+Choice organization of the impending termination or discontinuance of the Medicare+Choice plan it offers in the area in which the individual resides, but only if the individual disenrolls from the plan as a result of such notification. In the case of an individual making the election in Subsection 014.02.b.iv., the issuer involved shall accept the application of the individual submitted before the date of termination of enrollment, but the coverage under Subsection 014.01, shall only become effective upon termination of coverage under the Medicare+Choice plan involved.~~ (3-15-02)(____)
- c. The individual is enrolled with: (4-5-00)
- i. An eligible organization under a contract under Section 1876 of the Social Security Act (Medicare ~~risk or~~ cost); (4-5-00)(____)
- ii. A similar organization operating under demonstration project authority, effective for periods before April 1, 1999; (4-5-00)
- iii. An organization under an agreement under Section 1833(a)(1)(A) of the Social Security Act (health care prepayment plan); or (4-5-00)(____)
- iv. An organization under a Medicare Select policy; and (4-5-00)
- d. The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under Subsection 014.02.b. (4-5-00)
- e. The individual is enrolled under a Medicare supplement policy and the enrollment ceases because: (4-5-00)
- i. Of the insolvency of the issuer or bankruptcy of the non-issuer organization; or (4-5-00)
- ii. Of other involuntary termination of coverage or enrollment under the policy; (4-5-00)
- iii. The issuer of the policy substantially violated a material provision of the policy; or (4-5-00)
- iv. The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual. (4-5-00)
- f. The individual was enrolled under a Medicare supplement policy and terminates enrollment and

subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, any eligible organization under a contract under Section 1876 of the Social Security Act (Medicare ~~risk or~~ cost), any similar organization operating under demonstration project authority, any PACE ~~program~~ provider under Section 1894 of the Social Security Act, ~~an organization under an agreement under Section 1833(a)(1)(A) (health care prepayment plan)~~, or a Medicare Select policy; and (3-15-02)()

g. The subsequent enrollment under Subsection 014.02.f. is terminated by the enrollee during any period within the first twelve (12) months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under Section 1851(e) of the federal Social Security Act); or (4-5-00)

h. The individual, upon first becoming eligible for benefits under part A of Medicare at age sixty-five (65), enrolls in a Medicare+Choice plan under part C of Medicare, or ~~in a~~ with PACE ~~program~~ provider under Section 1894 of the Social Security Act, and disenrolls from the plan or program by not later than twelve (12) months after the effective date of enrollment. (3-15-02)()

03. Guaranteed Issue Time Periods. ()

a. In the case of an individual described in Subsection 014.02.a., the guaranteed issue period begins on the date the individual receives a notice of termination or cessation of all supplemental health benefits (or, if a notice is not received, notice that a claim has been denied because of such a termination or cessation) and ends sixty-three (63) days after the date of the applicable notice; ()

b. In the case of an individual described in Subsections 014.02.b., 014.02.c., 014.02.f., or 014.02.h., whose enrollment is terminated involuntarily, the guaranteed issue period begins on the date that the individual receives a notice of termination and ends sixty-three (63) days after the date the applicable coverage is terminated; ()

c. In the case of an individual described in Subsections 014.02.e.i. and 014.02.e.ii., the guaranteed issue period begins on the earlier of: ()

i. The date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar notice if any; and ()

ii. The date that the applicable coverage is terminated, and ends on the date that is sixty-three (63) days after the date the coverage is terminated; ()

d. In the case of an individual described in Subsections 014.02.b.e.iii. and 014.02.b.e.iv., and 014.02.f., 014.02.g., or 014.02.h., who disenrolls voluntarily, the guaranteed issue period begins on the date that is sixty (60) days before the effective date of the disenrollment and ends on the date that is sixty-three (63) days after the effective date; and ()

e. In the case of an individual described in Subsection 014.02 but not described in the preceding provisions of Subsection 014.03, the guaranteed issue period begins on the effective date of disenrollment and ends on the date that is sixty-three (63) days after the effective date. ()

04. Extended Medigap Access For Interrupted Trial Periods. ()

a. In the case of an individual described in Subsection 014.02.f. (or deemed to be so described, pursuant to this paragraph) whose enrollment with an organization or provider described in Subsection 014.02.f. is involuntarily terminated within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls with another such organization or provider, the subsequent enrollment shall be deemed to be an initial enrollment described in Subsection 014.02.f.; ()

b. In the case of an individual described in Subsection 014.02.h. (or deemed to be so described, pursuant to this paragraph) whose enrollment with a plan or in a program described in Subsection 014.02.h. is involuntarily terminated within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls in another such plan or program, the subsequent enrollment shall be deemed to be an initial

enrollment described in Subsection 014.02.h.; and ()

c. For purposes of Subsection 014.02.f. and 014.02.h., no enrollment of an individual with an organization or provider described in Subsection 014.02.f. or with a plan or in a program described in Subsection 014.02.h. may be deemed to be an initial enrollment under Subsection 014.04.c. after the two-year period beginning on the date on which the individual first enrolled with such an organization, provider, plan or program. ()

035. Products To Which Eligible Person Are Entitled. The Medicare supplement policy to which eligible persons are entitled under: (4-5-00)

a. Subsections 014.02.a. through 014.02.e. and 014.02.g. is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F offered by any issuer. (4-5-00)

b. Subsection 014.02.f. is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in Subsection 014.03.a. (4-5-00)

c. Subsection 014.02.h. shall include any Medicare supplement policy offered by any issuer. (4-5-00)

046. Notification Provisions. (4-5-00)

a. At the time of an event described in Subsection 014.02 of this section because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under Section 014, and of the obligations of issuers of Medicare supplement policies under Subsection 014.01. Such notice shall be communicated contemporaneously with the notification of termination. (4-5-00)

b. At the time of an event described in Subsection 014.02 of this section because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under Subsection 014.01. Such notice shall be communicated within ten (10) working days of the issuer receiving notification of disenrollment. (4-5-00)

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE
18.01.65 - RULES FOR THE SURPLUS LINE BROKERS OF IDAHO
DOCKET NO. 18-0165-0201
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 41-211, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2002.

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:

Changes to this rule will eliminate the requirement for a bond and extend the license reinstatement period from thirty (30) days to one (1) year, and also eliminates the requirement that records be kept in an office located in Idaho. Changes clarify that surplus lines brokers selling through a purchasing group must be licensed in Idaho and are responsible for submission of taxes and fees to the Surplus Lines Association.

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 revisions reflect changes in underlying law governing licensed producers and surplus lines brokers.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Genetti, (208) 334-4340.

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 September 25, 2002.

DATED this 23rd day of July, 2002.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0165-0201

001. TITLE AND SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rules, IDAPA 18.01.65, “Rules for the Surplus Line Brokers”. ()

02. Scope. The purpose of this Rule is to provide procedures for the placement of surplus line insurance. ~~(1-1-94)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

011. BIENNIAL LICENSE.

The Idaho license of a resident or non-resident Surplus Line Broker must be renewed every two (2) years. Both the original license fee and the renewal fee are prescribed in the Rules No. 44 of the Idaho Department of Insurance ("Department"), ~~plus a ten thousand dollar (\$10,000) bond shall be posted with the Director of the Idaho Department of Insurance ("Director") as provided for in Section 41-1225 of the Idaho Insurance Code IDAPA 18.01.44, "Schedule of Fees, Licenses, and Miscellaneous Charges".~~ ~~Agents~~ Producers are in violation of the Insurance Code if they solicit surplus line business before they are licensed as a Surplus Line Broker. If a broker decides not to renew his license in any particular year, he should notify the Licensing Division of the Department of his intention prior to his license renewal date. The Director may, in his discretion, allow the continuation of a license which is not timely renewed, if, within ~~thirty (30) days~~ one (1) year after the renewal date, the licensee submits the appropriate renewal request and a continuation fee which is twice the amount otherwise required as provided by Section 41-104608(3), Idaho Code. ~~(7-1-98)~~(____)

012. ANNUAL REPORT.

Each Surplus Line Broker shall file an annual statement report with the Director by March 1st of each year, of Surplus Line business transacted during the previous calendar year. The Director will mail forms to each broker. ~~(1-1-94)~~(____)

013. PAYMENT OF STATE TAX.

01. Tax Due March 1. On or before March 1st of each year, all Idaho licensed Surplus Line Brokers shall pay to the Department the premium tax on business written ~~by him~~ during the preceding calendar year. The ~~Idaho~~ Surplus Line Broker must collect this tax from the assured insured, in addition to the stamping fee. ~~(1-1-94)~~(____)

02. Tax Summary. By February 1st of each year the ~~Stamping Office~~ Surplus Lines Association will mail to each ~~Idaho~~ Surplus Line Broker a summary of records showing the state tax due the Department for the preceding year. The broker must pay to the Department the exact amount of tax indicated on the ~~Stamping Office~~ Surplus Lines Association summary. A flat percentage of the gross premium written during the year is not acceptable since tax was collected on each individual policy and that full amount must be paid to the Department. ~~(1-1-94)~~(____)

014. PAYMENT OF STAMPING FEES.

01. Application. The stamping fee shall be charged on all premiums and policy fees written on Idaho business at a rate established by the Board of Directors of the Surplus Line Association and approved by the Department. This rate will be adjusted from time to time in order to obtain the objectives of the Association. The stamping fee cannot be refunded except where there are extenuating circumstances, reported to, and approved by the ~~Stamping Office~~ Surplus Lines Association. ~~(7-1-98)~~(____)

02. Association Summary. Within ten (10) days following the month during which the surplus line insurance was handled through the Association office, the Manager will submit to each ~~Idaho~~ Surplus Line Broker an invoice summarizing the premium, Idaho tax, and Stamping Fee for each submission ~~approved~~ processed. ~~(1-1-94)~~(____)

03. Payable On Receipt. The Stamping Fee of the Surplus Line Association is payable upon receipt of billing. It is delinquent if not paid within thirty (30) days after the last day of the month in which the business was reported. (1-1-94)

015. COLLECTION OF TAXES.

~~01. Excise Taxes. The federal excise tax is no longer payable by Underwriters at Lloyds or by any company domiciled within the United States. Federal excise taxes imposed on other companies shall be absorbed by the company and cannot be charged to the insured as a separate item. (1-1-94)~~

~~021. State Idaho Premium Taxes. State Idaho Premium Tax must be collected from the insured. This tax is charged on the premium paid. Policy fees, service fees, and other like fees are considered part of the premium and subject to premium tax. State premium taxes must be refunded to the taxpayer upon cancellation of the policy or return of premium for any reason. (1-1-94)()~~

~~02. Purchasing Groups. Purchasing groups that obtain insurance from an unauthorized or authorized surplus lines insurer must use a surplus lines broker licensed in the state of Idaho. The Surplus Lines Broker is responsible to collect and submit all taxes and fees to the Surplus Lines Association. ()~~

(BREAK IN CONTINUITY OF SECTIONS)

017. PLACEMENT AND COMMISSIONS.

~~01. Basic Requirement. All surplus line business whether produced from within the state of Idaho or outside, must be placed through a licensed Idaho Surplus Line Broker. Each producer of surplus line business must hold a resident or non-resident producer license for Idaho. (1-1-94)()~~

~~02. Out-Of-State Producer. When an out-of-state producer requests an Idaho Surplus Line Broker to place the surplus line business, the Idaho broker may receive non-commission compensation in the form of a service or policy fee. Such fee shall be based upon the mutual agreement of the parties concerned, shall be fully disclosed and shall not exceed two hundred fifty dollars (\$250). Such fee shall not be in addition to commission compensation. (1-1-94)~~

~~032. Idaho Producer. When an Idaho producer requests placement by a licensed Surplus Line Broker the commission received and paid shall be based on the mutual agreement of the parties concerned. (1-1-94)()~~

018. SUBMISSION TIME PERIODS.

All certificates, endorsements and other documents must be received at the ~~Stamping Office~~ Surplus Lines Association within thirty (30) days of receipt by the ~~Idaho~~ broker of the certificate, endorsement or other document. If the complete submission cannot be made within this time period, then the binder with submission form and affidavit, if applicable, will be forwarded. The ~~Idaho~~ broker is responsible for meeting this requirement and the burden of compliance is upon him. ~~Out-of-state brokers or insurers must be informed of this requirement by the Idaho broker. (1-1-94)()~~

(BREAK IN CONTINUITY OF SECTIONS)

020. BROKERS RECORDS.

Each broker shall keep in his office ~~within Idaho~~ a full and true record of each surplus line coverage procured by him as outlined in section 41-1227 of the Idaho Insurance Code. ~~Normally, that portion of the broker's submission, which is returned to him from the Stamping Office, will include the necessary supporting documents to comply with the requirement. Additional and future submissions, such as change endorsements, should be filed with the papers received from the Stamping Office. These records must be kept for a period of five (5) years and are subject to examination by the Director.~~ Reports of all documents processed by the Surplus Lines Association will be provided on a monthly basis to the broker. These reports, in addition to the broker's copy of policies and endorsements, must be kept for a period of five (5) years and are subject to examination by the director. (1-1-94)()

IDAPA 20 - DEPARTMENT OF LANDS

20.02.01 - RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT

DOCKET NO. 20-0201-0201

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 38-1304, Idaho Code.

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

September 5, 2002, 7:00 p.m.
Ponderosa Restaurant Meeting Rm
220 Michigan Avenue, Orofino

September 9, 2002, 7:00 p.m.
Idaho Department of Lands
55 Deinhard Lane, McCall

September 10, 2002, 7:00 p.m.
Idaho Department of Lands
3780 Industrial Ave. S., Coeur d'Alene

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 Board of Land Commissioners proposes amending Idaho Forest Practices Act (FPA) rules to:

1. Limit future re-entry in stream protection zones to provide for streamside shade.
2. Provide standards for retention or removal of down wood in stream protection zones.
3. Establish minimum streamside tree retention requirements by the use of basal area.
4. Allow operators to develop alternative riparian management prescriptions.
5. Provide adequate wildlife escape cover within single ownerships.
6. Encourage replacement of older existing culverts, not subject to current FPA requirements, that do not provide for fish passage or meet the 50-year design requirement.
7. Specify best management practices for the use of fords.
8. Clarify when roads can be reused in stream protection zones.

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 rules were developed by the Forest Practices Advisory Committee who provided technical advice to the State Board of Land Commissioners on these proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Colla, Forest Practices Program Manager, (208) 666-8636.

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 September 25, 2002.

DATED this the 17th day of July, 2002.

Winston A. Wiggins
Director
Idaho Department of Lands
954 West Jefferson Street
P.O. Box 83720
Boise, Idaho 83720-0200
Phone (208) 334-0200
Fax (208) 334-2339

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

004. INCORPORATION BY REFERENCE.

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

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

The principal place of business of the Idaho Department of Lands is in Boise, Idaho. The office is located at 954 W. Jefferson Street, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: Idaho Department of Lands, P.O. Box 83720, Boise, Idaho 83720-0050. The telephone number of the office is (208) 334-0200. The facsimile number of the office is (208) 334-2339. The Idaho Department of Lands has several other field offices from which information on various department matters may be obtained. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records except to the extent such records are by law exempt from disclosure. ()

0047. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

020. GENERAL RULES.

01. Compliance. Practices contained within a rule shall be complied with to accomplish the purpose to which the rule is related. (8-13-85)

a. If conditions of sites or activities require the application of practices which differ from those prescribed by the rules, the operator shall obtain a variance according to the following procedure: (8-13-85)

i. The operator shall submit a request for variance to the department in writing. The request shall include a description of the site and particular conditions which necessitate a variance, and a description of proposed practices which, if applied, will result in a violation of the rules. (8-13-85)

ii. Within fourteen (14) calendar days the department shall evaluate the request and notify the operator in writing of the determination to allow or disallow the variance request. (7-1-96)

iii. All practices authorized under this procedure shall provide for equivalent or better results over the long term than the rules which are superseded to insure site productivity, water quality and fish and wildlife habitat. A variance can be applied only at approved sites. (8-13-85)

b. Practices shall also be in compliance with the Stream Channel Alteration Act (Title 42, Chapter 38, Idaho Code), Idaho Water Quality Standards and Waste Water Treatment Requirements (Title 39, Chapter I, Idaho Code), the Idaho Pesticide Law (Title 22, Chapter 34, Idaho Code), and the Hazardous Waste Management Act of 1983 (Title 39, Chapter 44, Idaho Code), and rules and regulations pursuant thereto. (8-13-85)

02. Conversion Of Forest Lands. Conversions require a notification be filed, and compliance with all rules except those relating to reforestation. On converted parcels larger than one (1) acre, plant acceptable vegetative cover sufficient to maintain soil productivity and minimize erosion. Cover shall be established within one (1) year of completion of the forest practice except that the director may grant an extension of time if weather or other conditions interfere. Within three (3) years of completion of the forest practice, the director shall determine if the conversion has been accomplished by: (7-1-96)

- a. The presence or absence of improvements necessary for use of land for its intended purpose; (7-1-96)
- b. Evidence of actual use of the land for the intended purpose. (10-14-75)
- c. If the conversion has not been accomplished within three (3) years of the completion of harvest, supplemental reforestation Subsection 050.06 applies. (7-1-96)

03. Annual Review And Consultation. The director shall, at least once each year, meet with other state agencies and the Forest Practices Advisory Committee and review recommendations for amendments to rules, new rules, or repeal of rules. He shall then report to the ~~h~~Board a summary of such meeting or meetings, together with recommendations for amendments to rules, new rules, or repeal of rules. (~~10-14-75~~)(____)

04. Consultation. The director shall consult with other state agencies and departments concerned with the management of forest environment where expertise from such agencies or departments is desirable or necessary. (10-14-75)

a. The Idaho Water Quality Standards and Wastewater Treatment Requirements, IDAPA 58.01.02, (Title 39, Chapter 1, Idaho Code) reference the Forest Practice Rules as approved best management practices and describe a procedure of modifying the practices based on monitoring and surveillance. The director shall review petitions from the Idaho Department of Environmental Quality for changes or additions to the rules according to Administrative Procedures Act (Title 67, Chapter 52, Idaho Code) and make recommendations for modification to the Board of Land Commissioners. (~~9-20-88~~)(____)

05. Notification Of Forest Practice. (10-14-75)

a. Before commencing a forest practice or a conversion of forest lands the department shall be notified as required in ~~Subsection Paragraph~~ 020.025.b. The notice shall be given by the operator. However, the timber owner or landowner satisfies the responsibility of the operator under this subsection. When more than one forest practice is to be conducted in relation to harvesting of forest tree species, one notice including each forest practice to be conducted shall be filed with the department. (~~7-1-96~~)(____)

b. The notification required by ~~Subsection Paragraph~~ 020.05.a. shall be on forms prescribed and provided by the department and shall include the name and address of the operator, timber owner, and landowner; the legal description of the area in which the forest practice is to be conducted; whether the forest practice borders an outstanding resource water and other information the department considers necessary for the administration of the rules adopted by the board under Section 38-1304, Idaho Code. All notifications must be formally accepted by the department before any forest practice may begin. Promptly upon formal acceptance of the notice but not more than fourteen (14) calendar days from formal acceptance of the notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notification. The department shall make available to the operator, timber owner, and landowner a copy of the rules. (~~7-1-96~~)(____)

c. An operator, timber owner, or landowner, whichever filed the original notification, shall notify the department of any subsequent change in the information contained in the notice within thirty (30) calendar days of the change. Promptly upon receipt of the notice of change, but not to exceed fourteen (14) calendar days from receipt of notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notice of change. (~~7-1-96~~)(____)

d. The notification is valid for the same period as set forth in the certificate of compliance under Section 38-122, Idaho Code. At the expiration of the notification, if the forest practice is continuing, the notification shall be renewed using the same procedures provided for in this section. (4-21-92)

e. If the notification required by ~~Subsection Paragraph~~ 020.05.a. of this section indicates that at the expiration of the notification that the forest practice will be continuing, the operator, timber owner, or landowner, at least thirty (30) calendar days prior to the expiration of the notification, shall notify the department and obtain a renewal of the notification. Promptly upon receipt of the request for renewal, but not to exceed fourteen (14) calendar days from receipt of the request, the department shall mail a copy of the renewed notification to whichever of the

operator, timber owner, or landowner that did not submit the request for renewal. (~~7-1-96~~)()

06. Notification Exception. A notification of ~~F~~forest ~~P~~ractice is required except for: (~~7-1-98~~)()

a. Routine road maintenance, recreational uses, grazing by domestic livestock, cone picking, culture and harvest of Christmas trees on lands used solely for the production of Christmas trees, or harvesting of other minor forest products. (10-14-75)

b. Non-commercial cutting and removal of forest tree species by a person for his own personal use. (10-14-75)

c. Clearing forest land for conversion to surface mining or dredge and placer mining operations under a reclamation plan or dredge mining permit. (9-20-88)

07. Emergency Forest Practices. No prior notification shall be required for emergency forest practices necessitated by and commenced during or immediately after a fire, flood, windthrow, earthquake, or other catastrophic event. Within forty-eight (48) hours after commencement of such practice, the operator, timber owner, or landowner shall notify the director with an explanation of why emergency action was necessary. Such emergency forest practices are subject to the rules herein, except that the operator, timber owner, or landowner may take any reasonable action to minimize damage to forest lands, timber, or public resource from the direct or indirect effects of the catastrophic event. (7-1-96)

08. Duty Of Purchaser. The initial purchaser of forest tree species which have been harvested from forest lands shall, before making such purchase or contract to purchase or accepting delivery of the same, receive and keep on file a copy of the notice required by Section 38-1306, Idaho Code relating to the harvesting practice for which the forest tree species are being acquired by the initial purchaser. Such notice shall be available for inspection upon request by the department at all reasonable times. (7-1-96)

09. State Divided Into Regions. For the purpose of administering this Act, the State is divided into two (2) forest regions: one (1) north of the Salmon River and one (1) south of the Salmon River. (7-1-96)

10. Regions Divided Into Forest Habitat Types. For the purpose of further refining the on-the-ground administration of the Act, the forest regions can be divided into Habitat Types. (7-1-96)

(BREAK IN CONTINUITY OF SECTIONS)

030. TIMBER HARVESTING.

01. Purpose. Harvesting of forest tree species is a part of forest management by which wood for human use is obtained and by which forests are established and tended. It is recognized that during harvesting operations there will be a temporary disturbance to the forest environment. It is the purpose of these rules to establish minimum standards for forest practices that will maintain the productivity of the forest land and minimize soil and debris entering streams and protect wildlife and fish habitat. (10-14-75)

02. Quality Of Residual Stocking. Reforestation is required if harvesting reduces stocking of acceptable trees below minimums of Subsection 050.04. (7-1-96)

03. Soil Protection. Select for each harvesting operation the logging method and type of equipment adapted to the given slope, landscape and soil properties in order to minimize soil erosion. (8-13-85)

a. Ground based skidding shall not be conducted if it will cause rutting, deep soil disturbance, or accelerated erosion. On slopes exceeding forty-five percent (45%) gradient and which are immediately adjacent to a Class I or II stream, ground based skidding shall not be conducted except with an approved variance. Where slopes in the area to be logged exceed forty-five percent (45%) gradient, the operator, landowner or timber owner shall notify

the department of these steep slopes upon filing the notification as provided for in Subsection 020.05. ~~(7-1-96)~~()

b. Limit the grade of constructed skid trails on geologically unstable, saturated, or highly erodible or easily compacted soils to a maximum of thirty percent (30%). (7-1-96)

c. In accordance with appropriate silvicultural prescriptions, skid trails shall be kept to the minimum feasible width and number. Tractors used for skidding shall be limited to the size appropriate for the job. (8-13-85)

d. Uphill cable yarding is preferred. Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils. (8-13-85)

04. Location Of Landings, Skid Trails, And Fire Trails. Locate landings, skid trails, and fire trails on stable areas to prevent the risk of material entering streams. (10-14-75)

a. All new or reconstructed landings, skid trails, and fire trails shall be located on stable areas outside the appropriate stream protection zones. Locate fire and skid trails where sidecasting is held to a minimum. (3-13-90)

b. Minimize the size of a landing to that necessary for safe economical operation. (8-13-85)

c. To prevent landslides, fill material used in landing construction shall be free of loose stumps and excessive accumulations of slash. On slopes where sidecasting is necessary, landings shall be stabilized by use of seeding, compaction, riprapping, benching, mulching or other suitable means. (8-13-85)

05. Drainage Systems. For each landing, skid trail or fire trail a drainage system shall be provided and maintained that will control the dispersal of surface water to minimize erosion. (4-21-92)

a. Stabilize skid trails and fire trails whenever they are subject to erosion, by water barring, cross draining, outsliping, scarifying, seeding or other suitable means. This work shall be kept current to prevent erosion prior to fall and spring runoff. (8-13-85)

b. Reshape landings as needed to facilitate drainage prior to fall and spring runoff. Stabilize all landings by establishing ground cover or by some other means within one (1) year after harvesting is completed. (8-13-85)

06. Treatment of Waste Materials. All debris, overburden, and other waste material associated with harvesting shall be left or placed in such a manner as to prevent their entry by erosion, high water, or other means into streams. (10-14-75)

a. Wherever possible trees shall be felled, bucked, and limbed in such a manner that the tree or any part thereof will fall away from any Class I streams. Continuously remove slash that enters Class I streams as a result of harvesting operations. Continuously remove other debris that enters Class I streams as a result of harvesting operations whenever there is a potential for stream blockage or if the stream has the ability for transporting such debris. Place removed material five (5) feet slope distance above the ordinary high water mark. (3-13-90)

b. Remove slash and other debris that enters Class II streams whenever there is a potential for stream blockage or if the stream has the ability for transporting the debris immediately following skidding and place removed material above the ordinary high water mark or otherwise treat as prescribed by the department. No formal variance is required. (11-7-86)

c. Deposit waste material from construction or maintenance of landings and skid and fire trails in geologically stable locations outside of the appropriate Stream Protection Zone. (8-13-85)

07. Stream Protection. During and after forest practice operations, stream beds and streamside vegetation shall be protected to leave them in the most natural condition as possible to maintain water quality and aquatic habitat. (8-13-85)

a. Lakes require an approved site specific riparian management prescription prior to conducting forest

practices within the stream protection zone. (7-1-96)

b. Ground based skidding in or through streams shall not be permitted. When streams must be crossed, adequate temporary structures to carry stream flow shall be installed. Cross the stream at right angles to its channel if at all possible. (Construction of hydraulic structures in stream channels is regulated by the Stream Channel Protection Act - Title 42, Chapter 38, Idaho Code). Remove all temporary crossings immediately after use and, where applicable, water bar the ends of the skid trails. (7-1-96)

c. Operation of ground based equipment shall not be allowed within the Stream Protection Zone except at approaches to stream crossings. (7-1-96)

d. When cable yarding is necessary, across or inside the Stream Protection Zones it shall be done in such a manner as to minimize stream bank vegetation and channel disturbance. (8-13-85)

e. Provide for large organic debris (LOD), shading, soil stabilization, wildlife cover and water filtering effects of vegetation along streams. (7-1-96)

i. Leave hardwood trees, shrubs, grasses, and rocks wherever they afford shade over a stream or maintain the integrity of the soil near a stream. (10-14-75)

ii. Leave seventy-five percent (75%) of the current shade over the Class I streams. Limit re-entry until shade recovers. ~~(7-1-96)~~()

iii. During harvesting, ~~C~~carefully remove timber from the Stream Protection Zone in such a way that shading and filtering effects are not destroyed. When portions of trees fall into or over Class I streams, leave that portion in a length that is at least equal to one and one-half (1½) the stream width at the high water mark. For trees falling naturally into or over the stream, leaving the section with the root ball attached is preferable. Portions of trees with lengths less than one and one-half (1½) the stream width entering streams as part of harvesting operations shall be removed, consistent with the slash removal requirements of Subsection 030.06. ~~(7-1-96)~~()

iv. Standing trees, including conifers, hardwoods and snags will be left within fifty (50) feet of the ordinary high water mark on each side of all Class I streams, ~~and within thirty (30) feet on each side of those Class II streams that require thirty (30) feet stream protection zones,~~ in the following minimum *numbers per one thousand (1000) feet of stream Basal Areas per acre:*

Minimum Standing Trees Per One Thousand (1000) Feet Basal Area Per Acre Required (each side)

	- STREAM WIDTH -			Class II
	Class I - Recommended Distribution			
Tree Diameter (DBH)	Over 20'	10'- 20'	Under 10'	
3 - 7.9"	200 <u>trees</u>	200 <u>trees</u>	200 <u>trees</u>	440
8 - 11.9"	42 <u>trees</u>	42 <u>trees</u>	42 <u>trees</u>	--
12 - 19.9"	21 <u>trees</u>	21 <u>trees</u>	--	--
20"+	45 <u>trees</u>	--	--	--
<u>Required Minimum Basal Area per acre</u>	<u>90 BA</u>	<u>75 BA</u>	<u>50 BA</u>	

**For those Class II streams that require a minimum five (5) foot stream protection zone, no standing trees are required.* ~~(7-1-96)~~()

v. Leave a minimum of one hundred forty (140) submerchantable standing trees per acre (3-7.9"

DBH), including conifers, hardwoods, and snags within thirty (30) feet on each side of Class II streams that require thirty (30) feet stream protection zones. For Class II streams that require a minimum five (5) foot stream protection zone, no standing trees are required. ()

vi. Snags will be counted as standing trees in each diameter class if snag height exceeds one and one-half (1½) times the distance between the snag and the stream's ordinary high water mark. Not more than fifty percent (50%) of any class may consist of snags. (7-1-96)

vii. As an alternative to the standing tree and shade requirements, the operator may ~~notify the department that develop~~ a site specific riparian management prescription ~~is requested~~ and submit it to the department for approval. The ~~department and operator may jointly develop a plan upon consideration of~~ prescription should consider stream characteristics and the need for large organic debris, stream shading and wildlife cover which will meet the objective of these rules. (3-13-90)()

viii. Where the opposite side of the stream does not currently meet the minimum standing tree requirements of the table, the department and the operator should consider a site specific riparian prescription that meets the large organic debris needs of the stream. (3-13-90)

~~viii~~. Stream width shall be measured as average between ordinary high water marks. (3-13-90)

08. Maintenance Of Productivity And Related Values. Harvesting practices will first be designed to assure the continuous growing and harvesting of forest tree species by suitable economic means and also to protect soil, air, water, and wildlife resources. (10-14-75)

a. Where major scenic attractions, highways, recreation areas or other high-use areas are located within or traverse forest land, give special consideration to scenic values by prompt cleanup and regeneration. (10-14-75)

b. Give special consideration to preserving any critical wildlife or aquatic habitat. Wherever practical, preserve fruit, nut, and berry producing trees and shrubs. (10-14-75)

c. Avoid conducting operations along bogs, swamps, wet meadows, springs, seeps, wet draws or other sources where the presence of water is indicated, protect soil and vegetation from disturbance which would cause adverse affects on water quality, quantity and wildlife and aquatic habitat. (7-1-96)

d. ~~Whenever practical, as determined by the department~~ Within single ownerships, plan clear cutting operations so that adequate wildlife escape cover is available within one-quarter (¼) mile. (10-14-75)()

(BREAK IN CONTINUITY OF SECTIONS)

040. ROAD CONSTRUCTION, RECONSTRUCTION AND MAINTENANCE.

01. Purpose. Provide standards and guidelines for road construction, reconstruction, and maintenance that will maintain forest productivity, water quality, and fish and wildlife habitat. (4-5-00)

02. Road Specifications and Plans. Road specifications and plans shall be consistent with good safety practices. Plan each road to the minimum use standards adapted to the terrain and soil materials to minimize disturbances and damage to forest productivity, water quality, fish, and wildlife habitat. (4-5-00)

a. Plan transportation networks to avoid road construction within stream protection zones, except at approaches to stream crossings. Leave or reestablish areas of vegetation between roads and streams. (4-5-00)

b. Roads shall be no wider than necessary to safely accommodate the anticipated use. Minimize cut and fill volumes by aligning the road to fit the natural terrain features as closely as possible. Adequately compact fill

material. Dispose of excess material on geologically stable sites. (4-5-00)

c. Plan roads to drain naturally by out-sloping or in-sloping with cross-drainage and by grade changes where possible. Plan dips, water bars, cross-drainage, or subsurface drainage on roads when necessary. (4-5-00)

d. Relief culverts and roadside ditches shall be planned whenever reliance upon natural drainage would not protect the running surface, cut slopes or fill slopes. Plan culvert installations to prevent erosion of the fill by properly sizing, bedding and compacting. Plan drainage structures to achieve minimum direct discharge of sediment into streams. (4-5-00)

e. The following rule applies to installations of new culverts and re-installations during road reconstructions or re-installations caused by flood or other catastrophic events. Culverts used for temporary crossings are exempt from the fifty (50) year design requirement, but they must be removed immediately after they are no longer needed and before the spring run-off period. (4-5-00)

i. Culvert installations on fish bearing streams must provide for fish passage. (4-5-00)

ii. Design culverts for stream crossings to carry the fifty (50) year peak flow using engineering methods acceptable to the department or determine culvert size by using the culvert sizing tables below. The minimum size culvert required for stream crossings shall not be less than eighteen (18) inches in diameter, with the exception of that area of the Snake River drainage upstream from the mouth of the Malad River, including the Bear River basin, where the minimum size shall be fifteen (15) inches. (7-1-96)

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

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

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

Strongly consider having culverts larger than sixty (60) inches designed, or consider alternative structures, ~~such as including, but not limited to, bridges, mitered culverts, and arches, etc~~

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

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

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

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

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

Strongly consider having culverts larger than sixty (60) inches designed, or consider alternative structures, *such as* including, but not limited to, bridges, mitered culverts, and arches, *etc.*

Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)
1871 - 2415	66	142
2416 - 3355	72	176
3356 - 5335	84	260

Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)
5336 - 7410	96	370
7411 - 9565	108	500
9566 - 11780	120	675

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

See exception for southeast Idaho in ~~Subsection~~ paragraph 040.02.ii. of this rule. (4-5-00)()

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

f. On existing roads that are not reconstructed or damaged by catastrophic events, landowners or operators are encouraged, but not required, to replace or provide mitigation for culverts that do not provide for fish passage in accordance with Subparagraph 040.02.e.i. or can not carry the fifty (50) year peak flow of Subparagraph 040.02.e.ii. ()

~~fg.~~ Stream crossings, including fords, shall be minimum in number and planned and installed in compliance with the Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and with culvert sizing requirements of ~~Subsection Paragraph~~ 040.02.e. Fords are an acceptable stream crossing structure on small, shallow streams, less than twenty (20) feet in width, with flat, less than four percent (4%) gradients. Fords should not be constructed or used upstream from the point of active domestic water diversions, spawning areas, or during times of salmonid spawning and egg incubation for a minimum of one thousand three hundred twenty (1,320) feet. Fords should cross the stream at right angles; approaches should be adequately cross-drained and rocked for at least seventy-five (75) feet. Use should be limited to low water, dry, or frozen conditions. Limit hauling or equipment crossing trips to minimize sediment delivery to streams. (4-5-00)()

~~gh.~~ Avoid reconstruction ~~or reuse~~ of existing roads located in stream protection zones, except for approaches to stream crossings, unless it will result in the least long-term impact on site productivity, water quality, and fish and wildlife habitat. Reconstruction ~~or reuse~~ of existing roads in stream protection zones will require a variance. Reusing an existing road in stream protection zones for skidding or landing logs shall require a variance. Reusing an existing road in stream protection zones for hauling fully suspended logs only, where no reconstruction will occur, does not require a variance. (4-5-00)()

03. Road Construction. Construct or reconstruct roads in a manner to prevent debris, overburden, and other material from entering streams. (4-5-00)

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

b. Clear all debris generated during construction or maintenance which potentially interferes with drainage or water quality. Deposit excess material and slash on geologically stable sites outside the stream protection zones. (4-5-00)

c. Where exposed material (including, but not limited to, road surface, cut slopes or fill slopes, borrow pits, waste piles, ~~etc.~~) is potentially erodible, and where sediments would enter streams, stabilize prior to fall or spring runoff by seeding, compacting, rocking, riprapping, benching, mulching or other suitable means. (4-5-00)()

d. In the construction of road fills, compact the material to reduce the entry of water, minimize erosion, and settling of fill material. Minimize the amount of snow, ice, or frozen soil buried in embankments. No significant amount of woody material shall be incorporated into fills. Available slash and debris may be utilized as a

filter windrow along the toe of the fill, but must meet the requirements of the Idaho Forestry Act and Fire Hazard Reduction Laws, Title 38, Chapters 1 and 4, Idaho Code. (4-5-00)

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

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

g. Construct cross drains and relief culverts to minimize erosion of embankments. Installation of erosion control devices should be concurrent with road construction. Use riprap, vegetative matter, downspouts and similar devices to minimize erosion of the fill. Install drainage structures or cross drain incompleted roads which are subject to erosion prior to fall or spring runoff. Install relief culverts with a minimum grade of one percent (1%). (4-5-00)

h. Earthwork or material hauling shall be postponed during wet periods if, as a result, erodible material would enter streams. (4-5-00)

i. Cut slopes shall be reconstructed to minimize sloughing of material into road surfaces or ditchlines. Remove or stabilize material subject to sloughing concurrent with the construction operation. (4-5-00)

j. Roads constructed on slopes greater than sixty percent (60%) in unstable or erodible soils shall be full benched without fill slope disposal. At stream and draw crossings keep fills to a minimum. A variance is required if a full bench is not used. (4-5-00)

04. Road Maintenance. Conduct regular preventive maintenance operations to minimize disturbance and damage to forest productivity, water quality, and fish and wildlife habitat. (4-5-00)

a. Place all debris or slide material associated with road maintenance in a manner to prevent their entry into streams. (4-5-00)

b. Repair slumps, slides, and other erosion sources causing stream sedimentation to minimize sediment delivery. (4-5-00)

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

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

ii. During and upon completion of seasonal operations, the road surface shall be crowned, out-sloped, in-sloped or cross-ditched, and berms removed from the outside edge except those intentionally constructed for protection of fills. (4-5-00)

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

iv. Hauling shall be postponed during wet periods if necessary to minimize sediment delivery to streams. (4-5-00)

v. If road surface stabilizing materials are used, apply them in such a manner as to prevent their entry into streams. (4-5-00)

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

i. Following termination of active use, ditches and culverts shall be cleared and the road surface shall

be crowned, out-sloped or in-sloped, water barred or otherwise left in a condition to minimize erosion. Drainage structures shall be maintained thereafter as needed. (7-1-96)

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

e. Long-term Inactive Roads. A long-term inactive road is not intended to be used again in the near future but will likely be used again at some point in the future. No subsequent maintenance of a long-term inactive road is required after the following procedures are completed: (4-5-00)

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

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

iii. The department may require the removal of bridges, culverts, ditches and unstable fills. Any bridges or culverts left in place shall be maintained by the landowner. (4-5-00)

f. Permanently Abandoned Roads. Permanently abandoned roads are not intended to be used again. All drainage structures must be removed and roadway sections treated so that erosion and landsliding are minimized. (4-5-00)

i. Drainage structures shall be removed and stream gradients restored to their natural slope. (4-5-00)

ii. The road prism shall be treated to break up compacted areas. (4-5-00)

iii. Fill slopes of roads within stream protection zones shall be pulled back to a stable configuration unless long-term stability has already been achieved. (4-5-00)

iv. Unstable sidehill fills shall be pulled back to a stable configuration. (4-5-00)

v. Ditch line erosion shall be controlled by cross-ditching, outsloping, or regrading to eliminate ditches. (4-5-00)

vi. All bare earth areas created by regrading, ripping, and drainage removal shall be stabilized by seeding, mulching, armoring, or other suitable means. (4-5-00)

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

060. USE OF CHEMICALS AND PETROLEUM PRODUCTS.

01. Purpose. Chemicals perform an important function in the growing and harvesting of forest tree species. The purpose of these rules is to regulate handling, storage and application of chemicals in such a way that the

public health and aquatic and terrestrial habitats will not be endangered by contamination of streams or other bodies of water. In addition, the application of chemicals are regulated by the Commercial Fertilizer Law, Title 22, Chapter 6; the Soil and Plant Amendment Law, Title 22, Chapter 22, and the Idaho Pesticide Law, Title 22, Chapter 34, Idaho Code and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application". (7-1-98)

02. Petroleum Products. Petroleum storage containers with capacities of more than two hundred (200) gallons, stationary or mobile, will be located no closer than one hundred (100) feet from any stream, water course, lake, or area of open water. Dikes, berms or embankments will be constructed to contain at least one hundred ten percent (110%) of the volume of petroleum products stored within the tanks. Diked areas will be sufficiently impervious and of adequate capacity to contain spilled petroleum products. In the event any leakage or spillage enters any stream, water course, lake, or area of open water, the operator will immediately notify the department. (7-1-98)

a. Transferring petroleum products. During fueling operations or petroleum product transfer to other containers, there shall be a person attending such operations at all times. Fueling operations should not take place where, if spillage occurs, the fuel will enter streams, lakes or other areas of open water. (7-1-98)

b. Equipment and containers used for transportation, storage or transfer of petroleum products shall be maintained in a leakproof condition. If the department determines there is evidence of petroleum product leakage or spillage, the use of such equipment shall be suspended until the deficiency has been corrected. (7-1-98)

c. Waste resulting from logging operations, such as crankcase oil, filters, grease, oil containers, or other nonbiodegradable waste shall be removed from the operating area and disposed of properly. (7-1-98)

03. Licensing. Any person applying, mixing or loading pesticides shall comply with the licensing requirements of Idaho Pesticide Law and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application". This requirement does not pertain to individuals applying general use pesticides on their own property. (7-1-98)

04. Maintenance Of Equipment. (10-14-75)

a. Equipment used for transportation, storage or application of chemicals shall be maintained in leakproof condition. If, in the director's judgment, there is evidence of chemical leakage, he shall have the authority to suspend the further use of such equipment until the deficiency has been corrected. (10-14-75)

b. The storage of pesticide shall also be conducted in accordance with the requirements Rules of the Idaho Pesticide Law and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application". (7-1-98)

05. Mixing. (10-14-75)

a. When water is used in mixing chemicals: (10-14-75)

i. Provide an air gap or reservoir between the water source and the mixing tank. (10-14-75)

ii. Use uncontaminated tanks, pumps, hoses and screens to handle and transfer mix water for utilization in pesticide operations. (7-1-98)

b. Mixing and landing areas: (10-14-75)

i. Mix chemicals and clean tanks and equipment only where spills will not enter any water source or streams. (10-14-75)

ii. Landing areas shall be located where spilled chemicals will not enter any water source or stream. (8-13-85)

iii. Rinsate and wash water should be recovered and used for make-up water, be applied to the target area, or disposed of according to state and federal laws. (7-1-98)

- 06. Aerial Application:** (10-14-75)
- a.** With the exception of pesticides approved for aquatic use and applied according to labeled directions, when applying pesticide leave at least one (1) swath width (minimum one hundred (100) feet) untreated on each side of all Class I streams, flowing Class II streams and other areas of open water. When applying pelletized fertilizer, leave a minimum of fifty (50) feet untreated on each side of all Class I streams, flowing Class II streams, and other areas of open water. (7-1-98)
- b.** Use a bucket or spray device capable of immediate shutoff. (10-14-75)
- c.** Shut off chemical application during turns and over open water. (10-14-75)
- d.** Aerial application of pesticides shall also be conducted according to the Idaho Pesticide Law and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application". (7-1-98)
- 07. Ground Application With Power Equipment.** (10-14-75)
- a.** With exception of pesticides approved for aquatic use and applied according to labeled directions, when applying pesticide, leave at least twenty-five (25) feet untreated on each side of all Class I streams, flowing Class II streams and areas of open water. (7-1-98)
- b.** When applying fertilizer, leave at least ten (10) feet untreated on each side of all streams and areas of open water. (10-14-75)
- 08. Hand Application.** (10-14-75)
- a.** Apply only to specific targets, ~~such as~~ including, but not limited to, a stump, burrow, bait, or trap. ~~(10-14-75)~~(____)
- b.** Keep chemicals out of all water sources or streams. (10-14-75)
- 09. Limitations On Applications.** (10-14-75)
- a.** Chemicals shall be applied in accordance with all limitations and instructions printed on the product registration labels, supplemental labels, and others established by regulation of the director. (7-1-98)
- b.** Do not exceed allowable rates. (7-1-98)
- c.** Prevent direct entry of chemicals into any water source or stream. (8-13-85)
- 10. Daily Records Of Chemical Applications.** (10-14-75)
- a.** When pesticides are applied on forest land, the operator shall maintain a daily record of spray operations which includes: (7-1-98)
- i.** Date and time of day of application. (8-13-85)
- ii.** Name and address of owner of property treated. (8-13-85)
- iii.** Purpose of the application (including, but not limited to, control of vegetation, control of Douglas-fir tussock moth, ~~etc.~~). ~~(8-13-85)~~(____)
- iv.** Contractor's name and pilot's name when applied aerially. Contractor's name or applicator's name for ground application. (7-1-96)
- v.** Location of project (section, township, range and county). (10-14-75)

- vi. Air temperature (hourly). (10-14-75)
- vii. Wind velocity and direction (hourly). (10-14-75)
- viii. Pesticides used including trade or brand name, EPA product registration number, mixture, application rate, carrier used and total amounts applied. (7-1-98)
- b.** Whenever fertilizers or soil amendments are applied, the operator shall maintain a daily record of such application which includes Subsection 060.10 and the name of the fertilizer or soil amendment and application rate. (7-1-98)
- c.** The records required in Subsection 060.10 shall be maintained in compliance with the record-keeping requirements of IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application". (7-1-98)
- d.** All records required in Subsection 060.10 shall be retained for three (3) years. (7-1-98)
- 11. Container Disposal.** Chemical containers shall be cleaned and removed from the forest and disposed of in a manner approved by the director in accordance with applicable local, state and federal regulations; or removed for reuse in a manner consistent with label directions and applicable regulations of a state or local health department. Open burning of containers is prohibited. (~~7-1-98~~) ()
- 12. Spills.** Spills shall be reported and appropriate cleanup action taken in accordance with applicable state and federal laws and rules and regulations. (8-13-85)
- a.** All chemical accidents and spills shall be reported immediately to the director. (7-1-98)
- b.** If chemical is spilled, appropriate procedures shall be taken immediately to control the spill source and contain the released material. (7-1-98)
- c.** It is the applicator's responsibility to collect, remove, and dispose of the spilled material in accordance with applicable local, state and federal rules and regulations and in a manner approved by the director. (7-1-98)
- 13. Misapplications.** Whenever chemicals are applied to the wrong site or pesticides are applied outside of the directions on the product label, it is the responsibility of the applicator to report these misapplications immediately to the director. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

070. SLASHING MANAGEMENT.

- 01. Purpose.** To provide for management of slashing and fire hazard resulting from harvesting, forest management, or improvement of forest tree species, or defoliation caused by chemical applications in that manner necessary to protect reproduction and residual stands, reduce risk from fire, insects and disease or optimize the conditions for future regeneration of forest tree species and to maintain air and water quality, fish and wildlife habitat. (10-14-75)
- 02. Commercial Slash.** Fuels and debris resulting from a forest practice involving removal of a commercial product shall be managed as set forth in the Idaho Forestry Act, Title 38, Chapters 1 and 4, Idaho Code and the rules and regulations pertaining to forest fire protection. (7-1-96)
- 03. Non-Commercial Slash.** Fuels and debris resulting from a forest practice where no commercial

product is removed shall be managed in a manner as hereinafter designated under authority of the Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code. (1-24-78)

a. Within ten (10) days or a time mutually agreed upon following receipt by the department of the "Notification of Forest Practice" as provided in Subsection 020.05, the department shall make a determination of the potential fire hazard and hazard reduction and/or hazard offsets, if any, needed to reduce, abate or offset the fire hazard. Such determination shall be based on a point system found in ~~Subsection Paragraph~~ 070.03.e. ~~(7-1-96)~~()

b. The operator, timber owner and landowner shall be notified in writing of the determination made in ~~Subsection Paragraph~~ 070.03.a. above (on forms provided by the department) and of the hazard reductions and/or hazard offsets, if any, that must be accomplished by the operator, timber owner or landowner. The notification shall specify a reasonable time period not to exceed twelve (12) months from the date the forest practice commenced in which to complete the hazard reduction and shall specify the number of succeeding years that on site improvements or extra protection must be provided. ~~(7-1-96)~~()

c. A release of all obligations under Subsection 070.03 shall be granted in writing on forms provided by the department when the hazard reduction and/or hazard offsets have been accomplished. When hazard offsets are to be accomplished during succeeding years, the release shall be conditioned upon the completion of the required hazard offsets. Notification of release shall be mailed to the operator, timber owner and landowner within seven (7) days of the inspection by the department. Inspections by the department shall be made within ten (10) days of notification by the operator, timber owner or landowner unless otherwise mutually agreed upon. (7-1-96)

d. If the department determines upon inspection that the hazard reduction or hazard offsets have not been accomplished within the time limit specified in ~~Subsection Paragraph~~ 070.03.b., extensions of time, each not to exceed three (3) months, may be granted if the director determines that a diligent effort has been made and that conditions beyond the control of the party performing the hazard reduction or hazard offsets prevented completion. If an extension is not granted the department shall proceed as required in Section 38-1307, Idaho Code (Idaho Forest Practices Act). ~~(7-1-96)~~()

e. For the purpose of determining the potential fire hazard and the appropriate hazard reduction and/or hazard offsets, a point system using the following rating guides will be used by the department. A value of eighty (80) points or less for any individual forest practice under Subsection 070.03, as determined by the department, will be sufficient to release the operator, timber owner and landowner of all further obligations under Subsection 070.03. Total points of the proposed forest practice will be determined from Tables I and II. If the total points are greater than eighty (80), modification of the thinning practice to reduce points may be made as determined by Tables I and II, slash hazard offsets may be scheduled to reduce points as determined by Table III or a combination of these options may be used to reduce the hazards to a point total of eighty (80) or less. Consideration will be given to the operator's, timber owner's and landowner's preference in selecting the options to reduce the points to eighty (80) or less.

TABLE I - HAZARD POINTS

Hazard Points for Ponderosa Pine, Western Red Cedar or Western Hemlock

Thinned Stems Per Acre											
Ave. DBH	250	500	750	1000	1250	1500	1750	2000	2500	3000	4000
1	1	2	3	3	4	5	6	7	9	10	16
2	3	6	9	13	16	22	25	30	36	42	51
3	7	16	25	32	38	46	51	52	56	59	
4	9	22	32	40	50	52	54	56	60		
5	13	28	40	51	54	56	59	60			

Thinned Stems Per Acre											
Ave. DBH	250	500	750	1000	1250	1500	1750	2000	2500	3000	4000
6	19	36	51	54	58	60	60				

Hazard Points for Douglas Fir, Grand Fir or Engelmann Spruce

Thinned Stems Per Acre											
Ave. DBH	250	500	750	1000	1250	1500	1750	2000	2500	3000	4000
1	1	2	3	4	6	7	8	9	13	16	22
2	4	7	13	16	22	28	32	36	42	50	54
3	8	19	28	36	44	51	53	54	58	60	
4	10	25	36	46	51	54	57	59	60		
5	16	32	46	52	56	59	60	60			
6	22	40	52	56	60	60	60				

Hazard Points for Western Larch, Lodgepole Pine or Western White Pine

Thinned Stems Per Acre											
Ave. DBH	250	500	750	1000	1250	1500	1750	2000	2500	3000	4000
1	1	2	2	3	4	4	5	6	8	9	13
2	3	6	8	11	16	19	22	28	32	38	48
3	6	16	25	32	38	46	51	52	56	59	
4	8	16	28	36	44	50	52	54	58		
5	9	22	32	42	50	53	55	57			
6	13	28	40	50	53	56	59				

TABLE II - HAZARD POINTS WORKSHEET

HAZARD CHARACTERISTICS

HAZARD POINTS

Fuel Quantity

Hazard points from Slash Hazard Table I 1/
 Record number of trees/acres to be cut
 Average D.B.H.

TABLE III - HAZARD OFFSETS

Offsets	Hazard Point Deductions
Physical Changes to the Hazard (1)	
(1) Points will be proportional to the amount of hazard disposed of or modified.	
Disposal by burning or removal.	0 - 160
Modification by reducing depth through crushing, chipping or lopping.	0 - 60
On Site Improvements	
Condition of main access road to forest practice area should allow movement of heavy trucks without difficulty.	0 - 5
Access control to forest practice area provided by closure to public traffic.	0 - 5
Availability of water for tankers within one (1) mile of forest practice area or within three (3) miles for helicopter bucket use. Water supply to be sufficient to supply at least fifty thousand (50,000) gallons.	0 - 15
Buffer zones of unthinned areas at least two (2) chains in width between roadways and thinned areas.	0 - 10
Fuel breaks with slash hazard removal around and/or through forest practice area, located so as to provide optimum fire control effect and of two (2) to four (4) chains in width.	0 - 25
Fire trails with fuel removed to expose mineral soil to a width of twelve (12) feet. Maximum points allowed if combined with a fuel break.	0 - 15
Extra Protection	
Increased attack capability such as retardant availability, increased attack manpower and equipment. Must be in addition to regular forces normally available during the fire season.	0 - 40
Fire detection and prevention increased beyond that normally available for lands in the fire protection district.	0 - 15
Initial attack time based on proximity of forest practice area to initial attack forces.	0 - 5
Landowner protection plan which would provide extra fire protection on a voluntary basis such as extra equipment and/or manpower.	0 - 5

(1-24-78)()

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0201 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 10, 2002.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-1706, 54-1717, and 54-1719(1) and (4), 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 September 18, 2002.

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 current rule treats "preparations containing ephedrine or salts of ephedrine," as prescription drugs. The proposed rule sets out specific criteria for ephedrine products that can be sold without prescription. These criteria include maximum dosage requirements and label disclosures and warnings.

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

The temporary rules are necessary to protect the public health, safety, or welfare.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed is justified and necessary to avoid immediate danger and the fee is described herein:

An immediate danger is inherent in ephedrine products if they are sold in dosage amounts in excess of the rule or containing synthetic rather than naturally occurring ephedrine alkaloids. The fee charged under this rule is necessary to fund testing of these products to ensure compliance with the requirements of the rule.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there was a need for temporary rulemaking in order to protect the public health, safety, or welfare.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary and proposed rule, contact R.K. "Mick" Markuson, Director, at (208) 334-2356.

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 September 25, 2002.

DATED this 16th day of July, 2002.

R.K. "Mick" Markuson
Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, Idaho 83720-0067
Telephone: (208) 334-2356
Facsimile: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0201

158. PRESCRIPTION DRUGS.

01. Designated Drugs. In addition to those drugs designated as prescription or legend drugs as defined in Section 54-1705(23), Idaho Code, the Idaho Board of Pharmacy includes preparations containing ephedrine or salts of ephedrine, as prescription drugs. (7-1-93)

02. Exempt Drugs. A product that meets all the criteria set forth in Subsection 158.02.a. is exempt from the designation as prescription drugs under Subsection 158.01 and exempt from inclusion as a Schedule II controlled substance under Section 37-2707, Idaho Code, unless it is being used or possessed as an immediate precursor of another controlled substance. (7-1-98)

a. Products containing a formula with a ratio of twelve and one half (12.5) milligrams ephedrine to two hundred (200) milligrams guaifenesin or twenty-five (25) milligrams ephedrine to four hundred (400) milligrams guaifenesin; and not exceeding a maximum of twenty-five (25) milligrams of ephedrine per tablet, capsule, or dose; and in addition to such formula, may include only inert or inactive ingredients or substance. (7-1-98)

b. Provided, however, that hemorrhoidal ointments containing not more than two tenths percent (.2%) Ephedrine Sulfate and suppositories not exceeding four (4) milligrams Ephedrine Sulfate per suppository are also exempt pursuant to Subsection 158.02. (7-1-98)

c. Ephedrine products that meet the following criteria are exempt from the designation as prescription drug. (7-10-02)T

i. The product label must state the total amount in milligrams of ephedrine or ephedrine group alkaloids in a serving or dosage unit and the amount of the product that constitutes a serving or dosage unit. (7-10-02)T

ii. The product label must state the maximum recommended twenty-four (24) hour serving or dosage for an adult human is one hundred (100) milligrams. (7-10-02)T

iii. The product label must state that consumption of more than the recommended serving or dosage for the food or dietary supplement, or that consumption of a serving or dosage at a more frequent interval than recommended, may increase the risk of adverse effects. (7-10-02)T

iv. The product label must contain the following warning in distinct contrast to other label printing or graphics: WARNING: Not intended for use by anyone under the age of eighteen (18). Do not use this product if you are pregnant or nursing. Consult a health care professional before using this product if you have heart disease, thyroid disease, diabetes, high blood pressure, depression or other psychiatric condition, glaucoma, difficulty in urinating, prostate enlargement, or seizure disorder, if you are using a monoamine oxidase inhibitor (MAOI) or any other prescription drug, or if you are using an over-the-counter drug containing ephedrine, pseudoephedrine or phenylpropanolamine (ingredients found in certain allergy, asthma, cough/cold, and weight control products). Discontinue use and call a health care professional immediately if you experience rapid heartbeat, dizziness, severe headache, shortness of breath or other similar symptoms. (7-10-02)T

v. The product label must contain the statement: "This statement has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease." (7-10-02)T

vi. The product must contain only naturally occurring ephedrine or ephedrine alkaloids and contain no hydrochloride or sulfate salts of ephedrine alkaloids. (7-10-02)T

vii. The single serving or dosage must not contain more than twenty-five (25) milligrams of ephedrine alkaloids and the single serving or dosage must not contain ephedrine alkaloids in excess of five (5) percent of the

total capsule weight. (7-10-02)T

viii. Sale of the product to persons under the age of eighteen (18) is prohibited. (7-10-02)T

ix. The product must not be marketed, advertised or represented in any manner for the indication of stimulation, mental alertness, euphoria, ecstasy, a buzz or high, heightened sexual performance or increased muscle mass. (7-10-02)T

x. Manufacturers of the product must provide an analysis of the product to the Board of Pharmacy to ensure that the product meets the requirements of applicable laws. (7-10-02)T

xi. Manufacturers and wholesalers of the product must register with the Board using the appropriate registration form provided by the Board and provide a one thousand dollar (\$1,000) registration fee to the Board. Registration shall expire twelve (12) months after issuance. Registration shall be renewed for a twelve-month period upon receipt by the Board of a one thousand dollar (\$1,000) renewal fee. The requirements to register and to pay a fee shall terminate upon the federal Food and Drug Administration's publication in the Federal Register of a final rule establishing good manufacturing practices for dietary supplements or five (5) years after the effective date of this rule, whichever date occurs first. Upon any violation of this rule or other applicable law, the Board may revoke the registration. (7-10-02)T

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-1101-0201

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given of the Idaho Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Section 61-515, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2002. The hearing site will be accessible to persons with disabilities. Request for accommodations 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 rules:

The Commission's Safety and Accident Reporting Rules currently adopt by reference several national safety codes and the federal gas pipeline safety regulations. Several of these national safety codes and regulations have recently been updated. The Commission is proposing to adopt the updated version of the safety codes and regulations. Existing Rule 201 adopts various parts of Title 49 of the Code of Federal Regulations pertaining to gas and pipeline corporations. The Commission proposes to adopt the updated safety regulations promulgated by the United States Department of Transportation found at 49 C.F.R. Parts 191, 192, 193, 195, and 199 (effective October 1, 2002). The Commission also proposes to update Rule 101 by adopting the 2002 edition of the National Electrical Safety Code.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted because these proposed rules adopt updated national safety codes and regulations dealing with the provision of electricity, natural gas, telecommunications, and water services.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Weldon B. Stutzman, Deputy Attorney General, at (208) 334-0318.

Anyone may submit written comments regarding these proposed rules. All written comments and data concerning the proposed rules must be delivered to the Commission Secretary at the address identified below or must be postmarked on or before September 25, 2002. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED at Boise, Idaho this 23rd day of July, 2002.

Jean D. Jewell Commission Secretary Idaho Public Utilities Commission PO Box 83720 Boise, ID 83720-0074 Telephone: (208) 334-0338 FAX: (208) 334-3762	Street Address for Express Mail 472 West Washington Street Boise, ID 83702-5983
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-1101-0201

101. NATIONAL ELECTRICAL SAFETY CODE (NESC) (Rule 101).

The Commission adopts by reference the ANSI C2-~~1997~~2002 National Electrical Safety Code (NESC), ~~1997~~2002 Edition ~~and the errata dated September 3, 1996~~. The National Electric Safety Code, ~~1997~~2002 Edition, is published by the Institute of Electrical and Electronics Engineers, Inc., and is available from the Institute of Electrical and Electronics Engineers, Inc., ~~345 E. 47th Street~~ 3 Park Avenue, New York, NY 10017-65997 and may be ordered by calling 1-800-678-IEEE. All electrical and telephone corporations subject to the Commission's jurisdiction are required to abide by applicable provisions of the NESC. (4-1-98)(____)

(BREAK IN CONTINUITY OF SECTIONS)

201. FEDERAL REGULATIONS--49 C.F.R. PARTS 191, 192, 193, 195 AND 199 (Rule 201).

The Commission adopts by reference Parts 191, 192, 193, 195, and 199, Title 49, the Code of Federal Regulations (October 1, 2000) ~~and Volume 65 Federal Register 54,440 (September 8, 2000)~~, except that federal accident reporting requirements contained in the rules adopted by reference in Rule 201 are replaced for state reporting purposes by orders of the Commission or rules of the Commission. These regulations are found in the Code of Federal Regulations, available from the, U.S. Government Printing Office, Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The incorporated CFR Parts are also available in electronic format at www.access.gpo.gov/nara. All gas and pipeline corporations subject to the Commission's jurisdiction are required to abide by applicable provisions of these federal regulations adopted by reference. (3-30-01)(____)

(BREAK IN CONTINUITY OF SECTIONS)

302. WRITTEN REPORTING OF ACCIDENTS (Rule 302).

01. Reporting Required. In addition to any telephone reporting required under Rule 301, a written report of every accident involving an employee of the utility or member of the public that results in a fatality or in-patient hospitalization or any other accident the utility finds significant must be submitted to the Commission within twenty one (21) days after the fatality or injury is discovered. Reports should be mailed to: (7-1-93)

COMMISSION SECRETARY
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE ID 83720-0074

Street Address for Express Mail:
472 W WASHINGTON ST
BOISE ID 83702-5983

Copies of such reports may also be provided by facsimile at (208) 334-3762 or by electronic mail to secretary@puc.state.id.us. (7-1-93)(____)

02. Contents Of Written Report. There is no standard form for written reports prescribed by this rule. Gas companies may file copies of reports submitted to federal regulators under 49 C.F.R. Part 191. All reports submitted must contain the following information: (7-1-93)

- a. Name of person(s) involved in the accident; (7-1-93)
- b. Status of persons involved in the accident (e.g., employees, children, contractors, etc.); (7-1-93)
- c. Time of day, day of the week and month, and location of the accident or discovery of the accident; and (7-1-93)(____)
- d. Description of the accident and events leading up to the accident. (7-1-93)

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.71.02 - RAILROAD ACCIDENT REPORTING RULES

DOCKET NO. 31-7102-0201

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given of the Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Sections 61-515, 61-113, and 61-129, Idaho Code, and 49 C.F.R. Section 225.1.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, political subdivision, or an agency, no later than September 18, 2002. The hearing site will be accessible to persons with disabilities. Requests for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

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

In December 2001, the Federal Railroad Administration (FRA) increased the monetary threshold used by railroads for reporting accidents and incidents to the FRA and the Idaho Public Utilities Commission. In its final rule, the FRA increased the reporting threshold for property damage to \$6,700 effective January 1, 2002. The FRA's final rule amended portions of 49 C.F.R. Part 225 which has been adopted by the Commission in its Railroad Accident Reporting Rule 101, IDAPA 31.71.02.101. The Commission is also proposing two housekeeping changes. The Commission is proposing to add a new Rule 8 (Incorporation by Reference) and to correct a citation to the Idaho Code.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted because the proposed rule merely adopts existing federal safety regulations pertaining to the reporting of railroad accidents and incidents.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding these proposed rules. All written comments concerning the proposed rules must be delivered to the Commission Secretary at the address identified below or must be postmarked on or before September 25, 2002.

DATED at Boise, Idaho this 23rd day of July, 2002.

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 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-7102-0201

004. PUBLIC RECORDS ACT COMPLIANCE (RULE 4).

Written reports of accidents submitted to the Commission are public records subject to inspection, examination and copying. Further investigative reports by the Commission or the Commission Staff are investigatory records exempt from public disclosure. See section 9-~~337(4)~~ 340B(1), Idaho Code. Reports required by these rules and the results of further investigations by the Commission are by statute prohibited from admission into evidence in any action for damages based on or arising out of the loss of life or injury to the person or property. See section 61-517, Idaho Code. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

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

The Code of Federal Regulations (CFR) is referenced in Rule 101. The annual volumes of the CFR may be obtained from the Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The full text of the CFR is also available in electronic format at www.access.gpo.gov/nara. The incorporated CFR Part is also available for inspection and copying at the offices of the Idaho Public Utilities Commission and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent annual recom compilations are also adopted by reference, but subsequent amendments to the CFR are not adopted by the reference. ()

~~009.~~ -- 100. (RESERVED).

RULES 101 THROUGH 200 - ADOPTION BY REFERENCE OF FEDERAL RULE
RAILROAD ACCIDENT/INCIDENT REPORTING PROCEDURES

101. REPORTING OF RAILROAD ACCIDENTS (Rule 101).

The Commission hereby adopts by reference ~~federal rules and regulations governing the Reporting of Railroad Accidents/Incidents: Reports, Classification, and Investigations, 49 C.F.R. Part 225 of the Code of Federal Regulations (October 1, 2002).~~ Pursuant to 49 C.F.R. 225.1, all railroads that are required to file a copy of any accident/incident report filed with the Federal Railroad Administration shall also file a copy of such report with the Commission Secretary for any accidents / or incidents occurring in Idaho. The Code of Federal Regulations is available from the Publications Division, U.S. Government Printing Office, Washington, D.C. 20402. The federal regulations adopted by reference in this rule are those contained in the compilations of 49 C.F.R. 225 published in the Code of Federal Regulations volume dated October 1, 1992, and as subsequently recompiled. Copies of accident or incident reports shall be mailed to: Commission Secretary, Idaho Public Utilities Commission, PO Box 83720, Boise, Idaho 83720-0074 ((208) 334-0338). Copies of such reports may also be provided by facsimile at (208) 334-3762 or by electronic mail to secretary@puc.state.id.us. (7-1-93)()

IDAPA 35 - STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0201

NOTICE OF RULEMAKING - 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(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 September 18, 2002.

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 058, Sales Through Vending Machines, is being amended to delete obsolete language. The rule is also being amended to clarify that vending machines are not amusement devices and to refer to Sales Tax Rule 109, Amusement Devices. Code references and reference are being added to the rule.

Sales Tax Rule 062, Repairs - Sale Of Parts And Material, is being amended to delete a reference to a provision in Section 63-3622D, Idaho Code that was in effect for a period of one year.

Sales Tax Rule 098, Foreign Diplomats, is being amended to delete obsolete language referencing federal tax exemption cards with specific color codes that no longer exist. Also, the rule is being updated to describe the new color codes attributed to current Federal Tax Exemption Cards for foreign diplomats. Subsection 098.03 also is being amended to correct a statement regarding exempt purchases by foreign diplomats with Mission Cards.

Sales Tax Rule 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, is being amended to make it conform with Section 63-3622R, Idaho Code, as amended by the 2002 Legislature in House Bill 513.

Sales Tax Rule 117, Refund Claims, is being amended to correct a statement on the time limit allowed to appeal the denial of a refund. The rule is being amended to follow the State Tax Commission's appeal process. The rule is also being amended to reflect technical corrections to language.

Sales Tax Rule 119, Successor's Liability, is being amended to strike a reference in Subsection 119.05 to Form TCA that is no longer being used and replace it with current form references, IBR-1 and IBR-2.

Sales Tax Rule 134, Sales Of Livestock, is a new rule being promulgated to clarify the sales of livestock that became exempt by the 2002 Legislature's enactment of House Bill 481.

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 Jim Husted, 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 September 25, 2002.

DATED this 24th day of July, 2002.

Jim Husted, Tax Policy
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36
Boise, ID 83722

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0102-0201

058. SALES THROUGH VENDING MACHINES.

01. In General. The sale of tangible personal property through a vending machine is a taxable transaction. The term vending machine shall mean any mechanical device which, without the assistance of a human cashier, dispenses tangible personal property to a purchaser who deposits cash in the device. Video games and other coin operated amusement devices are not vending machines. Fees paid for the use of coin operated amusement devices are not subject to sales tax pursuant to Section 63-3623B, Idaho Code. See Rule 109 of these rules.

(7-1-93)()

02. ~~Effective Dates Of Taxable Sales.~~

(7-1-93)

~~**a.** Effective July 1, 1977, through June 30, 1984, sales of items through a vending machine for amounts from sixteen cents (\$0.16) through one dollar (\$1.00) are taxable at one hundred seventeen percent (117%) of the vendor's acquisition cost of the items. Items sold for fifteen cents (\$0.15) or less are not taxable. Items sold for one dollar and one cent (\$1.01) or more are taxable on the retail sales price.~~

(7-1-93)

~~**b.** Effective July 1, 1984, through June 30, 1986, sales of items through a vending machine for amounts from twelve cents (\$0.12) through seventy six cents (\$0.76) are taxable at one hundred seventeen percent (117%) of the vendor's acquisition cost of the items. Items sold for eleven cents (\$0.11) or less are not taxable. Items sold for seventy seven cents (\$0.77) or more are taxable on the retail sales price.~~

(7-1-93)

~~**c.** Amount Subject To Tax. Pursuant to Section 63-3613, Idaho Code, sales of items through a vending machine for amounts from twelve cents (\$0.12) through one dollar (\$1.00) are taxable at one hundred seventeen percent (117%) of the vendor's acquisition cost of the items. ~~Items sold for eleven cents (\$0.11) or less are not taxable.~~ Items sold for more than one dollar ~~and one cent~~ (\$1.01) ~~or more~~ are taxable on the retail sales price. Sales of items for a price of eleven cents (\$0.11) or less are exempt from tax pursuant to Section 63-3622L, Idaho Code.~~

(7-1-93)()

03. Requirement To Obtain A Seller's Permit. Vendors who sell tangible personal property through a vending machine ~~are required to~~ must obtain a seller's permit. Only one seller's permit is required; however, each vending machine operated by the vendor must conspicuously display the vendor's name, address, and seller's permit number. When a number of vending machines are placed in a single location, the owner's name, address, and seller's permit number need be displayed only once.

(7-1-93)()

04. Calculation Of Tax. ~~Sales and use taxes due by the vending machine operator shall be computed as shown in the following examples~~ The following examples show how vending machine operators shall calculate the amount of sales tax due:

(7-1-93)()

a. Example 1: Corporation A's business activity consists only of sales through vending machines in various locations in the state of Idaho. All of the items sold in the vending machines are sold for a unit price of twelve cents (\$0.12) or more but none are sold for a price greater than one dollar (\$1). During the month of July, 1989, Corporation A's gross receipts from the vending machine sales were ten thousand dollars (\$10,000). Corporation A

purchased the items sold during that one (1) month period for eight thousand dollars (\$8,000). The company made no nontaxable or exempt sales. Corporation A should file a sales and use tax return for the month of July, 1989, computing and reporting its taxable sales as follows. Numbers correspond to line numbers on the return.

Line 1.	Total sales	\$10,000
Line 2.	Less nontaxable sales	\$ 640
Line 3.	Net taxable sales	\$ 9,360
Line 2 computed as follows:		
	8,000 x 117%	= \$ 9,360
	10,000 - 9,360	= \$ 640

(7-1-93)

b. Example 2: During the month of July, 1989, Corporation B had total Idaho sales in the amount of ten thousand dollars (\$10,000). In addition to sales through vending machines, the corporation made over-the-counter sales, all of which were taxable, in the amount of two thousand dollars (\$2,000). The remaining eight thousand dollars (\$8,000) constituted sales through vending machines, of which one thousand dollars (\$1,000) was for items with a unit retail price of over one dollar (\$1). The other seven thousand dollars (\$7,000) were sales of items through vending machines with a unit retail price of fifty cents (\$0.50) each. The items sold during the month for fifty cents (\$0.50) each were purchased by Corporation B for five thousand dollars (\$5,000). Corporation B should file a sales and use tax return for the month, computing and reporting its taxable sales as follows:

Line 1.	Total sales	\$10,000
Line 2.	Less nontaxable sales	\$ 1,150
Line 3.	Net taxable sales	\$ 8,850
Line 2 computed as follows:		
	7,000 (117% of 5,000)	= \$ 1,150

Note, that if a vendor sells some items for more than one dollar (\$1), no special computation is required for those items if they are included on line 1, total sales. (7-1-93)

05. Cross-References. (7-1-93)

a. Amusement devices, see *ISTC* Rule 109 of these rules. (~~7-1-93~~)()

b. Money operated dispensing equipment, see *ISTC* Rule 095 of these rules. (~~7-1-93~~)()

(BREAK IN CONTINUITY OF SECTIONS)

062. REPAIRS SALE OF PARTS AND MATERIAL (Rule 062).

01. In General. Repairs normally require both material and labor. Persons engaged in the business of repairing, renovating or altering tangible personal property owned by others are required to collect sales tax upon the parts or material required in the repair or renovation of the property. (7-1-93)

02. Separate Statement Of Parts Or Materials. The sales price of parts or materials must be separately stated and sales tax must be charged on these parts or materials. Separately stated repair labor, ~~except as~~

~~discussed in Subsection 062.07 of this rule~~, is not taxable. If parts and materials are not separately stated from the repair labor, the total amount for parts and repair labor is subject to sales tax. (7-1-93)(____)

03. Repairs Covered By Insurance Benefits. Repairs, the costs of which are covered by insurance benefits, are treated the same as otherwise described in this rule. Sales tax is to be collected on the parts and materials. Separately stated repair labor is not taxable, ~~except as discussed in Subsection 061.07 of this rule~~. (7-1-93)(____)

04. Incidental Material. In some instances because of the small amount of materials used in a repair job, the value of the material may be insignificant to the entire repair cost. For example, incidental amounts of material are sometimes used in repairs made to tires, clothing, watches, and shoes. If materials such as buttons, thread, watch parts, tire valve cores and stems are incidental to the repair they will be taxed when purchased by the repairman. Other examples of materials which are incidental to repairs are touch-up paint and soldering materials used in car repairs. Materials are incidental if they have a value which is insignificant and for which a reasonable retail sales price cannot be readily determined. (7-1-93)

05. Shop Supplies. Dealer/repair shops should not charge sales tax on shop supplies that are consumed during the repair, such as spray bottles, buffer pads, towels, masking tape, solvents, sandpaper, and other items that have no specific identifiable value billed to the customer and which do not become a part of the item being repaired. These supplies are subject to tax when purchased by the dealer/repair shop and should not be included as part of the taxable amount billed to the customer. (7-1-93)

06. Repairs Versus Fabrications. Repairs and renovations to tangible personal property must not be confused with fabrications of tangible personal property. Fabricated tangible personal property is subject to sales tax on the entire price whether the parts and materials are separately stated or not. See Rules 011 and 029 of these rules. (3-15-02)

~~**07. Recreation Related Vehicles.** Beginning July 1, 1988, and ending March 31, 1989, both the parts and the labor charges for repairs to recreation related vehicles were subject to the Idaho sales tax. Before July 1, 1988, and after March 31, 1989, the provisions of Subsections 062.01 through 062.05 of this rule apply to charges for repairs to recreation related vehicles.~~ (7-1-93)

~~**07. Parts For Resale.** When a repair shop buys parts that will be resold to its customers or an auto dealer buys parts to install in a car which is being reconditioned for sale, they should not pay tax to the supplier if they provide the documents required by Rule 128 of these rules.~~ (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

098. FOREIGN DIPLOMATS (Rule 098).

01. In General. The United States Government grants immunity from state taxes to diplomats from certain foreign countries. The diplomat is issued a federal tax exemption card by the U.S. Department of State. The cards are nontransferable and bears a photograph of the holder, a federal tax exemption number, and specific instructions as to the extent of the exemption granted to the diplomat. (7-1-93)(____)

02. Federal Tax Exemption Cards. Federal tax exemption cards are coded with colored stripes. Cards with a blue stripe exempt the bearer from all sales taxes, including taxes on hotel rooms. ~~Cards with a green stripe exempt the bearer from all sales taxes, excluding taxes on hotel rooms. Cards with a red stripe exempt the bearer from sales taxes when the total items purchased in a single transaction exceed the dollar amount indicated on the card. The dollar amount may be fifty dollars (\$50), one hundred dollars (\$100), one hundred fifty dollars (\$150), or two hundred dollars (\$200).~~ Cards with a yellow stripe list all restrictions on tax exemptions on the face of the card. Cards with stripes colored red or green are no longer issued but some may still be in use and have limitations that are printed on the face of the card. (7-1-93)(____)

03. ~~Official Purchases~~ Mission Card. Some ~~Foreign diplomats~~ federal tax exemption are issued

mission cards that may only be used by the bearer for official foreign mission purchases, and may not, under any circumstances, be used for personal purchases. "Mission cards" are so designated on the card's face. (7-1-93)()

- 04. Documentation.** Retailers must document an exempt sale to a foreign diplomat by: (7-1-93)
- a.** Retaining a photocopy of the front and back of the federal tax exemption card to support the exempt sale; or (7-1-93)
 - b.** Recording for their permanent record the name of the bearer, the mission represented, the federal tax exemption number displayed on the card, the date of expiration, and the nature of the exemption granted to the diplomat. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

107. ~~MOTOR~~ VEHICLES AND VESSELS - GIFTS, MILITARY PERSONNEL, NONRESIDENT, NEW RESIDENT, TAX PAID TO ANOTHER STATE, SALES TO FAMILY MEMBERS, SALES TO AMERICAN INDIANS, AND OTHER EXEMPTIONS (Rule 107).

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 complete and sign a Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, 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: (2-18-02)
 - 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 (2-18-02)
 - ii.** The back of the title may be marked as a gift and signed by the donor. (2-18-02)

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. (2-18-02)

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. (2-18-02)

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 tenths of one percent (.6%) 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. (2-18-02)

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 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. (2-18-02)

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 buyer must complete and sign Sales Tax Exemption Certificate - Transfer Affidavit Form ST-133 including the name of the tribe, Tribal Identification Number and 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. (2-18-02)

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 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. (2-18-02)

10. Vehicles And Vessels Purchased In Idaho By Nonresidents For Use Outside Idaho. (7-1-93)()

a. Sales to nonresidents of motor vehicles, trailers, ~~utility trailers,~~ vessels ~~and attached motor,~~ all-terrain vehicles (ATVs), off-highway motorcycles, and snowmobiles for use out of this state, even though delivery is made within this state are exempt from tax when: (2-18-02)()

i. The motor vehicles, vessels ~~and attached motor,~~ ATVs, ~~utility trailers,~~ trailers, off-highway motorcycles, and snowmobiles will be taken from the point of delivery in this state directly to a point outside this state; and (2-18-02)()

ii. The motor vehicles, vessels ~~and attached motor,~~ ATVs, ~~utility trailers,~~ trailers, off-highway motorcycles, and snowmobiles will be titled and licensed registered immediately under the laws of another state or nation if required to country and will be titled and licensed in that state or nation country, if required to do so by that state or country and will not be used in Idaho more than sixty (60) days in any twelve-month period. (2-18-02)()

b. To claim the exemption, the buyer must provide the seller a completed and signed Sales Tax Exemption Certificate - Vehicle/Vessel Form ST104-MV. (2-18-02)()

c. This exemption does not apply to sales of truck campers, ~~off highway motorcycles and vessels without attached motors~~ or to the sales of canoes, kayaks, or inflatable boats regardless of length when sold without a motor. (2-18-02)()

d. For purposes of Subsection 107.10, an ATV means any recreational vehicle with two (2) or more tires, weighing under six hundred fifty (650) pounds, less than forty-eight (48) inches in width, traveling on low pressure tires of less than seven (7) psi, and designed to be ridden by one (1) person. ()

e. For purposes of this Subsection 107.10, a vessel means any boat intended to carry one (1) or more persons upon the water which is either: ()

i. Sold together with a motor; or ()

ii. Eleven (11) feet in length or more, not including canoes, kayaks, or inflatable boats unless such canoe, kayak, or inflatable boat is sold together with attached motor. ()

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/Vessel 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. ~~(2-18-02)~~()

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 complete and sign Sales Tax Exemption Certificate - Capital Asset Transfer Affidavit Form ST-133CATS to submit to the Idaho Transportation Department or county assessor when applying for title transfer. (2-18-02)

(BREAK IN CONTINUITY OF SECTIONS)

117. REFUND CLAIMS (Rule 117).

01. In General. Application for refund of sales or use taxes paid in excess of those properly imposed by the Sales Tax Act, shall be in accordance with the provisions of this rule. (7-1-93)

02. Payment Of Sales Tax By A Purchaser To A Vendor. When a purchaser has paid sales tax to a vendor, and later determines that the sales tax was paid in error, the purchaser shall request the refund from the vendor to whom the excess tax was paid. If the purchaser can provide evidence that the vendor has refused to refund the tax, he may then file a claim for refund directly with the Tax Commission. (7-1-93)

03. Payment Of Sales Or Use Tax Directly To The State. When a person holding a seller's permit or use tax account number has paid tax to the state, and later determines that the sales or use tax was paid in error, he may file a claim for refund directly with the Tax Commission. (7-1-93)

04. Bad Debts. Claims for refunds arising from bad debts must be filed with the Tax Commission in the manner prescribed by ~~STC~~ Rule 063 of these rules. ~~(7-1-93)~~()

05. Mathematical Errors. When the filer of sales or use tax returns determines that a mathematical error has been made on a previously filed return resulting in overpayment of the proper amount of sales or use taxes, he may file a claim for refund directly with the Tax Commission. (7-1-93)

06. Claim Form. Form TCR, Sales Tax Refund Claim, may be used to file for a refund from the Commission. Although this form is available for this purpose, it is not required. A refund claim, however, must be in writing. The claim must include the full name and address of the claimant and his seller's permit number or use tax account number if the claimant has such a number. The claim must include a detailed statement of the reason the claimant believes a refund is due, including a description of the tangible personal property, if any, to which the tax relates and the date on which the claimed excess taxes were paid. If the claimant is the retailer, the claim for refund must include a statement, under oath, that the amounts of tax plus interest refunded to the retailer have been or will be refunded by the retailer to the purchaser or that such taxes have never been collected from the purchaser. ~~(7-1-93)~~()

07. ~~Credit Against Future Taxes Owed.~~ ~~A claimant who files a sales or use tax return may claim a refund in the form of a credit against sales or use taxes due. The credit may be claimed on the adjustments line of a sales or use tax return but the return must be accompanied by a claim for refund substantially in the form required by Subsection 117.02 of this rule.~~ ~~(7-1-93)~~

~~a. In instances where the amount of refund approved by the Commission exceeds the amount of~~

~~current taxes due by more than twenty dollars (\$20), a refund will be issued, unless the taxpayer requests that the amount be applied to a subsequent liability.~~ (7-1-93)

~~b. In instances where the amount of refund approved by the Commission exceeds the amount of current taxes due by twenty dollars (\$20) or less, the amount will be retained as a credit against future taxes due from the claimant, except in the case of semi-annual and annual filers.~~ (7-1-93)

~~c. Approved credits retained by the Commission to be applied to subsequent filings of sales and use tax returns must be used within a reasonable period of time or will be refunded by the Commission. Monthly filers must use the full amount of the approved credit on the next monthly sales or use tax return they file after being notified of the approved credit by the Commission. Quarterly filers must use the full amount of the approved credit on the next sales or use tax return they file after being notified of the approved credit by the Commission. The balance of approved credit not used will be made by a direct refund. Approved refund amounts of twenty dollars (\$20) or less claimed by semi-annual and annual filers will not be retained, but will be made by a direct refund.~~ (7-1-93)

~~d. **Outstanding Liabilities.** No claim for refund or credit will be approved or issued if the claimant has outstanding liabilities for other taxes administered by the Tax Commission.~~ (7-1-93)()

08. Payment Under Protest. It is not necessary for a taxpayer to pay taxes under protest in order to subsequently be able to claim a refund of such taxes. (7-1-93)

09. Statute Of Limitations. A claim for refund will ~~NOT~~ not be allowed if it is filed more than three (3) years from the time the payment of the tax was made. The time the payment was made is the date upon which the sales or use tax return relating to the payment was filed with the State Tax Commission. (7-1-93)()

10. Taxes Paid In Response To A Notice Of Deficiency Determination. A claim for refund may ~~NOT~~ not be filed relating to any sales or use taxes which have been asserted by a notice of deficiency determination. A taxpayer contending that taxes have been erroneously or illegally collected by the State Tax Commission in conformance with a notice of deficiency determination must seek a refund by using the appeal procedures outlined in ISTC Rule 121 of these rules. (7-1-93)()

11. Denial Of A Refund Claim. All claims for refund or credit will be reviewed by the State Tax Commission's staff. If the staff concludes that all or part of the claim should not be allowed, notice of denial of the claim shall be given to the claimant by return receipt requested delivery. The notice shall include a statement of the reasons for the denial. The notice of denial shall be the equivalent of a notice of deficiency determination. If the taxpayer wishes to seek a redetermination of the denial notice, he must file a petition for redetermination in the manner prescribed in ISTC Rule 121 of these rules. A petition for redetermination must be filed no later than ~~thirty~~ sixty-three (3063) days from the date upon which the notice of denial is mailed to or served on the claimant. (7-1-93)()

12. Interest On Refunds. See ISTC Rule 122 of these rules. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

119. SUCCESSOR'S LIABILITY (Rule 119).

01. Making Inquiries. Section 63-3628, Idaho Code, provides that when a vendor sells out his business or stock of goods, the buyer shall make inquiry of the State Tax Commission and withhold from the purchase price any amount of tax that may be due until such time as the vendor, seller, produces a receipt stating that no tax is due. If the purchaser fails to withhold from the purchase price the tax due, he becomes personally liable for the tax. (7-1-93)()

02. Written Inquiry Required. The purchaser must make written inquiry to the Boise Office of the State Tax Commission setting forth the following: (7-1-93)()

- a. The name, location, and seller's permit number of the business they are purchasing. (7-1-93)
- b. A statement that they are purchasing the business or stock of goods. (7-1-93)
- c. An inquiry as to any sales or use tax liability of the business they are purchasing. (7-1-93)

03. Copy Of Earnest Money. The purchaser must attach to the written inquiry a copy of any earnest money or similar agreement already entered into with the prospective seller. If no earnest money agreement has been entered into, then ~~THE SELLER~~ the seller must provide written authorization to the State Tax Commission to release the information to the prospective buyer. (7-1-93)()

04. Written Statement From State Tax Commission. The State Tax Commission, after receiving the written inquiry from the purchaser as to the amount due, will issue a written statement to the purchaser setting forth the amount of tax due by the seller, if any. The State Tax Commission shall advise the prospective buyer ~~ONLY~~ only of any amount of sales or use tax that may be due to the State Tax Commission under the Sales Tax Act. The release of any other information is not authorized. In the case that the prospective buyer requests to see the prospective seller's sales or use tax filing record in order to determine if the business is profitable, the prospective seller must provide a Power of Attorney appointing the prospective buyer as attorney in fact to receive confidential information regarding sales or use tax filings on behalf of the prospective seller. (7-1-93)()

05. Application For Seller's Permit Number. Upon final sale, the purchaser must file an application, either Form IBR-1 or IBR-2, for a new seller's permit number; ~~Form TCA, must be filed with the Commission by the new purchaser and~~ with the State Tax Commission. ~~The seller shall~~ must forward his seller's permit to the State Tax Commission for cancellation. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

131. -- ~~999~~133. (RESERVED).

134. SALES OF LIVESTOCK (Rule 134).

01. Exempt Sales of Livestock. Beginning February 27, 2002, certain sales and purchases of livestock are exempt from sales and use tax. To qualify for the exemption, the livestock must be sold at a livestock market chartered by the Idaho Department of Agriculture, or an organization expressly exempted from chartering requirements by Section 25-1722, Idaho Code. Those groups expressly exempted from chartering requirements are: ()

a. Any place or operation where future farmers or 4-H groups, or private fairs conduct sales of livestock. ()

b. Any place or operation conducted for a dispersal sale of the livestock of a farmer, dairyman, livestock breeder, or feeder who is discontinuing said business and no other livestock is sold or offered for sale. ()

c. Any place or operation where a breeder or an association of breeders of livestock assemble and offer for sale and sell under their own management any livestock when such breeders shall assume all responsibility of such sale and the title of livestock sold. This shall apply to all purebred livestock association sales. ()

d. All sales of livestock by any generally recognized statewide association or associations composed of persons engaged in the production in Idaho of cattle, calves, sheep, mules, horses, swine, or goats. ()

e. Sales of livestock by any nonprofit cooperative association, corporation sole or religious, fraternal or benevolent corporation, provided such association or corporation complies with regulations of the director in connection with such sale and such sales are not held in the regular course of business of such corporation or association. ()

f. Any Idaho auction market operated by an Idaho licensed auctioneer selling not more than twenty (20) animals a week or more than eighty (80) animals a month, provided such an auction market is bonded under the provisions of the Federal Packers and Stockyards Act, of 1921, as amended. ()

02. Sales Of Other Animals Excluded. This exemption is limited to sales of cattle, calves, sheep, mules, horses, swine, or goats. Sales of other animals do not qualify for the exemption regardless of who the seller is and where the sale takes place. ()

135. -- 999. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0201
NOTICE OF RULEMAKING - 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(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 September 18, 2002.

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

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

Property Tax Administrative Rule 130, Equalization By Category - Identification And Reappraisal, is being amended to create a category for the assessment and listing of certain rural lots in counties under 100,000 in population as provided for in House Bill 488. County assessors will be able to list the appropriate lots in a separate category for ease of identification to grant the partial exemption provided for in House Bill 488.

In June 2002, the State Tax Commission adopted this rule as a temporary rule with an effective date of January 1, 2002. The temporary rule was published in the Idaho Administrative Bulletin, Volume 02-6, June 5, 2002, pages 42 through 46. With this publication the Department is initiating proposed rulemaking.

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 2002.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest, at (208) 334-7530.

All written comments must be directed to the undersigned and must be delivered on or before September 25, 2002.

DATED this 24th day of July, 2002.

Alan Dornfest, Tax Policy Supervisor
State Tax Commission
800 Park Blvd. Plaza IV
P.O. Box 36, Boise, ID 83722
(208) 334-7530 / FAX (208) 334-7844

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.
The temporary effective date is January 1, 2002.**

**The original text of the Temporary Rule was published in the Idaho
Administrative Bulletin, Volume 02-6, June 5, 2002, pages 42 through 46.**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0201

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. (3-15-02)

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. Speculative Homesite. In each county with a population of less than one hundred thousand (100,000), rural subdivision plat lots granted the exemption under Section 63-602FF, Idaho Code, for the current year's assessment roll. ~~(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 on the abstract. (3-15-02)
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 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. (3-15-02)
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. (3-15-02)
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 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)
49. **Category 60 - Improvements On Railroad Rights-Of-Way.** Improvements located on railroad rights-of-way under separate ownership. (3-23-94)
50. **Category 61 - Improvements By Lessee Other Than Category 62.** Improvements made by the tenant or lessee to landlord's property. (3-23-94)
51. **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)
- 52. Category 63 - Logging Machinery, Tools, And Equipment.** Unlicensed logging machinery, shop tools, and equipment not assessed as real property. (3-23-94)
- 53. Category 64 - Mining Machinery, Tools, And Equipment.** Unlicensed mining machinery, shop tools, and equipment not assessed as real property. (3-23-94)
- 54. 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. (3-15-02)
- 55. 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)
- 56. Category 67 - Operating Property.** Property assessed by the State Tax Commission. (3-30-01)
- 57. Category 68 - Other Miscellaneous Machinery, Tools, And Equipment.** Unlicensed machinery, tools, and equipment not used in construction, logging, mining, or not used exclusively in agriculture. (3-15-02)
- 58. Category 69 - Recreational Vehicles.** Unlicensed recreational vehicles. (3-23-94)
- 59. Category 70 - Reservations And Easements.** Reservations, including mineral rights reserved divide ownership of property rights. Easements convey use but not ownership. (3-23-94)
- 60. Category 71 - Signs And Signboards.** Signs and signboards, their bases and supports. (3-23-94)
- 61. Category 72 - Tanks, Cylinders, Vessels.** Containers. (3-23-94)
- 62. Category 81 - Exempt Property.** For county use in keeping an inventory, including acreage, of exempt real and personal property. (3-23-94)

IDAPA 35 - STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0202
NOTICE OF RULEMAKING - PROPOSED RULE

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) 63-105, 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 September 18, 2002.

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

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

Property Tax Administrative Rule 635, Partial Exemption For Parcels Of Land In A Rural Homesite Development Plat, is being promulgated to provide guidance to counties when deciding which properties are eligible for the partial exemption for certain rural lots in counties under 100,000 in population as provided for in House Bill 488.

In June 2002, the State Tax Commission adopted this rule as a temporary rule with an effective date of January 1, 2002. The temporary rule was published in the Idaho Administrative Bulletin, Volume 02-6, June 5, 2002, pages 47 through 49. With this publication the Department is initiating proposed rulemaking.

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 2002.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rulemaking, contact Alan Dornfest, at (208) 334-7530.

All written comments must be directed to the undersigned and must be delivered on or before September 25, 2002.

DATED this 24th day of July, 2002.

Alan Dornfest, Tax Policy 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.
The temporary effective date is January 1, 2002.**

**The original text of the Temporary Rule was published in the Idaho
Administrative Bulletin, Volume 02-6, June 5, 2002, pages 47 through 49.**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0202

630. -- ~~643~~4. (RESERVED).

635. PARTIAL EXEMPTION FOR PARCELS OF LAND IN A RURAL HOMESITE DEVELOPMENT PLAT (Rule 635).

Section 63-602FF, Idaho Code. ()

01. Definitions. For the purpose of implementing the partial exemption under Section 63-602FF, Idaho Code, beginning with assessments for 2002, the following terms are defined. ()

a. “Speculative homesite exemption.” “Speculative homesite exemption” means an exemption granted under Section 63-602FF, Idaho Code. ()

b. “Previously eligible.” Parcels of land in a rural homesite development plat are “previously eligible” for the exemption provided in Section 63-602K, Idaho Code, provided the land was eligible for an exemption on the speculative portion of value of agricultural land on January 1 of the year immediately preceding the year for which eligibility for the speculative homesite exemption is first determined. ()

c. “Continue to be eligible.” “Continue to be eligible” means the parcel must have been eligible for the speculative agricultural value exemption on January 1 of the year immediately preceding the year for which eligibility for the speculative homesite exemption is to be determined. “Continue to be eligible” also means once granted, the speculative homesite exemption will be granted each year, regardless of current use, until “improvements are being built”. ()

d. “Improvements are being built.” “Improvements are being built” or “construction of the improvements has begun” means construction of any structure has commenced or is observable on the land. Construction of improvements does not include construction of any fences or “associated site improvements”, as defined in Rule 645 of these rules. ()

02. Qualifying Criteria For The Speculative Homesite Exemption. To qualify for the speculative homesite exemption, any parcel of land must meet each of the following criteria. ()

a. The county where the parcel of land is located is less than one hundred thousand (100,000) in population. ()

b. The parcel of land is in a recorded subdivision plat. ()

c. The parcel of land is rural; that is, not within the boundaries of an incorporated city. ()

d. The parcel of land was “previously eligible”, for the speculative agricultural value exemption under Section 63-602K, Idaho Code. ()

e. The parcel of land is not eligible for the speculative agricultural value exemption under Section 63-602K, Idaho Code, for the current year’s assessment. ()

f. No improvements, as defined in Subsection 635.01.d., are being or have been built upon the parcel of land. ()

03. Non-Qualifying Parcels In Subdivisions. ()

a. Any parcel never eligible for the exemption provided in Section 63-602K, Idaho Code, shall not be qualified for the speculative homesite exemption. ()

b. Any rural subdivision parcel designated as timberland under Chapter 17, Title 63, Idaho Code, shall not be qualified for the speculative homesite exemption. ()

04. Calculation Of Taxable Value Of Land Eligible For The Speculative Homesite Exemption.
The taxable value of land eligible for the speculative homesite exemption shall be calculated based on the prior use qualifying the parcel for the exemption provided in Section 63-602K, Idaho Code; that is, the taxable value per acre of this land shall be equal to the taxable value per acre of qualifying agricultural land in the same use as this land when it previously qualified for the speculative agricultural value exemption. Any additional value for the "associated site improvements", as defined in Rule 645 of these rules, is part of the value exempt under the speculative homesite exemption and is not included in the taxable value of the land as calculated pursuant to Section 63-602K, Idaho Code. ()

05. Use Of Category. The county assessor shall use the category identified in Rule 130 of these rules for all parcels of land qualifying for the speculative homesite exemption. ()

06. Report Of Exempt Value. As provided in Rule 509 of these rules, the county auditor shall report to the State Tax Commission the total exempt value of all parcels of land qualifying for the speculative homesite exemption. ()

07. Removal Of The Speculative Homesite Exemption. ()

a. The year following the year in which the population of a county exceeds one hundred thousand (100,000), the speculative homesite exemption shall be removed from any parcels of land previously qualifying for the speculative homesite exemption in that county. Population shall be determined from the most current census or estimate available from the Bureau of the Census as of January 1 of each year. ()

b. The year following the year in which any parcel is annexed into an incorporated city or is incorporated into a newly incorporating city, the speculative homesite exemption shall be removed from that parcel. ()

c. The speculative homesite exemption shall be removed from any parcel of land when "improvements are being built". The speculative homesite exemption must not be removed until "improvements are being built" upon the parcel, even if, the ownership of a parcel of land has been transferred or any qualifying use for the speculative agricultural value exemption has been stopped. ()

636. -- 644. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0205

NOTICE OF RULEMAKING - 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(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 September 18, 2002.

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 Administrative Rule 006, Incorporation By Reference, is being promulgated to provide a reference list of the documents that are incorporated by reference in the Property Tax Administrative Rules.

Property Tax Administrative Rule 020, Value Of Recreational Vehicles For Annual Registration And Taxation Of Unregistered Recreational Vehicles, is being amended to provide a cross-reference to Rule 006, Incorporation By Reference, for the purpose of incorporating the NADA guides for recreational vehicles in order for the values to be established for the registration of recreational vehicles as required by Section 49-446, Idaho Code. The rule is also being amended to include the valuation schedules developed from the NADA guides to be used for the registration of recreational vehicles beginning for the year 2004.

Property Tax Administrative Rule 131, Use Of Ratio Study In Equalization, is being amended for the equalization of values of manufactured homes on leased land declared as real property (pursuant to HB 559) in the ratio studies to equalize values within the counties.

Property Tax Administrative Rule 304, Manufactured Home Designated As Real Property, is being amended to correct the reference to the statute and to provide the correct reference to the Division of Building & Safety Rules as required by Section 44-2201, Idaho Code.

Property Tax Administrative Rule 312, Partial Year Assessment Of Personal Property, is being promulgated to give guidance to counties for assessment purposes and to provide clarification of partial year assessment of personal property based on Section 63-311, Idaho Code, and a decision by the Idaho Supreme Court.

Property Tax Administrative Rule 313, Assessment Of Transient Personal Property, is being promulgated to provide guidance and consistency in prorating the value of transient personal property under Section 63-313, Idaho Code. The rule will provide definitions and guidelines for prorating assessments of transient personal property between counties.

Property Tax Administrative Rule 315, Ratio Studies – School Districts, is being amended to allow equalization of values of manufactured homes on leased land declared as real property (pursuant to HB559) in the ratio studies to equalize values within the school districts and to be consistent with HB 488 relating to the partial exemption for rural homesite development plats.

Property Tax Administrative Rule 317, Occupancy Tax On Newly Constructed Improvements On Real Property, is being amended to clarify what information must be sent to taxpayers of occupancy taxes for the notification of appraisal required by Section 63-317, Idaho Code.

Property Tax Administrative Rule 404, Operator's Statement - Contents, is being amended to provide a revised date for tax code area maps to be distributed to operating properties. By incorporating a federal document instead of only referencing the document, the rule will provide clarification to electric companies on reporting line mileage. The rule will also provide clarification on how notification will be made of which properties are subject to Tax Commission assessment instead of county assessment.

Property Tax Administrative Rule 411, Private Car Reporting By Railroad Companies, is being amended to reference the Rule of Incorporation (rule 006). The term "classification" was deleted, and the initials on cars should be called 'marks'.

Property Tax Administrative Rule 509, Identification Of Urban Renewal Increment And Partial Exemption Values On County And School District Abstracts Of Value, is being amended to provide direction to auditors to report value exempted by law for parcels in rural homesites relating to HB 488.

Property Tax Administrative Rule 645, Land Actively Devoted To Agriculture Defined, is being amended to be consistent with HB 487 relating to contiguous, HB 488 relating to the partial exemption for rural homesite development plats, and an Idaho Supreme Court Decision.

Property Tax Administrative Rule 802, Budget Certification Relating To New Construction, is being amended to update a cross-reference to another rule and to provide procedures consistent with HB 488 relating to the partial exemption for rural homesite development plats.

Property Tax Administrative Rule 807, Levy By New Taxing Units – Duties Of Auditor, is being promulgated to provide guidance to the auditor relative to when taxing districts can levy against annexed territory pursuant to Section 63-807, Idaho Code.

Property Tax Administrative Rule 809, Unauthorized Levy, is being deleted and no longer needed. Beginning in January 1, 2003, Section 63-802A, Idaho Code, makes the above rule unnecessary, penalties have been added to the statute for taxing districts that fail to notify county clerks of budget hearings.

Property Tax Administrative Rule 962, Taxation Of Large Size Forest Tracts, is being amended to update references within the rule that incorporate other documents. Rule 962 will also reference the Rules of Incorporation (rule 006).

Property Tax Administrative Rule 982, Reporting Net Profits Of Mines, is being amended to update a cross reference to current information.

Property Tax Administrative Rule 995, Certification Of Sales Tax Distribution, is being amended to provide guidance to county auditors for reporting sales tax distribution plus add a date that reports are due to the Tax Commission.

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 general application and the Tax Commission is unable to identify representatives of affected interests.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rulemaking, contact Alan Dornfest, at (208) 334-7530.

All written comments must be directed to the undersigned and must be delivered on or before September 25, 2002.

DATED this 24th day of July, 2002.

Alan Dornfest, Tax Policy 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. 35-0103-0205

006. INCORPORATION BY REFERENCE (Rule 006).

Unless provided otherwise, any reference in these rules to any document identified in Rule 006 of these rules shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards, or rules adopted by an agency of the state or of the United States or by any nationally recognized organization or association. ()

01. Availability Of Reference Material. Copies of the documents incorporated by reference into these rules are available at main office of the State Tax Commission as listed in Rule 005 of these rules. ()

02. Documents Incorporated By Reference. The following documents are incorporated by reference into these rules: ()

a. "Standard on Ratio Studies" published in 1999 by the International Association of Assessing Officers. ()

b. "Recreation Vehicle Guide of the National Automobile Dealers Association" published in 2002 for the September through December period by the National Appraisal Guides Incorporated. ()

c. "Van/Truck Conversion and Limousine Appraisal Guide of the National Automobile Dealers Association" published in 2002 for the September through December period by the National Appraisal Guides Incorporated. ()

d. "Official Railway Equipment Register" published for each quarter in 2002 by R. E. R. Publishing Corporation, Agent as a publication of Commonwealth Business Media, Inc. ()

e. "Forest Habitat Types of Northern Idaho: A Second Approximation" published by the Government Printing Office for the U. S. Forest Service in 1991, General Technical Report INT-236, written by Cooper, Stephen V, Neiman, Kenneth E., Rev. David W., and Roberts, Kenneth E. ()

f. "Forest Habitat Types of Central Idaho" published by the Government Printing Office for the Intermountain Forest and Range Experimentation Station of the U. S. Forest Service in 1981, General Technical Report INT-114, written by Kittams, Jay A., Pfister, Robert D., Ryker, Russell A., and Steele, Robert. ()

g. "Yield of Even-Aged Stands of Ponderosa Pine" published by the Government Printing Office for the U. S. Department of Agriculture in 1938, Technical Bulletin No. 630. ()

h. "Second-Growth Yield, Stand, and Volume Table for the Western White Pine Type" published by the Government Printing Office for the U. S. Department of Agriculture in 1932, Technical Bulletin No. 323. ()

i. "Manual of Instructions for the Survey of the Public Lands of the United States" published by the Government Printing Office for the Bureau of Land Management in 1973, Technical Bulletin No. 6. ()

0067. -- 019. (RESERVED).

020. VALUE OF RECREATIONAL VEHICLES FOR ANNUAL REGISTRATION AND TAXATION OF UNREGISTERED RECREATIONAL VEHICLES (Rule 020).

Section 49-446, Idaho Code. ()

01. Value Of Recreational Vehicle For Registration Fees. Beginning with registration fees for calendar year 2004, ~~The~~ County assessors shall administer and collect the recreational vehicle (RV) registration fee based on the ~~industry valuation guide approved by the Commission pursuant to Section 49-446, Idaho Code~~ market value calculated from the following depreciation schedule. ~~The approved guide is the N.A.D.A., Recreational Vehicle~~

Appraisal Guide, September through December Edition, for the year preceding the year in which the fee is levied applies. (7-1-97)

DEPRECIATION SCHEDULE FOR RVS				
	<u>Travel/ Camp Trailers</u>	<u>Campers</u>	<u>Van Conversions</u>	<u>Motor Homes</u>
<u>Age</u>	<u>Percent Good</u>	<u>Percent Good</u>	<u>Percent Good</u>	<u>Percent Good</u>
0	100	100	100	100
1	86	83	85	85
2	76	76	74	77
3	66	64	62	68
4	62	60	52	62
5	59	55	47	59
6	56	54	40	55
7	55	52	35	54
8	50	49	32	51
9	49	44	30	48
10	43	40	27	44
11	41	36	23	40
12	38	33	19	36
13	37	30	14	32
14	36	27	13	31
15	31	23	12	28

To use this depreciation schedule, multiply the sales price of the RV or the applicable value from Subsection 020.02 or 020.03 below by the appropriate "Percent Good" based on the "Age" and type of RV. Decide the "Age" based on the year of purchase as follows: purchased in the current year equals "Age" zero (0), purchased in the previous year equals "Age" one (1), etc. For example, in year 2004, the "Age" for an RV purchased in 2004 is zero (0), the "Age" for an RV purchased in 2003 is one (1), the "Age" for an RV purchased in 2002 is two (2), the "Age" for an RV purchased in 2001 is three (3), etc. For any RV still in use and purchased fifteen (15) or more years ago, calculate the minimum market value using the lowest depreciation rate for the correct RV type. This depreciation schedule is based on the "Recreation Vehicle Guide of the National Automobile Dealers Association" and the "Van/Truck Conversion and Limousine Appraisal Guide of the National Automobile Dealers Association" approved by the State Tax Commission as required under Section 49-446, Idaho Code. The State Tax Commission will maintain the information on which this depreciation schedule is based while it is in use and for a minimum of three (3) years after it has been replaced. If the purchase price for the RV is not known, use the approved edition of the "Recreation Vehicle Guide of the National Automobile Dealers Association" or the "Van/Truck Conversion and Limousine Appraisal Guide of the National Automobile Dealers Association" as referenced in Rule 006 of these rules to determine the market value.

02. Value Of Motor Home Or Van Conversion For Registration Fees. *The fee for motor homes shall be based on a schedule to be published annually by the Commission. This schedule* The value of any motor home or van conversion used to calculate the registration fee shall exclude any chassis value. *The Commission will maintain for a minimum of three (3) years the information on which the supplements are based. Beginning with the*

registration fees for calendar year 2004, the county assessor shall use the following schedule of valuation factors to calculate the value of the motor home or van conversion excluding the chassis value.

Motor Home/Van Type	Valuation Factor
Mini Motor Home (MMH)	50%
Motor Home (MH)	60%
Front Engine Diesel	45%
Rear Engine Diesel	58%
Van Conversions	25%

Multiply the motor home or van conversion's total value by the appropriate factor to calculate the value excluding the chassis value. (7-1-97)()

03. Value Of Vehicles Designed For Combined RV And Non-RV Uses For Registration Fees. For vehicles designed to have part of the vehicle for RV use and other parts of the vehicle for non-RV uses like transporting horses or other cargo, the value of the RV to be used to calculate the registration fee is the price listed on the bill of sale for the living quarters. When the price of the living quarters is not listed separately on the bill of sale, for a vehicle with less than four (4) facilities, the value of the RV is twenty-five percent (25%) of the sales price, and for a vehicle with four (4) or more facilities, the value of the RV is thirty percent (30%) of the sales price. A facility is any one (1) of the following: ()

- a. Stove: ()
- b. Lavatory/toilet: ()
- c. Heater/air conditioner: ()
- d. Refrigerator/icebox: ()
- e. Sink with water faucet; or ()
- f. Electricity/gas supply. ()

034. Assessment Notice Mailed Or Assessment Canceled. If after August 31, the required annual registration fee has not been paid, a taxpayer's valuation assessment notice shall be mailed to the owner of the recreational vehicle. If the registration fee is paid before the fourth ~~(4th)~~ Monday of November, the assessor shall cancel the assessment. (7-1-97)()

(BREAK IN CONTINUITY OF SECTIONS)

131. USE OF RATIO STUDY IN EQUALIZATION (Rule 131).
Section 63-109, Idaho Code. ()

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, ~~49~~, and 65. (~~3-15-02~~)()

h. Manufactured Housing With Land: Abstract items 46, 47, and 48 with residential land for ratio studies conducted beginning January 1, 2002. (3-15-02)

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. (3-15-02)

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. (3-15-02)

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)

304. MANUFACTURED HOME DESIGNATED AS REAL PROPERTY (Rule 304).

Sections 63-304 and 63-305, Idaho Code.

()

01. Statement Of Intent To Declare (SID). To declare a manufactured home real property, the homeowner shall complete a "Statement of Intent to Declare", SID, form as prescribed by the State Tax Commission. (3-30-01)

- a. All information and signatures requested on the form shall be provided prior to recordation. (3-23-94)
- b. The homeowner shall record the completed form. (3-23-94)
- c. The homeowner shall provide the assessor a copy of the recorded SID form and the title or Manufacturer's Statement of Origin (MSO). If proof of ownership is being provided through the MSO, the buyer's purchase agreement shall be accepted by the assessor pending receipt of the MSO. For the purpose of this rule, the Manufacturer's Statement of Origin and Manufacturer's Certificate of Origin are synonymous. (3-30-01)
- d. For new manufactured homes, the assessor shall verify that sales or use tax has been collected or shall collect such tax. Any sales or use tax collected by the assessor shall be remitted to the State Tax Commission. (3-30-01)
- e. The assessor shall forward a copy of the SID form and the title or MSO to the Idaho Transportation Department. The Idaho Transportation Department will cancel the title. (3-23-94)

02. Reversal Of Declaration Of Manufactured Home As Real Property. To provide for the reversal of the declaration of the manufactured home as real property, the homeowner shall complete the "Reversal of Declaration of Manufactured Home as Real Property" form as prescribed by the State Tax Commission. The homeowner shall submit this completed form to the assessor within the required time period. (3-30-01)

a. The homeowner shall also submit to the assessor a title report with the appropriate signatures of consent attached and shall make application for a title to the manufactured home. (~~3-23-94~~)()

b. The assessor shall transmit to the Idaho Transportation Department a copy of the completed reversal form, title report with appropriate signatures of consent, and the application for title to the manufactured home. (3-23-94)

03. Definition Of Permanently Affixed. (~~3-23-94~~)

~~a. For manufactured home installations prior to 1989, permanently affixed means physically attached or connected to a foundation in a manner which will maintain and continue said manufactured home in the same location.~~ (~~3-23-94~~)

~~b. For manufactured home installations from 1989 to present, p~~Permanently affixed means complying with ~~Section 44-2205, Idaho Code~~ the Idaho Manufactured Home Installation Standard as adopted by IDAPA 07.03.12, "Rules Governing Manufactured/Mobile Home Licensing," Section 004. (~~3-23-94~~)()

305. -- 3131. (RESERVED).

312. PARTIAL YEAR ASSESSMENT OF PERSONAL PROPERTY (Rule 312).
Sections 63-311 and 63-602Y, Idaho Code. ()

01. Quarterly Assessment. For each partial year assessment of any non-transient personal property, the assessment shall comply with the quarterly schedules provided in Sections 63-311 and 63-602Y, Idaho Code. ()

02. Cross Reference. The partial year assessment of any non-transient personal property shall comply with the Idaho Supreme Court decision in Xerox Corporation v. Ada County Assessor, 101 Idaho 138, 609 P.2d 1129 (1980). When assessing all non-transient personal property, each assessor should be aware of the following quotation from this decision: "Where the county undertakes to update its initial (personal property) declarations during the course of the tax year, it cannot increase a taxpayer's tax burden to reflect the taxpayer's acquisition of non-exempt property without decreasing that tax burden to reflect the fact that property reported by the taxpayer in an earlier declaration was no longer subject to the county's ad valorem tax." (Clarification added.) ()

313. ASSESSMENT OF TRANSIENT PERSONAL PROPERTY (Rule 313).

Sections 63-213, 63-313, and 63-602U, Idaho Code. ()

01. Definitions. The following definitions apply for the assessment of transient personal property. ()

a. Home County. Home county is identified in Section 63-313, Idaho Code, as the county selected by the owner of any transient personal property as that county where that transient personal property is usually kept. That county selected by the owner shall be a county in the state of Idaho. ()

b. Periods of Thirty (30) Days or More. Periods of thirty (30) days or more mean increments of no less than thirty (30) consecutive, uninterrupted days, during which any transient personal property is located in any one (1) county. For any period of less than thirty (30) days, the property owner shall report the transient personal property as being in the home county, resulting in that transient personal property being assessed in the home county for the entire year or the entire portion of the year the property has been in taxable status and not been outside the state of Idaho. ()

c. Prorated Assessment. Prorated assessment means the ratio of the number of days, exceeding twenty-nine (29), to three hundred sixty-five (365) days multiplied by the total market value of the transient personal property. For additional clarification, refer to the following examples. ()

i. If located in a second Idaho county (not the home county) for twenty-nine (29) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for the total market value in the home county. ()

ii. If located in a second Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for fifty-nine/three hundred sixty-five (59/365) of the total market value in the second county and for three hundred six/three hundred sixty-five (306/365) of the total market value in the home county. ()

iii. If located in a second Idaho county (not the home county) for thirty-one (31) consecutive, uninterrupted days, in a third Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days, and in the home county for the remainder of the year, the transient personal property should be assessed for thirty-one/three hundred sixty-five (31/365) of the total market value in the second county, fifty-nine/three hundred sixty-five (59/365) of the total market value in the third county, and two hundred seventy-five/three hundred sixty-five (275/365) of the total market value in the home county. ()

iv. If located in a second Idaho county (not the home county) for twenty-nine (29) consecutive, uninterrupted days and later in that same county for twenty-nine (29) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for the total market value in the home county. ()

v. If located in a second Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days, outside the state of Idaho for any thirty-five (35) days and taxed in the other state, and in the home county for the remainder of the year, the transient personal property should be assessed for fifty-nine/three hundred sixty-five (59/365) of the value in the second county and for two hundred seventy-one/three hundred sixty-five (271/365) of the total market value in the home county. ()

d. Transient Personal Property. Transient personal property is defined in Section 63-201, Idaho Code. ()

02. Overassessment Prohibited. Section 63-213, Idaho Code, prohibits the assessment of any property in any one (1) county for the same period of time that property has been assessed in another county. The sum of the assessments of transient personal property in the home county and each other county where the property has been located shall not exceed the market value of the property. ()

03. Non-Taxable Transient Personal Property. Under Subsection 63-313(4) and Section 63-602U, Idaho Code, any transient personal property only in transit through the home county or any other county and not

remaining in any county for the purpose of use is not subject to property taxation. Any transient personal property which was sold by the owner in the home county and upon which the full current year's property taxes were paid, is not subject to property taxation for the current year in any other county regardless of whether that property is to be used in or only in transit through any other county. ()

(BREAK IN CONTINUITY OF SECTIONS)

315. RATIO STUDIES - SCHOOL DISTRICTS (Rule 315).

Section 63-315, Idaho Code. ()

01. Procedures For School District Ratio Studies. The ratio study conducted by the State Tax Commission to comply with the requirements of Section 63-315, Idaho Code, shall be conducted in accordance with the "Standard on Ratio Studies" published in 1999 by the International Association of Assessing Officers. The following specific procedures will be used. (3-30-01)

a. Information on property sales, which meet the requirements of arm's length and market value sales, will be obtained and assembled into samples representing various categories of property and designations defined in Subsection 315.02 in each school district. Except when sales or appraisals must be added or deleted to improve representativeness, sales used will be those occurring within each school district between October 1 of the year preceding the year for which adjusted market value is to be computed and September 30 of the year for which adjusted market value is to be computed. Each sale price is to be adjusted for time and compared to market value for assessment purposes for the year for which adjusted market value is to be computed, 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. (3-30-01)

b. A ratio will be determined for each sale by dividing the market value for assessment purposes of the property by the adjusted sale price or appraised value. (7-1-98)

c. A statistical analysis is to be conducted for the sales and any appraisals in each property designation defined in Subsection 315.02 in each school district and appropriate measures of central tendency, uniformity, reliability, and normality computed. (3-30-01)

d. With the exception of any property designations with extended time frames or added appraisals, if fewer than five (5) sales and appraisals are available, no adjustment to the taxable value of the designation will be made. (7-1-98)

e. If there are five (5) or more sales and appraisals and it is determined with reasonable statistical certainty that the property designation is not already at market value for assessment purposes, an adjusted market value will be computed for the school district by dividing the taxable value for the year for which adjusted market value is to be determined by the appropriate ratio derived from the ratio study. The appropriate ratio to be used shall be the weighted mean ratio calculated from the sample for each designation, unless it can be clearly demonstrated that this statistic has been distorted by non-representative ratios. In this case the median may be substituted: (3-30-01)

f. Within each school district, adjusted market value or taxable value for each category of real, personal and operating property will be summed to produce the total adjusted market value for the school district. The school district taxable value will then be divided by this adjusted market value to produce the overall ratio of assessment in each school district. Statewide totals are to be calculated by compiling county totals. (7-1-98)

g. Urban renewal increment values will not be included in the taxable value or the adjusted market value for any school district. (7-1-98)

h. "Reasonable statistical certainty," that the property designation in question is not at market value for assessment purposes, is required. Such certainty is tested using ninety percent (90%) confidence intervals about the weighted mean or median ratios. If the appropriate confidence interval includes ninety-five percent (95%) or one

hundred five percent (105%), there is not “reasonable statistical certainty” that the property designation is not at market value for assessment purposes. (3-30-01)

i. Categories of property subject to adjustment following the procedure outlined in this rule and ratio study designations from which measures of central tendency used for adjustments will be derived are:

Category	Property Category	Ratio Study Designation
41	Urban Residential Improvements	Residential
20	Urban Residential Land	Residential
37	Rural Residential Subdivision Improvements	Residential
15	Rural Residential Subdivision Land	Residential
34 & 40	Rural Residential Tract and Other Rural Improvements	Residential
12 & 18	Rural Residential Tracts and Other Lands	Residential
42	Urban Commercial Improvements	Commercial
21	Urban Commercial Land	Commercial
35 & 38	Rural Commercial Tract and Subdivision Improvements	Commercial
13 & 16	Rural Commercial Tracts and Subdivision Land	Commercial
46, 47, 49, & 65	Manufactured Homes and Attachments	Manufactured Homes and Attachments
48	Manufactured Homes Declared to be Real Property	Residential
26	Residential Condominiums	Residential
27	Commercial Condominiums	Commercial

(7-1-99)()

j. Except for manufactured homes identified as category 48, sales of manufactured homes including land shall not be used in the ratio study done to calculate school district adjusted market value. ()

k. For all other property categories not contained in the list in Subsection 315.01.i., adjusted market value will equal taxable value. (3-30-01)

l. “Appraisal” or “appraised value” refers to any State Tax Commission provided independently conducted property appraisal. (7-1-98)

02. Use Of Property Designations. In computing the ratio for each school district, the State Tax Commission will designate property as residential, commercial, or manufactured housing and shall assign appropriate property categories defined in Rule 130 of these rules to these designations. For each school district, adjusted market value shall be computed by dividing the appropriate ratio ascertained for each of these designations into the sum of the taxable values for each category of property assigned to a designation. For the taxable value in any category to be included in said sum, at least one observation (sale or appraisal) from that category must be present in the ratio study. If the ratio for any given designation in a school district indicates that the market value for assessment purposes cannot be determined with reasonable statistical certainty to differ from statutorily required market value, the taxable value shown on the school district abstract(s) required pursuant to Subsection 315.04 for each of the categories included in that designation shall be the adjusted market value for said designation for said school district. (3-30-01)

03. Assessor To Identify School Districts. Each county assessor will provide to the State Tax

Commission the school district in which each sale submitted for the ratio study is located. (7-1-98)

04. Abstracts Of Value By School District. Each county auditor shall provide to the State Tax Commission abstracts of the taxable value of all property within the portion of each school district in each county. These abstracts shall be submitted in the same manner and at the same time as provided for county abstracts of value. (7-1-98)

05. Urban Renewal Increment And Exemption To Be Subtracted. The taxable value of each category of property within each school district shall not include the value that exceeds the value on the base assessment roll in any urban renewal district pursuant to Chapter 29, Title 50, Idaho Code, and shall not include the value of any exemption pursuant to Sections 63-602P, 63-602AA, 63-602K, 63-602G, 63-602X, 63-602CC, ~~and~~ 63-602BB, and 63-602FF, Idaho Code. (~~3-30-01~~)()

(BREAK IN CONTINUITY OF SECTIONS)

317. OCCUPANCY TAX ON NEWLY CONSTRUCTED IMPROVEMENTS ON REAL PROPERTY (Rule 317).
Section 63-317, Idaho Code. ()

01. Manufactured Housing. Occupancy tax shall apply to industrial structures and new manufactured housing. Used manufactured housing is not subject to the occupancy tax. (3-23-94)

02. Value Prorated Monthly. The value for occupancy tax purposes shall be prorated at least monthly. (3-23-94)

03. Notice Of Appraisal. When notifying each owner of the appraisal, the county assessor shall include at a minimum the full market value before any exemptions and before any prorating of the value, the length of time subject to the occupancy tax, and the prorated value. ()

034. Market Value. The market value for occupancy tax purposes shall be entered on an occupancy tax valuation roll. Occupancy tax shall not be included in the assessed value of any taxing district, but must be declared in the certified budget. (3-23-94)

045. Allocation To Urban Renewal Agencies. Beginning with any distribution of occupancy tax resulting from occupancy taxes levied after approval of levies for the year 2000, the revenue shall be allocated to any applicable school district and urban renewal agency. The revenue distribution to any applicable school district must be satisfied prior to the distribution to the urban renewal agency. Only the occupancy tax revenue from properties within the revenue allocation area shall be distributed in this manner. School districts shall be allocated an amount of occupancy tax equal to four tenths of one percent (0.4%) of the prorated value of property subject to occupancy tax, provided that such property is located within the school district and within the revenue allocation area of an urban renewal agency. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

404. OPERATOR'S STATEMENT--CONTENTS (Rule 404).
Sections 63-401 and 63-404, Idaho Code. ()

01. Operator's Statement. In the operator's statement, the number of miles of railroad track, electrical and telephone wire, pipeline, etc., must be reported to the hundredth mile in decimal form (0.00) in each taxing district or taxing authority and must be reported by the uniform tax code area method. (7-1-99)

02. Tax Code Area Maps. By ~~February 15~~ March 1 of each year, the State Tax Commission shall ~~send~~

furnish to all ~~companies~~ entities having operating property within the state of Idaho, except private railcar fleets, a list of all changes in tax code area boundary lines. In case the State Tax Commission receives additional information corrections to any tax code area boundaries, ~~such lists may~~ these changes must be ~~sent~~ furnished by March 15. Every day that the tax code area map deadline is extended beyond ~~February 15~~ March 1 allows for an automatic operator's statement extension equal to the delay. The reporting ~~company~~ entity shall review the list of changes to identify any tax code areas, within which any of the ~~company's~~ entity's operating property is located. The reporting ~~company~~ entity shall report, under Subsection 404.01, of this rule based on these identified tax code areas. The State Tax Commission shall provide the tax code areas maps to the reporting ~~company at cost~~ entity as provided for in Rule 225 of these rules. (4-5-00)()

03. Reporting Of Mileage. The following procedures apply for reporting mileage. (7-1-99)

a. Railroads Track Mileage. The railroad track mileage shall be reported by the name of the main line and branch lines with the track mileage for the main line and branch lines reported as Main Track Miles. Track miles consisting of passing track, yard switching, spurs, sidings, etc., shall be reported as Secondary Track Miles. (7-1-99)()

b. Electric Power ~~Companies~~ Line Mileage. ~~Transmission and distribution lines shall be defined based on the "Uniform System of Accounts" published by the Federal Energy Regulatory Commission. The electric power companies shall report electric power line mileage by transmission and distribution lines. The transmission lines are the lines at a primary source of supply to change the voltage or frequency of electricity for the purpose of its more efficient or convenient transmission; lines between a generating or receiving point and the entrance to a distribution center or wholesale point; and lines whose primary purpose is to augment, integrate, or tie together the sources of power supply. The distribution lines are the lines between the primary source of supply and of delivery to customers, which are not includible in transmission lines.~~ Cooperative electrical associations may include lines designed to accommodate thirty-four thousand five hundred (34,500) volts or more as transmission or distribution lines. Transmission or distribution lines shall be reported by single linear wire mile. (7-1-99)()

c. Telephone ~~Companies~~ Wire Mileage. All telephone wire mileage shall be reported on a single linear wire mile basis, and include any ground wires. (7-1-99)()

d. Natural Gas and Water Distribution ~~Companies~~ Pipeline Mileage. All natural gas and water distribution companies shall report pipeline miles on a three (3) inch comparison basis. For example, a company with five (5) miles of six (6) inch pipe will report ten (10) pipeline miles: five (5) times six (6) divided by three (3) equals ten (10) miles. (7-1-99)()

e. Transmission Pipelines Mileage. Transmission pipelines ~~are~~ mileage is reported in actual pipe sizes, without adjustment, because the pipe is normally uniform in size over long distances. (7-1-99)()

04. Situs Property. Situs property includes microwave stations and radio relay towers. This property is not apportioned on the basis of mileage. The investment in this property shall be reported in the tax code area, within which it is located. (7-1-99)

05. Record Of Property Ownership. The following procedures apply for maintaining records of operating property ownership. (7-1-99)

a. STC Form R. A record of each property owned, leased, or otherwise operated by each railroad, private railcar fleet or public utility shall be maintained by the State Tax Commission, the appropriate railroad, private railcar fleet or public utility, and the appropriate county assessor's office. Each record shall be maintained on a form identified as STC Form R. The State Tax Commission shall send a copy of each STC Form R to the appropriate company and the appropriate county assessor's office. (7-1-99)

b. Identification of Operating Property and Nonoperating Property. On the STC Form R, ~~the~~ State Tax Commission shall identify which property is operating property and which property is nonoperating property. (7-1-99)()

c. Filing of Property Ownership by Railroad Companies. Each railroad company shall file the original

railroad right-of-way maps with the State Tax Commission. Each railroad shall file an STC Form R, only, for property that is acquired, leased, or transferred between operating and nonoperating status, or sold during the prior year. (7-1-99)

06. Filing Date For Operator's Statement. By April 30 each year, each railroad, private railcar fleet, and or public utility ~~company~~ operating in Idaho shall file information pertinent to the ~~company's~~ entity's ownership and operation with the State Tax Commission. This information must be reliable for preparing an estimate of market value. For each ~~company~~ entity submitting a written request for an extension on or before April 30, the State Tax Commission may grant an extension of the filing date until May 31. An automatic extension beyond April 30; may be granted as set out in Subsection 404.02. (4-5-00)()

(BREAK IN CONTINUITY OF SECTIONS)

411. PRIVATE CAR REPORTING BY RAILROAD COMPANIES (Rule 411).

Section 63-411, Idaho Code. The president or other officer of each railroad company whose railroad tracks run through, in or into Idaho shall, by April 15 of each year file a report with the State Tax Commission. The report form is available from the State Tax Commission upon request. The completed report shall include the following: (7-1-99)()

01. Name Of Reporting Railroad Company. Report ~~the~~ name of the railroad company making the report. (7-1-99)()

02. Name Of Private Railcar Fleet. Report ~~the~~ name of each private railcar fleet, defined under Sections 63-201(14) and 63-411, Idaho Code, having traveled on the reporting railroad company's track. (7-1-99)()

03. Private Railcar Fleet's Address. Report ~~the~~ business address of each reported private railcar fleet. (7-1-99)()

04. Car ~~Classification~~ Type. ~~Classification~~ Report the type of cars by symbol, ~~XC, SC, etc.,~~ according to the edition of the "Official Railway Equipment Register" referenced in Rule 006 of these rules. (7-1-99)()

05. ~~Initials~~ Marks. Report the ~~car~~ initials marks. (7-1-99)()

06. Miles Traveled. Report the ~~total~~ number of miles traveled on the reporting railroad's track, including main line, branches, sidings, spurs, and warehouse or industrial track in Idaho during the year ending December 31 of the preceding year. (7-1-99)()

(BREAK IN CONTINUITY OF SECTIONS)

509. IDENTIFICATION OF URBAN RENEWAL INCREMENT AND PARTIAL EXEMPTION VALUES ON COUNTY AND SCHOOL DISTRICT ABSTRACTS OF VALUE (Rule 509).

Section 63-509, Idaho Code. ()

01. County And School District Abstracts To Balance. The taxable value of property in each category as shown on the abstracts prepared and submitted pursuant to Section 63-509, Idaho Code, shall equal the sum of the taxable value of property in each category as shown on the school district abstracts, required pursuant to Rule 315, for the portion of each school district located within each given county. (3-30-01)

02. Identification Of Increment. The value that exceeds the value on the base assessment roll in any urban renewal district, pursuant to Chapter 29, Title 50, Idaho Code, and Rule 804 shall be identified as the "increment". (3-30-01)

03. Increment And Exemption Values To Be Indicated. In addition to the value of exemptions required pursuant to section 63-509, Idaho Code, any increment value and the value of any exemption provided under Sections 63-602X, ~~and~~ 63-602BB, and 63-602FF, Idaho Code, shall be indicated and subtracted from the taxable value shown for each category of property on each county and school district abstract. ~~(3-30-01)~~()

(BREAK IN CONTINUITY OF SECTIONS)

645. LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED (Rule 645).

Section 63-604, Idaho Code.

(3-15-02)

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. (3-15-02)

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. (3-15-02)

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 ~~Agricultural~~ Land, Excluding The Homesite. The assessor shall value ~~agricultural~~ land, excluding the homesite, on the following basis: ~~(3-15-02)~~()

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 but may qualify for the exemption under Section 63-602FF, Idaho Code. Land meeting the use qualifications identified in Section 63-604, Idaho Code, and in a subdivision without restrictions prohibiting agricultural use shall be valued as land actively devoted to agriculture using the same procedures as used for valuing land actively devoted to agriculture and not located in a subdivision. (3-30-01)()

c. Land, Five (5) Contiguous Acres or Less. Land ~~parcels~~ of five (5) contiguous 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~~ each contiguous holding of land under the same ownership 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~~ holdings of five (5) contiguous 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 time of 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. (3-15-02)()

~~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)

~~ed. Land, More Than Five (5) Contiguous 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 an 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. (3-15-02)()~~

~~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.~~ (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

802. BUDGET CERTIFICATION RELATING TO NEW CONSTRUCTION (Rule 802).
Sections 63-802, ~~and~~ 63-301A, and 63-602FF, Idaho Code. (4-5-00)()

01. Definitions. (4-5-00)

a. "Change of Land Use Classification." "Change of land use classification" shall mean any change in land use resulting in a category change and in an increase in taxable land value to be reflected on the current assessment roll unless the increase in value was previously included on the new construction roll. Beginning with the assessment roll prepared to reflect value as of January 1, 1997, the increase in taxable land value due to change of land use classification shall be computed by subtracting the taxable land value, had the land remained in its previous use category, from the taxable land value in the current use category. (4-5-00)()

b. "Nonresidential Structure." "Nonresidential structure" shall mean any structure listed by the assessor in any category not described as residential, manufactured homes, or improvements to manufactured homes pursuant to Rule ~~327130~~ of these rules. (4-5-00)()

02. New Construction Roll Listing. "Listing" shall mean a summary report of the net taxable value of property listed on the new construction roll. This listing shall include the taxable value of qualifying new construction throughout each taxing district or unit, including qualifying new construction within any revenue allocation area within any urban renewal district encompassed by the taxing district or unit. This report is to summarize the value reported on the new construction roll by taxing district or unit. Taxing districts and units shall be listed in the same order that is used for the certification of value required pursuant to Section 63-510(1), Idaho Code. (7-1-99)

03. Manufactured Housing. "Installation" of new or used manufactured housing shall mean capturing the net taxable market value of the improvement(s) that did not previously exist within the county. (7-1-97)

04. Partial New Construction Values. The net taxable market value attributable directly to new construction shall be reported on the new construction roll in the tax year it is placed on the current assessment roll. Any increase in a parcel's taxable value, due to new construction, shall be computed by subtracting the previous year's or years' partial taxable value(s) from the current taxable value. In the case of partially completed property previously reported on the property roll, but subsequently exempt pursuant to Section 63-602W, Idaho Code, the increase in value to be reported on the new construction roll following loss of this exemption shall be the difference between previously reported new construction roll value and the taxable value for the year in which the occupied property is first entered on the property roll. If any of this difference is attributable to inflation, such value shall not be included on the new construction roll. (7-1-99)

Example: Assume a partially completed, never occupied residential improvement was assessed at ten thousand dollars (\$10,000) as of January 1, 1997. The improvement was occupied February 2, 1998. Assume the ten thousand dollars (\$10,000) value was on the 1997 new construction roll. Assume that in 1999 the improvement is assessed at ninety thousand dollars (\$90,000) and a forty-five thousand dollars (\$45,000) homeowner's exemption is then deducted. Assume there has been no inflation. The amount that can be reported on the 1999 new construction roll is calculated as follows: (7-1-99)

1999 Value (before homeowner's exemption)	\$90,000
1999 Homeowner's Exemption	<\$45,000>
1999 Taxable Value (after homeowner's exemption)	\$45,000
1997 Value Already Reported on New Construction Roll	<\$10,000>
1999 New Construction Roll Value (this improvement)	\$35,000

05. Change In Exemption Status. ()

a. A previously exempt improvement which becomes taxable shall not be included on the new construction roll, unless the loss of the exemption occurs during the year in which the improvement was constructed or unless the improvement has lost the exemption provided in Section 63-602W, Idaho Code. (7-1-99)

b. For any rural subdivision parcels of land changing use as a result of removal of the exemption under Section 63-602FF, Idaho Code, the increase in value resulting from the removal of this exemption shall not be listed on the new construction roll when the increase in value was already listed on any previous year's new construction roll. ()

06. Corrected New Construction Roll. The values shown on the listing required in Subsection 802.03 shall be subject to the adjustment if net taxable value for any property included on the new construction roll is changed by the county board of equalization meeting pursuant to Section 63-501, Idaho Code. Each county assessor

must certify the corrected values to the appropriate county auditor. Each county auditor must report the corrected values to the State Tax Commission and to each taxing district prior to the first Monday of August on the notification required pursuant to Section 63-510(1), Idaho Code. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

~~806.~~ (RESERVED).

807. LEVY BY NEW TAXING UNITS - DUTIES OF AUDITOR (Rule 807).

Section 63-807, Idaho Code. ()

01. Levy By Newly Formed Or Organized Taxing Districts. Regardless of whether other formation or organization requirements have been met, newly formed or organized taxing districts that fail to meet the requirements of Rule 225 of these rules, shall not be authorized to levy property taxes. ()

02. Levy By Taxing Districts Altering Boundaries. Regardless of whether other boundary alteration requirements have been met, taxing districts that alter their boundaries and fail to meet the requirements of Rule 225 of these rules, shall not be authorized to levy property taxes within any area added to the district. If area is withdrawn from any district that fails to meet the requirements of Rule 225 of these rules, any levy by the district will be applied to taxable property within the withdrawn area. ()

03. Levy Considered Not Authorized. If a taxing district fails to meet the requirements of Subsection 807.01 or 807.02 of this rule, the district's levy or its levy within an altered area shall be considered not authorized, pursuant to Section 63-809, Idaho Code. ()

~~809. UNAUTHORIZED LEVY (RULE 809).~~

Effective January 1, 1999, no levy of any taxing district shall be considered unauthorized or in excess of the maximum provided by law solely for failure of the taxing district to comply with the requirements of Section 63-802A, Idaho Code. (4-5-00)

~~808.~~ -- 935. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

962. TAXATION OF LARGE SIZE FOREST TRACTS (Rule 962).

Section 63-1705, Idaho Code. ()

01. Productivity Formula. Taxation under the provisions of Section 63-1705, Idaho Code, shall not include timber inventory in addition to the productivity value since the value of timber growing on the land is included in the productivity formula. The productivity formula used to determine the forest value shall be as follows:

Step 1 :	(MAI) Mean Annual Growth Increment Multiplied By The (SV) Stumpage Value
Step 2 :	Add Other Agricultural Related Income
Step 3 :	Minus Costs
Step 4 :	The Sum Of Steps 1 - 3 Divided By The Capitalization Rate
Step 5:	<u>Equals The Productivity Value</u>
	$\frac{[(MAI \times SV + \text{other agricultural related income} - \text{costs})]}{\text{Capitalization Rate}}$

KEY:
MAI = Mean Annual Growth Increment, board feet/acre/year
SV = Stumpage Value, preceding five (5) year rolling average value of timber harvested within the forest value zone from state timber sales or the best available data for the same five (5) year period.
Other Agricultural Related Income = Grazing income from the forest land.
Costs = Annualized expenses directly related to producing the forest crop, including, but not limited to the establishment, maintenance, improvement, and management of the crop over the rotation period, including the forest protection fee currently charged by the Idaho Department of Lands.
Capitalization Rate = Shall be determined in accordance with the procedures described in Section 63-1705(4), Idaho Code.

~~(4-5-00)~~()

- 02. Forest Valuation Zones.** The state shall be divided into four (4) forest valuation zones: (7-1-99)
- a. ZONE 1 - Boundary, Bonner, Kootenai counties. (7-1-97)
 - b. ZONE 2 - Benewah, Shoshone, Latah, Clearwater, Nez Perce, Lewis, Idaho counties. (7-1-97)
 - c. ZONE 3 - Adams, Valley, Washington, Payette, Gem, Boise, Canyon, Ada, Elmore, Camas, Blaine, Gooding, Lincoln, Jerome, Minidoka counties. (7-1-97)
 - d. ZONE 4 - The remaining nineteen (19) counties. (7-1-97)

03. Classification Of Forest Lands. Forest valuation ~~Z~~zones 1 and 2: There shall be three (3) separate productivity classes of forest land: poor, medium, and good. These broad classes are related in the following manner by definition to the “Meyer Tables” published in “Yield of Even-Aged Stands of Ponderosa Pine” and “Haig Tables” published in “Second-Growth Yield, Stand, and Volume Table for the Western White Pine Type” as both documents are referenced in Rule 006 of these rules. These classes apply to forest land which may or may not be stocked with commercial or young growth timber. ~~(7-1-99)~~()

a. Poor productivity class is defined as forest land having a mean annual increment, MAI, of one hundred (100) board feet per acre per year, based on an eighty (80) year rotation and sixty-five percent (65%) of normal stocking by the end of the rotation period. This productivity class includes western white pine site index 35-45 and ponderosa pine site index 45-80. One hundred (100) board feet per acre MAI shall be used in the productivity formula. (7-1-93)

b. Medium productivity class is defined as forest land having a mean annual increment, MAI, of two hundred twenty-five (225) board feet per acre per year, based on an eighty (80) year rotation and sixty-five percent (65%) of normal stocking by the end of the rotation period. This productivity class includes western white pine site index 46-60 and ponderosa pine site index 81-110. Two hundred twenty-five (225) board feet per acre MAI shall be used in the productivity formula. (7-1-93)

c. Good productivity class is defined as forest land having a mean annual increment, MAI, of three hundred fifty (350) board feet per acre per year, based on an eighty (80) year rotation and sixty-five percent (65%) of normal stocking by the end of the rotation period. This productivity class includes western white pine site index 61 and above and ponderosa pine site index 111 and above. Three hundred fifty (350) board feet per acre MAI shall be used in the productivity formula. (7-1-93)

d. For forest valuation zones 1 and 2, ~~F~~forest land shall be stratified into areas of similar productive potential using the habitat typing methodology described in “Forest Habitat Types of Northern Idaho: A Second Approximation”, ~~1991 edition~~ referenced in rule 006 of these rules. Within these stratified areas, site index trees will

be selected and measured that will identify the site index to be used to place the land in one (1) of the three (3) productivity classes listed above. (7-1-97)()

e. For forest valuation zones 3 and 4, the criteria for stratification shall be generally the same as that used in zones 1 and 2 based on the habitat typing methodology described in "Forest Habitat Types of Central Idaho," as referenced in Rule 006 of these rules, with the following adjustments made in growth rates for lower moisture levels. Poor productivity class, one hundred (100) board feet per acre MAI shall be used in the productivity formula. Medium productivity class, two hundred thirteen (213) board feet per acre MAI shall be used in the productivity formula. Good productivity class, three hundred twenty (320) board feet per acre MAI shall be used in the productivity formula. (7-1-93)()

04. **Recommended Mean Annual Growth Increments.** The recommended MAI's to be used in the productivity formulas for the appropriate forest valuation zones are according to the best available information and subject to change upon receipt of updated information. The MAI's shall be considered as midpoints of a class in the following manner:

MIDPOINT	
Zones 1 and 2:	
Poor	38 - 100 - 162 board feet per acre
Medium	163- 225 - 286 board feet per acre
Good	287 - 350 and greater board feet per acre
Zones 3 and 4:	
Poor	44 - 100 - 156 board feet per acre
Medium	157 - 213 - 268 board feet per acre
Good	269 - 320 and greater board feet per acre

(7-1-99)

05. **Deficient Areas.** Lakes, solid rock bluffs, talus slopes, and continuously flooded swampy areas, larger than five contiguous acres in size which can be identified on aerial photos shall be valued at forty percent (40%) of the poor bare land value as defined in Section 63-1706, Idaho Code. These areas are defined as being incapable of growing trees. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

982. REPORTING NET PROFITS OF MINES (Rule 982).

Sections 63-2801, 63-2802 and 63-2803, Idaho Code.

(4-5-00)

01. **Amount To Be Reported.** The amount of money received from the sale of minerals or mined metals during the calendar year immediately preceding the current tax year shall be reported by the owner of the mine or mining claim. If there is no sale, but minerals or mined metals are shipped to a smelter or other facility, an amount of money equivalent to that which would have been received from sale of the shipped minerals or mined metals shall be reported. Moneys received from rents, commissaries, discounts on purchases, and investments are not to be included. A separate annual net profit statement shall be filed by the owner of mines or mining claims, for each mine or mining claim located in any county in Idaho. The statement filed with any county assessor shall not include amounts received pursuant to mines or mining claims located outside the county. The owner shall complete the statement on forms prescribed by the State Tax Commission. (4-5-00)

02. Additional Allowable Deductions. In addition to deductions specified in Section 63-2802, Idaho Code, the following expenditures can be subtracted from the amount of money or equivalent to be reported. (4-5-00)

a. Expenses for Social Security, worker's compensation, insurance provided by the employer for the benefit of employees at the mine, fire and water protection, first aid and safety devices, mine rescue materials, experimental work reasonably connected with reduction of the ores. (4-5-00)

b. Expenses for improvements made during the year immediately preceding the current tax year. (4-5-00)

c. Expenses for reclamation or remediation not previously deducted, including payments into a sinking fund mandated by law for reclaiming or remediating the mining site. (4-5-00)

03. Nondeductible Items. In addition to expenditures specified as nondeductible pursuant to Section 63-2802, Idaho Code, the following expenditures can not be subtracted from the amount of money to be reported. (4-5-00)

a. Federal, state and local taxes and license fees. (4-5-00)

b. Depreciation, depletion, royalties, and donations. (4-5-00)

c. Insurance except as listed in Subsection ~~585982~~.02.a. ~~(4-5-00)~~()

d. Construction repair, and operation of dwellings, community buildings and recreational facilities. (4-5-00)

e. Miscellaneous administrative and other expenses not related to labor, machinery or supplies needed for mining, reducing ores, construction of mills and reduction works, transporting ore and extracting metals and minerals from ore. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

995. CERTIFICATION OF SALES TAX DISTRIBUTION (Rule 995).

Section 63-3638, Idaho Code.

()

01. Most Current Census. Population shall be from the most current population census or estimate available from the Bureau of the Census during the quarter of the year for which any distribution of sales tax money is to be made. (3-24-94)

02. Market Value For Assessment Purposes. Market value for assessment purposes shall mean the market value certified to the State Tax Commission pursuant to Section 63-510, Idaho Code, and shall include homeowner's exemptions, and the amount of real and personal property value which exceeds the assessed value shown on the base assessment roll for a revenue allocation area as defined in Section 50-2903(12), Idaho Code, for the calendar year immediately preceding the current fiscal year. ~~(3-30-01)~~()

03. Current Fiscal Year. For the purposes of this section, current fiscal year shall mean the current fiscal year of the state of Idaho. For distribution purposes, the current fiscal year shall begin with the distribution made in October, following collection of sales taxes in July, August, and September. (3-30-01)

04. Incorporated City. Incorporated city shall, for the current fiscal year, have a duly elected mayor and city council, and be recognized by the Bureau of the Census, U.S. Department of Commerce, for the distribution of federal general revenue sharing monies. (3-24-94)

05. Population And Valuation Estimates. Population and valuation estimates for distribution of revenue sharing monies shall be updated at least annually. Updated estimates shall be used beginning with the

October distribution. (3-24-94)

06. Determination Date And Eligibility. The eligibility of each city for revenue sharing monies pursuant to Section 63-3638(8)(a), Idaho Code, shall be determined as of July 1 of the current year. Cities formed after January 1, 2001 shall also be entitled to share of money pursuant to the provisions of Section 63-3638(8)(c), Idaho Code. (3-30-01)

07. Quarterly Certification. The State Tax Commission shall certify quarterly to each county clerk the base and excess shares of the distributions required pursuant to Section 63-3638(8)(c) and 63-3638(8)(d), Idaho Code, and the distributions to cities and counties required pursuant to Section 63-3638(8)(a) and 63-3638(8)(b), Idaho Code. Each county clerk shall calculate and certify the distribution of these monies to the eligible taxing districts based on the directives of the State Tax Commission. The clerk shall prepare and transmit to the county treasurer and the State Tax Commission separate copies of a single auditor's certificate showing the total combined certifications for base and excess distributions no later than the second Monday of the month following distribution of the revenue from the State Tax Commission. (~~3-30-01~~) ()

a. City and county base shares. For cities and counties, the initial base share shall be the amount of money to which they were entitled for the fourth calendar quarter of 1999, based on the provisions of Section 63-3638(e), Idaho Code, as such section existed prior to July 1, 2000. In addition, the initial base share shall be adjusted proportionally to reflect increases that become available or decreases that occur, unless increases exceed five percent (5%) of the initial base share. (3-30-01)

b. Special purpose taxing district base shares. For special purpose taxing districts the initial base share shall be the amount of money to which they were entitled for the fourth calendar quarter of 1999, based on the provisions of Section 63-3638(e), Idaho Code, as such section existed prior to July 1, 2000. Special purpose taxing district initial base shares shall be proportionally reduced to reflect decreases in the amount of sales tax available to be distributed. (3-30-01)

c. Excess shares. Excess shares shall be any amounts above the base share that any city, county or special purpose taxing district is entitled to receive pursuant to Section 63-3638(8)(c) or 63-3638(8)(d), Idaho Code. These amounts shall not be subject to redistribution provisions of Section 40-801, Idaho Code. (3-30-01)

d. Shares Pursuant to Section 63-3638(8)(a) or 63-3638(8)(b), Idaho Code. Shares to be distributed pursuant to Section 63-3638(8)(a) or 63-3638(8)(b), Idaho Code, shall be termed "revenue sharing". Such shares shall be subject to quarterly distribution and for this purpose, the one million three hundred twenty thousand dollars (\$1,320,000) distribution pursuant to Section 63-3638(8)(b)(i), Idaho Code, shall be considered an annual amount and shall be divided into four (4) equal shares. (3-30-01)

08. Notification Of Value. The county auditor shall notify the State Tax Commission of the value of each taxing district and unit as specified in Section 63-510, Idaho Code. (3-30-01)

09. Corrections. (3-30-01)

a. When distributions have been made erroneously, corrections shall be made to the following quarterly distribution(s) so as to provide the quickest practicable restitution to affected taxing districts. Corrections shall be made to reconcile erroneous distributions made for the current fiscal year. Errors made in distributions made for the last quarter of the current fiscal year shall be corrected as soon as practicable in distributions made for the following fiscal year. (3-30-01)

b. The State Tax Commission shall notify affected county clerks when the State Tax Commission becomes aware of an error in the distribution of the base or excess shares. (3-30-01)

c. The State Tax Commission shall notify affected cities or county clerks when the State Tax Commission becomes aware of an error in the distribution of city or county revenue sharing monies. (3-30-01)

IDAPA 35 - STATE TAX COMMISSION

35.01.09 - IDAHO COUNTY OPTION KITCHEN AND TABLE WINE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0109-0201

NOTICE OF RULEMAKING - 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(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 September 18, 2002.

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:

Wine Tax Rule 021, Declaratory Rulings, contains an outdated cross-reference to the Income Tax Rules. The correct reference is now in IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules". The rule is also being amended to clarify that declaratory rulings are not public records.

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 Jim Husted, 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 September 25, 2002.

DATED this 28th day of June, 2002.

Jim Husted, Tax Policy
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36
Boise, ID 83722

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0109-0201

021. DECLARATORY RULINGS (Rule 021).

Declaratory Rulings may be made by the State Tax Commission under the provisions of Section 67-5255, Idaho Code, and *Idaho Income Tax, ISTC 35.01.01, Section 131, which may be reviewed at any Tax Commission office and at depository libraries listed in Section 67-5205(e), Idaho Code* IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 110. (7-1-93)()

IDAPA 35 - STATE TAX COMMISSION

35.01.10 - IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0110-0201

NOTICE OF RULEMAKING - 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(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 September 18, 2002.

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:

Cigarette and Tobacco Tax Rule 013, Shipments In Interstate Commerce, contains an incorrect reference to Section 63-3505, Idaho Code. The rule is being amended to correct the reference to Section 63-2505, Idaho Code.

Cigarette and Tobacco Tax Rule 022, Exemptions, states that distributors may claim a credit for tobacco products delivered to customers in another state. The rule is being amended to clarify that Section 63-2559, Idaho Code, limits the credit distributors may claim to sales to retailers only.

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 Jim Husted, 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 September 25, 2002.

DATED this 2nd day of July, 2002.

Jim Husted, Tax Policy
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36, Boise, ID 83722

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0110-0201

013. SHIPMENTS IN INTERSTATE COMMERCE (Rule 013).

Sales of cigarettes in the course of interstate commerce for purposes of Section 63-~~3~~2505, Idaho Code, include only those sales where title is transferred outside the state of Idaho, or on U.S. military reservations, or on Indian reservations. (7-1-03)()

01. Types Of Conveyances. Shipments of cigarettes to U.S. military reservations or Indian reservations must be made by conveyance used in the normal operation of the wholesaler's business, or by common carrier hired by the wholesaler. (7-1-93)

a. In the case of shipment by common carrier, a copy of the bill of lading must be kept on file at the wholesaler's place of business for three (3) years. (7-1-93)

b. In the case of shipments by the wholesaler's conveyance, an itemized receipt must be obtained by the wholesaler bearing the signature of the receiver's representative and the wholesaler's employee making such delivery. Receipts must be serially numbered. (7-1-93)

02. Records Of Unstamped Deliveries. In addition, all deliveries made outside the state and all deliveries made to U.S. military reservations or Indian reservations, and which are delivered without a state tax indicia of another state must be listed in a chronological log by delivery date and customer. The log must contain the following information: delivery date, number of cigarettes delivered, and an itemized receipt number, as described in Subsection 013.01.b. of this rule. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

022. EXEMPTIONS (Rule 022).

01. Credit For Taxes Paid. Tobacco distributors may claim a credit for taxes paid on tobacco products other than cigarettes that are: (7-1-93)

a. Sold and delivered to ~~customers~~ retailers at locations outside the state of Idaho; (~~7-1-93~~)()

b. Sold and delivered to the United States Government on U.S. Military reservations located within Idaho; (7-1-93)

c. Sold and delivered to a purchaser within the boundaries of an Idaho Indian reservation when the purchaser is an enrolled member of an Idaho Indian tribe; a business enterprise wholly owned and operated by an enrolled member or members of an Idaho Indian tribe; or a business enterprise wholly owned and operated by an Idaho Indian tribe. (7-1-93)

02. Indian Reservations. Indian reservation means lands which are: (7-1-93)

a. Indian lands federally declared to be reservations because they are reserved for Indian tribes by treaty between Indian tribes and any territorial governments, state government, or the United States Government; established by acts of the United States Congress; established by formal decision of the Executive Branch of the United States; or (7-1-93)

b. Held by an Idaho Indian tribe not holding lands which meet the definition of Subsection 022.02.a., above, and are tribal lands held in trust by the United States for the use and benefit of such tribe. (7-1-93)

03. Non-Indian Enterprises. Tobacco distributors may not claim a credit for taxes paid on tobacco products sold to non-Indian enterprises or persons located within the boundaries of an Idaho Indian reservation. (7-1-93)

04. Non-Indian Retailers. Non-Indian retailers located within the boundaries of an Idaho Indian reservation may not sell tobacco products upon which tobacco products tax has not been paid. (7-1-93)

IDAPA 35 - STATE TAX COMMISSION
35.01.12 - IDAHO BEER TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0112-0201
NOTICE OF RULEMAKING - 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(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 September 18, 2002.

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:

Beer Tax Rule 025, Declaratory Rulings, contains an outdated cross-reference to the Income Tax Rules. The correct rule is now in IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules". The rule is also being amended to clarify that declaratory rulings are not public records.

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 Jim Husted, 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 September 25, 2002.

DATED this 28th day of June, 2002.

Jim Husted, Tax Policy
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36
Boise, ID 83722

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0112-0201

025. DECLARATORY RULINGS (Rule 025).

Declaratory Rulings may be made by the Tax Commission under the provisions of Section 67-5255, Idaho Code, and ~~Idaho Income Tax Rule, ISTC 131, which may be reviewed at any Tax Commission office and at depository libraries listed in Section 67-5205(e), Idaho Code~~ IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 110. (7-1-93)()

IDAPA 48 - DEPARTMENT OF COMMERCE

48.01.03 - RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM

DOCKET NO. 48-0103-0101

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is January 22, 2002. This pending rule has been adopted by the agency and is now pending review by the 2003 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 67-4715, 67-4717, and 67-4718, Idaho Code.

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

In Section 204 changes have been made to Subsection 204.08 and Subsections 204.08.a.i. and 204.08.a.ii. The amendments change the existing print and credit statement requirements and replace them with a standard, Idaho Travel Council approved logo to enhance marketing/promotion efforts.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and the amended Subsections are being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department of Commerce amended the temporary rule with the same revisions that have been made to the pending rule.

Only the sections that have changes differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the November 7, 2001 Idaho Administrative Bulletin, Vol. 01-11, pages 82 through 89.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Idaho Department of Commerce, Carl Wilgus (208) 334-2470.

DATED this 9th day of July, 2002.

Carl Wilgus
Administrator, Tourism Development
Department of Commerce
700 W. State St.
PO Box 83720
Boise ID 83720-0093
(208) 334-2470
FAX (208) 334-2631

IDAPA 48, TITLE 01, Chapter 03

RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 01-11, November 7, 2001, pages 82 through 89.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 48-0103-0101

SECTION 204

204. PLAN REQUIREMENTS.

Applicants must follow these requirements:

(2-22-93)

SUBSECTIONS 204.08, 204.08.a.i. AND 204.08.a.ii.

08. Credit ~~Statement~~ Logo And Printing Identification. All plans funded by the Idaho Regional Travel and Convention Grant Program shall credit said program. ~~(2-22-93)~~(1-22-02)T

a. A logo, as determined and provided by the ITC, with the following guidelines, will be placed on all ITC funded brochures. Special permission to adjust the size of the approved ITC logo, except where specified in these rules, must be granted by the state. (10-3-01)T

i. The approved ITC logo will ~~only~~ be used in ~~black on black and white brochures, and one (1) or two (2) color~~ all publications in a color in keeping with the design of the piece and must be pre-approved by ITC staff before final printing. ~~(10-3-01)T~~(1-22-02)T

ii. ~~Four (4) color publications will use the color approved ITC logo.~~

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

IDAPA 54 - OFFICE OF THE STATE TREASURE

54.02.01 - RULES GOVERNING THE COLLEGE SAVINGS PROGRAM

DOCKET NO. 54-0201-0201

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2003 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-5402, 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 June 5, 2002 Idaho Administrative Bulletin, Volume 02-6, pages 50 through 55.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this pending rule, contact Judy Comstock, Chair, (208) 334-3200.

DATED this 27th day of July, 2002.

Judy Comstock, Chair
College Savings Program
Office of the State Treasurer
State Capitol Building, Room 101
P.O. Box 83720
Boise, ID 83720-0091
(208) 334-3200
Fax: (208) 332-2960

IDAPA 54, TITLE 02, Chapter 01

RULES GOVERNING THE COLLEGE SAVINGS PROGRAM

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 02-5, June 5, 2002, pages 50 through 55.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0202

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Sections 39-105 and 39-107, Idaho Code. In addition, this rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act.

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

October 8, 2002, 7 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208)373-0418.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to propose several revisions to clarify and streamline the air quality stationary source permitting program. Following is a list of the IDAPA 58.01.01 rule sections for which revisions are proposed and an explanation of the changes.

Subsection 008.11 and Section 107 – Update of Federal Regulations Incorporated by Reference.

This proposed rule updates citations to the federal regulations incorporated by reference to include those revised as of July 1, 2002 in order to maintain conformance with EPA's regulations as well as fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act and 40 CFR Part 70. This includes the Maximum Achievable Control Technology (MACT) Standards promulgated as National Emissions Standards for Hazardous Air Pollutants (NESHAPS).

Subsection 203.03 – Permit to Construct Requirements – Toxics.

The proposed modification removes the last sentence of Subsection 203.03. Section 161 broadly prohibits the release of toxic substances in quantities that injure or unreasonably affect human or animal life or vegetation. This is in accordance with the goal of protecting human health and the environment established by the Environmental Protection and Health Act (EPHA), Section 39-102A(5), Idaho Code. The requirements of Sections 585 and 586 apply to a very specific subset of toxic substances listed by the Department as air pollutants toxic to human or animal life or vegetation. Compliance with a narrowly-defined procedure for reviewing incremental increases of a limited subset of pollutants cannot ensure the comprehensive protection of public health or the environment required under the EPHA and Section 161 due to the cumulative effect of multiple air pollution sources and incremental increases. The sentence precluding the general protective authority of Section 161 has been deleted from Subsection 203.03 to ensure the Department can implement its responsibilities under the EPHA.

Subsections 209.01.c., 700.01, and Sections 710-724 – Particulate Matter – Process Weight Limitations.

Revisions are proposed to remove the grain-loading standard. By letter dated May 15, 2001, EPA returned to the Department as incomplete the amendments to Section 209 and 700 and new Section 710, which replace the Idaho particulate matter process weight rate standards with particulate matter concentration limits – grain-loading standards. Idaho industry submitted the technical justifications for the change. EPA determined that “[t]he technical material submitted with the amended rules shows that the new particulate matter concentration limits are less stringent than the old particulate matter process weight rate standards for existing sources.” Since that time, new technical justifications have not been developed, nor have sources agreed to a tightening of the concentration limits; therefore, the Department is proposing to return to the process weight rate standard. This rule change will provide certainty and consistency to facilities receiving permits.

Subsection 213.02 – Permit to Construct - Pre-Permit Construction.

Revision is proposed to correct a section number reference.

Section 228, Section 395, and Section 410 – Appeal Time Frames - Permit to Construct Application and Processing Fees, Tier I Operating Permit Fees, and Tier II Operating Permit Processing Fees.

Revisions are proposed to make the time frames for filing appeals consistent with provisions of IDAPA 58.01.23.100 “Rules of Administrative Procedure Before the Board of Environmental Quality.” Section 100 of the Administrative Procedure rules allows a person 35 days from the date of an action to file a petition initiating a contested case.

Subsection 313.01 – Timely Application – Original Tier I Operating Permits.

Revision is proposed to clarify that the Department is not requiring the submittal of an application for a Tier I permit by those owners or operators of deferred Tier I sources under Subsection 301.02.b.iv who fail to timely register the source pursuant to Subsection 313.01.f. Rather, to correct the problem, the owner or operator may submit the registration information described in Subsection 313.01.f. Submission of a Tier I application remains an option pursuant to Section 302.

Subsection 317.01.b.i.(30) – Tier I Operating Permit Program Insignificant Activities.

Revision is proposed to codify the Department’s current policy interpreting and applying this section of the rule. The change is consistent with, and will not change, current practice.

Subsections 401.04, 404.04, and 405.03 through 405.05 – Expiration-Renewal of Tier II Operating Permits.

Under the current rule, Tier II operating permits must be written to expire within five (5) years. A renewal application must be submitted to the Department. The proposed change gives the Department the flexibility to issue Tier II operating permits with terms and conditions that do not expire. Under the proposal, for permits with no expiration date, the permittee need only notify the Department what, if any, changes have been made to the facility that may affect the Tier II operating permit. If no changes have been made and the facility continues to meet the applicable requirements, the permit will not be reissued. Tier II operating permits would only be updated, revised, or reissued when changes are made to the facility.

Section 511 – Stack Height and Dispersion Techniques – Applicability.

Revisions are proposed to correct errors in cross-referencing section numbers.

Subsection 581.01 – Prevention of Significant Deterioration Increments.

Revision to the table in Subsection 581.01 clarifies the information in the Class II Areas section.

Section 585 and Section 586 – Toxic Air Pollutant Increments.

Revisions to Sections 585 and 586 are proposed to correct spelling and capitalization errors and to update compound values as indicated below. The updated tables have been assigned subsection numbers. To assist the users of these rules, a second table, sorted by CAS number, has been added to each section with a separate subsection number.

- * Compounds that had “CL” added either were based on ACGIH ceiling levels and the “CL” notation was left off or reflects a change in the ACGIH TLV listing.
- * Compounds that have had only the values adjusted reflect the latest ACGIH or EPA data.
- * acetamide was moved from Section 585 to 586 based on CA EPA data.
- * arsine has been combined into the arsenic compounds category.
- * butoxyethyl acetate reflects NIOSH toxics data and was so noted.
- * 1,2, epoxybutane was moved from Section 585 to 586 and reflects the CA EPA Relative Exposure Level (REL) as the best available data.
- * ethylene thiourea was moved from Section 585 to 586 based on CA EPA data.
- * fibrous glass dust, fine mineral fibers and mineral wool fibers were combined into synthetic vitreous fibers to reflect the latest ACGIH data.
- * methyl mercury was separated out from the other mercury compound fibers to reflect the latest ACGIH data.
- * naphtha and rubber solvent are the same and were double listed and was corrected.
- * paraquat was double listed and was corrected.
- * refractory ceramic fibers is now listed separately to reflect the latest ACGIH data.
- * silicon carbide fibrous was listed separately from silicon to reflect the latest ACGIH data.
- * strychnine sulfate was combined with strychnine and compounds because it has the same ACGIH toxicity values.
- * Synthetic vitreous fibers was added, and other fibrous compounds were placed in this category to reflect the

- latest ACGIH data.
- * Under tantalum, “metal oxides and dusts” was added to reflect the latest ACGIH data.
 - * tetraethyltin was combined into the tin category to reflect the latest ACGIH data.
 - * analine and arimite were changed from outdated EPA URLs to current CA EPA values.
 - * aroclor (PCB) was modified to reflect the latest EPA data.
 - * benzo(a)pyrene was changed to reflect State of Washington data instead of the outdated EPA data. Idaho uses the Washington methodology to evaluate polyaromatic hydrocarbon mixtures.
 - * methyl chloride was moved from Section 586 to 585 to reflect the latest ACGIH and EPA data.
 - * alpha and beta hexachlorocyclohexane were double listed and was corrected.
 - * panfuran S (dihydroxymethyl furtrazine) is no longer listed by ACGIH, EPA or CA EPA so was withdrawn.
 - * polyaromatic hydrocarbons values were a typographic error and were deleted.
 - * tetrachloroethylene no longer has a EPA URL, so the CA EPA data was substituted
 - * trichloroethylene was moved from Section 585 to 586 but since trichloroethylene no longer has a EPA URL, the CA EPA data was substituted.

Section 106 – Abbreviations.

New abbreviations numbered 106.05 and 106.06 have been added to coincide with new references in revised Sections 585 and 586. Remaining sections have been renumbered.

Representatives of stationary sources of air pollution which have or are required to obtain construction or operating permits may be interested in this rulemaking. Special interest groups or members of the public who wish to contribute to a more effective permitting process may also wish to participate.

Sections 585 and 586 contain toxic air pollutants not included in the federal government’s initial list of hazardous air pollutants at Section 112 of the Clean Air Act. 42 U.S.C. 7412(b)(1). Releases of 585 and 586 toxic air pollutants may be subject to regulation or reporting under other federal programs such as the Resource Conservation and Recovery Act (RCRA), the Comprehensive Environmental Responsibility, Compensation and Liability Act (CERCLA), Hazardous Materials Transportation or the Emergency Planning and Community Right to Know Act (EPCRA). Additionally, under Section 303 of the Clean Air Act, the Environmental Protection Act (EPA) Administrator may issue an order as necessary to protect public health or welfare or the environment. Congress did not limit the Administrator’s injunctive authority to a specific list of pollutants. Therefore, the proposed rule may or may not be more stringent than federal law.

After consideration of public comments, the Department intends to present the final proposal to the Board of Environmental Quality in November 2002 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2003 session of the Idaho Legislature. The rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

NEGOTIATED RULEMAKING: The text of the rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Section 67-5220, Idaho Code, and IDAPA 04.11.01.812 through 815. The negotiation was open to the public. Participants in the negotiation included government and industry representatives. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume 02-4, April 3, 2002, page 18.

GENERAL INFORMATION: For more information about the Department’s programs and activities, visit the Department’s web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact Phyllis Heitman, (208)373-0502, pheitman@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before October 9, 2002.

Dated this 24th day of July, 2002.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-0202

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

- 01. Affected States.** All States: (5-1-94)
- a.** Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)
- b.** That are within fifty (50) miles of the Tier I source. (5-1-94)
- 02. Allowance.** An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)
- 03. Applicable Requirement.** All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)
- a.** Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)
- b.** Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (4-5-00)
- c.** Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)
- d.** Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)
- e.** Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)
- f.** Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)
- g.** Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)
- h.** Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)
- i.** Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR

Part 82. (5-1-94)

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

04. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

05. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

06. Emergency. For the purposes of Section 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (4-5-00)

07. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

08. General Permit. A Tier I permit issued pursuant to Section 335. (3-23-98)

09. Insignificant Activity. Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)

10. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

a. For hazardous air pollutants: (3-23-98)

i. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

ii. The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. For non-attainment areas: (3-23-98)

i. The facility is located in a "serious" particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

ii. The facility is located in a "serious" carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c

and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is "marginal" or "moderate", one hundred (100) tpy or more, if the area is "serious", fifty (50) tpy or more, if the area is "severe", twenty-five (25) tpy or more, and if the area is "extreme", ten (10) tpy or more. (3-23-98)

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant listed in Subsections 006.84.a. through 006.84.e. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (4-5-00)

i. Designated facilities. (3-23-98)

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-5-00)

11. Part 70. Unless specified otherwise in this chapter, all definitions adopted under 40 CFR Part 70, revised as of July 1, 2002, are hereby incorporated by reference. (~~3-15-02~~) ()

12. Permit Revision. Any permit modification, administrative amendment or reopening. (3-19-99)

13. Phase II Source. A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651o and shall have the meaning given to it pursuant to those sections. (5-1-94)

14. Phase II Unit. A unit that is subject to emissions reduction requirements of 42 U.S.C. Sections 7651 through 7651o and the term shall have the meaning given to it pursuant to those sections. (5-1-94)

15. Proposed Permit. The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)

16. Section 502(b)(10) Changes. Changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements. (3-19-99)

17. Tier I Operating Permit. Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 386. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

106. ABBREVIATIONS.

01. AAC. Acceptable Ambient Concentration. (5-1-94)

02. AACC. Acceptable Ambient Concentration for a Carcinogen. (5-1-94)

03. ACGIH. American Conference of Government Industrial Hygienists. (5-1-94)

04. CAS. Chemical Abstract Service. (5-1-94)

- ~~05.~~ **CA EPA.** California Environmental Protection Agency. ()
- ~~06.~~ **CA EPA REL.** California Environmental Protection Agency Relative Exposure Level. ()
- ~~057.~~ **CL.** Derived form ACGIH ceiling ~~limit~~ UF = 10. (~~5-1-94~~)()
- ~~068.~~ **EL.** Emissions Screening Level. (5-1-94)
- ~~079.~~ **ID.** Idaho Division of Environmental Quality. Not OEL based. (5-1-94)
- ~~0810.~~ **LA.** From LA Dept. of Environmental Quality. Not OEL based eight (8) hour TWA. (5-1-94)
- ~~0911.~~ **MA.** From MA Dept. of Environmental Protection, Div. of Air Quality Control. Not OEL based, annual averaging time, no uf. (5-1-94)
- ~~102.~~ **MI.** From MI Dept. of Natural Resources, Air Quality Div. Based on toxicological data, annual av. time, no uf. (5-1-94)
- ~~113.~~ **NY.** From New York Dept. of Conservation, Div. of Air Quality. Not OEL based, one (1) yr. Av. time no uncertainty factor (uf). (5-1-94)
- ~~124.~~ **OEL.** Reference Occupational Exposure Level. (5-1-94)
- ~~135.~~ **PL.** From Phil. Dept. of Air Management Services. Not OEL based, one (1) yr. averaging time no uf. (5-1-94)
- ~~146.~~ **PL1.** From Phil. Dept. of Air Management Services. Unspecified OEL based, one (1) yr. averaging time, uf=10. (5-1-94)
- ~~157.~~ **PL2.** From Phil. Dept. of Air Management Services. Not OEL based one (1) yr. Av. time, uf=10. (5-1-94)
- ~~168.~~ **PL3.** From Phil. Dept. of Air Management Services. Not OEL based, one (1) yr. av. time, uf=1000. (5-1-94)
- ~~179.~~ **TWA.** Time Weighted Average. (5-1-94)
- ~~1820.~~ **UF.** Uncertainty Factor. (5-1-94)
- ~~1921.~~ **URF.** Unit Risk Factor from the US Environmental Protection Agency. (5-1-94)
- ~~202.~~ **WA.** From Washington Dept. of Ecology, Air Programs. Acceptable Source Impact Level based. (5-1-94)

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term “documents” includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability Of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

a. All federal publications: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 at (202) 783-3238; and (5-1-94)

- b. All documents herein incorporated by reference: (7-1-97)
0502. i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373- (7-1-97)
- ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

03. Documents Incorporated By Reference. The following documents are incorporated by reference into these rules: (5-1-94)

a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Appendix W to Part 51--Guideline on Air Quality Models. 40 CFR Parts 51 and 52 revised as of July 1, 200~~7~~₂. (~~3-15-02~~)()

b. Implementation Plan for the Control of Air Pollution in the State of Idaho (SIP), Department of Environmental Quality, November 1996. (3-19-99)

c. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 200~~7~~₂. (~~3-15-02~~)()

d. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, Identification of Integral Vistas, Subsection a, 40 CFR Part 51.304(a), revised as of July 1, 200~~7~~₂. (~~3-15-02~~)()

e. Approval and Promulgation of Implementation Plans, 40 CFR Part 52, revised as of July 1, 200~~7~~₂. (~~3-15-02~~)()

200~~7~~₂. f. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, (~~3-15-02~~)()

g. Ambient Air Quality Surveillance, Quality Assurance Requirements for Prevention of Significant Deterioration (PSD Air Monitoring), 40 CFR Part 58, Appendix B, revised as of July 1, 200~~7~~₂. (~~3-15-02~~)()

h. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 200~~7~~₂. (~~3-15-02~~)()

200~~7~~₂. i. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, (~~3-15-02~~)()

revised as of July 1, 200~~7~~₂. j. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, (~~3-15-02~~)()

k. Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 200~~7~~₂. (~~3-15-02~~)()

l. Permits, 40 CFR Part 72, revised as of July 1, 200~~7~~₂. (~~3-15-02~~)()

m. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 200~~7~~₂. (~~3-15-02~~)()

n. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 200~~7~~₂. (~~3-15-02~~)()

o. Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)

p. Determining Conformity of Federal Actions to State or Federal Implementation Plans: Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, 40 CFR Part 93, Subpart A, Sections 93.100 through 93.129, revised as of July 1, 200~~7~~₂, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f),

93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. (3-15-02)(_____)

(BREAK IN CONTINUITY OF SECTIONS)

203. PERMIT REQUIREMENTS FOR NEW AND MODIFIED STATIONARY SOURCES.

~~No~~ The Department shall not grant a permit to construct ~~shall be granted~~ for a new or modified stationary source unless the applicant shows to the satisfaction of the Department all of the following: (5-1-94)(_____)

01. Emission Standards. The stationary source or modification would comply with all applicable local, state or federal emission standards. (5-1-94)

02. NAAQS. The stationary source or modification would not cause or significantly contribute to a violation of any ambient air quality standard. (5-1-94)

03. Toxic Air Pollutants. Using the methods provided in Section 210, the emissions of toxic air pollutants from the stationary source or modification would not ~~injure or unreasonably affect human or animal life or vegetation as required by Section 161~~ exceed the Screening Emissions Limits or Acceptable Ambient Concentrations set forth in Sections 585 or 586. ~~Compliance with all applicable toxic air pollutant carcinogenic increments and toxic air pollutant non-carcinogenic increments will also demonstrate preconstruction compliance with Section 161 with regards to the pollutants listed in Sections 585 and 586.~~ (6-30-95)(_____)

(BREAK IN CONTINUITY OF SECTIONS)

209. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for permits to construct. (5-1-94)

a. Within thirty (30) days after receipt of the application for a permit to construct, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing. (5-1-94)

b. Within sixty (60) days after the application is determined to be complete the Department shall: (5-1-94)

i. Upon written request of the applicant, provide a draft permit for applicant review. Agency action on the permit under this Section may be delayed if deemed necessary to respond to applicant comments. (4-5-00)

ii. Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 209.01.c. The Department shall set forth reasons for any denial; or (5-1-94)

iii. Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)

c. An opportunity for public comment will be provided on all applications requiring a permit to construct. Public comment shall be provided on an application for any new major facility or major modification, any new facility or modification which would affect any Class I area, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516, any application which uses an interpollutant trade pursuant to Subsection 210.17, ~~any application for a permit with a particulate matter emission standard requested pursuant to Subsection 710.10;~~ any application which the Director determines an

opportunity for public comment should be provided, and any application upon which the applicant so requests.

~~(3-30-01)~~(____)

i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. (5-1-94)

ii. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (5-1-94)

iii. A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. (5-1-94)

iv. There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. (5-1-94)

v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, or notice of public hearing if one is requested under Subsections 209.02.b.iv. or 209.02.a.ii., unless the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. (5-1-94)

vi. All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. (5-1-94)

d. A copy of each permit will be sent to the U.S. Environmental Protection Agency. (5-1-94)

02. Additional Procedures For Specified Sources. (5-1-94)

a. For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant, except for those new major facilities and major modifications exempted under Subsection 205.04. (4-5-00)

i. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the degree of increment consumption that is expected from the new major facility or major modification; and (5-1-94)

ii. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effects of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-23-98)

b. For any new major facility or major modification which would affect a federal Class I area or an integral vista of a mandatory federal Class I area. (5-1-94)

i. If the Department is notified of the intent to apply for a permit to construct, it shall notify the appropriate Federal Land Manager within thirty (30) days; (5-1-94)

ii. A copy of the permit application and all relevant information, including an analysis of the anticipated effects on visibility in any federal Class I area, shall be sent to the Administrator of the U.S. Environmental Protection Agency and the Federal Land Manager within thirty (30) days of receipt of a complete application and at least sixty (60) days prior to any public hearing on the application; (5-1-94)

iii. Notice of every action related to the consideration of the permit shall be sent to the Administrator

of the U.S. Environmental Protection Agency; (5-1-94)

iv. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effect of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-23-98)

v. The notice of public hearing, if required, shall explain any differences between the Department's preliminary determination and any visibility analysis performed by the Federal Land Manager and provided to the Department within thirty (30) days of the notification pursuant to Subsection 209.02.b.ii. (5-1-94)

vi. Upon a sufficient showing by the Federal Land Manager that a proposed new major facility or major modification will have an adverse impact upon the air quality related values (including visibility) of any federal mandatory Class I area, the Director may deny the application notwithstanding the fact that the concentrations of regulated air pollutants would not exceed the maximum allowable increases for a Class I area. (4-5-00)

03. Establishing A Good Engineering Stack Height. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. (5-1-94)

04. Revisions Of Permits To Construct. The Director may approve a revision of any permit to construct provided the stationary source or facility continues to meet all applicable requirements of Sections 200 through 228. Revised permits will be issued pursuant to procedures for issuing permits (Section 209), except that the requirements of Subsections 209.01.c., 209.02.a., and 209.02.b., shall only apply if the permit revision results in an increase in emissions authorized by the permit or if deemed appropriate by the Director. (7-1-02)

05. Permit To Construct Procedures For Tier I Sources. For Tier I sources that require a permit to construct, the owner or operator shall either: (5-1-94)

a. Submit only the information required by Sections 200 through 219 for a permit to construct, in which case: (3-23-98)

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. (5-1-94)

ii. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (3-23-98)

iii. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02. (4-5-00)

iv. Unless a different time is prescribed by these rules, the applicable requirements contained in a permit to construct will be incorporated into the Tier I operating permit during renewal (Section 269). Where an existing Tier I permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation. Tier I sources required to meet the requirements under Section 112(g) of the Clean Air Act (Section 214), or to have a permit under the preconstruction review program approved into the applicable implementation plan under Part C (Section 205) or Part D (Section 204) of Title I of the Clean Air Act, shall file a complete application to obtain a Tier I permit revision within twelve (12) months after commencing operation. (3-19-99)

v. The application or minor or significant permit modification request shall be processed in accordance with timelines: Section 361 and Subsections 367.02 through 367.05. (3-19-99)

- vi. The final Tier I operating permit action shall incorporate the relevant terms and conditions from the permit to construct; or (4-5-00)
- b.** Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 386 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)
- i. Completeness of the application shall be determined within thirty (30) days. (5-1-94)
- ii. The Department shall prepare a proposed permit to construct or denial in accordance with Sections 200 through 219 and a draft Tier I operating permit or Tier I operating permit modification in accordance with Sections 300 through 386 within sixty (60) days. (4-5-00)
- iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364 and 365 on the proposed permit to construct or denial and draft Tier I operating permit or Tier I operating permit modification. (4-5-00)
- iv. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial within fifteen (15) days of the close of the public comment period. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)
- v. The final permit to construct will be sent to EPA, along with the proposed Tier I operating permit or modification. The proposed Tier I operating permit or modification shall be sent for review in accordance with Section 366. (4-5-00)
- vi. The Tier I operating permit, or Tier I operating permit modification, will be issued in accordance with Section 367. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02; or (4-5-00)
- c.** Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 381 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)
- i. Completeness of the application shall be determined within thirty (30) days. (4-5-00)
- ii. The Department shall prepare a draft permit to construct or denial in accordance with Sections 200 through 219 and that also meets the requirements of Sections 300 through 381 within sixty (60) days. (4-5-00)
- iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364, and 365 on the draft permit to construct or denial. (4-5-00)
- iv. The Department shall prepare and send a proposed permit to construct or denial to EPA for review in accordance with Section 366. EPA review of the proposed permit to construct or denial in accordance with Section 366 can occur concurrently with public comment and affected state review of the draft permit, as provided in Subsection 209.05.c.iii. above, except that if the draft permit or denial is revised in response to public comment or affected state review, the Department must send the revised proposed permit to construct or denial to EPA for review in accordance with Section 366. (4-5-00)
- v. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial in accordance with Section 367. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)
- vi. The permittee may, at any time after issuance, request that the permit to construct requirements be incorporated into the Tier I operating permit through an administrative amendment in accordance with Section 381. The owner or operator may operate the source or modification upon submittal of the request for an administrative amendment. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

213. PRE-PERMIT CONSTRUCTION.

This section describes how owners or operators may commence construction or modification of certain stationary sources before obtaining the required permit to construct. (3-23-98)

01. Pre-Permit Construction Eligibility. Pre-permit construction approval is available for non-major sources and non-major modifications and for new sources or modifications proposed in accordance with Subsection 213.01.d. Pre-permit construction is not available for any new source or modification that: uses emissions netting to stay below major source levels; uses optional offsets pursuant to Section 206; or would have an adverse impact on the air quality related values of any Class I area. Owners or operators may ask the Department for the ability to commence construction or modification of qualifying sources under Section 213 before receiving the required permit to construct. To obtain the Department's pre-permit construction approval, the owner or operator shall satisfy the following requirements: (4-5-00)

a. The owner or operator shall apply for a permit to construct in accordance with Subsections 202.01.a., 202.02, and 202.03 of this chapter. (3-23-98)

b. The owner or operator shall consult with Department representatives prior to submitting a pre-permit construction approval application. (3-23-98)

c. The owner or operator shall submit a pre-permit construction approval application which must contain, but not be limited to: a letter requesting the ability to construct before obtaining the required permit to construct, a copy of the notice referenced in Subsection 213.02; proof of eligibility; process description(s); equipment list(s); proposed emission limits and modeled ambient concentrations for all regulated air pollutants, such that they demonstrate compliance with all applicable air quality rules and regulations. The models shall be conducted in accordance with Subsection 202.02 and with written Department approved protocol and submitted with sufficient detail so that modeling can be duplicated by the Department. (4-5-00)

d. Owners or operators seeking limitations on a source's potential to emit such that permitted emissions will be either below major source levels or below a significant increase must describe in detail in the pre-permit construction application the proposed restrictions and certify in accordance with Section 123 that they will comply with the restrictions, including any applicable monitoring and reporting requirements. (3-23-98)

02. Permit To Construct Procedures For Pre-Permit Construction. (3-23-98)

a. Within ten (10) days after the submittal of the pre-permit construction approval application, the owner or operator shall hold an informational meeting in at least one (1) location in the region in which the stationary source or facility is to be located. The informational meeting shall be made known by notice published at least ten (10) days before the meeting in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. A copy of such notice shall be included in the application. (3-23-98)

b. Within fifteen (15) days after the receipt of the pre-permit construction approval application, the Department shall notify the owner or operator in writing of pre-permit construction approval or denial. The Department may deny the pre-permit construction approval application for any reason it deems valid. (3-23-98)

c. Upon receipt of the pre-permit construction approval letter issued by the Department, the owner or operator may begin construction at their own risk as identified in Subsection 213.02.d. Upon issuance of the pre-permit construction approval letter, any and all potential to emit limitations addressed in the pre-permit construction application pursuant to Subsection 213.01.d. shall become enforceable. The owner or operator shall not operate those emissions units subject to permit to construct requirements in accordance with Section 200 unless and until issued a permit pursuant to Section 209. (~~3-23-98~~)()

d. If the pre-permit construction approval application is determined incomplete or the permit to

construct is denied, the Department shall issue an incompleteness or denial letter pursuant to Section 209. If the Department denies the permit to construct, then the owner or operator shall have violated Section 201 on the date it commenced construction as defined in Section 006. The owner or operator shall not contest the final permit to construct decision based on the fact that they have already begun construction. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

228. APPEALS.

A person may be able to file an appeal within thirty-five (305) days of the date the person receives an assessment from the Department under Section 225, in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (7-1-02)()

(BREAK IN CONTINUITY OF SECTIONS)

313. TIMELY APPLICATION.

01. Original Tier I Operating Permits. (5-1-94)

a. For Tier I sources existing on May 1, 1994, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit by no later than June 1, 1996, or within twelve (12) months of EPA approval of the Tier I operating program, whichever is earlier, unless: (3-20-97)

i. The Department provides written notification of an earlier date to the owner or operator. (5-1-94)

ii. The Tier I source is identified in Subsections 301.02.b. or 301.02.c. (5-1-94)

b. For sources that become Tier I sources after May 1, 1994, that are located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless: (3-23-98)

i. The Department provides written notification of an earlier date to the owner or operator. (5-1-94)

ii. The Tier I source is identified in Subsections 301.02.b. or 301.02.c. (5-1-94)

c. For initial phase II acid rain sources identified in Subsections 301.02.b.i. or 301.02.b.ii., the owner or operator of the initial Phase II acid rain source shall submit to the Department a complete application for an original Tier I operating permit by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides. (3-23-98)

d. For Tier I sources identified in Subsection 301.02.b.iii.: (3-23-98)

i. Existing on July 1, 1998, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit by no later than January 1, 1999, unless the Department provides written notification of an earlier date to the owner or operator. (3-23-98)

ii. That become Tier I sources after July 1, 1998, located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless the Department provides written notification of an earlier date to the owner or operator. (3-23-98)

- e. For Tier I sources identified in Subsection 301.02.b.iv.: (3-23-98)
- i. Existing on January 1, 2000, the owner or operator of the Tier I source shall- ~~(3-30-01)~~
- ~~(1) Submit to the Department a complete application for an original Tier I operating permit by no later than June 1, 2000; or (3-30-01)~~
- ~~(2) Register the source by submitting the information listed in Subsection 313.01.f. to the Department no later than May 1, 2001. Complete applications for an original Tier I operating permit for sources registered by May 1, 2001 shall be submitted to the Department no later than June 1, 2005, unless the Department provides written notification of an earlier date to the owner or operator. Any additional plans, specifications, evidence or documents that the Department may require to complete an evaluation of a registered source shall be furnished on request. (3-30-01)()~~
- ii. That become Tier I sources after January 1, 2000 but before January 1, 2005, and are located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall- ~~(3-30-01)~~
- ~~(1) Submit to the Department a complete application for an original Tier I operating permit within twelve (12) months of becoming a Tier I source or commencing operation, or (3-30-01)~~
- ~~(2) Register the source by submitting the information listed in Subsection 313.01.f. to the Department no later than twelve (12) months after becoming a Tier I source or commencing operation. Complete applications for an original Tier I operating permit for a Tier I source that registers under this provision shall be submitted to the Department no later than June 1, 2005, unless the Department provides written notification of an earlier date to the owner or operator. Any additional plans, specifications, evidence or documents that the Department may require to complete the evaluation of a registered source shall be furnished on request. (3-30-01)()~~
- iii. That become Tier I sources after January 1, 2005, that are located at a facility not previously authorized by a Tier I operating permit, the owner or operator of the Tier I source shall submit to the Department a complete application for an original Tier I operating permit within twelve (12) months after becoming a Tier I source or commencing operation, unless the Department provides written notification of an earlier date to the owner or operator. (3-30-01)
- f. ~~Any person owning or operating a Tier I source which applies~~ The registration information required under Subsections 313.01.e.i.(2) or 313.01.e.ii.(2) in lieu of applying Subsections 313.01.e.i.(1) or 313.01.e.ii.(1) shall, by May 1, 2001 or within twelve (12) months after becoming a Tier I source, register with the Department by providing includes the following information: ~~(3-30-01)()~~
- i. Facility information. The name, address, telephone number, and location of the facility. (3-30-01)
- ii. Owner/operator information. The name, address, and telephone numbers of the owners and operators. (3-30-01)
- iii. Facility emissions units. The number and type of emissions units present at the facility. (3-30-01)
- iv. Pollutant registration. The emissions from the previous calendar year, or other twelve (12) month period requested by the registrant and approved by the Department, for any regulated air pollutant based on actual annual emissions and/or an estimate of the actual annual emissions calculated using the unit's actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. Additional detailed information on sources, stacks, and emissions may be requested by the Department on an annual basis. (3-30-01)

02. Earlier Dates During Initial Period. Except as otherwise provided in these rules, during the initial period which begins May 1, 1994 and ends three (3) years after EPA approval of the Tier I operating program, the Department may designate Tier I sources for processing as follows: (5-1-94)

a. The Department may develop a general estimate of the total work load and benefits associated with the Tier I operating permit applications that are predicted to be submitted during the initial period including, but not limited to, original permit applications and significant permit modification applications. (3-19-99)

b. Considering the complexity of the applications, air quality benefits of permitting and requests for early actions from owners and operators, the Department may divide the applications into three (3) groups each representing approximately one-third (1/3) of the total work load and benefits. (5-1-94)

c. The Department may prioritize the three (3) groups and the Tier I sources within each group for processing, establish early application deadlines and notify the owners or operators of the Tier I sources in the group in writing of a required submittal date earlier than the general deadlines provided in Subsection 313.01. (5-1-94)

03. Renewals Of Tier I Operating Permits. The owner or operator of the Tier I source shall submit a complete application to the Department for a renewal of the Tier I operating permit at least six (6) months before, but no earlier than eighteen (18) months before, the expiration date of the existing Tier I operating permit. To ensure that the term of the operating permit does not expire before the permit is renewed, the owner or operator is encouraged to submit the application nine (9) months prior to expiration. (4-5-00)

04. Changes To Tier I Operating Permits. Sections 380 through 386 provide the requirements and procedures for changes at Tier I sources and to Tier I operating permits. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

317. INSIGNIFICANT ACTIVITIES.

01. Applicability Criteria. This Section contains the criteria for identifying insignificant activities for the purposes of the Tier I operating permit program. Notwithstanding any other provision of this rule, no emission unit or activity subject to an applicable requirement shall qualify as an insignificant emission unit or activity. Applicants may not exclude from Tier I operating permit applications information that is needed to determine whether the facility is major or whether the facility is in compliance with applicable requirements. (3-23-98)

a. Presumptively insignificant emission units. (3-23-98)

i. Except as provided above, the activities listed in this section may be omitted from the permit application. (3-23-98)

(1) Blacksmith forges. (3-23-98)

(2) Mobile transport tanks on vehicles except for those containing asphalt and not including loading and unloading operations. (3-23-98)

(3) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities. (3-23-98)

(4) Storage tanks, reservoirs and pumping and handling equipment of any size, limited to soaps, lubricants, lubricating oil, treater oil, hydraulic fluid, vegetable oil, grease, animal fat, aqueous salt solutions or other materials and processes using appropriate lids and covers where there is no generation of objectionable odor or airborne particulate matter. (3-23-98)

(5) Pressurized storage of oxygen, nitrogen, carbon dioxide, air, or inert gases. (3-3-95)L

(6) Storage of solid material, dust-free handling. (3-3-95)L

(7) Boiler water treatment operations, not including cooling towers. (3-23-98)

- (8) Vents from continuous emission monitors and other analyzers. (3-3-95)L
- (9) Vents from rooms, buildings and enclosures that contain permitted emissions units or activities from which local ventilation, controls, and separate exhaust are provided. (3-3-95)L
- (10) Internal combustion engines for propelling or powering a vehicle. (3-3-95)L
- (11) Recreational fireplaces including the use of barbecues, campfires and ceremonial fires. (3-3-95)L
- (12) Brazing, soldering, and welding equipment and cutting torches for use in cutting metal wherein components of the metal do not generate hazardous air pollutants or hazardous air pollutant precursors. (3-23-98)
- (13) Atmospheric generators used in connection with metal heat treating processes using non-hazardous air pollutant metals as the primary raw material. (3-23-98)
- (14) Non-hazardous air pollutant metal finishing or cleaning using tumblers. (3-23-98)
- (15) Drop hammers or hydraulic presses for forging or metalworking. (3-3-95)L
- (16) Electrolytic deposition, used to deposit brass, bronze, copper, iron, tin, zinc, precious and other metals not listed as the parents of hazardous air pollutants. (3-23-98)
- (17) Equipment used for surface coating, painting, dipping or spraying operations, except those that will emit volatile organic compound or hazardous air pollutant. (3-23-98)
- (18) Process water filtration systems. (3-23-98)
- (19) Portable electrical generators that can be moved by hand from one (1) location to another. Moved by hand means that it can be moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device. (3-23-98)
- (20) Plastic and resin curing equipment, excluding FRP and provided these activities are not related to the source's primary business activity. (3-23-98)
- (21) Extrusion equipment, metals, minerals, plastics, grain or wood used without solvents containing hazardous air pollutant. (3-23-98)
- (22) Presses and vacuum forming, for curing rubber and plastic products or for laminating plastics without solvents containing hazardous air pollutants present. (3-23-98)
- (23) Roller mills and calendars for use with rubber and plastics without solvents containing hazardous air pollutants. (3-23-98)
- (24) Conveying and storage of plastic pellets. (3-3-95)L
- (25) Plastic compression, injection, and transfer molding and extrusion, rotocasting, pultrusion, blowmolding, excluding acrylics, PVC, polystyrene and related copolymers and the use of plasticizer. Only oxygen, carbon dioxide, nitrogen, air or inert gas allowed as blowing agent. (3-3-95)L
- (26) Plastic pipe welding. (3-3-95)L
- (27) Wax application in either a molten state or aqueous suspension. (3-23-98)
- (28) Plant maintenance and upkeep including routine housekeeping, janitorial activities, cleaning and preservation of equipment, preparation for and painting of structures or equipment, retarring roofs, applying insulation to buildings in accordance with applicable environmental and health and safety requirements and lawn,

landscaping and groundskeeping activities. Provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and not otherwise triggering a permit modification. (3-23-98)

(29) Agricultural activities on a facility's property that are not subject to registration or new source review by the permitting authority. (3-3-95)L

(30) Maintenance of paved streets and parking lots including paving, stripping, salting, sanding, cleaning and sweeping of streets and paved surfaces. Provided these activities are not related to the source's primary business activity, do not otherwise trigger a permit modification, and fugitive emissions are reasonably controlled as required in Section 808. (3-23-98)

(31) Ultraviolet curing processes. (3-3-95)L

(32) Hot melt adhesive application with no volatile organic compounds or hazardous air pollutants in the adhesive formula. (3-23-98)

(33) Laundering, dryers, extractors, tumblers for fabrics, using water solutions of bleach and/or detergents except for boilers. (3-23-98)

(34) Steam cleaning operations. (3-3-95)L

(35) Steam sterilizers. (3-3-95)L

(36) Food service activities including cafeterias, kitchen facilities and barbecues located at a source for providing food service on premises. (3-23-98)

(37) Portable drums and totes. (3-3-95)L

(38) Fluorescent light tube and aerosol can crushing in units designed to reduce emissions from these activities. (3-23-98)

(39) Flares used to indicate danger to the public. (3-3-95)L

(40) General vehicle maintenance including vehicle exhaust from repair facilities provided these activities are not related to the source's primary business activity and do not have applicable requirements under title VI of the Clean Air Act. (3-23-98)

(41) Comfort air conditioning or air cooling systems, not used to remove air contaminants from specific equipment. (3-3-95)L

(42) Natural draft hoods, natural draft stacks, or natural draft ventilators for sanitary and storm drains, safety valves, and storage tanks subject to size and service limitations expressed elsewhere in this section. (3-3-95)L

(43) Natural and forced air vents for bathroom/toilet facilities. (3-3-95)L

(44) Office activities. (3-3-95)L

(45) Equipment used for quality control/assurance or inspection purposes, including sampling equipment used exclusively to withdraw materials for laboratory analyses and testing. (3-23-98)

(46) Fire suppression systems and similar safety equipment and equipment used to train firefighters including fire drill pits. (3-23-98)

(47) Materials and equipment used by, and activity related to operation of infirmary; infirmary is not the source's business activity except equipment affected by the radionuclide NESHAP. (3-23-98)

- (48) Satellite Accumulation Areas (SAAs) and Temporary Accumulation Areas (TAAs) managed in compliance with RCRA. (3-23-98)
- (49) Equipment for carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, shot blasting, sintering, or polishing: Ceramics, glass, leather, metals, plastics, rubber, concrete, paper stock, or wood provided that these activities are not conducted as part of a manufacturing process. (3-23-98)
- (50) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment subject to other exemption limitation, e.g., internal and external combustion equipment. (3-3-95)L
- (51) Slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment. (3-23-98)
- (52) Ozonation equipment. (3-3-95)L
- (53) Temporary construction activities at a facility provided that the installation or modification of emissions units must comply with all applicable federal, state, and local rules and regulations. (3-23-98)
- (54) Batch loading and unloading of solid phase catalysts. (3-3-95)L
- (55) Pulse capacitors. (3-3-95)L
- (56) Gas cabinets using only gases that are not regulated air pollutants. (3-3-95)L
- (57) CO2 lasers, used only on metals and other materials which do not emit hazardous air pollutants in the process. (3-23-98)
- (58) Structural changes not having air contaminant emissions. (3-3-95)L
- (59) Equipment used to mix, package, store and handle soaps, lubricants, vegetable oil, grease, animal fat, and non-volatile aqueous salt solutions, provided appropriate lids and covers are utilized. (3-23-98)
- (60) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy, e.g., blueprint activity, photocopiers, mimeograph, telefax, photographic developing, and microfiche provided these activities are not related to the source's primary business activity. (3-23-98)
- (61) Pharmaceutical and cosmetics packaging equipment. (3-3-95)L
- (62) Paper trimmers/binders provided these activities are not related to the source's primary business activity. (3-23-98)
- (63) Bench-scale laboratory equipment and laboratory equipment used exclusively for physical or chemical analysis, including associated vacuum producing devices but excluding research and development facilities. (3-23-98)
- (64) Repair and maintenance shop activities not related to the source's primary business activity. (3-23-98)
- (65) Handling equipment and associated activities for glass and aluminum which is destined for recycling, provided these activities are not related to the source's primary business activity. (3-23-98)
- (66) Hydraulic and hydrostatic testing equipment. (3-3-95)L
- (67) Batteries and battery charging stations, except at battery manufacturing plants. (3-23-98)
- (68) Porcelain and vitreous enameling equipment. (3-3-95)L

- (69) Solid waste containers. (3-3-95)L
- (70) Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants. (3-23-98)
- (71) Shock chambers. (3-3-95)L
- (72) Wire strippers. (3-3-95)L
- (73) Humidity chambers. (3-3-95)L
- (74) Solar simulators. (3-3-95)L
- (75) Environmental chambers not using hazardous air pollutant gases. (3-23-98)
- (76) Totally enclosed conveyors not including transfer points. (3-23-98)
- (77) Steam vents and safety relief valves. (3-3-95)L
- (78) Air compressors, pneumatically operated equipment, systems, and hand tools. (3-3-95)L
- (79) Steam leaks. (3-3-95)L
- (80) Boiler blow-down tank. (3-3-95)L
- (81) Salt cake mix tanks at pulp mills. (3-23-98)
- (82) Digester chip feeders at pulp mills. (3-23-98)
- (83) Weak liquor and filter tanks at pulp mills. (3-23-98)
- (84) Process water and white water storage tanks at pulp mills. (3-23-98)
- (85) Demineralizer water tanks, demineralization, demineralizer vents, and oxygen scavenging (deaeration) of water. (3-23-98)
- (86) Clean condensate tanks. (3-3-95)L
- (87) Alum tanks. (3-3-95)L
- (88) Broke beaters, repulpers, pulp and repulping tanks, stock chests and pulp handling. (3-3-95)L
- (89) Lime and mud filtrate tanks. (3-3-95)L
- (90) Hydrogen peroxide tanks. (3-3-95)L
- (91) Lime mud washer. (3-3-95)L
- (92) Lime mud filter. (3-3-95)L
- (93) Hydro and liquor clarifiers or filters and storage tanks and associated pumping, piping, and handling. (3-23-98)
- (94) Lime grits washers, filters, and handing. (3-3-95)L
- (95) Lime silos and feed bins. (3-3-95)L

- (96) Paper forming. (3-3-95)L
- (97) Starch cooking. (3-3-95)L
- (98) Pulp stock cleaning and screening. (3-23-98)
- (99) Paper winders or other paper converting equipment. (3-23-98)
- (100) Sludge dewatering and wet sludge handling. (3-23-98)
- (101) Screw press vents. (3-3-95)L
- (102) Pond dredging. (3-3-95)L
- (103) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation. (3-3-95)L
- (104) Non-PCB oil filled circuit breakers, oil filled transformers and other equipment that is analogous to, but not considered to be, a tank. (3-3-95)L
- (105) Lab-scale electric or steam-heated drying ovens and autoclaves. (3-23-98)
- (106) Sewer manholes, junction boxes, sumps and lift stations associated with waste water treatment systems. (3-3-95)L
- (107) Water cooling towers processing exclusively noncontact cooling water. (3-3-95)L
- (108) Paper coating and sizing. (3-3-95)L
- (109) Process waste water and ponds. (3-3-95)L
- (110) Outdoor firearms practice ranges. (3-3-95)L
- b.** Insignificant activities on the basis of size or production rate. (3-23-98)
- i. This section contains lists of units or activities that are insignificant on the basis of size or production rate. Units and activities listed in this section must be listed in the permit application. The following units and activities are determined to be insignificant based on their size or production rate: (3-23-98)
- (1) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than two hundred sixty (260) gallon capacity thirty five cubic feet (35cft), heated only to the minimum extend to avoid solidification if necessary. (3-3-95)L
- (2) Operation, loading and unloading of storage tanks, not greater than one thousand one hundred (1,100) gallon capacity, with lids or other appropriate closure, not for use with hazardous air pollutants, maximum (max.) vp five-hundred fifty (550) mm Hg. (3-23-98)
- (3) Operation, loading and unloading of volatile organic compound storage tanks, ten thousand (10,000) gallons capacity or less, with lids or other appropriate closure, vp not greater than eighty (80) mm Hg at twenty-one (21) degrees C. Operation, loading and unloading of gasoline storage tanks, ten thousand (10,000) gallons capacity or less, with lids or other appropriate closure. (3-23-98)
- (4) Operation, loading and unloading storage of butane, propane, or liquified petroleum gas (LPG), storage tanks, vessel capacity under forty thousand (40,000) gallons. (3-3-95)L
- (5) Combustion source, less than five million (5,000,000) Btu/hr, exclusively using natural gas, butane,

- propane, and/or LPG. (3-3-95)L
- (6) Combustion source, less than five hundred thousand (500,000) Btu/hr, using any commercial fuel containing less than four-tenths percent (.4%) by weight sulfur for coal or less than one percent (1%) by weight sulfur for other fuels. (3-3-95)L
- (7) Combustion source, of less than one million (1,000,000) Btu/hr, if using kerosene, No. 1 or No. 2 fuel oil. (3-3-95)L
- (8) Combustion source, not greater than five hundred thousand (500,000) Btu/hr, if burning waste wood, wood waste or waste paper. (3-3-95)L
- (9) Welding using not more than one (1) ton per day of welding rod. (3-3-95)L
- (10) Foundry sand molds, unheated and using binders with less than twenty-five hundredths percent (.25%) free phenol by sand weight. (3-3-95)L
- (11) "Parylene" coaters using less than five hundred (500) gallons of coating per year. (3-3-95)L
- (12) Printing and silkscreening, using less than two (2) gallon/day of any combination of the following: Inks, coatings, adhesives, fountain solutions, thinners, retarders, or nonaqueous cleaning solutions. (3-3-95)L
- (13) Water cooling towers and ponds, not using chromium-based corrosion inhibitors, not used with barometric jets or condensers, not greater than ten thousand (10,000) gpm, not in direct contact with gaseous or liquid process streams containing regulated air pollutants. (3-3-95)L
- (14) Combustion turbines, of less than five hundred (500) HP. (3-3-95)L
- (15) Batch solvent distillation, not greater than fifty-five (55) gallons batch capacity. (3-3-95)L
- (16) Municipal and industrial water chlorination facilities of not greater than twenty million (20,000,000) gallons per day capacity. The exemption does not apply to waste water treatment. (3-3-95)L
- (17) Surface coating, using less than two (2) gallons per day. (3-3-95)L
- (18) Space heaters and hot water heaters using natural gas, propane or kerosene and generating less than five million (5,000,000) Btu/hr. (3-3-95)L
- (19) Tanks, vessels, and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids excluding: (3-3-95)L
- (a) Ninety-nine percent (99%) or greater H₂SO₄ or H₃PO₄. (3-3-95)L
- (b) Seventy percent (70%) or greater HNO₃. (3-3-95)L
- (c) Thirty percent (30%) or greater HCl. (3-3-95)L
- (d) More than one (1) liquid phase where the top phase is more than one percent (1%) volatile organic compounds. (3-23-98)
- (20) Equipment used exclusively to pump, load, unload, or store high boiling point organic material, material with initial boiling point (IBP) not less than one hundred fifty (150) degrees C or vapor pressure (vp) not more than five (5) mm Hg at twenty-one (21) degrees C with lids or other appropriate closure. (3-3-95)L
- (21) Smokehouses under twenty (20) square feet. (3-3-95)L
- (22) Milling and grinding activities, using paste-form compounds with less than one percent (1%)

- volatile organic compounds. (3-23-98)
- (23) Rolling, forging, drawing, stamping, shearing, or spinning hot or cold metals. (3-3-95)L
- (24) Dip-coating operations, using materials with less than one percent (1%) volatile organic compounds. (3-23-98)
- (25) Surface coating, aqueous solution or suspension containing less than one percent (1%) volatile organic compounds. (3-23-98)
- (26) Cleaning and stripping activities and equipment, using solutions having less than one percent (1%) volatile organic compounds by weight. On metallic substrates, acid solutions are not considered for listing as insignificant. (3-23-98)
- (27) Storage and handling of water based lubricants for metal working where the organic content of the lubricant is less than ten percent (10%). (3-3-95)L
- (28) Municipal and industrial waste water chlorination facilities of not greater than one million (1,000,000) gallons per day capacity. (3-3-95)L
- (29) Domestic sewage treatment ponds with average flowrates less than four hundred (400) gpm or treating waste from less than three thousand (3000) people from non-residential sources. (3-23-98)
- (30) An emission unit or activity with potential emissions less than or equal to the significant emission rate as defined in Section 006 and actual emissions less than or equal to ten percent (10%) of the levels contained in Section 006 of the definition of significant and no more than one (1) ton per year of any hazardous air pollutant. (~~3-23-98~~)(____)

(BREAK IN CONTINUITY OF SECTIONS)

395. APPEALS.

Persons may file an appeal within thirty-~~five~~ (305) days of the date the person received the assessment and receipt issued under Subsection 392.03, or within thirty-~~five~~ (305) days of the date the person received an assessment issued under Sections 391 or 396. The appeal shall be filed in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (~~7-1-02~~)(____)

(BREAK IN CONTINUITY OF SECTIONS)

401. TIER II OPERATING PERMIT.

01. Optional Tier II Operating Permits. The owner or operator of any stationary source or facility which is not subject to (or wishes to accept limitations on the facility's potential to emit so as to not be subject to) Sections 300 through 399 may apply to the Department for an operating permit to: (7-1-02)

- a. Authorize the use of alternative emission limits (bubbles) pursuant to Section 440; (5-1-94)
- b. Authorize the use of an emission offset pursuant to Sections 204 or 206; (5-1-94)
- c. Authorize the use of a potential to emit limitation, an emission reduction or netting transaction to exempt a facility or modification from certain requirements for a permit to construct; (4-5-00)
- d. Authorize the use of a potential to emit limitation to exempt the facility from Tier I permitting

requirements. (4-5-00)

e. Bank an emission reduction credit pursuant to Section 461; (5-1-94)

02. Required Tier II Operating Permits. A Tier II operating permit is required for any stationary source or facility which is not subject to Sections 300 through 399 with a permit to construct which establishes any emission standard different from those in these rules. (7-1-02)

03. Tier II Operating Permits Required By The Department. The Director may require or revise a Tier II operating permit for any stationary source or facility whenever the Department determines that: (5-1-94)

a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or (4-5-00)

b. Specific emission standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. (5-1-94)

04. Multiple Tier II Operating Permits With Future Compliance Dates. Subject to approval by EPA, the Director may issue one (1) or more Tier II operating permits to a facility which allow any specific stationary source or emissions unit within that facility a future compliance date of up to three (3) years beyond the compliance date of any provision of these rules, provided the Director has reasonable cause to believe such a future compliance date is warranted. (~~4-5-00~~)()

(BREAK IN CONTINUITY OF SECTIONS)

404. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for Tier II operating permits. (5-1-94)

a. Within thirty (30) days after receipt of the application for a Tier II operating permit, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing. (5-1-94)

b. Within sixty (60) days after the application is determined to be complete the Department shall: (5-1-94)

i. Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 404.01.c. The Department shall set forth reasons for any denial; or (5-1-94)

ii. Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)

c. An opportunity for public comment shall be provided on an application for any Tier II operating permit pursuant to Subsection 401.01, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516 and any other application which the Director determines an opportunity for public comment should be provided. (5-1-94)

i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. (5-1-94)

ii. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (5-1-94)

iii. A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. (5-1-94)

iv. There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. (5-1-94)

v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, unless the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. (5-1-94)

vi. All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. (5-1-94)

d. A copy of each proposed and final permit will be sent to the U.S. Environmental Protection Agency. (4-5-00)

02. Specific Procedures. Procedures for Tier II operating permits required by the Department under Subsection 401.03. (5-1-94)

a. The Director shall send a notification to the proposed permittee by registered mail of his intention to issue a Tier II operating permit for the facility concerned. The notification shall contain a copy of the proposed permit in draft form stating the proposed emission standards and any required action, with corresponding dates, which must be taken by the proposed permittee in order to achieve or maintain compliance with the proposed Tier II operating permit. (5-1-94)

b. The Department's proposed Tier II operating permit shall be made available to the public in at least one (1) location in the region in which the facility is located. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the facility is located. A copy of such notice shall be sent to the applicant. There shall be a thirty (30) day period after publication for comment on the Department's proposed Tier II operating permit. Such comment shall be made in writing to the Department. (5-1-94)

c. A public hearing will be scheduled to consider the standards and limitations contained in the proposed Tier II operating permit if the proposed permittee files a request therefor with the Department within ten (10) days of receipt of the notification, or if the Director determines that there is good cause to hold a hearing. (5-1-94)

d. After consideration of comments and any additional information submitted during the comment period or at any public hearing, the Director shall render a final decision upon the proposed Tier II operating permit within thirty (30) days of the close of the comment period or hearing. At this time the Director may adopt the entire Tier II operating permit as originally proposed or any part or modification thereof. (5-1-94)

e. All comments and additional information received during the comment period, together with the Department's final permit, shall be made available to the public at the same location as the proposed Tier II operating permit. (5-1-94)

03. Availability Of Fluid Models And Field Studies. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. (5-1-94)

04. Tier II Operating Permit Revision-Or-Renewal. The Director may approve a revision of any Tier II operating permit ~~or renewal of any Tier II operating permit~~ provided the stationary source or facility continues to meet all applicable requirements of Sections 400 through 410. Revised permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsections 404.01.c. and 404.02.b. through 404.02.e. shall only apply if the permit revision results in an increase in allowable emissions authorized by the permit

or if deemed appropriate by the Director. ~~Renewed Tier II operating permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsections 404.01.e., and 404.02.b. through 404.02.e. shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. The expiration of a permit will not affect the operation of a stationary source or a facility during the administrative procedure period associated with the permit renewal process.~~ (7-1-02)()

405. CONDITIONS FOR TIER II OPERATING PERMITS.

01. Reasonable Conditions. The Department may impose any reasonable conditions upon an approval, including conditions requiring the stationary source or facility to be provided with: (5-1-94)

a. Sampling ports of a size, number, and location as the Department may require; (5-1-94)

b. Safe access to each port; (5-1-94)

c. Instrumentation to monitor and record emissions data; (5-1-94)

d. Instrumentation for ambient monitoring to determine the effect emissions from the stationary source or facility may have, or are having, on the air quality in any area affected by the stationary source or facility; and (5-1-94)

e. Any other sampling and testing facilities as may be deemed reasonably necessary. (5-1-94)

02. Performance Tests. Any performance tests required by the permit shall be performed in accordance with methods and under operating conditions approved by the Department. The owner or operator shall furnish to the Department a written report of the results of such performance test. (5-1-94)

a. Such test shall be at the expense of the owner or operator. (5-1-94)

b. The Department may monitor such test and may also conduct performance tests. (5-1-94)

c. The owner or operator of a stationary source or facility shall provide the Department fifteen (15) days prior notice of the performance test to afford the Department the opportunity to have an observer present. (5-1-94)

~~**03. Permit Term.** Tier II operating permits shall be issued for a period not to exceed five (5) years. This five (5) year operating permit restriction does not apply to the provisions contained in Section 461.02 (banked emission reduction credits).~~ (5-1-94)

043. Single Tier II Operating Permit. When a facility includes more than one (1) stationary source or emissions unit, a single Tier II operating permit may be issued including all stationary sources and emissions units located at that facility. Such Tier II operating permit shall separately identify each stationary source and emissions unit to which the Tier II operating permit applies. When a single stationary source or facility is subject to permit modification, suspension or revocation, such action by the Director shall only affect that individual stationary source or emissions unit without thereby affecting any other stationary source or emissions unit subject to that Tier II operating permit. (5-1-94)

04. Permit Review. Unless specified in the Tier II operating permit, Tier II operating permits shall be reviewed by the Department every five (5) years. One hundred eighty (180) days prior to every fifth year after permit issuance, the permittee shall notify the department in writing what, if any, changes have been made to the facility that may affect the Tier II operating permit. ()

05. Permit Revision And Reissuance. Upon review of the information provided in Subsection 405.04, and any additional information received as a result of the Department's request, the Department may determine the permit must be revised or modified and reissued. If so, the Department will notify the permittee and request any additional information needed to revise and reissue the permit. Tier II operating permit revisions, modifications and renewals shall be processed and issued in accordance with Sections 400 through 470. ()

(BREAK IN CONTINUITY OF SECTIONS)

410. APPEALS.

A person may be able to file an appeal within thirty-five (305) days of the date the person receives an assessment under Section 407, in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". ~~(7-1-02)~~(_____)

(BREAK IN CONTINUITY OF SECTIONS)

511. APPLICABILITY.

The provisions of Sections 5010 through 516 shall apply to existing, new, and modified stationary sources and facilities. The provisions of Sections 5010 through 516 do not apply to stack heights in existence, or dispersion techniques implemented, on or before December 31, 1970, except where regulated air pollutant(s) are being emitted from such stacks or using such dispersion techniques by sources which were constructed, or reconstructed, or for which major modifications were carried out, after December 31, 1970. ~~(4-5-00)~~(_____)

(BREAK IN CONTINUITY OF SECTIONS)

581. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) INCREMENTS.

The purpose of Section 581 is to establish the allowable degree of deterioration for the areas within the State which have air quality better than the ambient standards. (5-1-94)

01. Class I, II And III Areas. In any area designated as Class I, II, or III, increases in any ambient concentration over the baseline concentration shall be limited to the following:

CLASS AREAS	Maximum Allowable Increase (Micrograms per cubic meter)
CLASS I AREAS	
PM-10:	
Annual arithmetic mean	4
Maximum twenty-four (24) hour average	8
Sulfur dioxide:	
Annual arithmetic mean	2
Maximum twenty-four (24) hour average	5
Maximum three (3) hour average	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5
CLASS II AREAS	
PM-10:	17
Annual arithmetic mean	30
Maximum twenty-four (24) hour average	

CLASS AREAS	Maximum Allowable Increase (Micrograms per cubic meter)
Sulfur dioxide:	
Annual arithmetic mean	20
Maximum twenty-four (24) hour average	91
Maximum three (3) hour average	512
Nitrogen dioxide:	
Annual arithmetic mean	25
CLASS III AREAS	
PM-10:	
Annual arithmetic mean	34
Maximum twenty-four (24) hour average	60
Sulfur dioxide:	
Annual arithmetic mean	40
Maximum twenty-four (24) hour average	182
Maximum three (3) hour average	700
Nitrogen dioxide:	
Annual arithmetic mean	50

(4-5-00)()

02. Exceedances. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location. (5-1-94)

03. Exclusions. The following concentrations shall be excluded in determining compliance with the maximum allowable increases: (5-1-94)

a. Concentrations attributable to the increase in emissions from facilities which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, over the emissions from such facilities before the effective date of such order or plan; this shall not apply more than five (5) years after the effective date of such order or plan; (5-1-94)

b. Concentrations of PM-10 attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified facilities; (7-1-97)

c. The increase in concentrations attributable to new facilities outside the United States over the concentrations attributable to existing facilities which are included in the baseline concentration; and (5-1-94)

d. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen dioxide, or particulate matter from facilities which are affected by a revision to the SIP approved by the U.S. Environmental Protection Agency; this exclusion shall not exceed two (2) years unless a longer time is approved by the U.S. Environmental Protection Agency, is not renewable, and applies only to revisions which: (5-1-94)

i. Would not affect regulated air pollutant concentrations in a Class I area or an area where an applicable increment is known to be violated and would not cause or contribute to a violation of an ambient air quality standard; and (4-5-00)

ii. Require limitations to be in effect at the end of the approved time period which would ensure that the emissions from facilities affected by the revision would not exceed those concentrations occurring before the revision was approved. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

585. TOXIC AIR POLLUTANTS NON-CARCINOGENIC INCREMENTS.

The screening emissions levels (EL) and acceptable ambient concentrations (AAC) for non-carcinogens are as provided in the following table. The AAC in this section are twenty-four (24) hour averages. (6-30-95)

01. Toxic Air Pollutants Non-Carcinogenic Increments Table Sorted By Substance Name.

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
60-35-5	Acetamide (NY)	—	0.002	0.0003
64-19-7	Acetic acid	25	1.67	1.25
108-24-7	Acetic anhydride	20	1.33	1
67-64-1	Acetone	1780	119	89
75-05-8	Acetonitrile	67	4.47	3.35
540-59-0	Acetylene dichloride, See 1,2-Dichloroethylene			
79-27-6	Acetylene tetrabromide	15	1	.75
107-02-8	Acrolein <u>CL</u>	0.25	0.017	0.0125
79-10-7	Acrylic acid	30 <u>5.9</u>	2 <u>0.4</u>	1.5 <u>0.3</u>
107-18-6	Allyl alcohol	5	0.333	.25
106-92-3	Allyl glycidyl ether	22 <u>4.7</u>	1.47 <u>0.31</u>	1.1 <u>0.24</u>
2179-59-1	Allyl propyl disulfide	12	0.8	0.6
7429-90-5	Aluminum including:			
NA	aluminum M metal & O oxide	10	0.667	0.5
NA	aluminum P pyro powders	5	0.333	0.25
NA	aluminum S soluble salts	2	0.133	0.10
NA	Alkyls not otherwise classified	2	0.133	0.10
141-43-5	2-Aminoethanol, See <u>E</u> ethanolamine			
504-29-0	2-Aminopyridine	2	0.133	0.10
7664-41-7	Ammonia	18	1.2	0.9
12125-02-9	Ammonium chloride fumes	10	0.667	0.5
3825-26-1	Ammonium perfluoro-octanoate	0.01	0.0007	0.0005
7773-06-0	Ammonium sulfamate	10	0.667	0.5
628-63-7	n-Amyl acetate	530 <u>266</u>	35.3 <u>18</u>	26.5 <u>13</u>

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
626-38-0	S sec-A a myl acetate	665 <u>266</u>	44.3 <u>18</u>	33.25 <u>13</u>
7440-36-0	Aantimony & compounds, as Sb (handling & use)	0.5	0.033	0.025
86-88-4	ANTU	0.3	0.02	0.015
7784-42-1	A rsine	0.2	0.043	0.04
86-50-0	Aazinphosmethyl	0.2	0.013	0.01
7440-39-3	Bbarium, soluble compounds, as Ba	0.5	0.033	0.025
17804-35-2	Bbenomyl	10	0.67	0.5
7106-51-4	p-Bbenzoquinone, S see Qquinone			
94-36-0	Bbenzoyl peroxide	5	0.333	0.25
92-52-4	Bbiphenyl	1.5	0.1	0.075
1304-82-1	Bbismuth telluride undoped	10	0.667	0.05
NA	Bbismuth telluride if selenium doped	5	0.333	0.25
1303-96-4	Bborates, tetra sodium salts - f including:			
NA	borates Aanhydrous	1	0.067	0.05
NA	borates Ddecahydrate	5	0.333	0.25
NA	borates Ppentahydrate	1	0.067	0.05
1303-86-2	Bboron oxide	10	0.667	0.5
10294-33-4	Bboron tribromide (CL)	10	0.0667	0.05
7637-07-2	Bboron trifluoride (CL)	3	0.02	0.25
314-40-9	Bbromacil	10	0.667	0.5
7726-95-6	Bbromine	0.7	0.047	0.035
7789-30-2	Bbromine pentafluoride	0.7	0.047	0.035
75-25-2	Bbromoform	5	0.333	0.25
109-79-5	Bbutanethiol, see Bbutyl mercaptan			
78-93-3	2-Bbutanone, see Mmethyl ethyl ketone			
112- 8 07-2	2-butoxyethyl acetate (NIOSH)	<u>33</u>	8.33 <u>2.2</u>	1.257
111-76-2	2-Bbutoxyethanol (EGBG)	420 <u>97</u>	8 <u>6.5</u>	6 <u>5</u>
123-86-4	n-Bbutyl acetate	710	47.3	35.5
105-46-4	sec-Bbutyl acetate	950	63.3	47.5
540-88-5	tert-Bbutyl acetate	950	63.3	47.5
141-32-2	Bbutyl acrylate	55 <u>11</u>	3 <u>0.673</u>	2 <u>0.755</u>
71-36-3	n-Bbutyl alcohol	150	10	7.5
78-92-2	S sec-Bbutyl alcohol	305	20.3	15.25
75-65-0	tert-Bbutyl alcohol	300	20	15

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
109-73-9	n-Butylamine CL	15	.01	.075
124-17-4	Butyl "Carbitol" acetate (ID)	NA	0.846	.625
1189-85-1	tert-Butyl chromate, as CrO ₃ (CL)	0.1	0.0007	.0005
2426-08-6	n-Butyl glycidyl ether	135	9	6.75
138-22-7	n-Butyl lactate	25	1.67	1.25
109-79-5	Butyl mercaptan	1.8	0.12	0.09
89-72-5	o-sec-Butylphenol	30	2	1.5
98-51-1	p-tert-Butyltoluene	60	4	3
13765-19-0	Calcium carbonate	10	0.667	0.5
156-62-7	Calcium cyanamide	0.5	0.033	0.025
1305-62-0	Calcium hydroxide	5	0.333	0.25
1305-78-8	Calcium oxide	2	0.133	0.1
1344-95-2	Calcium silicate (synthetic)	10	0.667	0.5
13397-24-5	Calcium sulfate	10	0.667	0.5
76-22-2	Camphor, synthetic	12	0.8	0.6
105-60-2	Caprolactam - including:			
	Dust	1	0.067	0.05
	Vapor	20	1.33	1.0
1333-86-4	Carbon black	3.5	0.23	0.175
2425-06-1	Captadol	0.1	0.007	0.005
133-06-2	Captan	5	0.333	0.25
463-58-1	Carbonyl sulfide	0.4	0.027	0.02
63-25-2	Carbaryl	5	0.333	0.25
1563-66-2	Carbofuran	0.1	0.007	0.005
75-15-0	Carbon disulfide	30	2	1.5
558-13-4	Carbon tetrabromide	1.4	0.093	0.07
75-44-5	Carbonyl chloride, See Phosgene			
353-50-4	Carbonyl fluoride	5	0.333	0.25
120-80-9	Catechol	20	1.33	1.0
21351-79-1	Cesium hydroxide	2	0.133	0.10
133-90-4	Chloramben (PL)	---	887	133
8001-35-2	Chlorinated camphene	0.5	0.0333	0.025
31242-93-0	Chlorinated diphenyl oxide	0.5	0.033	0.025
7782-50-5	Chlorine	≥ 1.5	0.21	0.475

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
10049-04-4	Chlorine dioxide	0.3	0.02	0.015
7790-91-2	Chlorine trifluoride (CL)	0.38	0.025	0.002
107-20-0	Chloroacetaldehyde (CL)	0.32	0.0021	0.00156
78-95-5	Chloroacetone (CL)	0.38	0.0253	0.019
532-27-4	o-Chloroacetophenone	0.32	0.021	0.016
79-04-9	Chloroacetyl chloride	0.2	0.013	0.01
108-90-7	"Chlorobenzene"	350 46	23. 3	17.5 2.3
510-15-6	Chlorobenzilate (PL1)	NA	0.047	0.035
2698-41-1	o-Chlorobenzylidene malononitrile (CL)	0.4	0.0027	0.03
126-99-8	2-Chloro-1,3-butadiene, see B-Chloroprene			
107-07-3	2-Chloroethanol, see Eethylene chlorohydrin			
600-25-9	1-Chloro-1-nitropropane	10	0.667	0.5
95-57-8	2-Chlorophenol (and all isomers) (ID)	NA	0.033	0.025
76-06-2	Chloropicrin	0.7	0.047	0.037
126-99-8	Bb-chloroprene	36	2.4	1.8
2039-87-4	o-Chlorostyrene	285	19	14.25
95-49-8	o-Chlorotoluene	250	16.7	12.5
1929-82-4	2-Chloro-6-(tri-chloromethyl) pyridine, see Anitrapyrin			
2921-88-2	Chlorpyrifos	0.21	0.043067	0.0405
7440-47-3	Chromium metal - Including:	0.5	0.033	0.025
7440-47-3	Chromium (II) compounds, as Cr	0.5	0.033	0.025
7440-47-3	Chromium (III) compounds, as Cr	0.5	0.033	0.025
2971-90-6	Clopidol	10	0.667	0.5
NA	Coal dust (<5% silica)	2	0.133	0.1
10210-68-1	Cobalt carbonyl as Co	0.1	0.007	0.005
16842-03-8	Cobalt hydrocarbonyl as Co	0.1	0.007	0.005
7440-48-4	Cobalt metal, dust, and fume	0.05	0.0033	0.0025
7440-50-8	Copper:			
7440-50-8	Fume	0.2	0.013	0.01
7440-50-8	Dusts & mists, as Cu	1	0.067	0.05
95-48-7	o-Cresol	22	1.47	1.1
108-39-4	m-Cresol	22	1.47	1.1
106-44-5	p-Cresol	22	1.47	1.1
1319-77-3	Cresols/Cresylic Acid (isomers and mixtures)	22	1.47	1.1

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
123-73-9	C crotonaldehyde (CL)	5.7 0.86	0.38 0.06	0.285 0.04
299-86-5	C ruformate	5	0.333	0.25
98-82-8	C umene	245	16.3	12.25
420-04-2	C yanamide	2	0.133	0.1
592-01-8	C yanide and compounds as CN (CL)	5	0.0333	0.025
110-82-7	C cyclohexane	1050 344	70 23	52.5 17.2
108-93-0	C cyclohexanol	200	13.3	10
108-94-1	C cyclohexanone	100	6.67	5
110-83-8	C cyclohexene	1015	67.7	50.75
108-91-8	C cyclohexylamine	41	2.73	2.05
121-82-4	C yclonite (RDX)	1.5	0.1	0.075
542-92-7	C cyclopentadiene	200	13.3	10
287-92-3	C cyclopentane	1720	114.667	86
94-75-7	2,4-D	10	0.667	0.5
17702-41-9	D decaborane	0.3	0.02	0.015
8065-48-3	D demeton (Systox®)	0.1	0.007	0.005
123-42-2	D iacetone alcohol	240	16	12
39393-37-8	D ialkyl phthalate (ID)	NA	16.4	2.46
107-15-3	1,2- D diaminoethane, S see E thylenediamine			
764-41-0	1,4-dichloro-2-butene	0.025	0.0017	0.0013
333-41-5	"Diazinon"	0.1	0.007	0.005
334-88-3	D diazomethane	0.34	0.023	0.017
19287-45-7	D diborane	0.1	0.007	0.005
102-81-8	2-N- D dibutylamino ethanol	44 3.5	0.93 23	0.175
128-37-0	2,6-di-tert-butyl-p-cresol	2	0.133	0.1
2528-36-1	D dibutyl phenyl phosphate	3.5	0.233	0.175
107-66-4	D dibutyl phosphate	8.6	0.573	0.43
84-74-2	D dibutyl phthalate	5	0.333	0.25
7572-29-4	D dichloroacetylene (CL)	0.39	0.0026	0.0195
95-50-1	o- D dichlorobenzene	300	20	15
106-46-7	1,4-Dichlorobenzene	450	30	22.5
118-52-5	1,3- D dichloro-5, 5-dimethylhydantoin	0.2	0.013	0.025
75-34-3	1,1-D dichloroethane	405	27	20.25
540-59-0	1,2- D dichloroethylene (all isomers)	790	52.7	39.5

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
111-44-4	D dichloroethyl ether	30	2	1.5
75-43-4	D dichlorofluoromethane	40	2.67	2
594-72-9	1, 1- D dichloro-1-nitroethane	10	0.667	0.5
78-87-5	1,2- D dichloropropane, see P propylene dichloride			
75-99-0	2,2- D dichloropropionic acid	6	0.4	0.3
62-73-7	D dichlorvos (DDVP)	<u>0.1</u>	<u>0.0067</u>	<u>0.005</u>
141-66-2	D dicrotophos	<u>0.205</u>	<u>0.047033</u>	0.125
77-73-6	D dicyclopentadiene	30	2	1.5
102-54-5	D dicyclopentadienyl iron	10	0.667	0.5
111-42-2	D diethanolamine	15	1	0.75
109-89-7	D diethylamine	30	2	1.5
100-37-8	2- D diethylamino-ethanol	50	3.33	2.5
111-40-0	D diethylenetriamine	4	0.267	0.2
60-29-7	D diethyl ether, see E ethyl ether			
96-22-0	D diethyl k etone	705	47	35.25
84-66-2	D diethyl phthalate	5	0.333	0.25
2238-07-5	D diglycidyl ether (DGE)	0.53	0.035	0.0265
123-31-9	D dihydroxybenzene, see H hydroquinone			
108-83-8	D diisobutyl ketone	145	9.67	7.25
108-18-9	D diisopropylamine	20	1.33	1
127-19-5	D dimethyl acetamide	35	2.33	1.75
124-40-3	D dimethylamine	9.2	0.613	0.46
60-11-7	D dimethyl aminoazobenzene (NY)	NA	0.002	0.0003
1300-73-8	D dimethylaminobenzene, see X xylydine			
121-69-7	D dimethylaniline (N,N- D dimethylaniline)	25	1.67	1.25
1330-20-7	D dimethylbenzene, see X ylene			
300-76-5	D dimethyl-1,2-dibromo-2-dichloroethyl phosphate, see A naled			
68-12-2	D dimethylformamide	30	2	1.5
108-83-8	2,6- D dimethyl-4-heptanone, see D diisobutyl ketone			
131-11-3	D dimethylphthalate	5	0.333	0.25
148-01-6	D dinitolmide	5	0.333	0.25
528-29-0	D dinitrobenzene	1	0.067	0.05
99-65-0	m (or) 1,3- D dinitrobenzene	1	0.067	0.05

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
100-25-4	p (or) 1,4-Dinitrobenzene	1	0.067	0.05
534-52-1	Dinitro-o-cresol	0.2	0.013	0.01
148-01-6	3,5-Dinitro-o-toluamide, see Dinitolmide			
117-84-0	N-Dioctyl Phthalate	5	0.333	0.25
78-34-2	Dioxathion	0.21	0.043067	0.01
92-52-4	Diphenyl, see Biphenyl			
122-39-4	Diphenylamine	10	0.667	0.5
	Diphenyl methane diisocyanate, see Methylene diphenyl diisocyanate			
34590-94-8	Dipropylene glycol methyl ether	600	40	30
123-19-3	Dipropyl ketone	235	15.7	11.75
85-00-7	Diquat (respirable aerosol)	0.51	0.033067	0.0405
97-77-8	Disulfiram	2	0.133	0.1
298-04-4	Disulfoton	0.405	0.00733	0.0025
428-37-0	2,6-Ditert. butyl-p-cresol	40	0.667	0.5
330-54-1	Diuron	10	0.667	0.5
108-57-6	Divinyl benzene	50	3.33	2.5
1302-74-5	Emery (corundum) total dust (> 1% silica)	10	0.667	0.5
115-29-7	Endosulfan	0.1	0.007	0.005
72-20-8	Endrin	0.1	0.007	0.005
13838-16-9	Enflurane	566	37.7	28.3
1395-21-7	Enzymes, see Ssubtilisins			
2104-64-5	EPN (Eethoxy-4-Nnitro-phenoxy phenylphosphine)	0.51	0.033067	0.0205
406-88-7	1,2-Epoxybutane (MI)	NA	0.8	0.6
75-56-9	1,2-Epoxypropane, see Propylene oxide			
556-52-5	2,3-Epoxy-1-propanol, see Glycidol			
75-08-1	Eethanethiol, see Eethyl mercaptan			
141-43-5	Eethanolamine	8	0.533	0.4
563-12-2	Eethion	0.4	0.027	0.02
110-80-5	2-Eethoxyethanol	19	1.27	0.95
111-15-9	2-Eethoxyethyl acetate (EGEEA)	27	1.8	1.35
141-78-6	Eethyl acetate	1400	93.3	70
64-17-5	Eethyl alcohol	1880	125	94
75-04-7	Eethylamine	48 9.2	4.2 0.61	0.946

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
541-85-5	E ethyl amyl ketone	130	8.67	6.5
100-41-4	E ethyl benzene	435	29	21.75
74-96-4	E ethyl bromide	22	1.47	1.1
106-35-4	E ethyl butyl ketone	230	15.3	11.5
51-79-6	E ethyl carbamate (U rethane) (WA)	NA	0.002	0.0015
75-00-3	E ethyl chloride	2640	17.6	13.2
107-07-3	E ethylene chlorohydrin (CL)	3	0.02	0.015
107-15-3	E thylenediamine	25	1.67	1.25
107-06-2	E ethylene dichloride	40	2.667	2
107-21-1	E ethylene glycol vapor (CL)	127 100	0.84666	6.3 0.5
628-96-6	E ethylene glycol denigrate	0.31	0.021	0.016
110-49-6	E ethylene glycol methyl ether acetate, see 2- M ethoxyethyl acetate			
96-45-7	E thylene thiourea (PL2)	NA	0.047	0.035
109-94-4	E ethyl formate	300	20	15
16219-75-3	E thylidene norbornene (CL)	25	0.167	1.25
75-08-1	E ethyl mercaptan	1	0.067	0.05
100-74-3	N- E thylmorpholine	23	1.53	1.15
78-10-4	E ethyl silicate	85	5.67	4.25
22224-92-6	F enamiphos	0.1	0.007	0.005
115-90-2	F ensulfothion	0.1	0.007	0.005
55-38-9	F enthion	0.2	0.013	0.01
14484-64-1	F erbam	10	0.667	0.5
12604-58-9	F errovanadium dust	1	0.067	0.05
NA	F ibrous glass dust see synthetic vitreous fibers	10	0.667	0.5
NA	F ine Mineral Fibers—Including: mineral fiber emissions from facilities manufacturing or processing glass, rock, slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less. (ID)	NA	0.667	0.5
NA	F luorides, as F	2.5	0.167	0.125
7782-41-4	F luorine	2	0.133	0.1
944-22-9	F onofos	0.1	0.007	0.005
75-12-7	F ormamide	30 18	1.2	1.5 0.9
64-18-6	F ormic acid	9.4	0.627	0.47
98-01-1	F urfural	8	0.533	0.4

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
98-00-0	F furfuryl alcohol	40	2.67	2
7782-65-2	G ermanium tetrahydride	0.6	0.04	0.03
NA	G lass, F ibrous or dust, see F ibrous glass dust synthetic vitreous fibers			
111-30-8	G lutaraldehyde (CL)	0.82	0.004713	0.0401
556-52-5	G lycidol	75 6.1	5 0.4	3.75 0.3
110-80-5	G lycol monoethyl ether, see 2- E thoxyethanol			
7440-58-6	H afnium	0.5	0.033	0.025
110-43-0	2- H heptanone, see M methyl n-amyl ketone			
106-35-4	3- H heptanone, see E thyl butyl ketone			
151-67-7	H alothane	404	26.9	20.2
142-82-5	H heptane (n- H heptane)	1640	109	82
77-47-4	H hexachlorocyclopentadiene	0.1	0.007	0.005
1335-87-1	H hexachloronaphthalene	0.2	0.013	0.010
684-16-2	H hexafluoroacetone	0.7	0.047	0.035
822-06-0	H examethylene diisocyanate	0.03	0.002	0.0015
680-31-9	H examethylphosphoramidate (WA)	NA	0.002	0.0015
110-54-3	H exane (n- H exane)	180	12	9
591-78-6	2- H hexanone, see M methyl-n-butyl ketone			
108-10-1	H exone, see M methyl isobutyl ketone			
108-84-9	sec- H exyl acetate	300	20	15
107-41-5	H exylene glycol (CL)	121	0.806	6.05
37275-59-5	H ydrogenated terphenyls	5	0.333	0.25
10035-10-6	H ydrogen bromide (CL)	10	0.0667	0.5
7647-01-0	H ydrogen chloride (CL)	7.5	0.05	0.375
7722-84-1	H ydrogen peroxide	1.5	0.1	0.075
7783-06-4	H ydrogen sulfide	14 7	0.93 347	0.735
123-31-9	H ydroquinone	2	0.133	0.1
123-42-2	4- H ydroxy-4- M methyl-2-pentanone, see D iacetone alcohol			
996-61-1	2- H ydroxypropyl acrylate	3	0.2	0.15
95-13-6	I ndene	45	3	2.25
7440-74-6	I ndium & compounds as In	0.1	0.007	0.005
7553-56-2	I odine (CL)	0.1	0.0067	0.005

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
75-47-8	I iodoform	10	0.667	0.5
1309-37-1	I ron oxide fume (Fe ₂ O ₃) as Fe	5	0.333	0.25
13463-40-6	I ron pentacarbonyl as Fe	0.8	0.053	0.04
7439-89-6	I ron salts, soluble, as Fe	1	0.067	0.05
123-92-2	I soamyl acetate	525 <u>266</u>	35 <u>17.7</u>	26.25 <u>13.3</u>
123-51-3	I soamyl alcohol	360	24	18
110-19-0	I sobutyl acetate	700	46.7	35
78-83-1	I sobutyl alcohol	150	10	6
26952-21-6	I sooctyl alcohol	270	18	13.5
78-59-1	I sophorone (CL)	28	1.867	1.4
4098-71-9	I sophorone diisocyanate	0.09 <u>45</u>	0.006 <u>3</u>	0.004 <u>5</u> <u>23</u>
109-59-1	I sopropoxyethanol	105	7	5.25
108-21-4	I sopropyl A <u>ac</u> etate	1040 <u>418</u>	69.3 <u>28</u>	5 <u>21</u>
67-63-0	I sopropyl alcohol	980 <u>491</u>	65.3 <u>32.7</u>	49 <u>2.6</u>
75-31-0	I sopropylamine	12	0.8	0.6
643-28-7	N- I sopropylaniline	10	0.667	0.5
108-20-3	I sopropyl ether	1040	69.3	52
4016-14-2	I sopropyl glycidyl ether (IGE)	240	16	12
1332-58-7	K kaolin (respirable dust)	2	0.133	0.1
463-51-4	K ketene	0.9	0.06	0.045
7580-67-8	L ithium hydride	0.025	0.002	0.00125
546-93-0	M magnesite	10	0.667	0.5
1309-48-4	M magnesium oxide fumes	10	0.667	0.5
121-75-5	M malathion	10	0.667	0.5
108-31-6	M maleic anhydride	4 <u>0.4</u>	0.06 <u>73</u>	0.05 <u>2</u>
7439-96-5	M manganese as Mn i ncluding:			
7439-96-5	M manganese D dust & compounds	5	0.333	0.25
7439-96-5	M manganese F fumes	1	0.067	0.05
101-68-8	MDI, see M methylene diphenyl isocyanate			
NA	M mercaptans not otherwise listed (ID)	NA	0.03 <u>365</u>	0.025
7439-97-6	M mercury - i ncluding:			
NA	M mercury (A aryl & inorganic compounds as Hg)	0.1	0.007	0.005
NA	M mercury (A alkyl compounds as Hg except methylmercury)	0.01	0.001	0.0005

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
NA	methylmercury	0.025	0.017	0.013
NA	Mercury (vapors except alkyl as Hg)	0.05	0.003	0.0025
141-79-7	Mesityl oxide	60	4	3
79-41-4	Methacrylic acid	70	4.67	3.5
74-93-1	Methanethiol, see Methyl mercaptan			
67-56-1	Methanol	260	17.3	13
16752-77-5	Methomyl	2.5	0.17	0.125
72-43-5	Methoxychlor	10	0.667	0.5
109-86-4	2-Methoxyethanol	16	1.07	0.8
110-49-6	2-Methoxyethyl acetate	24	1.6	1.2
150-76-5	4-Methoxyphenol	5	0.333	0.25
108-65-6	1-methoxy-2-propanol acetate (ID)	NA	24	3.6
79-20-9	Methyl acetate	610	40.7	30.5
74-99-7	Methyl acetylene	1640	109	82
NA	Methyl acetylene-propadiene mix (MAPP)	1640	109	82
96-33-3	Methyl acrylate	35.7	2.33 0.47	1.7 0.35
126-98-7	Methylacrylonitrile	3	0.2	0.15
74-89-5	Methylamine	126.4	0.843	0.632
108-11-2	Methyl amyl alcohol, see Methyl isobutyl carbinol			
110-43-0	Methyl-n-amyl ketone	235	15.7	11.75
100-61-8	N-Methyl aniline	2	0.133	0.1
74-83-9	Methyl bromide	43.9	1.27 0.26	0.952
591-78-6	Methyl-n-butyl ketone	20	1.33	1
109-86-4	Methyl cellosolve (2-Methoxyethanol)	15.6	1.04	0.78
74-87-3	Methyl chloride	103	6.867	5.15
71-55-6	Methyl chloroform	1910	127	95.5
137-05-3	Methyl 2-cyano-acrylate	8.1	0.533 0.67	0.405
25639-42-3	Methylcyclohexanol	235	15.7	11.75
583-60-8	o-Methylcyclohexanone	230	15.3	11.5
8022-00-2	Methyl demeton	0.5	0.033	0.01
101-68-8	Methylenediphenyl diisocyanate (MDI)	0.05	0.003	0.0025
5124-30-1	Methylene-bis-(4-cyclohexyl isocyanate)	0.11 0.054	0.0074	0.00563
78-93-3	Methyl ethyl ketone (MEK)	590	39.3	29.5
1338-23-4	Methyl ethyl ketone peroxide (CL)	1.5	0.01	0.0075

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
107-31-3	M methyl formate	246	16.4	12.3
541-85-5	5- M methyl-3-heptanone, see E ethyl amyl ketone			
110-12-3	M methyl isoamyl ketone	240	16	12
108-11-2	M methyl isobutyl carbinol	104	6.93	5.2
108-10-1	M methyl isobutyl ketone	205	13.7	10.25
624-83-9	M methyl isocyanate	0.05	0.003	0.0025
563-80-4	M methyl isopropyl ketone	705	47	35.25
74-93-1	M methyl mercaptan	0.598	0.03365	0.025
80-62-6	M methyl methacrylate	440 205	27.3 13.67	20.5 10.25
298-00-0	M methyl parathion	0.2	0.013	0.01
107-87-9	M methyl propyl ketone	700	46.7	35
681-84-5	M methyl silicate	6	0.4	0.3
98-83-9	a- M methyl styrene (all isomers)	240	16	10.20
109-87-5	M methylal (dimethoxymethane)	3110	207	155.5
108-87-2	M methylcyclohexane	1610	107	80.5
21087-64-9	M metribuzin	5	0.333	0.25
7786-34-7	M mevinphos	0.01	0.0007	0.0005
12001-26-2	M mica (R espirable dust)	3	0.2	0.15
NA	M mineral W ool F iber (no asbestos) - including: mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) - see synthetic vitreous fibers	40	0.667	0.5
7439-98-7	M molybdenum as Mo - including:			
NA	S soluble <u>molybdenum respirable</u> compounds	0.5	0.0333	0.025
NA	I nsoluble <u>molybdenum respirable</u> compounds	40 3	0.6672	0.15
108-90-7	M monochlorobenzene, see C chlorobenzene			
6923-22-4	M monocrotophos	0.205	0.04703	0.04025
110-91-8	M morpholine	70	4.67	0.35
300-76-5	N aled	3 0.1	0.20067	0.4005
8030-30-6	n aphtha (rubber solvent)	1590	106	79.5
91-20-3	N naphthalene	50	3.33	2.5
54-11-5	N nicotine	0.5	0.033	0.025
1929-82-4	N nitrapyrin	10	0.667	0.5
7697-37-2	N nitric acid	5	0.333	0.25
100-01-6	p- N itroaniline	3	0.2	0.15

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
98-95-3	A nitrobenzene	5	0.333	0.25
100-00-5	p- A nitrochlorobenzene	3 0.64	0.2043	0.45032
79-24-3	A nitroethane	310	20.7	15.5
7783-54-2	A nitrogen trifluoride	29	1.93	1.45
55-63-0	A nitroglycerin	0.46	0.031	0.023
75-52-5	A nitromethane	50	3.333	2.5
108-03-2	1- A nitropropane	90	6	4.5
99-08-1	m-(or) 3- A nitrotoluene	11	0.733	0.55
88-72-2	o-(or) 2- A nitrotoluene	11	0.733	0.55
99-99-0	p-(or) 4- A nitrotoluene	11	0.733	0.55
76-06-2	A nitrotrichloromethane, see C hloropicrin			
10024-97-2	A nitrous oxide	90	6	4.5
111-84-2	A nonane	1050	70	52.5
2234-13-1	O octachloronaphthalene	0.1	0.007	0.005
111-65-9	O octane (all isomers)	1400	93.3	70
NA	O oil mist, mineral	5 0.2	0.33013	0.2501
20816-12-0	O smium tetroxide as Os	0.002	0.0001	0.0001
144-62-7	O oxalic acid	1	0.067	0.05
7783-41-7	O xygen difluoride (CL)	0.11	0.0007	0.0005
8002-74-2	P araffin wax fume	2	0.133	0.1
4685-14-7	P araquat and compounds	0.1	0.007	0.007
NA	P araquat, all Compounds	0.1	0.007	0.005
56-38-2	P arathion	0.405	0.00714	0.0025
19624-22-7	P entaborane	0.01	0.001	0.0005
1321-64-8	P entachloronaphthalene	0.5	0.033	0.025
82-68-8	P entachloronitrobenzene	0.5	0.0333	0.025
87-86-5	P entachlorophenol	0.5	0.033	0.025
109-66-0	P entane	1770	118	88.5
107-87-9	2- P entanone, see M methyl propyl ketone			
594-42-3	P erchloromethyl mercaptan	0.8	0.053	0.04
7616-94-6	P erchloryl F luoride	13	0.867	0.65
93763-70-3	P erlite	10	0.667	0.5
532-27-4	P henacyl chloride, see a- C hloroacetophenone			
108-95-2	P henol	19	1.27	0.95

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
92-84-2	<i>P</i> phenothiazine	5	0.333	0.25
108-45-2	<i>m-P</i> phenylenediamine	0.1	0.0067	0.005
<u>95-54-5</u>	<u><i>o</i>-phenylenediamine</u>	<u>0.1</u>	<u>0.0067</u>	<u>0.005</u>
106-50-3	<i>p-P</i> phenylenediamine	0.1	0.007	0.005
101-84-8	<i>P</i> phenyl ether, vapor	7	0.467	0.035
122-60-1	<i>P</i> phenyl glycidyl ether (PGE)	6	0.4	0.3
108-98-5	<i>P</i> phenyl mercaptan	2	0.133	0.1
638-21-1	<i>P</i> phenylphosphine (CL)	0.25	0.0017	0.00125
298-02-2	<i>P</i> phorate	0.05	0.003	0.001
7786-34-7	<i>P</i> phosdrin, see <i>M</i> evinphos			
75-44-5	<i>P</i> phosgene	0.4	0.027	0.02
7803-51-2	<i>P</i> phosphine	0.4	0.027	0.02
7664-38-2	<i>P</i> phosphoric acid	1	0.067	0.05
7723-14-0	<i>P</i> phosphorus	0.1	0.007	0.005
10025-87-3	<i>P</i> phosphorus oxychloride	0.6	0.04	0.030
10026-13-8	<i>P</i> phosphorus penta-chloride	1	0.067	0.05
1313-80-3	<i>P</i> phosphorus penta-sulfide	1	0.067	0.05
1314-56-3	<i>P</i> phosphorus pentoxide (ID)	NA	0.067	0.05
7719-12-2	<i>P</i> phosphorus trichloride	1.5	0.1	0.075
85-44-9	<i>P</i> phthalic anhydride	6	0.4	0.3
626-17-5	<i>m-P</i> phthalodinitrile	5	0.333	0.25
1918-02-1	<i>P</i> picloram	10	0.667	0.5
88-89-1	<i>P</i> picric acid	0.1	0.006	0.005
83-26-1	<i>P</i> pindone	0.1	0.007	0.005
142-64-3	<i>P</i> piperazine dihydro-chloride	5	0.333	0.25
83-26-1	2- <i>P</i> pivaloyl-1,3-indandione, see <i>P</i> pindone			
7440-06-4	<i>P</i> platinum - including:			
7440-06-4	<i>M</i>metal	1	0.067	0.05
NA	<i>S</i>soluble salts, as Pt	0.002	0.0001	0.0001
65997-15-1	<i>P</i> portland cement	10	0.667	0.5
1310-58-3	<i>P</i> potassium hydroxide (CL)	2	0.0133	0.01
107-19-7	<i>P</i> propargyl alcohol	2.3	0.153	0.115
123-38-6	<i>P</i> propionaldehyde (LA)	0.438	0.03287	0.02454
79-09-4	<i>P</i> propionic acid	30	2	1.5

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
114-26-1	P propoxur (Baygon®)	0.5	0.033	0.025
109-60-4	n-P propyl acetate	840	56	42
71-23-8	n-P propyl alcohol	500	33.3	25
78-87-5	P propylene dichloride	347	23.133	17.35
6423-43-4	P propylene glycol dinitrate	0.34	0.023	0.017
107-98-2	P propylene glycol monomethyl ether	360	24	18
75-56-9	Propylene oxide	48	3.2	2.4
627-13-4	n-P propyl nitrate	105	7	5.25
8003-34-7	P pyrethrum	5	0.333	0.25
110-86-1	P pyridine	15	1	0.75
120-80-9	P pyrocatechol, see C catechol			
106-51-4	Q quinone	0.4	0.027	0.02
121-84-4	RDX, see C cyclonite			
NA	R refractory C eramic F ibers (see entry for specific content of emissions, ex: silica)	<u>0.2</u> fibers/cc	<u>NA</u>	<u>0.01</u> fibers/cc
108-46-3	R resorcinol	45	3	2.25
7440-16-6	R rhodium - f including:			
7440-16-6	M metal	1	0.067	0.05
NA	f insoluble compounds, as Rh	1	0.067	0.05
NA	S soluble compounds, as Rh	0.01	0.001	0.0005
299-84-3	R ronnel	10	0.667	0.5
83-79-4	R rotenone (commercial)	5	0.333	0.25
8030-30-6	Rubber solvent Naphtha	1590	106	79.5
14167-96-1	S salcoine as CO	0.1	0.007	0.005
7782-49-2	S selenium and compounds as Se	0.2	0.013	0.010
NA	Selenium and compounds as Se	0.2	0.013	0.01
136-78-7	S sesone	10	0.667	0.5
7803-62-5	S silane, see silicon tectrahydride			
NA	S ilica - amorphous - f including: fume	<u>2</u>	<u>0.133</u>	<u>0.1</u>
61790-53-2	D iatomaceous earth (uncalcined)	10	0.667	0.5
112926-00-8	P recipitated silica	10	0.667	0.5
112926-00-8	S silica gel	10	0.667	0.5
NA	S ilica, crystalline - f including:			
14464-46-1	C ristobalite	0.05	0.0033	0.0025

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
14808-60-7	quartz	0.1	0.0067	0.005
60676-86-0	silica, fused	0.1	0.0067	0.005
15468-32-3	tridymite	0.05	0.0033	0.0025
1317-95-9	Tripoli	0.1	0.0067	0.005
7440-21-3	silicon	10	0.667	0.5
409-21-2	silicon carbide	10	0.667	0.5
409-21-2	silicon carbide fibrous	0.1 fibers/cc	NA	0.005 fibers/cc
7803-62-5	silicon tetrahydride	7	0.467	0.35
7440-22-4	silver - including			
7440-22-4	metal	0.1	0.007	0.005
7440-22-4	soluble compounds, as Ag	0.01	0.001	0.005
26628-22-8	sodium azide (CL)	0.3	0.002	0.0015
7631-90-5	sodium bisulfite	5	0.333	0.25
136-78-7	sodium_2,4-dichloro-phenoxyethyl sulfate, see sesone			
62-74-8	sodium fluoroacetate	0.05	0.003	0.0025
1310-73-2	sodium hydroxide (CL)	2	0.0133	0.01
7681-57-4	sodium metabisulfite	5	0.333	0.25
NA	stearates (not including toxic metals)	10	0.667	0.5
7803-52-3	stibine	0.5	0.033	0.025
8052-41-3	toddard solvent	525	35	26.25
57-24-9	strychnine and compounds	0.15	0.01	0.0075
60-41-3	strychnine sulfate as strichnine	0.15	0.01	0.01
100-42-5	styrene monomer (ID)	NA	6.67133	1
1395-21-7	subtilisins (proteolytic enzymes as 100% pure crystalline enzyme)	0.00006	4.OE-07	3.0E-7
3689-24-5	sulfotepg	0.2	0.013	0.01
7664-93-9	sulfuric acid	1	0.067	0.05
10025-67-9	sulfur monochloride (CL)	6	0.04	0.03
5714-22-7	sulfur pentafluoride (CL)	0.1	0.0007	0.0005
7783-60-0	sulfur tetrafluoride (CL)	0.4	0.0027	0.002
2699-79-8	sulfuryl fluoride	20	1.33	1
35400-43-2	sulprofos	1	0.067	0.05

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
NA	synthetic vitreous fibers: respirable fibers - length > 5µm; aspect ratio > 3:1 as determined by the membrane filter method at 400-450X magnification (4-mm objective), using phase contrast illumination.	1 fiber/cc	NA	0.05 fibers/cc
8065-48-3	“Systox,” see D demeton			
93-76-5	2,4,5- T richlorophen-oxyacetic acid (2,4,5- T)	10	0.667	0.05
7440-25-7	T antalum metal, oxides and dust	5	0.333	0.25
3689-24-5	TEDP, see S sulfotepp			
13494-80-9	T ellurium & C ompounds as Te	0.1	0.007	0.005
7783-80-4	T ellurium hexafluoride as Te	0.2	0.013	0.01
3383-96-8	T emephos	10	0.667	0.5
107-49-3	TEPP (T etraethyl-pyrophosphate)	0.05	0.003	0.0025
26140-60-3	T erphenyls (<u>CL</u>)	4.75	0.0343	0.0235
1335-88-2	T etrachloronaphthalene	2	0.133	0.10
78-00-2	T etraethyl L ead	0.1	0.007	0.005
597-64-8	Tetraethyltin as organic tin	0.1	0.007	0.005
109-99-9	T etrahydrofuran	590	39.3	29.5
75-74-1	T etramethyl lead, as Pb	0.15	0.01	0.0075
3333-52-6	T etramethyl succinonitrile	3	0.2	0.15
509-14-8	T etranitromethane	8	0.533	0.4
7722-88-5	T etrasodium pyrophosphate	5	0.333	0.25
479-45-8	T etryl	1.5	0.1	0.075
7440-28-0	T hallium, soluble C ompounds, as Tl	0.1	0.007	0.005
96-69-5	4,4'- T hiobis (6 tert, butyl-m-cresol)	10	0.667	0.5
68-11-1	T hioglycolic acid	4	0.267	0.2
7719-09-7	T hionyl chloride (CL)	4.9	0.0327	0.245
137-26-8	T hiram	51	0.333067	0.205
7440-31-5	T in - I ncluding:			
7440-31-5	M etal	2	0.133	0.1
NA	O xide & inorganic compounds, except SnH ₄ , as Sn	2	0.133	0.1
NA	O rganic compounds as Sn	0.1	0.007	0.005
108-88-3	T oluene (toluol)	375 188	12.5	18.75 9.4
584-84-9	Toluene-2,4-di-isocyanate (TDI)	0.04	0.003	0.002
10-41-54	p- T oluenesulfonic acid (ID)	N/a	0.067	0.05
126-73-8	T ributyl phosphate	2.2	0.147	0.11

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
76-03-9	T richloroacetic acid	7	0.467	0.35
120-82-1	1,2,4- T richlorobenzene (CL)	37	2.47	1.85
79-01-6	T richloroethylene	260	17.93	13.45
1321-65-9	T richloronaphthalene	5	0.333	0.25
76-06-2	T richloronitromethane, S see C chloropicrin			
95-95-4	2,4,5- T richlorophenol (MA)	NA	NA	0.0016
96-18-4	1,2,3- T richloropropane	60	4	3
<u>15468-32-3</u>	<u>tridymite (respirable)</u>	<u>0.05</u>	<u>0.0033</u>	<u>0.0025</u>
121-44-8	T riethylamine	4.1	0.27	0.2
1582-09-8	T rifluralin (PL3)	NA	7.7	1.15
552-30-7	T rimellitic anhydride (<u>CL</u>)	0.04	0.003	0.002
75-50-3	T rimethylamine	12	0.8	0.6
25551-13-7	T rimethyl benzene (mixed and individual isomers)	123	8.2	6.15
540-84-1	2,2,4- T rimethyl-pentane	350	23.3	17.5
121-45-9	T rimethyl phosphite	10	0.667	0.5
479-45-8	2,4,6- T rinitrophenyl-methylnitramine, see T tetryl			
78-30-8	T riorthocresyl phosphate	0.1	0.007	0.005
603-34-9	T riphenyl amine	5	0.333	0.25
115-86-6	T riphenyl phosphate	3	0.2	0.15
<u>1317-95-9</u>	<u>tripoli (respirable)</u>	<u>0.1</u>	<u>0.0067</u>	<u>0.005</u>
7440-33-7	T ungsten - I ncluding:			
NA	I nsoluble <u>tungsten</u> compounds	5	0.333	0.25
NA	S soluble <u>tungsten</u> compounds	1	0.067	0.05
8006-64-2	T urpentine	560	37.3	28
7440-61-1	U ranium (natural) S soluble & insoluble compounds as U	0.2	0.013	0.01
110-62-3	n- V aleraldehyde	175	11.7	8.75
1314-62-1	V anadium, as V ₂ O ₅ R espirable D ust & fume	0.05	0.003	0.0025
108-05-4	V inyl acetate (#D)	0-2 35	<u>2.3</u>	<u>1.75</u>
25013-15-4	V inyl toluene	240	16	12
8032-32-4	VM & P A naphtha	1370	91.3	68.5
81-81-2	W arfarin	0.1	0.007	0.005
1330-20-7	X xylene (o-, m-, p-isomers)	435	29	21.75
1477-55-0	m- X xylene a, a-diamine (CL)	0.1	0.0007	0.0005

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
1300-73-8	Xylidine	2.5	1.67	0.125
7440-65-5	Yttrium (Metal and compounds as Y)	1	0.067	0.05
7440-66-6	Zinc metal (ID)	--	0.667	0.5
7646-85-7	Zinc chloride fume	1	0.067	0.05
1314-13-2	Zinc oxide fume	5	0.333	0.05
1314-13-2	Zinc oxide dust	10	0.667	0.5
7440-67-7	Zirconium compounds as Zr	5	0.333	0.25

(6-30-95)()

02. Toxic Air Pollutants Non-Carcinogenic Increments Table Sorted By CAS Number.

CAS NUMBER	SUBSTANCE	OEL (mg/m ³)	EL (lb/hr)	AAC (mg/m ³)
	diphenyl methane diisocyanate, see methylenediphenyl diisocyanate			
100-00-5	p-nitrochlorobenzene	0.64	0.043	0.032
100-01-6	p-nitroaniline	3	0.2	0.15
10024-97-2	nitrous oxide	90	6	4.5
100-25-4	p (or) 1,4- dinitrobenzene	1	0.067	0.05
10025-67-9	sulfur monochloride (CL)	6	0.04	0.03
10025-87-3	phosphorus oxychloride	0.6	0.04	0.030
10026-13-8	phosphorus penta-chloride	1	0.067	0.05
10035-10-6	hydrogen bromide (CL)	10	0.0667	0.5
100-37-8	2-diethylamino-ethanol	50	3.33	2.5
100-41-4	ethyl benzene	435	29	21.75
100-42-5	styrene monomer (ID)	--	1.33	1
10049-04-4	chlorine dioxide	0.3	0.02	0.015
100-61-8	N-methyl aniline	2	0.133	0.1
100-74-3	N-ethylmorpholine	23	1.53	1.15
101-68-8	MDI. see methylene diphenyl isocyanate			
101-68-8	methylenediphenyl diisocyanate (MDI)	0.05	0.003	0.0025
101-84-8	phenyl ether, vapor	7	0.467	0.035
10210-68-1	cobalt carbonyl as Co	0.1	0.007	0.005
102-54-5	dicyclopentadienyl iron	10	0.667	0.5
102-81-8	2-N-dibutylamino ethanol	3.5	0.23	0.175

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
<u>10294-33-4</u>	boron tribromide (CL)	<u>10</u>	<u>0.0667</u>	<u>0.05</u>
<u>10-41-54</u>	p-toluenesulfonic acid (ID)	<u>N/A</u>	<u>0.067</u>	<u>0.05</u>
<u>105-46-4</u>	sec-butyl acetate	<u>950</u>	<u>63.3</u>	<u>47.5</u>
<u>105-60-2</u>	caprolactam – including: dust vapor	<u>1</u> <u>20</u>	<u>0.067</u> <u>1.33</u>	<u>0.05</u> <u>1.0</u>
<u>106-35-4</u>	3-heptanone, see ethyl butyl ketone			
<u>106-35-4</u>	ethyl butyl ketone	<u>230</u>	<u>15.3</u>	<u>11.5</u>
<u>106-44-5</u>	p-cresol	<u>22</u>	<u>1.47</u>	<u>1.1</u>
<u>106-50-3</u>	p-henylenediamine	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>106-51-4</u>	quinone	<u>0.4</u>	<u>0.027</u>	<u>0.02</u>
<u>106-92-3</u>	allyl glycidyl ether	<u>4.7</u>	<u>0.31</u>	<u>0.24</u>
<u>107-02-8</u>	acrolein CL	<u>0.25</u>	<u>0.017</u>	<u>0.0125</u>
<u>107-06-2</u>	ethylene dichloride	<u>40</u>	<u>2.667</u>	<u>2</u>
<u>107-07-3</u>	2-chloroethanol, see ethylene chlorohydrin			
<u>107-07-3</u>	ethylene chlorohydrin (CL)	<u>3</u>	<u>0.02</u>	<u>0.015</u>
<u>107-15-3</u>	1,2-diaminoethane, see ethylenediamine			
<u>107-15-3</u>	ethylenediamine	<u>25</u>	<u>1.67</u>	<u>1.25</u>
<u>107-18-6</u>	allyl alcohol	<u>5</u>	<u>0.333</u>	<u>.25</u>
<u>107-19-7</u>	propargyl alcohol	<u>2.3</u>	<u>0.153</u>	<u>0.115</u>
<u>107-20-0</u>	chloroacetaldehyde (CL)	<u>0.32</u>	<u>0.0021</u>	<u>0.0016</u>
<u>107-21-1</u>	ethylene glycol vapor (CL)	<u>100</u>	<u>0.666</u>	<u>0.5</u>
<u>107-31-3</u>	methyl formate	<u>246</u>	<u>16.4</u>	<u>12.3</u>
<u>107-41-5</u>	hexylene glycol (CL)	<u>121</u>	<u>0.806</u>	<u>6.05</u>
<u>107-49-3</u>	TEPP (tetraethyl-pyrophosphate)	<u>0.05</u>	<u>0.003</u>	<u>0.0025</u>
<u>107-66-4</u>	dibutyl phosphate	<u>8.6</u>	<u>0.573</u>	<u>0.43</u>
<u>107-87-9</u>	2-pentanone, see methyl propyl ketone			
<u>107-87-9</u>	methyl propyl ketone	<u>700</u>	<u>46.7</u>	<u>35</u>
<u>107-98-2</u>	propylene glycol monomethyl ether	<u>360</u>	<u>24</u>	<u>18</u>
<u>108-03-2</u>	1-nitropropane	<u>90</u>	<u>6</u>	<u>4.5</u>
<u>108-05-4</u>	vinyl acetate	<u>35</u>	<u>2.3</u>	<u>1.75</u>
<u>108-10-1</u>	hexone, see methyl isobutyl ketone			
<u>108-10-1</u>	methyl isobutyl ketone	<u>205</u>	<u>13.7</u>	<u>10.25</u>
<u>108-11-2</u>	methyl amyl alcohol, see methyl isobutyl carbinol			

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
108-11-2	methyl isobutyl carbinol	104	6.93	5.2
108-18-9	diisopropylamine	20	1.33	1
108-20-3	isopropyl ether	1040	69.3	52
108-21-4	isopropyl acetate	4	28	21
108-24-7	acetic anhydride	20	1.33	1
108-31-6	maleic anhydride	0.4	0.03	0.02
108-39-4	m-cresol	22	1.47	1.1
108-45-2	m-phenylenediamine	0.1	0.0067	0.005
108-46-3	resorcinol	45	3	2.25
108-57-6	divinyl benzene	50	3.33	2.5
108-65-6	1-methoxy-2-propanol acetate (ID)	N/A	24	3.6
108-83-8	2,6-dimethyl-4-heptanone, see diisobutyl ketone			
108-83-8	diisobutyl ketone	145	9.67	7.25
108-84-9	sec-hexyl acetate	300	20	15
108-87-2	methylcyclohexane	1610	107	80.5
108-88-3	toluene (toluol)	188	12.5	9.4
108-90-7	"Chlorobenzene"	46	3	2.3
108-90-7	monochlorobenzene, see chlorobenzene			
108-91-8	cyclohexylamine	41	2.73	2.05
108-93-0	cyclohexanol	200	13.3	10
108-94-1	cyclohexanone	100	6.67	5
108-95-2	phenol	19	1.27	0.95
108-98-5	phenyl mercaptan	2	0.133	0.1
109-59-1	isopropoxyethanol	105	7	5.25
109-60-4	n-propyl acetate	840	56	42
109-66-0	pentane	1770	118	88.5
109-73-9	n-butylamine CL	15	.01	.075
109-79-5	butanethiol, see butyl mercaptan			
109-79-5	butyl mercaptan	1.8	0.12	0.09
109-86-4	2-methoxyethanol	16	1.07	0.8
109-86-4	methyl cellosolve (2-methoxyethanol)	15.6	1.04	0.78
109-87-5	methylal (dimethoxymethane)	3110	207	155.5
109-89-7	diethylamine	30	2	1.5
109-94-4	ethyl formate	300	20	15

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
<u>109-99-9</u>	<u>tetrahydrofuran</u>	<u>590</u>	<u>39.3</u>	<u>29.5</u>
<u>110-12-3</u>	<u>methyl isoamyl ketone</u>	<u>240</u>	<u>16</u>	<u>12</u>
<u>110-19-0</u>	<u>isobutyl acetate</u>	<u>700</u>	<u>46.7</u>	<u>35</u>
<u>110-43-0</u>	<u>2-heptanone, see methyl n-amyl ketone</u>			
<u>110-43-0</u>	<u>methyl-n-amyl ketone</u>	<u>235</u>	<u>15.7</u>	<u>11.75</u>
<u>110-49-6</u>	<u>2-methoxyethyl acetate</u>	<u>24</u>	<u>1.6</u>	<u>1.2</u>
<u>110-49-6</u>	<u>ethylene glycol methyl ether acetate, see 2-methoxyethyl acetate</u>			
<u>110-54-3</u>	<u>hexane (n-hexane)</u>	<u>180</u>	<u>12</u>	<u>9</u>
<u>110-62-3</u>	<u>n-valeraldehyde</u>	<u>175</u>	<u>11.7</u>	<u>8.75</u>
<u>110-80-5</u>	<u>2-ethoxyethanol</u>	<u>19</u>	<u>1.27</u>	<u>0.95</u>
<u>110-80-5</u>	<u>glycol monoethyl ether, see 2-ethoxyethanol</u>			
<u>110-82-7</u>	<u>cyclohexane</u>	<u>344</u>	<u>23</u>	<u>17.2</u>
<u>110-83-8</u>	<u>cyclohexene</u>	<u>1015</u>	<u>67.7</u>	<u>50.75</u>
<u>110-86-1</u>	<u>pyridine</u>	<u>15</u>	<u>1</u>	<u>0.75</u>
<u>110-91-8</u>	<u>morpholine</u>	<u>70</u>	<u>4.67</u>	<u>0.35</u>
<u>111-15-9</u>	<u>2-ethoxyethyl acetate (EGEEA)</u>	<u>27</u>	<u>1.8</u>	<u>1.35</u>
<u>111-30-8</u>	<u>glutaraldehyde (CL)</u>	<u>0.2</u>	<u>0.0013</u>	<u>0.001</u>
<u>111-40-0</u>	<u>diethylenetriamine</u>	<u>4</u>	<u>0.267</u>	<u>0.2</u>
<u>111-42-2</u>	<u>diethanolamine</u>	<u>15</u>	<u>1</u>	<u>0.75</u>
<u>111-44-4</u>	<u>dichloroethyl ether</u>	<u>30</u>	<u>2</u>	<u>1.5</u>
<u>111-65-9</u>	<u>octane (all isomers)</u>	<u>1400</u>	<u>93.3</u>	<u>70</u>
<u>111-76-2</u>	<u>2-butoxyethanol (EGBG)</u>	<u>97</u>	<u>6.5</u>	<u>5</u>
<u>111-84-2</u>	<u>nonane</u>	<u>1050</u>	<u>70</u>	<u>52.5</u>
<u>112-807-2</u>	<u>2-butoxyethyl acetate (NIOSH)</u>	<u>33</u>	<u>2.2</u>	<u>1.7</u>
<u>114-26-1</u>	<u>propoxur (Baygon®)</u>	<u>0.5</u>	<u>0.033</u>	<u>0.025</u>
<u>115-29-7</u>	<u>endosulfan</u>	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>115-86-6</u>	<u>triphenyl phosphate</u>	<u>3</u>	<u>0.2</u>	<u>0.15</u>
<u>115-90-2</u>	<u>fensulfotion</u>	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>117-84-0</u>	<u>N-dioctyl phthalate</u>	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>118-52-5</u>	<u>1,3-dichloro-5, 5 dimethylhydantoin</u>	<u>0.2</u>	<u>0.013</u>	<u>0.025</u>
<u>1189-85-1</u>	<u>tert-butyl chromate, as CrO₃ (CL)</u>	<u>0.1</u>	<u>0.0007</u>	<u>.0005</u>
<u>12001-26-2</u>	<u>mica (respirable dust)</u>	<u>3</u>	<u>0.2</u>	<u>0.15</u>
<u>120-80-9</u>	<u>catechol</u>	<u>20</u>	<u>1.33</u>	<u>1.0</u>

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
120-80-9	pyrocatechol, see catechol			
120-82-1	1,2,4- trichlorobenzene (CL)	37	2.47	1.85
12125-02-9	ammonium chloride fumes	10	0.667	0.5
121-44-8	triethylamine	4.1	0.27	0.2
121-45-9	trimethyl phosphite	10	0.667	0.5
121-69-7	dimethylaniline (N,N-dimethylaniline)	25	1.67	1.25
121-75-5	malathion	10	0.667	0.5
121-82-4	cyclonite (RDX)	1.5	0.1	0.075
121-84-4	RDX, see cyclonite			
122-39-4	diphenylamine	10	0.667	0.5
122-60-1	phenyl glycidyl ether (PGE)	6	0.4	0.3
123-19-3	dipropyl ketone	235	15.7	11.75
123-31-9	dihydroxybenzene, see hydroquinone			
123-31-9	hydroquinone	2	0.133	0.1
123-38-6	propionaldehyde	0.48	0.032	0.024
123-42-2	4-hydroxy-4-methyl-2-pentanone, see diacetone alcohol			
123-42-2	diacetone alcohol	240	16	12
123-51-3	isoamyl alcohol	360	24	18
123-73-9	crotonaldehyde (CL)	0.86	0.006	0.004
123-86-4	n-butyl acetate	710	47.3	35.5
123-92-2	isoamyl acetate	266	17.7	13.3
124-17-4	butyl "Carbitol" acetate (ID)	N/A	0.846	.625
124-40-3	dimethylamine	9.2	0.613	0.46
12604-58-9	ferrovanadium dust	1	0.067	0.05
126-73-8	tributyl phosphate	2.2	0.147	0.11
126-98-7	methylacrylonitrile	3	0.2	0.15
126-99-8	2-chloro-1,3-butadiene, see B-chloroprene			
126-99-8	b-chloroprene	36	2.4	1.8
127-19-5	dimethyl acetamide	35	2.33	1.75
128-37-0	2,6-di-tert-butyl-p-cresol	2	0.133	0.1
1300-73-8	dimethylamino benzene, see xylidine			
1300-73-8	xylidine	2.5	1.67	0.125
1302-74-5	emery (corundum) total dust (> 1% silica)	10	0.667	0.5

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
<u>1303-86-2</u>	<u>boron oxide</u>	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>1303-96-4</u>	<u>borates, tetra sodium salts - including:</u>			
<u>NA</u>	<u>borates anhydrous</u>	<u>1</u>	<u>0.067</u>	<u>0.05</u>
<u>NA</u>	<u>borates decahydrate</u>	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>NA</u>	<u>borates pentahydrate</u>	<u>1</u>	<u>0.067</u>	<u>0.05</u>
<u>1304-82-1</u>	<u>bismuth telluride undoped</u>	<u>10</u>	<u>0.667</u>	<u>0.05</u>
<u>1305-62-0</u>	<u>calcium hydroxide</u>	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>1305-78-8</u>	<u>coxide</u>	<u>2</u>	<u>0.133</u>	<u>0.1</u>
<u>1309-37-1</u>	<u>iron oxide fume (Fe₂O₃) as Fe</u>	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>1309-48-4</u>	<u>magnesium oxide fumes</u>	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>1310-58-3</u>	<u>potassium hydroxide (CL)</u>	<u>2</u>	<u>0.0133</u>	<u>0.01</u>
<u>1310-73-2</u>	<u>sodium hydroxide (CL)</u>	<u>2</u>	<u>0.0133</u>	<u>0.01</u>
<u>131-11-3</u>	<u>dimethylphthalate</u>	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>1313-80-3</u>	<u>phosphorus penta-sulfide</u>	<u>1</u>	<u>0.067</u>	<u>0.05</u>
<u>1314-13-2</u>	<u>zinc oxide dust</u>	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>1314-13-2</u>	<u>zinc oxide fume</u>	<u>5</u>	<u>0.333</u>	<u>0.05</u>
<u>1314-56-3</u>	<u>phosphorus pentoxide (ID)</u>	<u>--</u>	<u>0.067</u>	<u>0.05</u>
<u>1314-62-1</u>	<u>vanadium, as V₂O₅ respirable dust & fume</u>	<u>0.05</u>	<u>0.003</u>	<u>0.0025</u>
<u>1317-95-9</u>	<u>tripoli (respirable)</u>	<u>0.1</u>	<u>0.0067</u>	<u>0.005</u>
<u>1319-77-3</u>	<u>cresols/cresylic acid (isomers and mixtures)</u>	<u>22</u>	<u>1.47</u>	<u>1.1</u>
<u>1321-64-8</u>	<u>pentachloronaphthalene</u>	<u>0.5</u>	<u>0.033</u>	<u>0.025</u>
<u>1321-65-9</u>	<u>trichloronaphthalene</u>	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>1330-20-7</u>	<u>dimethylbenzene, see xylene</u>			
<u>1330-20-7</u>	<u>xylene (o-, m-, p-isomers)</u>	<u>435</u>	<u>29</u>	<u>21.75</u>
<u>133-06-2</u>	<u>captan</u>	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>1332-58-7</u>	<u>kaolin (respirable dust)</u>	<u>2</u>	<u>0.133</u>	<u>0.1</u>
<u>1333-86-4</u>	<u>carbon black</u>	<u>3.5</u>	<u>0.23</u>	<u>0.175</u>
<u>1335-87-1</u>	<u>hexachloronaphthalene</u>	<u>0.2</u>	<u>0.013</u>	<u>0.010</u>
<u>1335-88-2</u>	<u>tetrachloronaphthalene</u>	<u>2</u>	<u>0.133</u>	<u>0.10</u>
<u>1338-23-4</u>	<u>methyl ethyl ketone peroxide (CL)</u>	<u>1.5</u>	<u>0.01</u>	<u>0.0075</u>
<u>133-90-4</u>	<u>Chloramben (PL)</u>	<u>N/A</u>	<u>887</u>	<u>133</u>
<u>13397-24-5</u>	<u>calcium sulfate</u>	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>1344-95-2</u>	<u>calcium silicate (synthetic)</u>	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>13463-40-6</u>	<u>iron pentacarbonyl as Fe</u>	<u>0.8</u>	<u>0.053</u>	<u>0.04</u>

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
<u>13494-80-9</u>	tellurium & compounds as Te	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>136-78-7</u>	sesone	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>136-78-7</u>	sodium-2,4-dichloro-phenoxyethyl sulfate, see sesone			
<u>137-05-3</u>	methyl 2-cyano-acrylate	<u>1</u>	<u>0.067</u>	<u>0.05</u>
<u>137-26-8</u>	thiram	<u>1</u>	<u>0.067</u>	<u>0.05</u>
<u>13765-19-0</u>	calcium carbonate	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>138-22-7</u>	n-butyl lactate	<u>25</u>	<u>1.67</u>	<u>1.25</u>
<u>13838-16-9</u>	enflurane	<u>566</u>	<u>37.7</u>	<u>28.3</u>
<u>1395-21-7</u>	enzymes, see subtilisins			
<u>1395-21-7</u>	subtilisins (proteolytic enzymes as 100% pure crystalline enzyme)	<u>0.00006</u>	<u>4.0E-07</u>	<u>3.0E-7</u>
<u>141-32-2</u>	n-butyl acrylate	<u>11</u>	<u>0.73</u>	<u>0.55</u>
<u>141-43-5</u>	2-aminoethanol, see ethanolamine			
<u>141-43-5</u>	ethanolamine	<u>8</u>	<u>0.533</u>	<u>0.4</u>
<u>141-66-2</u>	dicrotophos	<u>0.05</u>	<u>0.0033</u>	<u>0.125</u>
<u>14167-96-1</u>	salcoine as CO	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>141-78-6</u>	ethyl acetate	<u>1400</u>	<u>93.3</u>	<u>70</u>
<u>141-79-7</u>	mesityl oxide	<u>60</u>	<u>4</u>	<u>3</u>
<u>142-64-3</u>	piperazine dihydro-chloride	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>142-82-5</u>	heptane (n-heptane)	<u>1640</u>	<u>109</u>	<u>82</u>
<u>144-62-7</u>	oxalic acid	<u>1</u>	<u>0.067</u>	<u>0.05</u>
<u>14484-64-1</u>	ferbam	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>1477-55-0</u>	m-xylene a, a-diamine (CL)	<u>0.1</u>	<u>0.0007</u>	<u>0.0005</u>
<u>148-01-6</u>	3,5-dinitro-o-toluamide, see dinitolmide			
<u>148-01-6</u>	dinitolmide	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>150-76-5</u>	4-methoxyphenol	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>151-67-7</u>	halothane	<u>404</u>	<u>26.9</u>	<u>20.2</u>
<u>15468-32-3</u>	tridymite (respirable)	<u>0.05</u>	<u>0.0033</u>	<u>0.0025</u>
<u>1563-66-2</u>	carbofuran	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>156-62-7</u>	calcium cyanamide	<u>0.5</u>	<u>0.033</u>	<u>0.025</u>
<u>1582-09-8</u>	trifluralin (PL3)	<u>N/A</u>	<u>7.7</u>	<u>1.15</u>
<u>16219-75-3</u>	ethylidene norbornene (CL)	<u>25</u>	<u>0.167</u>	<u>1.25</u>
<u>16752-77-5</u>	methomyl	<u>2.5</u>	<u>0.17</u>	<u>0.125</u>
<u>16842-03-8</u>	cobalt hydrocarbonyl as Co	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
<u>17702-41-9</u>	<u>decaborane</u>	<u>0.3</u>	<u>0.02</u>	<u>0.015</u>
<u>17804-35-2</u>	<u>benomyl</u>	<u>10</u>	<u>0.67</u>	<u>0.5</u>
<u>1918-02-1</u>	<u>picloram</u>	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>19287-45-7</u>	<u>diborane</u>	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>1929-82-4</u>	<u>2-chloro-6-(tri-chloromethyl) pyridine, see nitrapyrin</u>			
<u>1929-82-4</u>	<u>nitrapyrin</u>	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>19624-22-7</u>	<u>pentaborane</u>	<u>0.01</u>	<u>0.001</u>	<u>0.0005</u>
<u>2039-87-4</u>	<u>o-chlorostyrene</u>	<u>285</u>	<u>19</u>	<u>14.25</u>
<u>20816-12-0</u>	<u>osmium tetroxide as Os</u>	<u>0.002</u>	<u>0.0001</u>	<u>0.0001</u>
<u>2104-64-5</u>	<u>EPN (ethoxy-4-nitro-phenoxy phenylphosphine)</u>	<u>0.1</u>	<u>0.0067</u>	<u>0.005</u>
<u>21087-64-9</u>	<u>metribuzin</u>	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>21351-79-1</u>	<u>cesium hydroxide</u>	<u>2</u>	<u>0.133</u>	<u>0.10</u>
<u>2179-59-1</u>	<u>allyl propyl disulfide</u>	<u>12</u>	<u>0.8</u>	<u>0.6</u>
<u>22224-92-6</u>	<u>fenamiphos</u>	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>2234-13-1</u>	<u>octachloronaphthalene</u>	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>2238-07-5</u>	<u>diglycidyl ether (DGE)</u>	<u>0.53</u>	<u>0.035</u>	<u>0.0265</u>
<u>2425-06-1</u>	<u>captafol</u>	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>2426-08-6</u>	<u>n-butyl glycidyl ether</u>	<u>135</u>	<u>9</u>	<u>6.75</u>
<u>25013-15-4</u>	<u>vinyl toluene</u>	<u>240</u>	<u>16</u>	<u>12</u>
<u>2528-36-1</u>	<u>dibutyl phenyl phosphate</u>	<u>3.5</u>	<u>0.233</u>	<u>0.175</u>
<u>25551-13-7</u>	<u>trimethyl benzene (mixed and individual isomers)</u>	<u>123</u>	<u>8.2</u>	<u>6.15</u>
<u>25639-42-3</u>	<u>methylcyclohexanol</u>	<u>235</u>	<u>15.7</u>	<u>11.75</u>
<u>26140-60-3</u>	<u>terphenyls (CL)</u>	<u>5</u>	<u>0.033</u>	<u>0.025</u>
<u>26628-22-8</u>	<u>sodium azide (CL)</u>	<u>0.3</u>	<u>0.002</u>	<u>0.0015</u>
<u>26952-21-6</u>	<u>isooctyl alcohol</u>	<u>270</u>	<u>18</u>	<u>13.5</u>
<u>2698-41-1</u>	<u>o-chlorobenzylidene malononitrile (CL)</u>	<u>0.4</u>	<u>0.0027</u>	<u>0.03</u>
<u>2699-79-8</u>	<u>sulfuryl fluoride</u>	<u>20</u>	<u>1.33</u>	<u>1</u>
<u>287-92-3</u>	<u>cyclopentane</u>	<u>1720</u>	<u>114.667</u>	<u>86</u>
<u>2921-88-2</u>	<u>chlorpyrifos</u>	<u>0.1</u>	<u>0.0067</u>	<u>0.005</u>
<u>2971-90-6</u>	<u>clopidol</u>	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>298-00-0</u>	<u>methyl parathion</u>	<u>0.2</u>	<u>0.013</u>	<u>0.01</u>
<u>298-02-2</u>	<u>phorate</u>	<u>0.05</u>	<u>0.003</u>	<u>0.001</u>
<u>298-04-4</u>	<u>disulfoton</u>	<u>0.05</u>	<u>0.033</u>	<u>0.0025</u>

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
<u>299-84-3</u>	ronnell	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>299-86-5</u>	cruformate	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>300-76-5</u>	<u>dimethyl-1,2-dibromo-2-dichloroethyl phosphate.</u> see naled			
<u>300-76-5</u>	naled	<u>0.1</u>	<u>0.0067</u>	<u>0.005</u>
<u>31242-93-0</u>	chlorinated diphenyl oxide	<u>0.5</u>	<u>0.033</u>	<u>0.025</u>
<u>314-40-9</u>	bromacil	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>330-54-1</u>	diuron	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>3333-52-6</u>	tetramethyl succinonitrile	<u>3</u>	<u>0.2</u>	<u>0.15</u>
<u>333-41-5</u>	"Diazinon"	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>334-88-3</u>	diazomethane	<u>0.34</u>	<u>0.023</u>	<u>0.017</u>
<u>3383-96-8</u>	temephos	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>34590-94-8</u>	dipropylene glycol methyl ether	<u>600</u>	<u>40</u>	<u>30</u>
<u>353-50-4</u>	carbonyl fluoride	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>35400-43-2</u>	sulprofos	<u>1</u>	<u>0.067</u>	<u>0.05</u>
<u>3689-24-5</u>	sulfotepp	<u>0.2</u>	<u>0.013</u>	<u>0.01</u>
<u>3689-24-5</u>	TEDP, see sulfotepp			
<u>37275-59-5</u>	hydrogenated terphenyls	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>3825-26-1</u>	ammonium perfluorooctanoate	<u>0.1</u>	<u>0.0007</u>	<u>0.0005</u>
<u>39393-37-8</u>	dialkyl phthalate (ID)	<u>NA</u>	<u>16.4</u>	<u>2.46</u>
<u>4016-14-2</u>	isopropyl glycidyl ether (IGE)	<u>240</u>	<u>16</u>	<u>12</u>
<u>409-21-2</u>	silicon carbide	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>409-21-2</u>	silicon carbide fibrous	<u>0.1 fibrs/cc</u>	<u>N/A</u>	<u>0.005 fibers/cc</u>
<u>4098-71-9</u>	isophorone diisocyanate	<u>0.045</u>	<u>0.003</u>	<u>0.0023</u>
<u>420-04-2</u>	cyanamide	<u>2</u>	<u>0.133</u>	<u>0.1</u>
<u>463-51-4</u>	ketene	<u>0.9</u>	<u>0.06</u>	<u>0.045</u>
<u>463-58-1</u>	carbonyl sulfide	<u>0.4</u>	<u>0.027</u>	<u>0.02</u>
<u>4685-14-7</u>	paraquat and compounds	<u>0.1</u>	<u>0.007</u>	<u>0.007</u>
<u>479-45-8</u>	<u>2,4,6-trinitrophenyl-methylnitramine.</u> see tetryl			
<u>479-45-8</u>	tetryl	<u>1.5</u>	<u>0.1</u>	<u>0.075</u>
<u>504-29-0</u>	2-aminopyridine	<u>2</u>	<u>0.133</u>	<u>0.10</u>
<u>509-14-8</u>	tetranitromethane	<u>8</u>	<u>0.533</u>	<u>0.4</u>
<u>510-15-6</u>	chlorobenzilate (PL1)	<u>NA</u>	<u>0.047</u>	<u>0.035</u>
<u>5124-30-1</u>	methylene-bis-(4-cyclohexyl isocyanate)	<u>0.054</u>	<u>0.004</u>	<u>0.003</u>

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
51-79-6	ethyl carbamate (urethane) (WA)	NA	0.002	0.0015
528-29-0	dinitrobenzene	1	0.067	0.05
532-27-4	a-chloroacetophenone	0.32	0.021	0.016
532-27-4	phenacyl chloride, see a chloroacetophenone			
534-52-1	dinitro-o-cresol	0.2	0.013	0.01
540-59-0	1,2-dichloroethylene (all isomers)	790	52.7	39.5
540-59-0	acetylene dichloride, see 1,2-dichloroethylene			
540-84-1	2,2,4-trimethyl-pentane	350	23.3	17.5
540-88-5	tert-butyl acetate	950	63.3	47.5
54-11-5	nicotine	0.5	0.033	0.025
541-85-5	5-methyl-3-heptanone, see ethyl amyl ketone			
541-85-5	ethyl amyl ketone	130	8.67	6.5
542-92-7	cyclopentadiene	200	13.3	10
546-93-0	magnesite	10	0.667	0.5
552-30-7	trimellitic anhydride (CL)	0.04	0.003	0.002
55-38-9	fenthion	0.2	0.013	0.01
55-63-0	nitroglycerin	0.46	0.031	0.023
556-52-5	2,3-epoxy-1-propanol, see glycidol			
556-52-5	glycidol	6.1	0.4	0.3
558-13-4	carbon tetrabromide	1.4	0.093	0.07
563-12-2	ethion	0.4	0.027	0.02
563-80-4	methyl isopropyl ketone	705	47	35.25
56-38-2	parathion	0.05	0.0014	0.0025
5714-22-7	sulfur pentafluoride (CL)	0.1	0.0007	0.0005
57-24-9	strychnine and compounds	0.15	0.01	0.0075
583-60-8	o-methylcyclohexanone	230	15.3	11.5
591-78-6	2- hexanone, see methyl-n-butyl ketone			
591-78-6	methyl-n-butyl ketone	20	1.33	1
592-01-8	cyanide and compounds as CN (CL)	5	0.0333	0.025
594-42-3	perchloromethyl mercaptan	0.8	0.053	0.04
594-72-9	1, 1-dichloro-1-nitroethane	10	0.667	0.5
600-25-9	1-chloro-1-nitropropane	10	0.667	0.5
60-11-7	dimethyl aminoazo-benzene (NY)	NA	0.002	0.0003
60-29-7	diethyl ether, see ethyl ether			

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
603-34-9	triphenyl amine	5	0.333	0.25
624-83-9	methyl isocyanate	0.05	0.003	0.0025
626-17-5	m-phthalodinitrile	5	0.333	0.25
626-38-0	sec-amyl acetate	66	18	13
627-13-4	n-propyl nitrate	105	7	5.25
62-73-7	dichlorvos (DDVP)	0.1	0.0067	0.005
62-74-8	sodium fluoroacetate	0.05	0.003	0.0025
628-63-7	n-amyl acetate	266	18	13
628-96-6	ethylene glycol denigrate	0.31	0.021	0.016
63-25-2	carbaryl	5	0.333	0.25
638-21-1	phenylphosphine (CL)	0.25	0.0017	0.00125
64-17-5	ethyl alcohol	1880	125	94
64-18-6	formic acid	9.4	0.627	0.47
64-19-7	acetic acid	25	1.67	1.25
6423-43-4	propylene glycol dinitrate	0.34	0.023	0.017
643-28-7	N-isopropylaniline	10	0.667	0.5
65997-15-1	portland cement	10	0.667	0.5
67-56-1	methanol	260	17.3	13
67-63-0	isopropyl alcohol	491	32.7	24.6
67-64-1	acetone	1780	119	89
680-31-9	hexamethylphosphoramide (WA)	NA	0.002	0.0015
68-11-1	thioglycolic acid	4	0.267	0.2
68-12-2	dimethylformamide	30	2	1.5
681-84-5	methyl silicate	6	0.4	0.3
684-16-2	hexafluoroacetone	0.7	0.047	0.035
6923-22-4	monocrotophos	0.05	0.003	0.0025
7106-51-4	p-benzoquinone. see quinone			
71-23-8	n-propyl alcohol	500	33.3	25
71-36-3	n-butyl alcohol	150	10	7.5
71-55-6	methyl chloroform	1910	127	95.5
72-20-8	endrin	0.1	0.007	0.005
72-43-5	methoxychlor	10	0.667	0.5

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
7429-90-5	aluminum including:			
NA	aluminum metal & oxide	10	0.667	0.5
NA	aluminum pyro powders	5	0.333	0.25
NA	aluminum soluble salts	2	0.133	0.10
NA	aluminum alkyls not otherwise classified	2	0.133	0.10
7439-89-6	iron salts, soluble, as Fe	1	0.067	0.05
7439-96-5	manganese as Mn including:			
7439-96-5	manganese dust & compounds	5	0.333	0.25
7439-96-5	manganese fumes	1	0.067	0.05
7439-97-6	mercury – including:			
NA	mercury (aryl & inorganic compounds as Hg)	0.1	0.007	0.005
NA	mercury (alkyl compounds as Hg except methylmercury)	0.01	0.001	0.0005
NA	methylmercury	0.025	0.017	0.013
NA	mercury (vapors except alkyl as Hg)	0.05	0.003	0.0025
7439-98-7	molybdenum as Mo – including:			
NA	soluble molybdenum respirable compounds	0.5	0.0333	0.025
NA	insoluble molybdenum respirable compounds	3	0.2	0.15
7440-06-4	platinum – including:			
7440-06-4	metal	1	0.067	0.05
NA	soluble salts, as Pt	0.002	0.0001	0.0001
7440-16-6	rhodium – including:			
7440-16-6	metal	1	0.067	0.05
NA	insoluble compounds, as Rh	1	0.067	0.05
NA	soluble compounds, as Rh	0.01	0.001	0.0005
7440-21-3	silicon	10	0.667	0.5
7440-22-4	silver – including			
7440-22-4	metal	0.1	0.007	0.005
7440-22-4	soluble compounds, as Ag	0.01	0.001	0.005
7440-25-7	tantalum metal, oxides and dust	5	0.333	0.25
7440-28-0	thallium, soluble compounds, as Tl	0.1	0.007	0.005
7440-31-5	tin – including:			
7440-31-5	metal	2	0.133	0.1
NA	oxide & inorganic compounds, except SnH ₄ , as Sn	2	0.133	0.1
NA	organic compounds as Sn	0.1	0.007	0.005
7440-33-7	tungsten – including:			
NA	insoluble tungsten compounds	5	0.333	0.25
NA	soluble tungsten compounds	1	0.067	0.05
7440-36-0	antimony & compounds, as Sb (handling & use)	0.5	0.033	0.025
7440-39-3	barium, soluble compounds, as Ba	0.5	0.033	0.025
7440-47-3	chromium (II) compounds, as Cr	0.5	0.033	0.025

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
<u>7440-47-3</u>	<u>chromium (III) compounds, as Cr</u>	<u>0.5</u>	<u>0.033</u>	<u>0.025</u>
<u>7440-47-3</u>	<u>chromium metal – including:</u>	<u>0.5</u>	<u>0.033</u>	<u>0.025</u>
<u>7440-48-4</u>	<u>cobalt metal, dust, and fume</u>	<u>0.05</u>	<u>0.0033</u>	<u>0.0025</u>
<u>7440-50-8</u>	<u>copper:</u>			
<u>7440-50-8</u>	<u>fume</u>	<u>0.2</u>	<u>0.013</u>	<u>0.01</u>
<u>7440-50-8</u>	<u>dusts & mists, as Cu</u>	<u>1</u>	<u>0.067</u>	<u>0.05</u>
<u>7440-58-6</u>	<u>hafnium</u>	<u>0.5</u>	<u>0.033</u>	<u>0.025</u>
<u>7440-61-1</u>	<u>uranium (natural) soluble & insoluble compounds as U</u>	<u>0.2</u>	<u>0.013</u>	<u>0.01</u>
<u>7440-65-5</u>	<u>yttrium (metal and compounds as Y)</u>	<u>1</u>	<u>0.067</u>	<u>0.05</u>
<u>7440-66-6</u>	<u>zinc metal (ID)</u>	<u>--</u>	<u>0.667</u>	<u>0.5</u>
<u>7440-67-7</u>	<u>zirconium compounds as Zr</u>	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>7440-74-6</u>	<u>indium & compounds as In</u>	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>74-83-9</u>	<u>methyl bromide</u>	<u>3.9</u>	<u>0.26</u>	<u>0.2</u>
<u>74-87-3</u>	<u>methyl chloride</u>	<u>103</u>	<u>6.867</u>	<u>5.15</u>
<u>74-89-5</u>	<u>methylamine</u>	<u>6.4</u>	<u>0.43</u>	<u>0.32</u>
<u>74-93-1</u>	<u>methanethiol, see methyl mercaptan</u>			
<u>74-93-1</u>	<u>methyl mercaptan</u>	<u>0.98</u>	<u>0.065</u>	<u>0.05</u>
<u>74-96-4</u>	<u>ethyl bromide</u>	<u>22</u>	<u>1.47</u>	<u>1.1</u>
<u>74-99-7</u>	<u>methyl acetylene</u>	<u>1640</u>	<u>109</u>	<u>82</u>
<u>75-00-3</u>	<u>ethyl chloride</u>	<u>264</u>	<u>17.6</u>	<u>13.2</u>
<u>75-04-7</u>	<u>ethylamine</u>	<u>9.2</u>	<u>0.61</u>	<u>0.46</u>
<u>75-05-8</u>	<u>acetonitrile</u>	<u>67</u>	<u>4.47</u>	<u>3.35</u>
<u>75-08-1</u>	<u>ethanethiol, see ethyl mercaptan</u>			
<u>75-08-1</u>	<u>ethyl mercaptan</u>	<u>1</u>	<u>0.067</u>	<u>0.05</u>
<u>75-12-7</u>	<u>formamide</u>	<u>18</u>	<u>1.2</u>	<u>0.9</u>
<u>75-15-0</u>	<u>carbon disulfide</u>	<u>30</u>	<u>2</u>	<u>1.5</u>
<u>75-25-2</u>	<u>bromoform</u>	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>75-31-0</u>	<u>isopropylamine</u>	<u>12</u>	<u>0.8</u>	<u>0.6</u>
<u>75-34-3</u>	<u>1,1-dichloroethane</u>	<u>405</u>	<u>27</u>	<u>20.25</u>
<u>75-43-4</u>	<u>dichlorofluoromethane</u>	<u>40</u>	<u>2.67</u>	<u>2</u>
<u>75-44-5</u>	<u>carbonyl chloride, see phosgene</u>			
<u>75-44-5</u>	<u>phosgene</u>	<u>0.4</u>	<u>0.027</u>	<u>0.02</u>
<u>75-47-8</u>	<u>iodoform</u>	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>75-50-3</u>	<u>trimethylamine</u>	<u>12</u>	<u>0.8</u>	<u>0.6</u>

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
<u>75-52-5</u>	<u>nitromethane</u>	<u>50</u>	<u>3.333</u>	<u>2.5</u>
<u>7553-56-2</u>	<u>iodine (CL)</u>	<u>0.1</u>	<u>0.0067</u>	<u>0.005</u>
<u>75-56-9</u>	<u>1,2-epoxypropane, see propylene oxide</u>			
<u>75-65-0</u>	<u>tert-butyl alcohol</u>	<u>300</u>	<u>20</u>	<u>15</u>
<u>7572-29-4</u>	<u>dichloroacetylene (CL)</u>	<u>0.39</u>	<u>0.0026</u>	<u>0.0195</u>
<u>75-74-1</u>	<u>tetramethyl lead, as Pb</u>	<u>0.15</u>	<u>0.01</u>	<u>0.0075</u>
<u>7580-67-8</u>	<u>lithium hydride</u>	<u>0.025</u>	<u>0.002</u>	<u>0.00125</u>
<u>75-99-0</u>	<u>2,2-dichloropropionic acid</u>	<u>6</u>	<u>0.4</u>	<u>0.3</u>
<u>76-03-9</u>	<u>trichloroacetic acid</u>	<u>7</u>	<u>0.467</u>	<u>0.35</u>
<u>76-06-2</u>	<u>chloropicrin</u>	<u>0.7</u>	<u>0.047</u>	<u>0.037</u>
<u>76-06-2</u>	<u>nitrotrichloromethane, see chloropicrin</u>			
<u>76-06-2</u>	<u>trichloronitromethane, see chloropicrin</u>			
<u>7616-94-6</u>	<u>perchloryl fluoride</u>	<u>13</u>	<u>0.867</u>	<u>0.65</u>
<u>76-22-2</u>	<u>camphor, synthetic</u>	<u>12</u>	<u>0.8</u>	<u>0.6</u>
<u>7631-90-5</u>	<u>sodium bisulfite</u>	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>7637-07-2</u>	<u>boron trifluoride (CL)</u>	<u>3</u>	<u>0.02</u>	<u>0.025</u>
<u>764-41-0</u>	<u>1,4-dichloro-2-butene</u>	<u>0.025</u>	<u>0.0017</u>	<u>0.0013</u>
<u>7646-85-7</u>	<u>zinc chloride fume</u>	<u>1</u>	<u>0.067</u>	<u>0.05</u>
<u>7647-01-0</u>	<u>hydrogen chloride (CL)</u>	<u>7.5</u>	<u>0.05</u>	<u>0.375</u>
<u>7664-38-2</u>	<u>phosphoric acid</u>	<u>1</u>	<u>0.067</u>	<u>0.05</u>
<u>7664-41-7</u>	<u>ammonia</u>	<u>18</u>	<u>1.2</u>	<u>0.9</u>
<u>7664-93-9</u>	<u>sulfuric acid</u>	<u>1</u>	<u>0.067</u>	<u>0.05</u>
<u>7681-57-4</u>	<u>sodium metabisulfite</u>	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>7697-37-2</u>	<u>nitric acid</u>	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>7719-09-7</u>	<u>thionyl chloride (CL)</u>	<u>4.9</u>	<u>0.0327</u>	<u>0.245</u>
<u>7719-12-2</u>	<u>phosphorus trichloride</u>	<u>1.5</u>	<u>0.1</u>	<u>0.075</u>
<u>7722-84-1</u>	<u>hydrogen peroxide</u>	<u>1.5</u>	<u>0.1</u>	<u>0.075</u>
<u>7722-88-5</u>	<u>tetrasodium pyrophosphate</u>	<u>5</u>	<u>0.333</u>	<u>0.25</u>
<u>7723-14-0</u>	<u>phosphorus</u>	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>7726-95-6</u>	<u>bromine</u>	<u>0.7</u>	<u>0.047</u>	<u>0.035</u>
<u>77-47-4</u>	<u>hexachlorocyclopentadiene</u>	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>7773-06-0</u>	<u>ammonium sulfamate</u>	<u>10</u>	<u>0.667</u>	<u>0.5</u>
<u>77-73-6</u>	<u>dicyclopentadiene</u>	<u>30</u>	<u>2</u>	<u>1.5</u>
<u>7782-41-4</u>	<u>fluorine</u>	<u>2</u>	<u>0.133</u>	<u>0.1</u>

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
<u>7782-49-2</u>	<u>selenium and compounds as Se</u>	<u>0.2</u>	<u>0.013</u>	<u>0.010</u>
<u>7782-50-5</u>	<u>chlorine</u>	<u>1.5</u>	<u>0.1</u>	<u>0.75</u>
<u>7782-65-2</u>	<u>germanium tetrahydride</u>	<u>0.6</u>	<u>0.04</u>	<u>0.03</u>
<u>7783-06-4</u>	<u>hydrogen sulfide</u>	<u>7</u>	<u>0.47</u>	<u>0.35</u>
<u>7783-41-7</u>	<u>oxygen difluoride (CL)</u>	<u>0.11</u>	<u>0.0007</u>	<u>0.0005</u>
<u>7783-54-2</u>	<u>nitrogen trifluoride</u>	<u>29</u>	<u>1.93</u>	<u>1.45</u>
<u>7783-60-0</u>	<u>sulfur tetrafluoride (CL)</u>	<u>0.4</u>	<u>0.0027</u>	<u>0.002</u>
<u>7783-80-4</u>	<u>tellurium hexafluoride as Te</u>	<u>0.2</u>	<u>0.013</u>	<u>0.01</u>
<u>7786-34-7</u>	<u>mevinphos</u>	<u>0.01</u>	<u>0.0007</u>	<u>0.0005</u>
<u>7786-34-7</u>	<u>phosdrin, see mevinphos</u>			
<u>7789-30-2</u>	<u>bromine pentafluoride</u>	<u>0.7</u>	<u>0.047</u>	<u>0.035</u>
<u>7790-91-2</u>	<u>chlorine trifluoride (CL)</u>	<u>0.38</u>	<u>0.025</u>	<u>0.002</u>
<u>78-00-2</u>	<u>tetraethyl lead</u>	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>7803-51-2</u>	<u>phosphine</u>	<u>0.4</u>	<u>0.027</u>	<u>0.02</u>
<u>7803-52-3</u>	<u>stibine</u>	<u>0.5</u>	<u>0.033</u>	<u>0.025</u>
<u>7803-62-5</u>	<u>silane, see silicon tetrahydride</u>			
<u>7803-62-5</u>	<u>silicon tetrahydride</u>	<u>7</u>	<u>0.467</u>	<u>0.35</u>
<u>78-10-4</u>	<u>ethyl silicate</u>	<u>85</u>	<u>5.67</u>	<u>4.25</u>
<u>78-30-8</u>	<u>triorthocresyl phosphate</u>	<u>0.1</u>	<u>0.007</u>	<u>0.005</u>
<u>78-34-2</u>	<u>dioxathion</u>	<u>0.1</u>	<u>0.0067</u>	<u>0.01</u>
<u>78-59-1</u>	<u>isophorone (CL)</u>	<u>28</u>	<u>1.867</u>	<u>1.4</u>
<u>78-83-1</u>	<u>isobutyl alcohol</u>	<u>150</u>	<u>10</u>	<u>6</u>
<u>78-87-5</u>	<u>1,2-dichloropropane, see propylene dichloride</u>			
<u>78-87-5</u>	<u>propylene dichloride</u>	<u>347</u>	<u>23.133</u>	<u>17.35</u>
<u>78-92-2</u>	<u>sec-butyl alcohol</u>	<u>305</u>	<u>20.3</u>	<u>15.25</u>
<u>78-93-3</u>	<u>2-butanone, see methyl ethyl ketone</u>			
<u>78-93-3</u>	<u>methyl ethyl ketone (MEK)</u>	<u>590</u>	<u>39.3</u>	<u>29.5</u>
<u>78-95-5</u>	<u>chloroacetone (CL)</u>	<u>3.8</u>	<u>0.0253</u>	<u>0.019</u>
<u>79-04-9</u>	<u>chloroacetyl chloride</u>	<u>0.2</u>	<u>0.013</u>	<u>0.01</u>
<u>79-09-4</u>	<u>propionic acid</u>	<u>30</u>	<u>2</u>	<u>1.5</u>
<u>79-10-7</u>	<u>acrylic acid</u>	<u>5.9</u>	<u>0.4</u>	<u>0.3</u>
<u>79-20-9</u>	<u>methyl acetate</u>	<u>610</u>	<u>40.7</u>	<u>30.5</u>
<u>79-24-3</u>	<u>nitroethane</u>	<u>310</u>	<u>20.7</u>	<u>15.5</u>
<u>79-27-6</u>	<u>acetylene tetrabromide</u>	<u>15</u>	<u>1</u>	<u>.75</u>

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
79-41-4	methacrylic acid	70	4.67	3.5
8001-35-2	chlorinated camphene	0.5	0.0333	0.025
8002-74-2	paraffin wax fume	2	0.133	0.1
8003-34-7	pyrethrum	5	0.333	0.25
8006-64-2	turpentine	560	37.3	28
8022-00-2	methyl demeton	0.5	0.033	0.01
8030-30-6	naphtha (rubber solvent)	1590	106	79.5
8032-32-4	VM & P naphtha	1370	91.3	68.5
8052-41-3	stoddard solvent	525	35	26.25
80-62-6	methyl methacrylate	205	13.67	10.25
8065-48-3	"Systox", see Demeton			
8065-48-3	demeton (Systox.)	0.1	0.007	0.005
81-81-2	warfarin	0.1	0.007	0.005
822-06-0	hexamethylene diisocyanate	0.03	0.002	0.0015
82-68-8	pentachloronitrobenzene	0.5	0.0333	0.025
83-26-1	2-pivaloyl-1,3-indandione, see pindone			
83-26-1	pindone	0.1	0.007	0.005
83-79-4	rotenone (commercial)	5	0.333	0.25
84-66-2	diethyl phthalate	5	0.333	0.25
84-74-2	dibutyl phthalate	5	0.333	0.25
85-00-7	diquat (respirable aerosol)	0.1	0.0067	0.005
85-44-9	phthalic anhydride	6	0.4	0.3
86-50-0	azinphosmethyl	0.2	0.013	0.01
86-88-4	ANTU	0.3	0.02	0.015
88-72-2	o-(or) 2-nitrotoluene	11	0.733	0.55
88-89-1	picric acid	0.1	0.006	0.005
89-72-5	o-sec-butylphenol	30	2	1.5
91-20-3	naphthalene	50	3.33	2.5
92-52-4	biphenyl	1.5	0.1	0.075
92-52-4	diphenyl, see biphenyl			
92-84-2	phenothiazine	5	0.333	0.25
93763-70-3	perlite	10	0.667	0.5
93-76-5	2,4,5-trichlorophen-oxyacetic acid (2,4,5-T)	10	0.667	0.05
94-36-0	benzoyl peroxide	5	0.333	0.25

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>OEL (mg/m3)</u>	<u>EL (lb/hr)</u>	<u>AAC (mg/m3)</u>
944-22-9	fonofos	0.1	0.007	0.005
94-75-7	2,4-D	10	0.667	0.5
95-13-6	indene	45	3	2.25
95-48-7	o-cresol	22	1.47	1.1
95-49-8	o-chlorotoluene	250	16.7	12.5
95-50-1	o-dichlorobenzene	300	20	15
95-54-5	o-phenylenediamine	0.1	0.0067	0.005
95-57-8	2-chlorophenol (and all isomers) (ID)	NA	0.033	0.025
95-95-4	2,4,5-trichlorophenol (MA)	NA	N/A	0.0016
96-18-4	1,2,3-trichloropropane	60	4	3
96-22-0	diethyl ketone	705	47	35.25
96-33-3	methyl acrylate	7	0.47	0.35
96-69-5	4,4'-thiobis (6 tert, butyl-m-cresol)	10	0.667	0.5
97-77-8	disulfiram	2	0.133	0.1
98-00-0	furfuryl alcohol	40	2.67	2
98-01-1	furfural	8	0.533	0.4
98-51-1	p-tert-butyltoluene	60	4	3
98-82-8	cumene	245	16.3	12.25
98-83-9	a-methyl styrene (all isomers)	240	16	10.20
98-95-3	nitrobenzene	5	0.333	0.25
99-08-1	m-(or) 3-nitrotoluene	11	0.733	0.55
99-65-0	m (or) 1,3-dinitrobenzene	1	0.067	0.05
996-61-1	2-hydroxypropyl acrylate	3	0.2	0.15
99-99-0	p-(or) 4-nitrotoluene	11	0.733	0.55
NA	bismuth telluride if selenium doped	5	0.333	0.25
NA	coal dust (<5% silica) anthracite / bituminous	2	0.133	0.1
NA	fibrous glass dust see synthetic vitreous fibers			
NA	fluorides, as F	2.5	0.167	0.125
NA	glass, fibrous or dust, see synthetic vitreous fibers			
NA	mercaptans not otherwise listed (ID)	NA	0.065	0.05
NA	methyl acetylene-propadiene mix (MAPP)	1640	109	82
NA	mineral wool fiber (no asbestos) – including: mineral fiber emissions from facilities manufacturing or processing glass, rock or slag fibers (or other mineral derived fibers) - see synthetic vitreous fibers			

CAS NUMBER	SUBSTANCE	OEL (mg/m3)	EL (lb/hr)	AAC (mg/m3)
NA	oil mist, mineral	0.2	0.013	0.01
NA	refractory ceramic	0.2fibers/cc	N/A	0.01fibers/cc
NA 61790-53-2 112926-00-8 112926-00-8	silica – amorphous – including fume diatomaceous earth (uncalcined) precipitated silica silica gel	2 10 10 10	0.133 0.667 0.667 0.667	0.1 0.5 0.5 0.5
NA 14464-46-1 14808-60-7 60676-86-0	silica, crystalline – including: cristobalite quartz silica, fused	0.05 0.1 0.1	0.0033 0.0067 0.0067	0.0025 0.005 0.005
NA	stearates (not including toxic metals)	10	0.667	0.5
NA	Synthetic vitreous fibers: respirable fibers - length 5µm; aspect ratio > 3:1 as determined by the membrane filter method at 400-450X magnification (4-mm objective), using phase contrast illumination.	1fiber/cc	N/A	0.05fibers/cc

586. TOXIC AIR POLLUTANTS CARCINOGENIC INCREMENTS.

The screening emissions levels (EL) and acceptable ambient concentrations (AACC) for carcinogens are as provided in the following table. The AACC in this section are annual averages.

01. Toxic Air Pollutants Carcinogenic Increments Table Sorted By Substance Name.

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
75-07-0	Acetaldehyde	2.2E-06	3.0E-03	4.5E-01
60-35-5	acetamide CA EPA	2.0E-05	3.3E-04	5.0E-01
79-06-1	Acrylamide	1.3E-03	5.1E-06	7.7E-04
107-13-1	Acrylonitrile	6.8E-05	9.8E-05	1.5E-02
309-00-2	Aldrin	4.9E-03	1.3E-06	2.0E-04
62-53-3	Aniline CA EPA	7.4 1.6E-06	9.0 4.2E-04	1.4 6.3E-01
140-57-8	"Aramite" CA EPA	7.7 8.6E-06	9.3 7.8E-04	1.42E-01
NA	"Aroclor," all (PCB) (D) (EPA upperbound risk)	1E-4	6.6E-05	1.0E-02
7440-38-2	Arsenic compounds	4.3E-03	1.5E-06	2.3E-04
1332-21-4	Asbestos (Fibers /M.L.)	2.3E-01	N/A	4.0E-06
71-43-2	Benzene (EPA upperbound risk)	8.3 7.8E-06	8.0E-04	1.2E-01
92-87-5	Benzidine	6.7E-02	9.9E-08	1.5E-05
50-32-8	Benzo(a)pyrene (WA)	3.3E-03 NA	2.0E-06 NA	3.0 4.8E-04
440-41-7	Beryllium & and compounds	2.4E-04	2.8E-05	4.2E-03

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
106-99-0	1,3-Butadiene	2.8E-04	2.4E-05	3.6E-03
111-44-4	Bis (2-chloroethyl) ether	3.3E-04	2.0E-05	3.0E-03
542-88-1	Bis (chloromethyl) ether	6.2E-02	1.0E-07	1.6E-05
108-60-1	Bis (2-chloro-1-methyl-ethyl) ether	2.0E-05	3.3E-04	5.0E-02
117-81-7	Bis (2-ethylhexyl) phthalate	2.4E-07	2.8E-02	4.2E+00
7440-43-9	Cadmium and compounds	1.8E-03	3.7E-06	5.6E-04
56-23-5	Carbon tetrachloride	1.5E-05	4.4E-04	6.7E-02
57-74-9	Chlordane	3.7E-04	1.8E-04	2.7E-03
67-66-3	Chloroform	2.3E-05	2.8E-04	4.3E-02
7440-47-3	Chromium (VI) & compounds as Cr+6	1.2E-02	5.6E-07	8.3E-05
NA	Coal Tar Volatiles as benzene extractables	7.8E-06	8.0E-04	1.2E-01
NA	Coke oven emissions	6.2E-04	1.1E-05	1.6E-03
8001-58-9	Creosote (ID) See coal tar volatiles as benzene extractables			
50-29-3	DDT (Dichlorodiphenyltrichloroethane)	9.7E-05	6.8E-05	1.0E-02
96-12-8	1,2-Dibromo-3-chloropropane	6.3E-03	1.0E-06	1.6E-04
75-34-3	1,1-dichloroethane	2.6E-05	2.5E-04	3.8E-02
107-06-2	1,2-dichloroethane	2.16E-05	2.542E-04	3.863E-02
75-35-4	1,1-dichloroethylene	5.0E-05	1.3E-04	2.0E-02
75-09-2	Dichloromethane (Methylenechloride)	4.1E-06	1.6E-03	2.4E-01
542-75-6	1,3-dichloropropene	3.5E-01	1.9E-07	2.9E-06
764-41-0	1,4-Dichloro-2-butene	2.6E-03	2.5E-06	3.8E-04
60-57-1	Dieldrin	4.6E-03	1.4E-06	2.1E-04
56-53-1	Diethylstilbestrol	1.4E-01	4.7E-08	7.1E-06
123-91-1	1,4-dioxane	1.4E-06	4.8E-03	7.1E-01
	Dioxin and Furans (2,3,7,8-TCDD & mixtures) Dioxin and Furans emissions shall be considered as one TAP and expressed as an equivalent emission of 2,3,7,8-TCDD based on the relative potency of the isomers in accordance with US EPA guidelines. Copies of EPA Interim procedures for estimating risks associated with exposures to mixtures of chlorinated dibenzo-p-dioxins and dibenzofurans (CDDs and CDFs). 1989 Updates are available by requesting EPA/625/3-89/016, March 1989 from ORD Publications (513) 684-7562.			
122-66-7	1,2-Diphenylhydrazine	2.2E-04	3.0E-05	4.5E-03
106-89-8	Epichlorohydrin	1.2E-06	5.6E-03	8.3E-01
106-88-7	1,2-epoxibutane (CA REL)			2.0E+1
106-93-4	Ethylene dibromide	2.2E-04	3.0E-05	4.5E-03

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
75-21-8	E ethylene oxide	4.0 8.8E-04 5	6.7E-05	1.0E-02
96-45-7	ethylene thiourea (CA EPA)	1.0E-05	4.4E-04	6.7E-02
50-00-0	F ormaldehyde	1.3E-05	5.1E-04	7.7E-02
76-44-8	H heptachlor	1.3E-03	5.1E-06	7.7E-04
1024-57-3	H heptachlor E epoxide	2.6E-03	2.5E-06	3.5E-04
118-74-1	H hexachlorobenzene	4.9E-04	1.3E-05	2.0E-03
87-68-3	H hexachlorobutadiene	2.0E-05	3.3E-04	5.0E-02
319-86-8	H hexachlorocyclo-hexane, T technical	5.1E-04	1.3E-05	1.9E-03
319-84-6	a - H hexachlorocyclohexane (L indane) A lpha (BHC)	1.8E-03	3.7E-06	5.6E-04
319-86-8	alpha Hexachlorocyclohexane	1.8E-03	3.6E-05	5.6E-03
319-85-7	b - H hexachlorocyclohexane (L indane) B eta (BHC)	5.3E-04	1.3E-05	1.8E-03
319-86-8	b Hexachlorocyclohexane	5.3E-04	1.3E-05	1.8E-03
58-89-9	g - H hexachlorocyclohexane (L indane) G amma (BHC)	3.8E-04	1.7E-05	2.6E-03
67-72-1	H hexachloroethane	4.0E-06	1.7E-03	2.5E-01
301-01-2	H ydrazine	2.9E-03	2.3E-06	3.4E-04
302-01-2	H ydrazine S sulfate	2.9E-03	2.2E-06	3.5E-04
56-49-5	3-methylcholanthrene	2.7E-03	2.5E-06	3.7E-04
75-09-2	M methylene C hloride	4.1E-06	1.6E-03	2.4E-01
74-87-3	Methyl chloride	3.6E-06	1.9E-03	2.8E-01
101-14-4	4,4- M methylene bis(2- C hloroaniline)	4.7E-05	1.4E-04	2.1E-02
60-34-4	M methyl hydrazine	3.1E-04	2.2E-05	3.2E-03
7440-02-0	N ickel	2.4E-04	2.7E-05	4.2E-03
12035-72-2	N ickel Subulfide	4.8E-04	1.4E-05	2.1E-02
7440-02-0	N ickel Refinery Dust	2.4E-04	2.8E-05	4.2E-02
79-46-9	2- N itropropane	2.7E-02	2.5E-07	3.7E-05
55-18-5	N- N itrosodiethylamine (diethylnitrosoamine) (DEN)	4.3E-02	1.5E-07	2.3E-05
62-75-9	N- N itrosodimethylamine	1.4E-02	4.8E-07	7.1E-05
924-16-3	N- N itrosodi-n-butylamine	1.6E-03	4.1E-06	6.3E-04
930-55-2	N- N itrosopyrrolidine	6.1E-04	1.1E-05	1.6E-03
684-93-5	N- N itroso-N-methylurea (NMU)	3.5E-01	1.9E-08	2.9E-06
794-93-4	Panfuran S (see dihydroxymethyl furatrizine)			
87-86-5	pentachlorophenol CA EPA	4.6E-06	1.5E-03	2.2E-01
82-68-8	P entachloronitrobenzene	7.3E-05	9.1E-05	1.4E-02
127-18-4	P erchloroethylene (see tetrachloroethylene)			

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
NA	<i>Polyaromatic Hydrocarbons</i>	7.3E-05	9.1E-05	1.4E-02
	polyaromatic hydrocarbons (Polycyclic Organic Matter compounds): For emissions of PAH mixtures, the following PAHs and shall be considered together as one TAP, equivalent in potency to benzo(a)pyrene: benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenzo(a,h)anthracene, chrysene, indeno(1,2,3-cd)pyrene, benzo(a)pyrene. (WA)			
23950-58-5	Promanide	4.6E-06	1.5E-03	2.2E-01
50-55-5	Reserpine	3.0E-03	2.2E-06	3.3E-04
1746-01-6	2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD)	4.5.E+01	1.5E-10	2.2E-08
NA	Soots and tars (ID) [see coal tar volatiles as benzene extractables-]			
79-34-5	1,1,2,2-Tetrachloro-ethane	5.8E-05	1.1E-05	1.7E-02
127-18-4	Tetrachloroethylene (CA EPA)	4.8 5.9E-076	4.3E-02	2.1E+00
79-00-5	1,1,2-trichloroethane	1.6E-05	4.2E-04	6.2E-02
79-01-6	trichloroethylene (CA EPA)	2.E-06	3.3E-03	5.0E-01
62-56-6	Thiourea (CA EPA)	5.5 2.1E-045	43.2E-054	44.8E-03
584-84-9	toluene-2,4-diisocyanate (TDI) (CA EPA)	1.1E-05	6.1E-04	9.0E-02
8001-35-2	Oxaphene	3.2E-04	2.0E-05	3.0E-03
79-01-6	Trichloroethylene (CA EPA)	4.3 2.0E-06	5.4 3.3E-043	7.7 5.0E-01
88-06-2	2,4,6-Trichlorophenol	5.7E-06	1.2E-03	1.8E-01
75-01-4	Vinyl chloride	7.1E-06	9.4E-04	1.4E-01

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02. Toxic Air Pollutants Carcinogenic Increments Table Sorted By CAS Number.

CAS NUMBER	SUBSTANCE	URF	EL lb/hr	AACC ug/m3
	dioxin and furans (2,3,7,8-TCDD & mixtures) dioxin and furan emissions shall be considered as one TAP and expressed as an equivalent emission of 2,3,7,8-TCDD based on the relative potency of the isomers in accordance with US EPA guidelines. Copies of EPA Interim procedures for estimating risks associated with exposures to mixtures of chlorinated dibenzo-p-dioxins and dibenzofurans (CDDs and CDFs). 1989 updates are available by requesting EPA/625/3-89/016, March 1989 from ORD Publications (513) 684-7562.			
	polyaromatic hydrocarbons (polycyclic organic compounds) For emissions of PAH mixtures, the following PAHs and shall be considered together as one TAP, equivalent in potency to benzo(a)pyrene: benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenzo(a,h)anthracene, chrysene, indeno(1,2,3-cd)pyrene, benzo(a)pyrene. (WA)			
101-14-4	4,4-methylene bis(2-chloroaniline)	4.7E-05	1.4E-04	2.1E-02

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>URF</u>	<u>EL lb/hr</u>	<u>AACC ug/m3</u>
<u>1024-57-3</u>	<u>heptachlor epoxide</u>	<u>2.6E-03</u>	<u>2.5E-06</u>	<u>3.5E-04</u>
<u>106-88-7</u>	<u>1,2-epoxibutane (CA REL)</u>			<u>2.0E+1</u>
<u>106-89-8</u>	<u>epichlorohydrin</u>	<u>1.2E-06</u>	<u>5.6E-03</u>	<u>8.3E-01</u>
<u>106-93-4</u>	<u>ethylene dibromide</u>	<u>2.2E-04</u>	<u>3.0E-05</u>	<u>4.5E-03</u>
<u>106-99-0</u>	<u>1,3-butadiene</u>	<u>2.8E-04</u>	<u>2.4E-05</u>	<u>3.6E-03</u>
<u>107-06-2</u>	<u>1,2-dichloroethane</u>	<u>1.6E-06</u>	<u>.2E-03</u>	<u>6.3E-01</u>
<u>107-13-1</u>	<u>acrylonitrile</u>	<u>6.8E-05</u>	<u>9.8E-05</u>	<u>1.5E-02</u>
<u>108-60-1</u>	<u>bis(2-chloro-1-methyl-ethyl) ether</u>	<u>2.0E-05</u>	<u>3.3E-04</u>	<u>5.0E-02</u>
<u>111-44-4</u>	<u>bis (2-chloroethyl) ether</u>	<u>3.3E-04</u>	<u>2.0E-05</u>	<u>3.0E-03</u>
<u>117-81-7</u>	<u>bis(2-ethylhexyl) phthalate</u>	<u>2.4E-07</u>	<u>2.8E-02</u>	<u>4.2E+00</u>
<u>118-74-1</u>	<u>hexachlorobenzene</u>	<u>4.9E-04</u>	<u>1.3E-05</u>	<u>2.0E-03</u>
<u>12035-72-2</u>	<u>nickel subsulfide</u>	<u>4.8E-04</u>	<u>1.4E-05</u>	<u>2.1E-02</u>
<u>122-66-7</u>	<u>1,2-diphenylhydrazine</u>	<u>2.2E-04</u>	<u>3.0E-05</u>	<u>4.5E-03</u>
<u>123-91-1</u>	<u>1,4-dioxane</u>	<u>1.4E-06</u>	<u>4.8E-03</u>	<u>7.1E-01</u>
<u>127-18-4</u>	<u>perchloroethylene (see tetrachloroethylene)</u>			
<u>127-18-4</u>	<u>tetrachloroethylene (CA EPA)</u>	<u>5.9E-06</u>		
<u>1332-21-4</u>	<u>asbestos (fibers /M.L.)</u>	<u>2.3E-01</u>	<u>N/A</u>	<u>4.0E-06</u>
<u>140-57-8</u>	<u>"Aramite" CA EPA</u>	<u>8.6E-06</u>	<u>7.8E-04</u>	<u>1.2E-01</u>
<u>1746-01-6</u>	<u>2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD)</u>	<u>4.5.E+01</u>	<u>1.5E-10</u>	<u>2.2E-08</u>
<u>23950-58-5</u>	<u>promanide</u>	<u>4.6E-06</u>	<u>1.5E-03</u>	<u>2.2E-01</u>
<u>301-01-2</u>	<u>hydrazine</u>	<u>2.9E-03</u>	<u>2.3E-06</u>	<u>3.4E-04</u>
<u>302-01-2</u>	<u>hydrazine sulfate</u>	<u>2.9E-03</u>	<u>2.2E-06</u>	<u>3.5E-04</u>
<u>309-00-2</u>	<u>aldrin</u>	<u>4.9E-03</u>	<u>1.3E-06</u>	<u>2.0E-04</u>
<u>319-84-6</u>	<u>a-hexachlorocyclohexane (lindane) (BHC)</u>	<u>1.8E-03</u>	<u>3.7E-06</u>	<u>5.6E-04</u>
<u>319-85-7</u>	<u>b-hexachlorocyclohexane (lindane) (BHC)</u>	<u>5.3E-04</u>	<u>1.3E-05</u>	<u>1.8E-03</u>
<u>319-86-8</u>	<u>hexachlorocyclo-hexane, technical</u>	<u>5.1E-04</u>	<u>1.3E-05</u>	<u>1.9E-03</u>
<u>440-41-7</u>	<u>beryllium and compounds</u>	<u>2.4E-04</u>	<u>2.8E-05</u>	<u>4.2E-03</u>
<u>50-00-0</u>	<u>formaldehyde</u>	<u>1.3E-05</u>	<u>5.1E-04</u>	<u>7.7E-02</u>
<u>50-29-3</u>	<u>DDT (dichlorodiphenyltrichloroethane)</u>	<u>9.7E-05</u>	<u>6.8E-05</u>	<u>1.0E-02</u>
<u>50-32-8</u>	<u>benzo(a)pyrene (WA)</u>	<u>NA</u>	<u>NA</u>	<u>8E-04</u>
<u>50-55-5</u>	<u>reserpine</u>	<u>3.0E-03</u>	<u>2.2E-06</u>	<u>3.3E-04</u>
<u>542-75-6</u>	<u>1,3-dichloropropene</u>	<u>3.5E-01</u>	<u>1.9E-07</u>	<u>2.9E-06</u>
<u>542-88-1</u>	<u>bis(chloromethyl) ether</u>	<u>6.2E-02</u>	<u>1.0E-07</u>	<u>1.6E-05</u>
<u>55-18-5</u>	<u>N-nitrosodiethylamine (diethylnitrosoamine) (DEN)</u>	<u>4.3E-02</u>	<u>1.5E-07</u>	<u>2.3E-05</u>

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>URF</u>	<u>EL lb/hr</u>	<u>AACC ug/m3</u>
56-23-5	carbon tetrachloride	1.5E-05	4.4E-04	6.7E-02
56-49-5	3-methylcholanthrene	2.7E-03	2.5E-06	3.7E-04
56-53-1	diethylstilbestrol	1.4E-01	4.7E-08	7.1E-06
57-74-9	chlordane	3.7E-04	1.8E-04	2.7E-03
584-84-9	toluene-2,4-diisocyanate (TDI) (CA EPA)	1.1E-05	6.1E-04	9.0E-02
58-89-9	g-hexachlorocyclohexane (lindane) (BHC)	3.8E-04	1.7E-05	2.6E-03
60-34-4	methyl hydrazine	3.1E-04	2.2E-05	3.2E-03
60-35-5	acetamide CA EPA	2.0E-05	3.3E-04	5.0E-01
60-57-1	dieldrin	4.6E-03	1.4E-06	2.1E-04
62-53-3	aniline CA EPA	1.6E-06	4.2E-03	6.3E-01
62-56-6	thiourea (CA EPA)	2.1E-05	3.2E-04	4.8E-03
62-75-9	N-nitrosodimethylamine	1.4E-02	4.8E-07	7.1E-05
67-66-3	chloroform	2.3E-05	2.8E-04	4.3E-02
67-72-1	hexachloroethane	4.0E-06	1.7E-03	2.5E-01
684-93-5	N-nitroso-N-methylurea (NMU)	3.5E-01	1.9E-08	2.9E-06
71-43-2	benzene (EPA upperbound risk)	7.8E-06	8.0E-04	1.2E-01
7440-02-0	nickel	2.4E-04	2.7E-05	4.2E-03
7440-02-0	nickel refinery dust	2.4E-04	2.8E-05	4.2E-02
7440-38-2	arsenic compounds	4.3E-03	1.5E-06	2.3E-04
7440-43-9	cadmium and compounds	1.8E-03	3.7E-06	5.6E-04
7440-47-3	chromium (VI) & compounds as Cr+6	1.2E-02	5.6E-07	8.3E-05
75-01-4	vinyl chloride	7.1E-06	9.4E-04	1.4E-01
75-07-0	acetaldehyde	2.2E-06	3.0E-03	4.5E-01
75-09-2	dichloromethane (methylenechloride)	4.1E-06	1.6E-03	2.4E-01
75-09-2	methylene chloride	4.1E-06	1.6E-03	2.4E-01
75-21-8	ethylene oxide	8.8E-05	6.7E-05	1.0E-02
75-34-3	1,1-dichloroethane	2.6E-05	2.5E-04	3.8E-02
75-35-4	1,1-dichloroethylene	5.0E-05	1.3E-04	2.0E-02
75-56-9	propylene oxide	3.7E-06		
76-44-8	heptachlor	1.3E-03	5.1E-06	7.7E-04
79-00-5	1,1,2-trichloroethane	1.6E-05	4.2E-04	6.2E-02
79-01-6	trichloroethylene (CA EPA)	2.E-06	3.3E-03	5.0E-01
79-01-6	trichloroethylene (CA EPA)	2.0E-06	3.3E-03	5.0E-01
79-06-1	acrylamide	1.3E-03	5.1E-06	7.7E-04

<u>CAS NUMBER</u>	<u>SUBSTANCE</u>	<u>URF</u>	<u>EL lb/hr</u>	<u>AACC ug/m3</u>
79-34-5	1,1,2,2-tetrachloroethane	5.8E-05	1.1E-05	1.7E-02
79-46-9	2-nitropropane	2.7E-02	2.5E-07	3.7E-05
8001-35-2	toxaphene	3.2E-04	2.0E-05	3.0E-03
8001-58-9	creosote (ID) see coal tar volatiles as benzene extractables			
82-68-8	pentachloronitrobenzene	7.3E-05	9.1E-05	1.4E-02
87-68-3	hexachlorobutadiene	2.0E-05	3.3E-04	5.0E-02
87-86-5	pentachlorophenol CA EPA	4.6E-06	1.5E-03	2.2E-01
88-06-2	2,4,6-trichlorophenol	5.7E-06	1.2E-03	1.8E-01
924-16-3	N-nitrosodi-n-butylamine	1.6E-03	4.1E-06	6.3E-04
92-87-5	benzidine	6.7E-02	9.9E-08	1.5E-05
930-55-2	N-nitrosopyrrolidine	6.1E-04	1.1E-05	1.6E-03
96-12-8	1,2-dibromo-3-chloropropane	6.3E-03	1.0E-06	1.6E-04
96-45-7	ethylene thiourea (CA EPA)	1.0E-05	4.4E-04	6.7E-02
NA	"aroclor", all (PCB) (EPA upperbound risk)	1E-4	6.6E-05	1.0E-02
NA	coal tar volatiles as benzene extractables	7.8E-06	8.0E-04	1.2E-01
NA	coke oven emissions	6.2E-04	1.1E-05	1.6E-03
NA	soots and tars (ID) [see coal tar volatiles as benzene extractables]			

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(BREAK IN CONTINUITY OF SECTIONS)

700. PARTICULATE MATTER -- PROCESS WEIGHT LIMITATIONS.

01. Particulate Matter Emission Limitations. The purpose of Sections 700 through 703 is to establish particulate matter emission limitations for process equipment. ~~Sections 700 through 703 shall be replaced by Section 710 on or after July 1, 2000, except Sections 700 through 703 shall continue to apply to: (3-30-01)()~~

~~a. Sources where Sections 700 through 703 are specifically referenced in a permit issued prior to July 1, 2000; or~~ (3-30-01)

~~b. Tier I sources until such time as Section 710 is approved and adopted by the Administrator of the EPA as part of the State Implementation Plan (SIP).~~ (3-30-01)

02. Minimum Allowable Emission. Notwithstanding the provisions of Sections 701 and 702, no source shall be required to meet an emission limit of less than one (1) pound per hour. (4-5-00)

03. Averaging Period. For the purposes of Sections 701 through 703, emissions shall be averaged according to the following, whichever is the lesser period of time: (4-5-00)

- a. One (1) complete cycle of operation; or (4-5-00)
- b. One (1) hour of operation representing worst-case conditions for the emissions of particulate matter. (4-5-00)

04. Test Methods And Procedures. The appropriate test method under Sections 700 through 703 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent methods approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

~~704. 709. (RESERVED).~~

~~710. PARTICULATE MATTER — PROCESS EQUIPMENT EMISSION LIMITATIONS ON OR AFTER JULY 1, 2000.~~

~~01. Purpose Of Section 710. The purpose of Section 710 is to establish particulate matter emission limitations for non-fugitive emissions from process equipment. Non-fugitive emissions are those emissions which pass through a stack, chimney, vent, or other functionally equivalent opening. (3-30-01)~~

~~02. De Minimis Exception. Subsection 710.08 shall not apply to a point of emissions with particulate matter emissions that are at all times less than or equal to one (1) pound per hour. (3-30-01)~~

~~03. Otherwise Listed Exception. Subsection 710.08 shall not apply to sources subject to a particulate matter emission standard listed in Sections 676, 677, 786, 821, 822, or 823. (3-30-01)~~

~~04. Transition To New Particulate Matter Standard For Permitted Sources. Subsection 710.08 shall not apply to process equipment at Tier I sources until such time as Section 710 is approved and adopted by the Administrator of the EPA as part of the State Implementation Plan (SIP). Subsection 710.08 shall not apply to process equipment with an existing permit term or condition establishing a particulate matter standard prior to July 1, 2000 unless or until the existing permit is modified, revised, or incorporated into a new permit to construct or operating permit. At that time: (3-30-01)~~

~~a. The Department shall replace any particulate matter standard based solely on the process weight rate standard in Sections 700 through 703 with the applicable emission standard listed in Subsection 710.08; or (3-30-01)~~

~~b. The permittee can request that the Department replace the particulate matter standard in the permit with a limit at least as stringent in terms of pounds per twenty-four (24) hour period as that contained in the existing permit in accordance with Subsection 710.10. (3-30-01)~~

~~05. Alternative Permitted Standard. Where a particulate matter emission standard in a permit issued on or after July 1, 2000 pursuant to this chapter, and in accordance with Subsection 710.10, is applicable to a specific emissions unit or units, such standard will apply in lieu of the process equipment emission limitations listed in Subsection 710.08. (3-30-01)~~

~~06. Averaging Period. For the purposes of Section 710, emissions shall be averaged according to the following: (3-30-01)~~

~~a. One (1) complete cycle of operation; or (3-30-01)~~

~~b. One (1) hour of operation representing maximum emissions of particulate matter. (3-30-01)~~

~~07. **Test Methods And Procedures.** The reference test method under Subsection 710.08 shall be EPA Method 5 contained in 40 CFR Part 60 or such comparable and equivalent methods approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157. (3-30-01)~~

~~08. **Emission Standard.** No person shall emit to the atmosphere from any point of emission particulate matter in excess of: (3-30-01)~~

~~a. Two tenths (0.2) grains per dry standard cubic foot for process equipment for which construction or modification has commenced prior to July 1, 2000; or (3-30-01)~~

~~b. One tenth (0.1) grains per dry standard cubic foot for process equipment for which construction or modification has commenced on or after July 1, 2000; or (3-30-01)~~

~~c. For material transfer and storage equipment with design gas flow rates less than or equal to ten thousand (10,000) dry standard cubic feet per minute: (3-30-01)~~

~~i. Two (2) pounds per ton of process weight for equipment with a design throughput less than or equal to thirteen thousand six hundred (13,600) pounds per hour for equipment commencing operation prior to October 1, 1979 and less than or equal to eleven thousand three hundred fifty (11,350) pounds per hour for equipment commencing operation on or after October 1, 1979; or (3-30-01)~~

~~ii. One (1) pound per ton of process weight for equipment with a design throughput greater than thirteen thousand six hundred (13,600) but less than or equal to thirty nine thousand (39,000) pounds per hour for equipment commencing operation prior to October 1, 1979 and greater than eleven thousand three hundred fifty (11,350) but less than or equal to twenty eight thousand six hundred (28,600) pounds per hour for equipment commencing operation on or after October 1, 1979; or (3-30-01)~~

~~iii. Five tenths (0.5) pound per ton of process weight for equipment with a design throughput greater than thirty nine thousand (39,000) but less than or equal to one hundred thousand (100,000) pounds per hour for equipment commencing operation prior to October 1, 1979 and greater than twenty eight thousand six hundred (28,600) but less than or equal to seventy two thousand (72,000) pounds per hour for equipment commencing operation on or after October 1, 1979; or (3-30-01)~~

~~iv. Three tenths (0.3) pound per ton of process weight for equipment with a design throughput greater than one hundred thousand (100,000) but less than or equal to two hundred thousand (200,000) pounds per hour for equipment commencing operation prior to October 1, 1979 and greater than seventy two thousand (72,000) but less than or equal to one hundred forty two thousand five hundred (142,500) pounds per hour for equipment commencing operation on or after October 1, 1979. (3-30-01)~~

~~09. **Common Stacks.** When two (2) or more emissions units are connected to a common stack and the operator elects not to provide the means or facilities to sample emissions from the individual emissions units, and the relative contributions of the individual emissions units to the common discharge are not readily distinguishable, then the particulate matter emissions of the common stack must meet the most restrictive particulate matter emission standard of any of the connected emissions units. (3-30-01)~~

~~10. **Alternative Permitted Standard.** For a particulate matter standard in a permit issued on or after July 1, 2000 to apply in lieu of the standard in Subsection 710.08, or the existing permit pursuant to Subsection 710.04.b., the following must occur: (3-30-01)~~

~~a. The permittee must submit, in its application for a permit under Section 200, 300, or 400, or for a revision, or modification, thereof, a request that an alternative limit apply in lieu of the particulate matter standard in Subsection 710.08 or the existing permit pursuant to Subsection 710.04.b. along with a demonstration that the requested permit limit is at least as stringent, in terms of pounds per twenty four (24) hour period, as the particulate matter standard in Subsection 710.08 or the existing permit pursuant to Subsection 710.04.b. Such demonstration shall include, but is not limited to: (3-30-01)~~

~~i. Emission limits in different forms must be converted to a common format and/or units of measure~~

~~or a correlation established among different formats for purposes of comparison. (3-30-01)~~

~~ii. Comparisons of effective dates of compliance, transfer or collection efficiencies, averaging times, and test methods prescribed. (3-30-01)~~

~~iii. A comparison of any work practice requirements directly supporting an emission limit. (3-30-01)~~

~~b. If the Department determines that the limit is at least as stringent, the Department shall prepare and submit to EPA for review a draft or proposed permit, as appropriate, and technical memorandum, under Section 200, 300, or 400 prior to the scheduled public comment period, that contains the alternative emission limit, along with:~~

~~(3-30-01)~~

~~i. A demonstration that the requested permit limit is at least as stringent, in terms of pounds per twenty-four (24) hour period, as the particulate matter standard in Subsection 710.08 or the existing permit pursuant to Subsection 710.04.b.; and (3-30-01)~~

~~ii. A letter that specifically requests EPA review of the Department's determination that the alternative permit limit is at least as stringent as the particulate matter standard in Subsection 710.08 or the existing permit pursuant to Subsection 710.04.b. (3-30-01)~~

~~e. In the case of a permit under Section 300, the proposed permit shall expressly state that, pursuant to this Section, the particulate matter standard established in this permit applies in lieu of the particulate matter standards in Subsection 710.08 or the existing permit pursuant to Subsection 710.04.b. (3-30-01)~~

~~d. In the event the alternative permit limit is accomplished through a revision to a permit under Section 300, it must be accomplished using the significant permit modification procedures of Section 382. (3-30-01)~~

~~e. At the conclusion of any public comment period, the Department shall submit to EPA a copy of any comments received. (3-30-01)~~

~~f. EPA has not objected to the alternative limit as follows: (3-30-01)~~

~~i. In the case of a permit issued under Section 300, EPA has not objected to issuance of the proposed Tier 1 permit within EPA's review period pursuant to Section 366. (3-30-01)~~

~~ii. In the case of a permit issued under Section 200 or 400, EPA has not notified the Department in writing that EPA objects to issuance of the proposed permit within forty five (45) days of receipt of the proposed permit. (3-30-01)~~

~~7104. -- 724. (RESERVED).~~

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0203 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Sections 39-105, 39-107, 39-110, 39-115(3), 39-118D, and 39-119 Idaho Code.

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

October 8, 2002, 7 p.m.
Department of Environmental Quality
Conference Center
1410 N. Hilton, Boise, Idaho

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208)373-0418.

DESCRIPTIVE SUMMARY: The Idaho Legislature and the executive branch have determined that it is in the best interest of the State of Idaho for the state environmental agency, rather than the federal government, to implement air quality permitting programs in Idaho. The Idaho Department of Environmental Quality has obtained authorization from the U.S. Environmental Protection Agency to implement a Tier I air quality operating permit program under Title V of the federal Clean Air Act. The federal Clean Air Act mandates that the full cost of administration and implementation of the Tier I permit program be funded by a fee imposed on the facilities regulated under the program. The Department of Environmental Quality is authorized by state statute to impose such a fee and to require facilities to register their air pollution activities. See Sections 39-110, 39-118D and 39-119, Idaho Code. The purpose of the proposed rulemaking is to revise the existing structure for annual registration of Tier I sources, and the annual assessment and payment of Tier I fees. The current structure is not self-supporting and adoption of a rule increasing the amount of fees paid by the regulated sources will ensure sufficient funding and continued compliance with federal requirements.

The proposed fee structure continues to use a combination of service- and emissions-based calculations to allow for an equitable allocation of fee payments among the facilities and to comply with a requirement of state statute that the fee has an incentive for emissions reductions. See Section 39-115(3), Idaho Code. To better interface with the availability of information and state fiscal year cycles, it is proposed that the dates for submission of registration information and fee payments be changed. Removal of provisions imposing radionuclide emissions registration and fee requirements on the U.S. Department of Energy facilities is also proposed. The proposed rule contains language stating when and if deferred sources are required to submit a Tier I permit application the Department will reconsider the registration and fee requirements to determine whether an alternative basis to regulate those types of sources should be developed.

The rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

FEE SUMMARY: This rulemaking revises the annual assessment and payment of Tier I fees. Collection of the fees is authorized by Sections 39-115(3), 39-118D and 39-119, Idaho Code.

NEGOTIATED RULEMAKING: The text of the rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Section 67-5220, Idaho Code, and IDAPA 04.11.01.812 through 815. The negotiation was open to the public. Participants in the negotiation included government and industry representatives. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume 02-4, April 3, 2002, page 19.

GENERAL INFORMATION: For more information about the Department's programs and activities, visit the Department's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact Phyllis Heitman, (208) 373-0502, pheitman@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before October 9, 2002.

Dated this 8th day of August, 2002.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-0203

387. REGISTRATION AND REGISTRATION FEES.

The purpose of Sections 387 through 399 is to ~~establish criteria~~ set forth the requirements for the annual registration of ~~emissions~~ Tier I sources, and the annual assessment and payment of fees ~~for to support the~~ Tier I permits program. ~~The fee structure is to provide flexibility and financial stability to the Department program.~~ (7-1-02)()

388. APPLICABILITY.

01. Applicability. ~~In any given year,~~ Sections 387 through 399 shall apply to all major facilities, as defined in Section 008, ~~including facilities that obtained air quality permits that limited potential emissions below major facility levels during the previous year.~~ Facilities, sources and emissions exempt under Section 301 are not required to register or pay fees. (7-1-02)()

02. Deferred Sources. Certain sources may qualify for and request deferral from the Tier 1 operating permit program under Subsection 301.02.b.iv. and thereby not pay Tier I fees. ~~On or before such time as those deferred sources are required to submit a Tier 1 operating permit application, the Department shall reconsider Sections 387 through 399 to determine whether an alternative basis upon which those sources shall register and be assessed and pay fees should be developed.~~ ()

389. REGISTRATION INFORMATION.

Any person owning or operating a facility or source ~~during the previous calendar year or any portion of the previous calendar year~~ for which Sections 387 through 399 apply shall, ~~by on May April 1, 1993 2003 or within fifteen (15) days following the adjournment of the 2003 regular session of the legislature,~~ and each ~~May~~ February 1 thereafter register with the Department and submit the following information: (7-1-02)()

01. Facility Information. The name, address, telephone number and location of the facility; (5-1-94)

02. Owner/Operator Information. The name, address and telephone numbers of the owners and operators; (5-1-94)

03. Facility Emission Units. The number and type of emission units present at the facility or the Tier I permit number for the facility; and ~~(3-19-99)(_____)~~

04. Pollutant Registration. The emissions from the previous calendar year, ~~or other twelve (12) month period requested by the registrant and approved by the Department~~ for oxides of sulfur (SOx), oxides of nitrogen (NOx), particulate matter (PM), and volatile organic compounds (VOC) based on one (1) or more of the following methods chosen by the registrant: ~~(3-19-99)(_____)~~

a. Actual annual emissions; or ~~(3-19-99)(_____)~~

b. An estimate of the actual annual emissions calculated using the unit's actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year; or ~~(3-19-99)(_____)~~

c. Allowable emissions based on permit limitations. (3-19-99)

~~**05. Radionuclide Registration.** The amount of radionuclides from facilities regulated under 40 CFR Part 61, Subpart H, for which the registrant wishes to be registered to emit from each source in curies per year except that no amount in excess of or less than an existing permit, consent order, or judicial order will be allowed. (5-1-94)~~

~~**06. Regulated Air Pollutant Registration Fee.** The registration fee set out in Subsection 389.06 shall be reviewed at least every two (2) years to assure the funds meet the presumptive minimum as defined by EPA. The annual registration fee set forth in Subsection 389.06.a. may be paid in two (2) installments as provided in Subsection 393.01. Fees for permit modifications or permit renewals in Subsection 389.06.b. shall be submitted with the application. (7-1-02)~~

~~a. The Tier I annual fee schedule shall be as follows: (3-30-01)~~

~~i. A fixed annual fee for Tier I major sources with regulated air pollutants listed in Subsection 389.04 emissions as follows: (7-1-02)~~

~~(1) Seven thousand (7,000) tons per year and above shall pay fifty thousand dollars (\$50,000); (3-30-01)~~

~~(2) Four thousand five hundred (4,500) tons per year and above shall pay thirty thousand dollars (\$30,000); (3-30-01)~~

~~(3) Three thousand (3,000) tons per year and above shall pay twenty thousand dollars (\$20,000); (3-30-01)~~

~~(4) One thousand (1,000) tons per year and above shall pay fifteen thousand dollars (\$15,000); (3-30-01)~~

~~(5) Five hundred (500) tons per year and above shall pay seven thousand five hundred dollars (\$7,500); (3-30-01)~~

~~(6) Two hundred (200) tons per year and above shall pay five thousand dollars (\$5,000); and (3-30-01)~~

~~(7) Less than two hundred (200) tons per year shall pay two thousand five hundred dollars (\$2,500); plus (3-30-01)~~

~~ii. A per ton annual fee of thirty dollars (\$30) per ton for all regulated air pollutant emissions for Tier I major sources listed in Subsection 389.04 as follows: (7-1-02)~~

~~(1) Greater than or equal to four thousand five hundred (4,500) tons per year not to exceed one hundred thousand dollars (\$100,000); (3-30-01)~~

~~(2) Greater than or equal to three thousand (3,000) but less than four thousand five hundred (4,500) tons per year not to exceed fifty thousand dollars (\$50,000); (3-30-01)~~

~~(3) Greater than or equal to one thousand (1,000) but less than three thousand (3,000) tons per year not to exceed twenty five thousand dollars (\$25,000); (3-30-01)~~

~~(4) Greater than or equal to five hundred (500) but less than one thousand (1,000) tons per year not to exceed seventeen thousand five hundred dollars (\$17,500); (3-30-01)~~

~~(5) Greater than or equal to two hundred (200) but less than five hundred (500) tons per year not to exceed seven thousand five hundred dollars (\$7,500); and (3-30-01)~~

~~(6) Less than two hundred (200) tons per year not to exceed two thousand five hundred dollars (\$2,500); (3-30-01)~~

~~b. Sources requesting Section 300 permit modifications or renewals shall pay an additional fee. Fees shall be: (3-30-01)~~

~~i. Permit renewal fee, ten thousand dollars (\$10,000); (3-30-01)~~

~~ii. Fees for minor permit modifications as provided in Section 383 shall be one thousand dollars (\$1,000); and (3-30-01)~~

~~iii. Fees for significant permit modifications as provided in Section 382 shall be five thousand dollars (\$5,000). (3-30-01)~~

~~e. In the event the monies collected pursuant to Subsection 389.06 fail to meet the presumptive minimum established by 40 CFR Part 70, any shortfall shall be expended from the Idaho air quality permitting fund as necessary in accordance with Section 39-118D(2), Idaho Code. (7-1-02)~~

~~07. **Radionuclide Registration Fee.** A registration fee of five dollars per curie per year (\$5/curie/year) for facilities regulated under 40 CFR Part 61, Subpart H. The registration fee may be paid in two (2) installments as provided in Subsection 393.01. (7-1-02)~~

~~390. **REQUEST FOR INFORMATION.**~~

~~Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 387 through 399 shall be furnished on request. (7-1-02)~~

~~394. **REGISTRATION FEE CRITERIA.**~~

~~01. **Calculation Of Fee.** All facilities registrants to which this Sections 39487 through 399 applies shall pay to the Department an annual registration fee as required by Subsections 389.06 and 389.07. The Department shall determine the annual registration fee for each registrant based on the Department's analysis of information supplied by the registrant under Section 389 and the Department's analysis and engineering and technical practice. In the event of a failure of a facility to submit pertinent registration information, the Department may calculate the fee and shall assess the facility the fee and the costs of calculating the fee. The Department may employ private contractors to determine the registration fee by the Department's emissions fee calculation methodology. The fee is equal to the result of the calculation in Subsection 390.01.a., multiplied by the emissions figure in Subsection 390.01.b., plus the facility cost figure in Subsection 390.01.c.. (7-1-02)()~~

~~a. **Appropriation Minus Lump Sum Payments, Minus Facility Costs Divided by Emissions.** The total dollar amount of Tier I funds appropriated to the Department for the upcoming fiscal year, less any lump sum payments to be paid to the Department under Section 398, less the total of all facilities Tier I costs under Subsection 390.01.c., divided by the total tons of pollutants registered for the previous calendar year by all registrants under Subsection 389.04 and confirmed by the Department. ()~~

b. Emissions. The total tons of pollutants registered for the previous calendar year by that registrant under Subsection 389.04 and confirmed by the Department. ()

c. Facility Costs. The previous two (2) state fiscal years' annual average direct and indirect costs attributable to that registrant under the Tier I program as determined by the Department. ()

02. Excess Fund Balance. In the event that on June 30 of any given year, the balance in the air quality permitting fund established by Section 39-118D, Idaho Code, exceeds two hundred fifty thousand dollars (\$250,000), the excess balance will be deducted from the appropriation amount used to calculate the following year's annual registration fees, pursuant to Subsection 390.01. ()

392.1. REGISTRATION BY THE DEPARTMENT FEE ASSESSMENT.

Upon receiving registration materials from a facility, the Department shall: No later than May 25, 2003, and each May 15 thereafter, the Department shall send to each facility to which Sections 387 through 399 apply, by certified mail, an assessment of the annual fee payable by that facility. (5-1-94)()

01. Completeness Review. Review the material for accuracy and thoroughness; (5-1-94)

02. Additional Information. Require the facility to submit additional information, if needed; and (5-1-94)

03. Fee Assessment. Send to the registrant, by certified mail, an assessment of the fee and a receipt showing the amount of payment received by the Department. (5-1-94)

392. FAILURE TO SUBMIT REGISTRATION INFORMATION.

Any additional information, plans, specifications, evidence or documents that the Department may require in order to implement Sections 387 through 399 shall be furnished by the registrant to the Department on request. In the event of a failure of a registrant to submit complete registration information, the Department may calculate and assess the fee based on information otherwise available to the Department. ()

393. PAYMENT DUE OF TIER I REGISTRATION FEE.

01. Fee Payment Date. The registration fee shall be paid to and received by the Department: no later than July 1 of each year. Checks should be made payable to "Department of Environmental Quality". (5-1-94)()

01. Annual Registration Payments. Payment by May 1 of each year of at least fifty percent (50%) of the annual registration fee for the following twelve (12) months, the balance of the fee to be paid by August 1. (5-1-94)

02. Amendments In Registrations Fees. Payment within forty five (45) days of assessment or notification by the Department. Fee Materials Mailing Address. All registration and fee materials should be sent to:

Air Quality Tier I Registration Fees
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, Idaho 83706-1255

(5-1-94)()

394. EFFECT OF DELINQUENCY ON APPLICATIONS.

No permit to construct or operate, other than those issued at the discretion of the Director, shall be accepted for processing, processed, or issued by the Department for any facility or to any person having Tier I operating permit fees delinquent in full or in part. (5-1-94)()

395. APPEALS.

Persons may file an appeal within thirty-five (305) days of the date the person received the assessment ~~and receipt issued under Subsection 392.03, or within thirty (30) days of the date the person received an assessment~~ issued under Sections 391 or 396. The appeal shall be filed in accordance with IDAPA 58.01.23, "Rules of Administrative

Procedure Before the Board of Environmental Quality”.

(7-1-02)()

396. AMENDING REGISTRATION.

Registrations may be subject to amendment and additional or reduced fees-

(5-1-94)

~~01. Department Or Owner Or Operator.~~ By the Department, or at the request of the owner or operator, should the Department determine that the emissions and fees do not accurately reflect the operation of the facility; or.

(5-1-94)()

~~02. Board Of Environmental Quality.~~ By action of the Board of Environmental Quality.

(5-1-94)

~~397. CHECKS SHOULD BE MADE OUT TO “DEPARTMENT OF ENVIRONMENTAL QUALITY AQ REGISTRATION FEE”.~~

~~All registration and fee materials should be sent to:~~

~~Air Quality Registration Fees
Idaho Department of Environmental Quality
1410 N. Hilton, Boise, Idaho 83706-1255~~

(5-1-94)

397. EXEMPTIONS.

01. Registration Fees. The following facilities or sources are exempt from paying registration fees under Sections 387 through 399:

(7-1-02)

a. Facilities and sources specified by the Department, after public notice, as exempt from the payment of registration fees; and

(5-1-94)

b. Country grain elevators.

(5-1-94)

02. Registering And Paying Fees. The following facilities or sources are exempt from registering and paying registration fees under Sections 387 through 399:

(7-1-02)

a. Facilities and sources specified by the Department, after public notice, as exempt from registration and the payment of registration fees;

(3-19-99)

b. Confined animal feeding operations; and

(3-19-99)

c. Insignificant activities identified in Subsection 317.01.

(3-19-99)

03. Paying Fees. The following emissions are exempt from registering and paying registration fees under Sections 387 through 399:

(7-1-02)

a. Fugitive emissions from wood products.

(3-7-95)L

b. Fugitive dust emissions, except facilities listed in Subsections 008.10.c.i. and 008.10.c.ii. Facilities listed in that section shall not be required to pay fees for fugitive dust emission in excess of one hundred (100) tons.

(4-5-00)

398. LUMP SUM PAYMENTS OF REGISTRATION FEES.

01. Agreement. The Department may, in its discretion, enter an agreement with any person for the lump sum payment of all, or any ~~portion of~~ addition to, the registration fees required by Section 3890. (7-1-02)()

02. Minimum Amount. The minimum amount for any lump sum agreement shall be three hundred thousand dollars (\$300,000).

(5-1-94)

03. Payment Waiver. Upon the execution and full performance of the agreement by the person, the

Department shall waive the payment requirements of Section 3890. All other provisions of Section 3890 shall remain applicable to the person. ~~(7-1-02)~~(____)

399. **(RESERVED).**

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0204

NOTICE OF RULEMAKING - PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Sections 39-105 and 39-107, Idaho Code.

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

October 1, 2002, 7 p.m.
College of Southern Idaho
Aspen Building, Room 108
315 Falls Ave, Twin Falls, Idaho

October 3, 2002, 7 p.m.
Red Lion Hotel, Port No. 3
621 21st St., Lewiston, Idaho

October 10, 2002, 7 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208)373-0418.

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

The proposed rule change is needed to protect public health from excessive ambient (outdoor) levels of hydrogen sulfide (H₂S) emissions. H₂S is a known health hazard and monitoring has shown excessive levels of this compound in the state of Idaho. The proposed rule change will establish a health-based standard for acceptable ambient levels of H₂S and averaging time.

The proposed rule is an ambient standard applicable to all H₂S sources and is not directed at any one source or industry. The rule change may require sources of H₂S to control or otherwise decrease their emissions. Interest groups concerned with medical and health issues may be interested in this rulemaking. Citizens living in areas of high ambient levels of H₂S may also be interested in this rulemaking.

After consideration of public comments, the Department intends to recommend a final proposal to the Board of Environmental Quality in November 2002 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2003 session of the Idaho Legislature.

In compliance with Section 39-107D, Idaho Code, the Department specifies that this proposed rule regulates an activity not regulated by federal law, as federal law does not contain a health-based ambient hydrogen sulfide standard. The rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

NEGOTIATED RULEMAKING: The text of the rule has been drafted based on discussions held and concerns raised during public informational meetings that were announced in the local media. Significant written comments were received and considered by the Department as part of these discussions.

GENERAL INFORMATION: For more information about the Department's programs and activities, visit the Department's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance

on questions concerning the proposed rulemaking, contact Kate Kelly, (208)373-0502, kkelly@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before October 11, 2002.

Dated this 2nd day of August, 2002.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-0204

577. AMBIENT AIR QUALITY STANDARDS FOR SPECIFIC AIR POLLUTANTS.

01. Particulate Matter. PM-10 - particles with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers. (5-1-94)

a. Primary and Secondary Standards. Primary and secondary PM-10 standards are: (5-1-94)

i. Annual Standard. Fifty (50) micrograms per cubic meter, as an annual arithmetic mean -- never expected to be exceeded in any calendar year. (5-1-94)

ii. Twenty-four (24) Hour Standard. One hundred fifty (150) micrograms per cubic meter as a maximum twenty-four (24) hour concentration -- never expected to be exceeded more than once in any calendar year. (5-1-94)

b. Attainment and Expected Exceedance Determination. For the purpose of determining attainment of the primary and secondary PM-10 standards, expected exceedances shall be determined in accordance with Appendix K of 40 CFR Part 50. (5-1-94)

02. Sulfur Oxides (Sulfur Dioxide). (5-1-94)

a. Primary Standards. Primary sulfur dioxide air quality standards are: (5-1-94)

i. Annual Standard. Eighty (80) micrograms per cubic meter (0.03 ppm), as an annual arithmetic mean -- not to be exceeded in any calendar year. (5-1-94)

ii. Twenty-four (24) Hour Standard. Three hundred sixty-five (365) micrograms per cubic meter (0.14 ppm), as an maximum twenty-four (24) hour concentration -- not to be exceeded more than once in any calendar year. (5-1-94)

b. Secondary Standards. Secondary air quality standards are one thousand three hundred (1,300) micrograms per cubic meter (0.50 ppm), as a maximum three (3) hour concentration -- not to be exceeded more than

once in any calendar year. (5-1-94)

03. Ozone. Primary and secondary air quality standards are 0.12 ppm (two hundred thirty-five (235) micrograms per cubic meter) -- maximum one (1) hour concentration not expected to be exceeded more than once per year. (5-1-94)

04. Nitrogen Dioxide. Primary and secondary air quality standards are one hundred (100) micrograms per cubic meter (0.05 ppm) -- annual arithmetic mean. (5-1-94)

05. Carbon Monoxide. Primary and secondary air quality standards are: (5-1-94)

a. Eight (8) Hour Standard. Ten (10) milligrams per cubic meter (9 ppm) -- maximum eight (8) hour concentration not to be exceeded more than once per year. (5-1-94)

b. One (1) Hour Standard. Forty (40) milligrams per cubic meter (35 ppm) -- maximum one (1) hour concentration not to be exceeded more than once per year. (5-1-94)

06. Fluorides. Primary and secondary air quality standards are those concentrations in the ambient air which result in a total fluoride content in vegetation used for feed and forage of no more than: (5-1-94)

a. Annual Standard. Forty (40) ppm, dry basis -- annual arithmetic mean. (5-1-94)

b. Bimonthly Standard. Sixty (60) ppm, dry basis -- monthly concentration for two (2) consecutive months. (5-1-94)

c. Monthly Standard. Eighty (80) ppm, dry basis -- monthly concentration never to be exceeded. (5-1-94)

07. Lead. Primary and secondary standards for lead and its compounds, measured as elemental lead, are one and one-half (1.5) micrograms per cubic meter (1.5 ug/m³), as a quarterly arithmetic mean -- not to be exceeded in any quarter of any calendar year. (5-1-94)

08. Hydrogen Sulfide. Standards for hydrogen sulfide as measured by Department approved methods, are: ()

a. Twenty-four (24) Hour Standard. Twenty (20) parts per billion (twenty-eight (28) micrograms per cubic meter) not to be exceeded more than once in any thirty-day (30) period measured at the point of compliance as defined in Subsection 210.03.b. ()

b. One (1) Hour Standard. Thirty-five (35) parts per billion (fifty (50) micrograms per cubic meter) not to be exceeded more than once in any thirty-day (30) period measured at the point of compliance as defined in Subsection 210.03.b. ()

c. Ceiling Level. Four hundred (400) parts per billion (five hundred eighty-six (586) micrograms per cubic meter) not to be exceeded at any time measured at the point of compliance as defined in Subsection 210.03.b. ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0205

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The temporary rule was effective August 7, 2002.

AUTHORITY: In compliance with Section 67-5226(1), Idaho Code, notice is hereby given that the Department of Environmental Quality (DEQ) has adopted a temporary rule. Methods for calculating values for effluent concentration are not addressed in federal regulations; therefore, this rule may be broader in scope than federal law. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: On June 20, 2002 the Idaho Board of Environmental Quality directed DEQ to proceed with rulemaking to amend the Idaho Water Quality Standards in response to a Petition to Initiate Rulemaking filed by the Idaho Association of Commerce and Industry. This rulemaking adds a section to identify the procedures to determine how to calculate values for the effluent concentration, background concentrations of pollutants in the receiving water and hardness values of the receiving water. These values are then used in calculations to determine if permit limits are necessary and what permits limits should be used to assure that ambient water quality is protected. This issue has been the subject of controversy in recent NPDES permits and the rule is necessary to assert the states interpretation of its water quality standards.

This public comment period for this rule began on August 7, 2002 and ends on September 6, 2002. The proposed rule and public participation information was published in the Idaho Administrative Bulletin, Vol. 02-8, August 7, 2002, pages 139 through 141.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule confers a benefit to industrial and municipal dischargers.

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: For assistance on technical questions concerning this temporary rule, contact Chris Mebane at (208)373-0502 or cmebane@deq.state.id.us.

DATED this 2nd day of August 2002.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418
Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0102-0205

090. ANALYTICAL PROCEDURES.

These procedures are available for review at the Idaho Department of Environmental Quality, or may be obtained from the U.S. Environmental Protection Agency or U.S. Government Printing Office. (8-24-94)

01. Chemical And Physical Procedures. Sample collection, preservation and analytical procedures to determine compliance with these standards shall conform with the guidelines of the Environmental Protection Agency, 40 CFR, Part 136, or other methods accepted by the scientific community and deemed appropriate by the Department. (8-24-94)

02. Metals Procedures. For the purposes of NPDES permitting, sample collection, preservation and analytical procedures for metals should conform to clean or ultra-clean techniques as described in: (8-24-94)

- a. "Guidance Document on Clean Analytical Techniques and Monitoring," EPA, October 1993; or (8-24-94)
- b. "Interim Guidance on Determination and Use of Water-Effect Ratios for Metals," EPA, February 1994; or (8-24-94)
- c. Other scientifically valid methods deemed appropriate by the Department. (8-24-94)

03. Reasonable Potential To Exceed (RPE) Water Quality Standards. (8-7-02)T

a. For the purposes of evaluating whether water quality-based effluent limits are necessary in NPDES permits and Department certifications of NPDES permits, the Department shall utilize the following procedures for determining the reasonable potential to exceed (RPE) an instream water quality standard: (8-7-02)T

i. The projected effluent quality shall be determined from the upper ninety-fifth percentile confidence level of the ninety-fifth percentile effluent concentration based on a log-normal distribution. (8-7-02)T

ii. If representative upstream background concentration measurements in the receiving stream are available, the geometric mean of these measurements will be used for RPE calculation, unless it is determined that a different average statistic (i.e., arithmetic mean, fiftieth percentile) would be more representative of the upstream background concentration. If on-site background measurements are not available, the permittee may obtain this data or, alternatively, ambient data from similar streams may be used. (8-7-02)T

iii. The statistic for hardness to be utilized in metals criteria equations is the geometric mean of a valid and representative database of downstream (mixed) hardness measurements. An alternate average statistic (i.e., arithmetic mean, fiftieth percentile) may be used if this value would be more representative of the downstream hardness. If downstream hardness measurements are not available, the downstream hardness may be calculated from a mass balance of geometric mean upstream hardness combined with geometric mean effluent hardness. (8-7-02)T

b. If it is demonstrated that the permittee has a reasonable potential to exceed any instream water quality standard, then the procedures given in Subsections 090.03.a.ii. and 090.03.a.iii. shall also be used to calculate the permittee's water quality-based effluent limits and any waste load allocation. (8-7-02)T

034. Biological Procedures. Biological tests to determine compliance with these standards should be based on methods as outlined in: (8-24-94)

- a. "Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms," Fourth Edition, EPA, 1991; or (8-24-94)
- b. "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms," Second Edition, EPA 1989; or (8-24-94)
- c. "Rapid Bioassessment Protocols for Use in Streams and Rivers," EPA, 1989; or (8-24-94)
- d. Other scientifically valid methods deemed appropriate by the Department. (7-1-93)

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.05 - SEPARATION FROM SERVICE RULES OF PERSI

DOCKET NO. 59-0105-0201

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is January 1, 2002. This pending rule has been adopted by the agency and is now pending review by the 2003 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 59-1314(1) and 72-1405 Idaho Code.

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

The temporary and proposed rules have been amended in response to public comment and pursuant to Section 67-5227, Idaho Code. The changes to the temporary rules are identical to the changes to the proposed rules. Rule 124 has been amended to preclude the rollover of after-tax contributions into the Base Plan. This is a result of further clarification from the IRS regarding EGTRRA changes that permit rollover of after-tax money only to defined contribution plans, not defined benefit plans like the Base Plan. Rule 126 is amended to replace the word "practical" with the word "practicable" and to replace the word "identify" with the word "identity."

Only the sections that have been changed are printed in this bulletin. The original text of the temporary and proposed rule was published in the May 1, 2002 Idaho Administrative Bulletin, Volume 02-5, pages 82 through 84.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

DATED this 23rd day of July, 2002.

Alan H. Winkle, Executive Director
Public Employee Retirement System of Idaho
607 N. 8th St., Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: (208) 334-3365 FAX: (208) 334-3804

**IDAPA 59
TITLE 01
Chapter 05**

SEPARATION FROM SERVICE RULES OF PERSI

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-5, May 1, 2002, pages 82 through 84.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 59-0105-0201

124. ROLLOVERS ACCEPTED INTO THE BASE PLAN (Rule 124).

The PERSI Base Plan will accept participant rollover contributions and direct rollovers of distributions made after December 31, 2001, for purposes of reinstating or purchasing service as permitted under the plan, from the following plans. No after-tax contributions may be rolled over into the Base Plan. ~~(1-1-02)T(1-1-02)T~~

01. Qualified Plans. A qualified plan described in section 401(a) or 403(a) of the Internal Revenue Code (Code). ~~After-tax contributions may be rolled over if separately identified.~~ ~~(1-1-02)T(1-1-02)T~~

02. Annuity Contracts. An annuity contract described in section 403(b) of the Code, ~~including after-tax contributions if identified separately.~~ ~~(1-1-02)T(1-1-02)T~~

03. 457 Plans. An eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. (1-1-02)T

04. IRAs. Any portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includible in gross income. (1-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

126. REQUIRED MINIMUM DISTRIBUTIONS (Rule 126).

01. Default Application Of Federal Requirements. With respect to distributions under the Base Plan made in calendar years beginning on or after January 1, 2001, and except as provided in Subsection 126.02, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code (Code) in accordance with the regulations under section 401(a)(9) that were proposed in January 2001, notwithstanding any provision of the Plan to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under section 401(a)(9) of the Code or such other date specified in guidance published by the Internal Revenue Service. (1-1-02)T

02. Death Benefits. All death benefits payable under the Base Plan will be distributed as soon as administratively ~~practical~~ practicable after request, but must in any event be distributed within fifteen (15) months of the member's death, unless the ~~identify~~ identity of the beneficiary is not ascertainable. ~~(1-1-02)T(1-1-02)T~~

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.06 - RETIREMENT RULES OF PERSI

DOCKET NO. 59-0106-0201

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This pending rule has been adopted by the agency and is now pending review by the 2003 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 59-1314(1) and 72-1405 Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the temporary and proposed rule was published in the May 1, 2002 Idaho Administrative Bulletin, Volume 02-5, pages 85 through 87.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

DATED this 23rd day of July, 2002.

Alan H. Winkle, Executive Director
Public Employee Retirement System of Idaho
607 N. 8th St., Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: (208) 334-3365 FAX: (208) 334-3804

IDAPA 59, TITLE 01, Chapter 06

RETIREMENT RULES OF PERSI

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 02-5, June 5, 2002, pages 85 through 87.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.

Subjects Affected Index

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.02.14 - RULES FOR WEIGHTS AND MEASURES

Docket No. 02-0214-0201

050. Checking, Testing And Examining Of Devices, Packages And Labels.	19
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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 2270 Old Penitentiary Rd, Boise, ID 83712

02-0214-0201, Rules for Weights and Measures. Adopts by reference the 2003 edition of the National Institute of Standards and Technology Handbook 44. Comment by: 9/25/02.

****02-0403-0203**, Rules Governing Animal Industry. Removes obsolete sections and those dealing with domestic Cervidae. Comment by: 9/25/02.

****02-0419-0201**, Rules Governing Domestic Cervidae. Updates and amends the domestic Cervidae rules that were removed from IDAPA 02.04.03 and adopted into this chapter. Addresses new and varied disease control issues. Comment by: 9/25/02.

02-0423-0201, Rules Governing Commercial Livestock Truck Washing Facilities. Regulates the permitting, construction, and operation of commercial livestock truck washing facilities in accordance with HB 529. Comment by: 9/25/02.

02-0608-0202, Quarantine Rules Pertaining to Apple and Cherries. Rewrite of chapter combines the common provisions of this rule and the following repealed rules into one comprehensive rule to eliminate duplications and update pesticide recommendations. Comment by: 9/25/02.

The Following Chapters Are Being Repealed In Their Entirety - Comment by: 9/25/02.

02-0608-0201, Order in the Matter of the Control of Cherry Fruit Fly in Certain Prescribed Portions of Canyon County; **02-0610-0201**, Order in the Matter of the Control of Cherry Fruit Fly in Certain Prescribed Portions of Gem County; **02-0619-0201**, Apple and Cherry Quarantine Rules; and **02-0623-0201**, Interior Apple Maggot Quarantine Rule.

IDAPA 07 – DIVISION OF BUILDING SAFETY 1090 E. Watertower St., Meridian, ID 83642

07-0103-0201, Rules of Electrical Licensing and Registration - General. Conforms licensing requirements to Idaho Code; deletes waiting period requirement for apprentices and allows them to apply for a journeyman license after proof of completion of the prescribed educational training and experience requirements each year for 4 years; establishes journeyman requirements for out-of-state applicants. Comment by: 9/25/02.

07-0104-0201, Rules Governing Electrical Specialty Licensing. Removes specialty license fee from rule to make it consistent with Section 54-1014, Idaho Code. Comment by: 9/25/02.

IDAPA 09 – DEPARTMENT OF LABOR 317 W. Main St., Boise, ID 83735

09-0130-0201, Rules of the Benefits Bureau. If a claimant declines work with an ongoing employer but does not sever the employment relationship, the claimant's availability for work will be examined but it will not be considered an offer of work refusal. Comment by: 9/25/02.

**IDAPA 10 – BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS
600 S. Orchard, Suite A, Boise, ID 83705-1242**

10-0101-0201, Rules of Procedure. Changes office hours; modifies age requirement from 65 to 60 to qualify for Retired Status for license and certificate holders; an applicant with a related science degree rather than an engineering degree must provide same proof of equivalent education as those who apply for Engineer-in-Training certification; allows Board to publish disciplinary action on the Internet for up to 10 years. Comment by: 9/25/02.

10-0102-0201, Rules of Professional Responsibility. Changes “infraction” to “violation” to address violations of both rules and statutes. Comment by: 9/25/02.

**IDAPA 11 – IDAHO STATE POLICE
P.O. Box 700, Meridian, ID 83680-0700**

11-0701-0201, Rules Governing Motor Vehicles – General Rules; **11-0702-0201**, Motor Safety Rule Governing Safety Glazing Material; **11-0703-0201**, Rules Governing Emergency Vehicles/Authorized Emergency Vehicles. Adds required sections addressing legal authority, title and scope, written interpretations, and administrative appeals to these rules. Comment by: 9/25/02.

**IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO FOREST PRODUCTS COMMISSION
P. O. Box 855, Boise, ID 83701**

15-0301-0201, Rules of Administrative Procedure of the Idaho Forest Products Commission. Adds and deletes definitions; clarifies methodology for assessing fees to financial supporters of the Commission. Comment by: 9/25/02.

**IDAPA 18 – DEPARTMENT OF INSURANCE
P.O. Box 83720, Boise, ID 83720-0043**

18-0117-0201, Surplus Lines – Delegation of Responsibility. Removes Idaho residency requirement for licensing surplus lines brokers; allows changes in surplus lines by-laws to become effective if changes submitted for approval are not acted upon within 60 days of receipt by the department. Comment by: 9/25/02.

18-0118-0201, Open Lines for Export – Surplus Lines. Allows the director to approve a class or classes of business for export through the surplus lines market by issuing an order or rule, without conducting a formal hearing. Comment by: 9/25/02.

18-0148-0201, Rule to Implement the Privacy of Consumer Financial Information. Implements requirements of federal and state law relating to privacy of personal financial information. Comment by: 9/25/02.

18-0150-0201, Adoption of the 1997 Uniform Fire Code. Adopts by reference the 2000 International Fire Code and makes minor modifications to adapt it for use by state and local jurisdictions. Comment by: 9/25/02.

18-0152-0201, Rules Governing Disclosure Requirements for Insurance Producers When Charging Fees. Clarifies that a retail producer, when charging a fee for services, must provide a written statement to consumer describing services to be performed and the cost. Comment by: 9/25/02.

18-0154-0201, Rule to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act. Amendments will bring rule into compliance with the new federal standards created by Benefits Improvement and Protection Act. Comment by: 9/25/02.

18-0165-0201, Rules for Surplus Lines Brokers. Extends the license reinstatement period from 30 days to 1 year; eliminates requirements for a bond and that records be kept in an office located in Idaho; clarifies that surplus lines brokers selling through a purchasing group must be licensed in Idaho and are responsible for submission of taxes and fees to the Surplus Lines Association. Comment by: 9/25/02.

IDAPA 20 – IDAHO DEPARTMENT OF LANDS**P.O. Box 83720, Boise, ID 83720-0200**

****20-2001-0201**, Rules Pertaining to the Idaho Forest Practices Act. Limits future re-entry in stream protection zones to provide for streamside shade; provides standards for retention or removal of down wood in stream protection zones; establishes minimum streamside tree retention requirements by the use of basal area; allows operators to develop alternative riparian management prescriptions; provides adequate wildlife escape cover within single ownerships; encourages replacement of older existing culverts that do not provide for fish passage or meet the 50-year design requirement; specifies best management practices for the use of fords; clarifies when roads can be reused in stream protection zones. Comment by: 9/25/02.

IDAPA 27 – BOARD OF PHARMACY**P.O. Box 83720, Boise, ID 83720-0067**

27-0101-0201, Rules of the Idaho Board of Pharmacy. Sets out specific criteria for ephedrine products that can be sold without prescription and includes maximum dosage requirements and label disclosures and warnings. Comment by: 9/25/02.

IDAPA 31 – PUBLIC UTILITIES COMMISSION**P.O. Box 83720, Boise, ID 83720-0074**

31-1101-0201, Safety and Accident Reporting Rules for Utilities Regulated by the IPUC. Updates safety regulation documents incorporated by reference. Comment by: 9/25/02.

31-7102-0201, Railroad Accident Reporting Rules. Updates documents incorporated by reference. Comment by: 9/25/02.

IDAPA 35 – STATE TAX COMMISSION**P.O. Box 36, Boise, ID 83722**

35-0102-0201, Sales and Use Tax Rules. Deletes obsolete language and references; describes new color codes used for Federal Tax Exemption Cards for foreign diplomats; clarifies exempt Mission Card purchases by foreign diplomats; clarifies the time limit allowed to appeal the denial of a refund; replaces form used for applying for a seller's permit number; clarifies exempt status for livestock sales. Comment by: 9/25/02.

35-0103-0201 and **35-0103-0202**, Property Tax Rules. Creates a category to assess and list certain rural lots in counties under 100,000 in population for ease of identification for granting a partial exemption and provides guidance to counties when deciding which properties are eligible for exemption. Comment by: 9/25/02.

35-0103-0205, Property Tax Rules. Lists documents incorporated by reference and deletes obsolete documents and references; includes valuation schedules for registering recreational vehicles beginning in 2004; amends the equalization of values of manufactured homes on leased land declared as real property in ratio studies to equalize values within the counties and school districts; clarifies for counties the partial year assessment of personal property and prorating the value of transient personal property; clarifies what information must be sent to taxpayers of occupancy taxes for appraisal notification; revises date for distribution of tax code area maps to operating properties; provides direction to auditors to report value exempted by law for parcels in rural home sites, to help them determine when taxing districts can levy against annexed territory, and to report sales tax distribution; adds date reports are due to Tax Commission. Comment by: 9/25/02.

35-0109-0201, Idaho County Option Kitchen and Table Wine Tax Rules and **35-0112-0201**, Idaho Beer Tax Rules. Clarifies that declaratory rulings are not public records and removes outdated cross-references to the Income Tax Rules. Comment by: 9/25/02.

35-0110-0201, Idaho Cigarette and Tobacco Products Tax Rules. Corrects a reference to Idaho Code; limits the credit distributors may claim to sales to retailers only. Comment by: 9/25/02.

**IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY
1410 N. Hilton, Boise, ID 83706-1255**

58.01.01, Rules for the Control of Air Pollution in Idaho.

****58-0101-0202.** Proposes several revisions to clarify and streamline the air quality stationary source permitting program. Comment by: 10/9/02.

****58-0101-0203.** Revises existing structure for annual registration of Tier I sources and the annual assessment and payment of Tier I fees. Comment by: 10/9/02.

****58-0101-0204.** Establishes a health-based standard for acceptable ambient (outdoor) levels of hydrogen sulfide (H₂S) emissions and averaging time. Comment by: 10/11/02.

****PUBLIC HEARINGS HAVE BEEN SCHEDULED FOR THESE DOCKETS.**

Please refer to the Idaho Administrative Bulletin, **September 4, 2002, Volume 02-9** 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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