

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 monthly compilation of all administrative rulemaking documents in Idaho. The Bulletin publishes the official rulemaking notices and administrative rule text of state agency rulemakings and other official documents as necessary.

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 Rulemaking Notice published in the Bulletin. 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 02-1 refers to the first Bulletin issued in calendar year 2002, Bulletin 02-1 refers to the first Bulletin issued in calendar year 2002, 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 2003 is cited as Volume 03-1, the December 2002 Bulletin is cited as Volume 02-12. The March 2001 Bulletin is cited as Volume 01-3.

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 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

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2004

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
04-1	January, 2004	*November 12, 2003	January 7, 2004	January 28, 2004
04-2	February, 2004	December 24, 2002	February 4, 2004	February 25, 2004
04-3	March, 2004	January 21, 2004	March 3, 2004	March 24, 2004
04-4	April, 2004	February 18, 2004	April 4, 2004	April 25, 2004
04-5	May, 2004	March 24, 2004	May 5, 2004	May 26, 2004
04-6	June, 2004	April 21, 2004	June 2, 2004	June 22, 2004
04-7	July, 2004	May 26, 2004	July 7, 2004	July 28, 2004
04-8	August, 2004	June 23, 2004	August 4, 2004	August 25, 2004
04-9	September, 2004	July 21, 2004	September 1, 2004	September 22, 2004
04-10	October, 2004	**August 25, 2004	October 6, 2004	October 27, 2004
04-11	November, 2004	September 22, 2004	November 3, 2004	November 24, 2004
04-12	December, 2004	October 20, 2004	December 1, 2004	December 22, 2004

****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. 2002-01

ESTABLISHMENT OF THE IDAHO ALCOHOL AND DRUG-FREE WORKPLACE POLICY

WHEREAS, the State of Idaho has a vital interest in maintaining a safe, healthy, and efficient working environment for its employees, clients and the public; and

WHEREAS, employees impaired by alcohol or other drugs during work hours pose safety and health risks not only to themselves but to others; and

WHEREAS, employees who use illegal drugs, whether on or off duty, are generally less productive, less reliable and prone to greater absenteeism than employees who do not use drugs; and

WHEREAS, the use of illegal drugs by state employees is inconsistent with the law-abiding behavior expected of all citizens, and with the special trust placed in such employees as servants of the public; and

WHEREAS, the use of alcohol or drugs by state employees in certain positions of sensitivity poses a special risk to public safety and the effective enforcement of the law; and

WHEREAS, the use of alcohol or drugs becomes a matter of concern to the State of Idaho when it interferes with job performance, conduct, attendance, or safety of state employees; and

WHEREAS, the State of Idaho, as an employer, has a responsibility to taxpayers to ensure that state functions are performed efficiently and without undue risk to the people of the state; and

WHEREAS, the State of Idaho, as an employer, is also concerned with the well-being of its employees and should encourage the identification and rehabilitation of employees with alcohol or drug problems;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by virtue of the power and authority vested in me by the Constitution and statutes of the State of Idaho, do hereby order the following Idaho Alcohol and Drug-Free Workplace Policy to become effective immediately for all employees of the State of Idaho:

1. The consumption of alcohol on the job is prohibited. Employees may not work if their performance is impaired by the use of alcohol;
2. The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited, and if occurring on state property or during an employee's hours of work, demands immediate corrective action;
3. Each state agency shall provide employees with information on Idaho's Alcohol and Drug-Free Workplace Policy, as well as information on the state's Employee Assistance Plan;
4. Violations of the Idaho Alcohol and Drug-Free Workplace Policy will be cause for management/supervisor intervention and may result in referral to treatment, including participation in the Employee Assistance Program. It shall be the policy of the State of Idaho to direct its efforts toward rehabilitation whenever reasonable;
5. Any intervention steps taken upon a violation of the Idaho Alcohol and Drug-Free Workplace Policy must be consistent with all due process requirements and other constitutional rights of state employees;
6. The privacy rights of employees are important. Any intervention steps taken upon a violation of the Idaho Alcohol and Drug-Free Workplace Policy, including a referral for treatment, counseling or rehabilitation programs, shall include procedures to protect the confidentiality of treatment records as well as the employee's

identity;

7. *The director of each agency shall report quarterly, the first of January, April, July, and October, to the Division of Human Resources any violations of the Idaho Alcohol and Drug-Free Workplace Policy and the corrective actions taken. "Quarterly" means the report shall be filed the first day of January, April, July, and October. The report shall, to the extent practicable, protect the confidentiality of the employee involved, but shall describe the nature of the employee's position;*

8. *The Division of Human Resources shall annually compile information regarding violations of this policy and the corrective actions taken, and report this information by June 30 to the Governor. Any information so reported shall be reported in a manner to avoid revealing the identity of the employees involved. The Division of Human Resources, when it compiles this data, shall do so by type of position so as to determine whether there is an alcohol or drug problem in any "safety-sensitive" positions;*

9. *Whenever there is an alcohol or drug problem in a "safety-sensitive" position, it is critical that the problem be addressed aggressively. For the purpose of this policy, a "safety-sensitive" position is one in which:*

a. The duties involve a greater-than-normal level of trust for, responsibility for, or impact on the health and safety of the employee or others; and

b. Errors in judgment, inattentiveness or diminished coordination, dexterity, or composure while performing the duties could clearly result in mistakes that would endanger the health and safety of the employee or others; and

c. Employees in these positions work with such independence that it cannot be safely assumed that mistakes such as those described in subsection (b) could be prevented by a supervisor or another employee;

10. *In the event the Division of Human Resources finds an alcohol or drug problem in any agency or classification, it shall report that to the Governor, and the agency, working in conjunction with the Division of Human Resources and the Governor, shall develop a program to respond to the problem. This program may include alcohol or drug testing for employees in safety-sensitive classifications where such a problem has been documented;*

11. *All state agencies responsible to the Governor are directed, and all other public entities are requested, to assist the Division of Human Resources in discharging its responsibilities under this order;*

12. *Nothing in this order shall be deemed to abrogate any existing policy or directive relating to alcohol or drug use by state employees or to affect any existing or future state employee disciplinary proceeding; and*

13. *Where federal laws or regulations require the state to implement more stringent regulations than those contained in this policy, those federal regulations and procedures supersede and/or augment this policy.*

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 seventh day of November 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. 2002-03

ESTABLISHMENT OF THE STATEWIDE REHABILITATION COUNCIL

WHEREAS, management of vocational rehabilitation services by Idaho state agencies could benefit from review by, and the advice of, a council of citizens with personal knowledge of the needs of persons with disabilities and interest in the manner in which those needs are addressed; and

WHEREAS, the 1992 amendments to the Rehabilitation Act of 1973 (Title I, Section 105, of PL 102-569) mandate review of the "state plan" and "strategic plan" drafted by the designated state unit (the Division of Vocational Rehabilitation) by a Statewide Rehabilitation Council; and

WHEREAS, it is in the best interest of the State of Idaho to establish the Rehabilitation Council to advise the Division of Vocational Rehabilitation on the state plan, the strategic plan, and other Division activities undertaken to benefit the citizens of Idaho;

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 order the establishment of the State Rehabilitation Council.

The Council shall review the activities of the Division of Vocational Rehabilitation and advise on the preparation of applications, the state plan, the strategic plan and amendments to the plans, reports, needs assessments, and evaluations required by Title I of the 1992 amendments of The Rehabilitation Act of 1973.

Members of the Council shall be appointed by the Governor and shall be selected after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. The members shall include:

1. At least one representative of the Statewide Independent Living Council;
2. At least one representative of a parent training and information center established pursuant to section 631(c)(9) of the Individuals with Disabilities Act (20 U.S.C. 1431(c)(9));
3. At least one representative of the client assistance program established under section 112 of the 1992 Amendments to the Rehabilitation Act of 1973;
4. At least one vocational rehabilitation counselor, with knowledge of, and experience with, vocational rehabilitation programs (who, if an employee of the Division of Vocational Rehabilitation, shall serve as a nonvoting member of the Council);
5. At least one representative of community rehabilitation program service providers;
6. Four representatives of business, industry, and labor;
7. Representatives of disability advocacy groups representing a cross section of:
 - (a) Individuals with physical, cognitive, sensory, and mental disabilities;
 - (b) Parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable, due to their disabilities, to represent themselves;

1. *Current or former applicants for, or recipients of, vocational rehabilitation services;*
2. *The Director of the Division of Vocational Rehabilitation, who shall serve as an ex officio member of the Council;*
3. *A representative of the Department of Education;*
4. *A representative from Idaho's Native American Tribes; and*
5. *A representative from the Workforce Development Council.*

A majority of the Council shall be comprised of persons who are individuals with disabilities and not employed by the Division of Vocational Rehabilitation. Members of the Council shall select a chair from among their number.

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 second day of April 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. 2002-04

**CHILD MORTALITY REVIEW COMMITTEE
REPEALING AND REPLACING EXECUTIVE ORDER NO. 98-10**

*WHEREAS, the health and safety of Idaho children are of primary importance; and
WHEREAS, the child death rate in Idaho exceeds that of the nation; and
WHEREAS, some child deaths are due to preventable causes; and
WHEREAS, records of children's deaths and circumstances leading to their deaths are kept by multiple agencies but no coordinated, ongoing effort is being made to evaluate these records; and
WHEREAS, expertise exists within the state to evaluate these records and identify circumstances leading to or contributing to the deaths of children; and
WHEREAS, the identification of risk-producing circumstances and recommendations to remediate them may reduce child death rates;*

NOW THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by virtue of the authority vested in me under the Constitution and laws of the State of Idaho, do hereby establish the Child Mortality Review Committee.

The duties of the Committee shall include reviewing data on selected cases of child death due to leading preventable causes. An annual report summarizing the data and with the Committee's finding shall be presented to the Governor's Coordinating Council for Families and Children.

The members of the Committee shall be appointed by the Director of the Department of Health and Welfare. The terms of appointment, chairmanship, and other operating guidelines shall be established by the Committee in bylaws. Membership shall include:

- a pediatrician,*
- an emergency medicine physician,*
- a pathologist,*
- a coroner,*
- a prosecutor,*
- a law enforcement representative,*
- a Children At Risk Task Force member,*
- a representative from the Department of Health and Welfare, Children and Family Services,*
- the state epidemiologist, and*
- a representative of the public.*

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 second day of April 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

02.02.12 - BONDED WAREHOUSE RULES

DOCKET NO. 02-0212-0201

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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 69-231, 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 July 3, 2002 Idaho Administrative Bulletin, Volume 02-7, pages 41 through 47.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Darrel McRoberts at 332-8666, or Russell A. Dapsauski at 332-8612.

DATED this 31st day of October, 2002.

Mike Everett
Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83712
Phone 332-8500
Fax 334-2170

IDAPA 02, TITLE 02, Chapter 12

BONDED WAREHOUSE RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 02-7, July 3, 2002, pages 41 through 47.](#)

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 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.02.13 - COMMODITY DEALERS' RULES

DOCKET NO. 02-0213-0201

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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 69-524, 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 July 3, 2002 Idaho Administrative Bulletin, Volume 02-7, pages 48 through 54.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Darrel McRoberts at 332-8666, or Russell A. Dapsauski at 332-8612.

DATED this 31st day of October, 2002.

Mike Everett
Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83712
Phone 332-8500
Fax 334-2170

IDAPA 02, TITLE 02, Chapter 13

COMMODITY DEALERS' RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 02-7, July 3, 2002, pages 48 through 54.](#)

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 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.02.15 - RULES GOVERNING THE SEED INDEMNITY FUND

DOCKET NO. 02-0215-0201 (FEE RULE)

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

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-5129, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 3, 2002 Idaho Administrative Bulletin, Volume 02-7, pages 55 through 61.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge has been imposed pursuant to Section 67-5226(2), Idaho Code. The Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: The Seed Indemnity Fund Law became effective July 1, 2002. By statute the initial rate of assessment on seed crop transferred, will be .5% of the gross dollar amount and the initial assessment for seed for withdrawal shall not exceed ½¢ per pound, pursuant to Section 22-5121, Idaho Code. The Seed Indemnity Fund Law also requires Seed Buyers to be licensed. Pursuant to Section 22-5103(3)(a), Seed Buyers will pay an application fee of up to \$500 except those persons holding a license issued pursuant to Title 22, Chapter 4, Idaho Code, "The Pure Seed Law".

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Darrel McRoberts at 332-8666, or Russell A. Dapsauski at 332-8612.

DATED this 31st day of October, 2002.

Mike Everett
Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, Idaho 83712
Phone 332-8500 / Fax 334-2170

IDAPA 02, TITLE 02, Chapter 15

RULES GOVERNING THE SEED INDEMNITY FUND

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 02-7, July 3, 2002, pages 55 through 61.

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 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.03 - RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING ANIMAL INDUSTRY

DOCKET NO. 02-0403-0203

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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 25-203 and [25-3704] 25-3504, 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.

This pending rule is being adopted to repeal Sections of IDAPA 02.04.03 that are being renumbered and moved to IDAPA 02.04.19, 02.04.20, 02.04.21, or repealed. The Department received no comments on the proposed rule and is not making any changes between the text of the proposed rule and the text of the pending rule.

The pending rule is being adopted as proposed. The original text of the temporary and proposed rule was published in September 4, 2002 Idaho Administrative Bulletin, Volume 02-9, pages 21 through 37.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact John Chatburn, Idaho Department of Agriculture, at (208) 332-8540.

DATED this 31st day of October, 2002.

Mike Everett, Deputy Director
Idaho State Department of Agriculture
P.O. Box 790, Boise, Idaho 83701-0790
(208) 332-8500 / (208) 334-4062 FAX

IDAPA 02, TITLE 04, Chapter 03

RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING ANIMAL INDUSTRY

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 02-9, September 4, 2002, pages 21 through 37.](#)

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 02 – IDAHO DEPARTMENT OF AGRICULTURE
02.04.16 - RULES GOVERNING AGRICULTURE ODOR MANAGEMENT

DOCKET NO. 02-0416-0201

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 25-3802, Idaho Code.

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

This pending rule is being adopted to implement amendments to the rule 02.04.16 due to HB 726, which was passed by the 2002 legislature. The Department is not making any changes between the text of the proposed rule and the text of the pending rule.

The original text of the temporary and proposed rule was published in October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 34 through 38.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact John Chatburn, or Marv Patten, Idaho State Department of Agriculture, at (208) 332-8540.

DATED this 13th day of November, 2002.

Darrel McRoberts, Acting Director
Idaho State Department of Agriculture
P.O. Box 790, Boise, Idaho 83701-0790
(208) 332-8500 / (208) 334-4062 FAX

IDAPA 02, TITLE 04, Chapter 16

RULES GOVERNING AGRICULTURE ODOR MANAGEMENT

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 02-10, October 2, 2002, pages 34 through 38.](#)

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 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE

DOCKET NO. 02-0419-0201 (FEE RULE)

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, 2003. 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 after the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. After the pending rule is approved, rejected, 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 fee rule and amended a temporary rule. The action is authorized pursuant to Section(s) 25-[3504] 3704, 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.

This pending rule updates and amends the "Rules Governing Domestic Cervidae" to account for new and varied disease control issues. The proposed rules have been amended in response to testimony received at public hearings, public comments, and to make typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department of Agriculture amended the temporary rule with the same revisions that have been made to the proposed rule.

This pending rule amends the following Sections: 020, Location of Domestic Cervidae; 026, Wild Cervidae.

Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 4, 2002 Idaho Administrative Bulletin, Volume 02-9, pages 38 through 57.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. This fee or charge is being imposed pursuant to Section 25-[3708] 3508, Idaho Code. The following is a specific description of the fee or charge imposed or increased: This rule continues the fee (\$5.00 per elk, \$3.00 per other cervidae) that was in IDAPA 02.04.03.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact John Chatburn or Dr. Bob Hillman, Idaho State Department of Agriculture, at 332-8540.

DATED this 31st Day of October, 2002.

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

IDAPA 02, TITLE 04, Chapter 19

RULES GOVERNING DOMESTIC CERVIDAE

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 02-9, September 4, 2002, pages 38 through 57.

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. 02-0419-0201

SUBSECTION 020.04

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

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 begins any necessary repairs immediately upon discovering the damage, acts expeditiously, as determined by the Administrator, to ~~make~~ complete 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~~(1-1-03)T

(BREAK IN CONTINUITY OF SECTIONS)

SUBSECTION 026.02

026. WILD CERVIDAE.

Wild cervidae shall not be confined, kept or held on a 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~~ within twenty-four (24) hours of gaining knowledge of the presence of wild cervidae inside the perimeter fence of the domestic cervidae ranch. ~~(9-15-02)T~~(1-1-03)T

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.23 - RULES GOVERNING COMMERCIAL LIVESTOCK TRUCK WASHING FACILITIES

DOCKET NO. 02-0423-0201

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is November 4, 2002. The 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 Sections 22-103, 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 any change.

The proposed rules have been amended in response to testimony received at public hearings, public comments, and to make typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department of Agriculture amended the temporary rule with the same revisions that have been made to the proposed rule.

This pending rule adds Section 050, Inspections.

Only the Sections that have been added are printed in this bulletin. The original text of the proposed rule was published in the September 4, 2002 Idaho Administrative Bulletin, Volume 02-9, pages 58 through 64.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule or temporary rule, contact John Chatburn, Idaho Department of Agriculture, at (208) 332-8540.

DATED this 31st day of October, 2002.

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

IDAPA 02, TITLE 04, Chapter 23

RULES GOVERNING COMMERCIAL LIVESTOCK TRUCK WASHING FACILITIES

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 02-9, September 4, 2002, pages 58 through 64.](#)

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. 02-0423-0201

SECTION 050

013. -- 049. (RESERVED).

050. INSPECTIONS.

In order to ascertain compliance with this chapter, the Director shall have reasonable access to: (11-4-02)T

01. Inspect Facilities. Inspect any facility or land application site listed in the CLTWF's NMP. (11-4-02)T

02. Inspect Records. Inspect, review, or copy any CLTWF's records deemed necessary, during normal business hours. (11-4-02)T

051. -- 099. (RESERVED).

IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.08.01 - SHEEP AND GOATS RULES OF THE IDAHO BOARD OF SHEEP COMMISSIONERS

DOCKET NO. 02-0801-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rules is November 12, 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 25, Chapter 1, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 15, 2003.

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

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

This proposed rule will provide the ability for the Idaho Sheep Commission to control scrapie, a fatal neurological disease of sheep and goats. The changes are being made to be consistent with new federal scrapie rules.

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: The changes are being made to be consistent with new federal scrapie rules in Title 9, Parts 54 and 79, The Code of Federal Regulations, January 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.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Stan Boyd, Idaho Sheep Commission, at 208-334-3115; or Dr. Bob Hillman, Idaho Department of Agriculture, at 208-332-8540.

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 January 22, 2003.

DATED this 12th day of November, 2002.

Stanley T. Boyd, Executive Secretary
Idaho Sheep Commission
802 W. Bannock St., Ste. 205
P.O. Box 2596, Boise, ID 83701
208-334-3115
208-336-9447 FAX

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0801-0301

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the "Sheep and Goat Rules of the Idaho Board of Sheep Commissioners;" ~~hereafter referred to as "Board"~~. (3-19-99)(11-11-02)T

02. Scope. ~~This chapter has the following scope:~~ These rules shall govern procedures for the prevention, control and eradication of diseases among sheep and goats, the interstate and intrastate movement of sheep and goats and the assessment of fees on sheep and goats to provide resources to carry out these functions. The official citation of this chapter is IDAPA 02.08.01, Section 000 et. seq. For example, this Section's citation is IDAPA 02.08.01, Section 001. (3-19-99)(11-11-02)T

(BREAK IN CONTINUITY OF SECTIONS)

SECTION 004 HAS BEEN RENUMBERED TO 010

004. INCORPORATION BY REFERENCE.

Copies of the following documents may be obtained from the Idaho State Department of Agriculture Division of Animal Industries and the State Law Library. IDAPA 02.08.01 incorporates by reference: (11-11-02)T

01. The Code of Federal Regulations Title 9, Parts 54.1, 54.2, 54.8, 54.9, 54.10, 54.11, 54.20, 54.21, 54.22 and 79, January 1, 2002. (11-11-02)T

02. The Voluntary Scrapie Flock Certification Program Standards, USDA, July 1, 1999. (11-11-02)T

03. The Code of Federal Regulations, Title 9, Part 161, January 1, 2002. (11-11-02)T

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

01. Physical Address. The central office of the Idaho State Sheep Commission is located at 802 West Bannock Street, Suite 205, Boise, Idaho 83701. (11-11-02)T

02. Office Hours. Office hours are 8:30 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (11-11-02)T

03. Mailing Address. The mailing address for the Idaho State Sheep Commission is Idaho State Sheep Commission, P.O. Box 2596, Boise, Idaho 83701. (11-11-02)T

04. Telephone Number. The telephone number of the Idaho State Sheep Commission is (208) 334-3115. (11-11-02)T

05. Fax Number. The fax number of the Idaho State Sheep Commission is (208) 334-3115. (11-11-02)T

006. IDAHO PUBLIC RECORDS ACT.

These rules are public records available for inspection and copying at the Idaho State Sheep Commission, the Idaho State Department of Agriculture and the State Law Library. (11-11-02)T

0057. -- 009. (RESERVED).

SECTION 010 HAS BEEN RENUMBERED AND MOVED TO SECTION 100

004010. DEFINITIONS.

- 01. Accredited Veterinarian.** A veterinarian approved by the Administrator and USDA/APHIS/VS in accordance with provisions of Title 9, Part 161, Code of Federal Regulations to perform functions of State-Federal animal disease control programs. (11-11-02)T
- 02. Administrator.** The administrator of the Division of Animal Industries, Idaho State Department of Agriculture or his designee. (11-11-02)T
- 03. Animals.** All vertebrates, except humans. (11-11-02)T
- 04. Authorized Federal Inspector.** An employee of USDA authorized by the Board to perform the functions of the Idaho State Sheep Commission. (11-11-02)T
- 05. Authorized State Inspector.** An employee of the state of Idaho authorized by the Board to perform the functions of the Idaho State Sheep Commission. (11-11-02)T
- 06. Board.** The Idaho Board of Sheep Commissioners or its designee. (11-11-02)T
- 07. Blackface Breeding Stock.** Intact male or female sheep ~~of blackface breeds and intact male or female sheep that are crosses of blackface and other breeds of sheep~~ or goats of any age. (3-19-99)(11-11-02)T
- 08. Brucellosis.** An infectious disease of animals and humans caused by bacteria of the genus *Brucella*. (11-11-02)T
- 09. Brucella Ovis Test Positive.** An animal that tests in the positive range on an approved *Brucella ovis* ELISA test. (11-11-02)T
- 10. Brucella Ovis Test Suspect.** An animal that tests in the suspect range on an approved *Brucella ovis* ELISA test. (11-11-02)T
- 11. Brucella Ovis Test Negative.** An animal that tests in the negative range on an approved *Brucella ovis* ELISA test. (11-11-02)T
- 12. Certificate.** An official certificate of veterinary inspection or other approved certificate issued by an accredited veterinarian, state or federal animal health official, or other approved official at the point of origin of the shipment of animal(s) being imported. (11-11-02)T
- 13. Commercial Low-Risk Goats.** Intact or castrated goats, raised for fiber or meat, that are not registered or exhibited, that are not scrapie positive, suspect, high risk, or exposed animals and that have not been exposed to sheep or are not from a state that has scrapie in goats. (11-11-02)T
- 14. Contemporary Lambing Group.** The time from the first birth to sixty (60) days post birthing of the entire group in a given lambing season. (11-11-02)T
- 15. Department.** The Idaho State Department of Agriculture. (11-11-02)T
- 16. Division Of Animal Industries.** Idaho State Department of Agriculture, Division of Animal Industries. (11-11-02)T
- 17. Exposed.** Animals that have had direct contact with other animals, herds, or materials that have been determined to be infected with or affected by any infectious, contagious, or communicable disease. (11-11-02)T
- 18. Federal Animal Health Official.** An employee of USDA/APHIS/VS who has been authorized to perform animal health activities. (11-11-02)T

0219. Flock. ~~For the purpose of these rules, the terms~~ Flock or flocks shall be interchangeable with the terms herd or herds and denote a group of one (1) or more animals that are fed, housed and birthed together on the same premises, or animals maintained in separate geographic areas that have interchange at or around the time of birth. Changes in ownership of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock. (3-19-99)(11-11-02)T

20. Flock Plan. A written flock management agreement signed by the owner, his accredited veterinarian if there is one, a representative of the Division of Animal Industries, and an APHIS representative in which each signatory agrees to undertake action specified in the Flock Plan to eradicate or control scrapie as defined in 9 CFR Part 54.8 a-f. Goats exposed to scrapie will be subjected to the same rules as sheep. (11-11-02)T

21. Goats Requiring Premises/Flock Identification Number. Sexually intact goats or goats that have resided on the same premises as sheep or any other goats not defined in Subsection 010.13. (11-11-02)T

0322. Idaho Premises/Flock Identification Number. A unique ~~flock~~ identification number or alphanumeric designation approved by APHIS, and assigned by the Board to ~~the owner of~~ each ~~premises/flock of blackface~~ breeding sheep or goats, as defined in Subsection 010.21, in the state of Idaho. (3-19-99)(11-11-02)T

23. Low Risk Commercial Sheep. Commercial whiteface, whitefaced cross, or commercial hair sheep from a flock with no known risk factors for scrapie, including any exposure to female blackfaced sheep, that are identified with a permanent brand or ear notch pattern registered with an official brand registry and that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected, source, or exposed flock. (11-11-02)T

24. Negative. Animals are classified as negative when they have been subjected to official tests for a disease, and the tests performed have failed to disclose evidence of the disease. (11-11-02)T

0425. Official Individual Identification. The unique identification of individual animals with an alpha numeric number applied as a ~~tamper proof~~ tag, a legible tattoo, electronic device, or any other ~~tag~~ device approved by ~~USDA or the Board~~ APHIS. The Idaho Premises/Flock Identification number can serve as the official individual identification number if it contains a unique individual animal number in addition to the Idaho premises/flock identification number. (3-19-99)(11-11-02)T

26. Post Exposure Monitoring And Management Plan. A monitoring plan which includes a written agreement signed by the owner of the flock and a representative of the Division of Animal Industries and an APHIS representative in which each participant agrees to undertake actions specified in the agreement to monitor for the occurrence of scrapie in the flock for at least five (5) years after an approved Flock Plan has been completed. The PEMMP requires at least once a year flock inspections and prompt reporting of any animal over fourteen (14) months of age which dies in the flock so that some of these animals can be selected and submitted for scrapie testing. The Plan also includes the requirements outlined in 9 CFR Part 54.8. Owners may request to join the Scrapie Flock Certification Program after two (2) years of participation in the PEMMP. (11-11-02)T

27. Premises. The ground, area, buildings and equipment utilized to raise, propagate or control sheep and goats. (11-11-02)T

28. Quarantine. A written order, executed by the Board or the Administrator, to confine or hold animals on a premises or any other location, where found, and prevent movement of animals from a premises or any other location. (11-11-02)T

0529. Scrapie. A transmissible spongiform encephalopathy that is a nonfebrile, transmissible, insidious, degenerative disease affecting the central nervous system of sheep and goats. (3-19-99)

0630. Scrapie Exposed Animal. Any animal which has been in the same flock at the same time within the previous ~~sixty~~ seventy-two (60/72) months as a scrapie positive female animal excluding limited contacts. Limited contacts are contacts between animals that occur off the premises of the flock and do not occur during or ~~immediately~~ within sixty (60) days after parturition for any of the animals involved. (3-19-99)(11-11-02)T

~~131.~~ **Voluntary Scrapie Flock Certification Program.** A ~~national~~ cooperative Federal-State-Industry voluntary program for ~~classification of flocks relative to scrapie~~ reducing the incidence and controlling the spread of scrapie through flock certification. (3-19-99)(11-11-02)T

~~0732.~~ **Scrapie High Risk Animal.** An animal determined by epidemiologic investigation to face a high risk of developing clinical scrapie because the animal was: (11-11-02)T

~~a.~~ Progeny of a scrapie-positive dam; (11-11-02)T

~~b.~~ Born in the same contemporary lambing group as a scrapie-positive animal, ~~or was~~ (11-11-02)T

~~c.~~ During any subsequent lambing season if born before the flock completes the requirements of a flock plan; or (11-11-02)T

~~d.~~ Born in the same contemporary lambing group as progeny of a scrapie-positive dam or any QQ, at codon 171, sheep present in the lambing facility/area where a scrapie-positive animal was born during the contemporary birth of a scrapie-positive animal. (11-11-02)T

~~e.~~ Animals that fit the criteria for high risk animals which are determined by genetic testing to be QR or RR at the 171 codon, or are determined by other recognized testing procedures to pose no risk, may be exempted as high risk animals by the Board, upon the recommendation of the State Scrapie Certification Board, based upon evidence from the latest research information available. (3-19-99)(11-11-02)T

~~0833.~~ **Scrapie Infected Flock.** Any flock in which a scrapie-positive animal has been ~~identified by a state or federal animal health official~~ born, birthed or aborted. A flock will no longer be considered infected after an approved Flock Plan has been completed. (3-19-99)(11-11-02)T

~~0934.~~ **Scrapie-Positive Animal.** An animal for which a diagnosis of scrapie has been made by the National Veterinary Services Laboratories, ~~USDA,~~ or another laboratory authorized by state or federal officials to conduct scrapie tests ~~through histological examinations of central nervous system samples from the animal for microscopic lesions in the form of neuronal vacuoles or spongy degeneration; by the use of protease resistant protein analysis or other confirmatory techniques used in conjunction with histological examinations; or by other diagnostic procedures~~ approved for scrapie diagnosis by ~~USDA~~ APHIS or the Administrator. (3-19-99)(11-11-02)T

~~1035.~~ **Scrapie Source Flock.** A flock in which an animal was born and subsequently diagnosed as scrapie-positive at less than ~~fifty-four~~ seventy-two (5472) months of age. The flock will no longer be considered a source flock after the requirements of an approved Flock Plan have been completed. A single trace to a flock must meet the following criteria to designate the flock as a source flock: The scrapie-positive animal must: (3-19-99)(11-11-02)T

~~a.~~ Be identified with an ~~Idaho~~ Premises/Flock Identification Number, ~~on a tamper proof tag;~~ or on an official eartag, electronic device, ear tattoo, or flank tattoo which is correlated to the ~~Idaho~~ Premises/Flock Identification number on flock records; or (3-19-99)(11-11-02)T

~~b.~~ Be identified with a ~~DNA hereditary~~ genetic heredity test or nose print; or (3-19-99)(11-11-02)T

~~c.~~ Possess the original registry eartag or individual identification ear tag along with the movement, production, ~~and~~ or registry records indicating birth in the source flock; or (3-19-99)(11-11-02)T

~~d.~~ Be traced to the flock by a veterinary epidemiologist through a thorough epidemiological investigation of records and all other available evidence. (3-19-99)

~~36.~~ **State Animal Health Official.** The Administrator, or his designee, responsible for disease control and eradication programs. (11-11-02)T

~~37.~~ **State Scrapie Certification Board.** The State Scrapie Certification Board will consist of APHIS-AVIC, the State animal health official, animal producers and accredited veterinarians. Animal producers and

accredited veterinarians will be appointed by the AVIC and the State animal health official. (11-11-02)T

38. Terminal Feedlot. As defined in Title 9 CFR, Parts 54 and 79. (11-11-02)T

39. Trace. All actions required to identify the flock of origin or destination of an animal. (11-11-02)T

011. ABBREVIATIONS.

01. APHIS. Animal Plant Health Inspection Service. (11-11-02)T

02. AVIC. Area Veterinarian in Charge. (11-11-02)T

03. CFR. Code of Federal Regulations. (11-11-02)T

04. ISDA. Idaho State Department of Agriculture. (11-11-02)T

05. NVSL. National Veterinarian Services Laboratory. (11-11-02)T

06. PEMMP. Post Exposure Monitoring and Management Plan. (11-11-02)T

07. UM&R. Uniform Methods and Rules. (11-11-02)T

08. USDA. United States Department of Agriculture. (11-11-02)T

09. VS. Veterinary Services. (11-11-02)T

012. APPLICABILITY.

These rules apply to all domestic sheep and goats located in, imported into, exported from, or transported through the state of Idaho. (11-11-02)T

013. OFFICIAL IN CHARGE OF SHEEP AND GOATS.

The Idaho Board of Sheep Commissioners is authorized to regulate all matters concerning sheep and goats. (11-11-02)T

014. -- 099. (RESERVED).

SECTION 100 HAS BEEN RENUMBERED AND MOVED TO SECTION 101.

100. SHEEP AND GOATS STATE ENTRANCE REQUIREMENTS.

01- State Entrance Requirements. All sheep breeding stock sheep and goats stock entering the state of Idaho except as provided in Subsections 010.103, and 010.105, and Subsections 200.0107 and 200.02 of these rules shall be accompanied by a permit issued by the Board together with a certificate of veterinary inspection certifying that such sheep or goats are free from scrapie, scabies, foot rot, or symptoms of any communicable disease and are not known to have been exposed to scrapie for at least seventy-two (72) months prior to the date of inspection, scabies for a period of at least six (6) months immediately prior to date of inspection and are not known to have been exposed to any communicable disease for at least thirty (30) days immediately prior to date of inspection. All blackface breeding stock sheep and goats with the exception of low-risk commercial goats imported into the state of Idaho shall be individually identified with an official USDA premises/flock identification tag number, electronic device, or legible tattoo or other form of individual identification approved by the Board. The individual premises/flock identification number shall be listed on the certificate of veterinary inspection. The original or true copy of the permit and certificate of veterinary inspection required by this rule shall be attached to the waybill covering such shipments. No sheep shall be shipped, trailed, or in any manner moved into the state of Idaho for any purpose if they originate in a state or area where sheep scabies is known to exist until the Board has been notified by the APHIS-USDA that such state or area where sheep scabies is known to exist has been classified by the APHIS-USDA as a sheep scabies eradication area. (3-19-99)(11-11-02)T

SUBSECTIONS 010.02 THROUGH 010.05 HAVE BEEN RENUMBERED AND MOVED TO SECTIONS 102 THROUGH 105.

1001. PERMITS.

01. Request For Permits. Request for the permits required under Section ~~0100~~ shall be in writing, by telephone or facsimile and shall set forth the name and address of the owner of the animals offered for movement into the state of Idaho, the number and class of sheep and goats to be brought in, the destination, the name and address of the consignee, and the approximate date and place of entry. A copy of the permit, or permit number written on the face of the waybill or certificate of veterinary inspection accompanying movement, shall be shown to a representative of the Board or any law enforcement officer of the state, county, or municipality of the state of Idaho upon request.

~~(3-19-99)~~(11-11-02)T

02. Certificates Of Veterinary Inspection To Be Furnished. Copies of the certificates of veterinary inspection from the point of origin shall accompany the shipment and shall include a copy of the permit or the permit number written on the face of the certificate of veterinary inspection and shall be shown to a representative of the Board or any law enforcement officer of the state, county, or municipality of the state of Idaho upon request, and a copy forwarded to the Idaho Department of Agriculture, Division of Animal Industries, c/o Idaho Board of Sheep Commissioners, P.O. Box 7249, Boise, Idaho 83707 immediately after issuance for sheep and goats entering the state of Idaho.

(3-19-99)

03. Inspection Fees. An inspection fee of one hundred dollars (\$100) per incidence, plus mileage, shall be paid on all sheep and goats ~~entering or leaving the state that have failed to comply with the import or export regulations and~~ exported from or imported into Idaho in violation of these rules. Such incidences require an inspection of animals, certificates of veterinary inspection and permit.

~~(5-20-94)~~(11-11-02)T

04. Examination And Treatment Fees. The Board may assess a fee on sheep and goat producers who receive services from the Board or its representatives, such as examination and treatment of animals for diseases or parasites. The fees assessed shall not exceed the actual costs for the services rendered.

(3-19-99)

~~010.02~~ 102. SCABIES.

All sheep and goats, including rams and bucks, entering Idaho and which have originated in an area or areas in which scabies is known to exist within the past six (6) months shall be treated with a product approved by the APHIS-~~USDA~~ under the supervision of an authorized state or federal inspector or accredited veterinarian. At the time of shipment, such sheep or goats shall be accompanied by a permit from the Board and a certificate of veterinary inspection from the state of origin and also a treatment certificate showing that such sheep or goats have been treated at point of origin as herein required. Any and all shipments of sheep and goats entering Idaho, and which have originated in states where scabies is known to exist, shall be subject to a thirty (30) to sixty (60) day quarantine and inspection at the time of arrival at destination, and a second inspection at the time of quarantine release, or as often as it may be deemed necessary by the Board.

~~(3-19-99)~~(11-11-02)T

~~010.03~~ 103. ANIMALS IN TRANSIT.

Sheep and goats in course of transit through the state of Idaho, in trucks, or other vehicles from a point ~~without~~ outside the state of Idaho to another state or country, are not to be unloaded in Idaho except in pens designated by APHIS-~~USDA~~ for purpose of feed, water and rest for a period of time not to exceed ten (10) days, need not comply with ~~Subsection 010.0100~~, provided waybills or other documents accompanying the sheep or goats show origin and destination of such sheep and goats. Failure to have such waybills or other documents with the sheep or goats shall constitute a violation of these rules. The Board, however, may prohibit the transportation of any sheep or goats through the state it feels represents a threat to the general health and welfare of the Idaho sheep industry.

~~(3-19-99)~~(11-11-02)T

~~010.04~~ 104. MILK DAIRY GOATS.

All ~~milk dairy~~ type goats, including bucks, entering Idaho shall be accompanied by a permit issued by the Board, together with a certificate of veterinary inspection issued at point of origin by an authorized veterinarian, to which certificate of veterinary inspection there shall be attached a negative test ~~chart~~ for ~~b~~Brucellosis ~~a melitensis~~, conducted

within thirty (30) days of the date of entry into the state of Idaho. The negative test chart shall be signed by the person in charge of the laboratory where the test was made and approved by the state ~~livestock sanitary~~ animal health official of the state of origin. Goats entering Idaho on a short term temporary basis for show or other temporary purposes may be exempted from having a negative test for ~~b~~Brucellosis melitensis completed, with permission from the Board. (3-19-99)(11-11-02)T

~~010-05~~ **105. IMPORTATION OF SCRAPIE EXPOSED, SUSPECT AND HIGH RISK ANIMALS.** Sheep and goats that are scrapie suspect, exposed, or high risk animals or from scrapie infected, source, or exposed flocks, as defined Title 9, Parts 54.1 and 79.1, Code of Federal Regulations, shall not be allowed entry into Idaho except as follows: (11-11-02)T

01. Valid Permit. Scrapie suspect, exposed or high risk animals and animals from infected, source or exposed flocks may be imported directly to scrapie research facilities, or to approved slaughter establishments for immediate slaughter, or other destinations approved by the Administrator, if accompanied by a permit issued by the Board or its representative; and (11-11-02)T

02. Officially Identified. The animals are individually identified by official identification tattoos, tags, or devices on a VS 1-27 or other approved movement document. (5-20-94)(11-11-02)T

~~a. Program Standards. The USDA Voluntary Scrapie Flock Certification Uniform Methods and Rules, October 1, 1992, as amended in 1997; and Scrapie in Sheep and Goats, Title 9, Parts 54 and 79, Code of Federal Regulations, January 1, 1997, as amended, are hereby incorporated by reference as the minimum standards for the scrapie control and eradication program in Idaho. Copies of these documents are on file at the Idaho Department of Agriculture, Division of Animal Industries, 2270 Old Penitentiary Road, Boise, Idaho 83712 and through the Department of Administration, Office of the Rules Coordinator, located at 650 West State Street, Boise, Idaho 83720 and are available upon request. (3-19-99)~~

~~b. Importation of Exposed, Suspect and High Risk Animals. Sheep and goats that are scrapie suspect, exposed or high risk animals or from scrapie infected, source, trace or exposed flocks, as defined in the Voluntary Scrapie Flock Certification Uniform Methods and Rules, and Scrapie in Sheep and Goats, Title 9, Parts 54 and 79, Code of Federal Regulations, shall not be allowed entry into Idaho except as follows: Scrapie suspect, exposed or high risk animals and animals from infected, source, trace or exposed flocks may be imported directly to approved scrapie research facilities, approved slaughter facilities for immediate slaughter or to approved feedlots for finish feeding for slaughter only, if accompanied by a permit issued by the Board or its representative; and the animals are individually identified by official identification tattoos, tags, or devices on a VS 1-27 or other approved movement document. Each such animal shall also be identified with an indelible "S" mark at least one inch high on the left jaw. (3-19-99)~~

106. IDAHO ORIGIN SHEEP INTERSTATE GRAZING PERMIT. Idaho origin, low-risk commercial sheep breeding stock with no history of scrapie exposure returning to Idaho from seasonal grazing in other states may return to Idaho without a certificate of veterinary inspection if they are accompanied by an Idaho Origin Sheep Interstate Grazing Permit and a waybill. The Idaho Origin Sheep Interstate Grazing Permit is to be obtained from the Board. (11-11-02)T

~~20~~**107. INTERSTATE SHIPMENTS.**

01. Waybill Requirement. All ~~feeding and breeding~~ sheep and goats leaving the state of Idaho by any common carrier, by railroad, truck, private conveyance, or any kind of transportation shall be accompanied by a waybill, stating the owner's name and indicating destination of sheep or goats, or shall be accompanied by a certificate of veterinary inspection issued by an inspector appointed by the Board or a representative of the APHIS-~~USDA~~, or accredited veterinarian; said certificates of veterinary inspection to be dated not more than ten (10) days prior to date of movement, and shall comply with the rules for the state of destination. (3-19-99)(11-11-02)T

02. Waybill Violation. Failure to have such waybills or other documents ~~with accompanying~~ the sheep or goats shall constitute a violation of these rules and shall be punishable as provided in Section 3900. (5-5-80)(11-11-02)T

03. Carriers. No common or contract carrier or owner or caretaker shall unload any sheep or goats within the state of Idaho from other states or country, other than as provided in ~~Subsections 010.103, and 010.105, 106, and Section 200 107,~~ of these rules, unless such shipments be accompanied by an Idaho Origin Sheep Interstate Grazing Permit issued by the Board or other permit issued by the Board, and the official certificate as provided herein. The original or true copy of each certificate with permit shall be attached to the waybill covering such shipments or be in possession of the owner or caretaker of shipment. (3-19-99)(11-11-02)T

04. Who May Inspect. ~~Regularly a~~ Authorized state or federal inspectors and ~~duly licensed and~~ accredited veterinarians may inspect sheep and goats. (5-5-80)(11-11-02)T

~~05. Official In Charge Of Sheep And Goats. Idaho Department of Agriculture, Division of Animal Industry, Idaho Board of Sheep Commissioners, PO Box 7249, Boise, Idaho 83707.~~ (3-19-99)

~~1048. -- 199.~~ (RESERVED).

FORMER SECTION 200 HAS BEEN RENUMBERED AND MOVED TO SECTION 107

2040. SCRAPIE PROGRAM STANDARDS, SCRAPIE FLOCK CERTIFICATION, SCRAPIE CONTROL AND ERADICATION.

~~01. Scrapie Certification Program.~~ The Board adopts the provisions of the Voluntary Scrapie Flock Certification Uniform Methods and Rules Program Standards, which were effective ~~October~~ July 1, 1992, and ~~amended in 1997~~ 9 CFR, Parts 54.1, 54.2, 54.8, 54.9, 54.10, 54.11, 54.20, 54.21, 54.22 and 79, January 1, 2002, as the minimum standards for the scrapie certification program in Idaho. (3-19-99)(11-11-02)T

02 201. IDENTIFICATION OF BLACKFACE BREEDING SHEEP.

~~a01. Assignment Of APHIS Approved Idaho Premises/Flock Identification Numbers.~~ The Board or its designee shall ~~designate the form and content of the Idaho~~ assign APHIS-approved Idaho premises/flock identification numbers, ~~approve identification devices for utilization of the flock identification number, assure availability of flock identification devices, and assign Idaho flock identification numbers to owners or possessors of blackface breeding stock~~ with unique individual animal identification numbers to Idaho sheep and goat flocks/herds. (3-19-99)(11-11-02)T

~~b02. Responsibility For Identification.~~ Owners and possessors of ~~blackface~~ breeding ~~stock~~ sheep and goats shall bear the cost and responsibility of obtaining the identification devices and placing the device in or on the animal. (3-19-99)(11-11-02)T

~~e03. Time Of Identification.~~ All owners or possessors of ~~blackface~~ breeding ~~stock~~ sheep and goats in Idaho shall identify all ~~blackface~~ breeding stock in the flock ~~which are one (1) year of age or older with an Idaho flock identification number. Blackface breeding stock~~ of any age ~~shall be identified~~ with a premises/flock identification number before transfer of ownership or possession, show, sale, or other movement unless the animals are under eighteen (18) months of age and are in slaughter channels. (3-19-99)(11-11-02)T

~~f04. Importation Identification.~~ ~~Blackface b~~ Breeding ~~stock~~ sheep or goats imported into the state shall be identified with a premises/flock identification number ~~within ninety (90) days of~~ before entry into the state. (3-19-99)(11-11-02)T

~~e.~~ ~~Blackface breeding stock of any age shall be identified with a flock identification number prior to movement of such sheep from the premise of origin for show, sale, purchase or other movement.~~ (3-19-99)

~~f05. Loss Of Identification.~~ ~~Blackface b~~ Breeding ~~stock~~ sheep or goats sold within the state shall retain the original premises/flock identification number. In the event an animal loses a premises/flock identification device, the owner of the animal shall re-identify the animal with his or her flock identification number and shall maintain records to document the original and new flock identification numbers. (3-19-99)(11-11-02)T

~~§06.~~ **Acceptable Identification.** Acceptable devices for application of the premises/flock identification number to ~~blackface~~ breeding ~~stock~~ sheep and goats shall include: ~~tamper proof~~ APHIS-approved ear tags bearing the premises/flock identification number, legible tattoos bearing the premises/flock identification number, ~~electronic devices with owner records correlated to the flock identification number,~~ approved ~~voluntary~~ Scrapie Flock eCertification ~~Program~~ identification devices, except electronic identification, and other identification devices approved by ~~the Board~~ APHIS except electronic identification. (3-19-99)(11-11-02)T

~~§07.~~ **Identification Exemption.** ~~Blackface~~ ~~a~~Animals exempt from the requirement for identification with a premises/flock identification number shall include: (3-19-99)(11-11-02)T

~~i~~a. Neutered animals under eighteen (18) months of age. (3-19-99)(11-11-02)T

~~ii~~b. Sexually intact market lambs ~~consigned~~ under eighteen (18) months of age shipped directly to an approved slaughter ~~facility~~ establishment or ~~consigned~~ shipped directly to an ~~approved lamb~~ feedlot for finish feeding for slaughter only. ~~Animals in approved feedlots may be removed only to approved slaughter facilities or other approved feedlots.~~ (3-19-99)(11-11-02)T

~~iii~~c. ~~Lambs under (1) one year of age that have not been sold or transferred to the possession of another person or entity.~~ Animals which have not been removed from their premises of origin and/or transferred ownership with the exception of white-face low-risk range sheep as defined in the 9 CFR Part 79 which are moved for grazing or other management purposes and do not change ownership. (3-19-99)(11-11-02)T

~~iv~~d. ~~Lambs under ninety (90) days of age accompanied by their dams, which are identified with a flock identification number, may be sold or transferred to the possession of another without being identified with a flock identification number.~~ Castrated or low-risk commercial goats. (3-19-99)(11-11-02)T

~~e.~~ Registered sheep and goats accompanied by registration papers or a certificate of veterinary inspection with legible unique registration tattoos. (11-11-02)T

~~f.~~ Goats registered with a National Goat Registry that allows for electronic implant identification, as recorded on a registration certificate, may be identified with an electronic implant. (11-11-02)T

FORMER SECTION 202 HAS BEEN RENUMBERED AND MOVED TO SECTION 400

~~§~~ **202. QUARANTINE.**

Infected and source flocks or flocks that have received high risk animals shall be placed and held under quarantine until the infected or high risk animals have been slaughtered or depopulated, an approved Flock Plan has been completed and the flock has qualified for and has been enrolled in the Voluntary Scrapie Flock Certification program is participating in a Post Exposure Monitoring Program. Flocks ~~not participating in the certification program that do not participate in a Post Exposure Monitoring Program~~ shall remain under quarantine until the entire flock has been depopulated. Flocks which are removed from the Post Exposure Monitoring Program before the agreed time will be requarantined. (3-19-99)(11-11-02)T

FORMER SECTION 203 HAS BEEN RENUMBERED AND MOVED TO SECTION 500

~~§~~ **203. RESTRICTION OF ~~EXPOSED~~ HIGH-RISK ANIMALS.**

~~Scrapie exposed flocks and High-risk animals from exposed flocks~~ shall be placed under a ~~hold order~~ quarantine when the flock or animals are determined to be exposed. An epidemiological investigation will be conducted on the flock or animals to determine the risk of infection with scrapie. The flock or animals will be maintained under ~~hold order~~ quarantine until the flock ~~has fulfilled Section III of~~ is in compliance with the Scrapie Uniform Methods and Rules in effect or until the scrapie epidemiologist has determined that the flock or animals do not pose a substantial risk to other flocks. (5-20-94)(11-11-02)T

~~§~~ **204. MOVEMENT OF RESTRICTED ANIMALS.**

Animals from infected and source flocks and high risk animals may be moved from quarantined premises only under

the following conditions: (3-19-99)

~~a01.~~ **Individually Identified On Approved Document.** The animals are individually identified on a VS 1-27 form or other approved document, by official eartags, tattoos or devices; or (5-20-94)(11-11-02)T

~~b02.~~ **Indelibly Marked.** The animals are indelibly marked with an "S" at least one (1) inch high on the left jaw; and (5-20-94)(11-11-02)T

~~e03.~~ **Consigned Directly To Approved Destination.** The animals are consigned directly to an approved slaughter facility for immediate slaughter or to ~~an approved terminal~~ feedlot for finish feeding for slaughter only; *Animals in approved feedlots may be removed only to approved slaughter facilities or other approved feedlots;* or (5-20-94)(11-11-02)T

~~da.~~ The animals are consigned directly to an approved livestock market for sale directly to an approved slaughter facility for immediate slaughter or to ~~an approved~~ feedlot for finish feeding for slaughter only. The animals must be individually identified on a VS 1-27 form or other approved document for movement from the approved livestock market to final destination; or (5-20-94)(11-11-02)T

~~eb.~~ The Board or its representative may, by written permission, allow the animals to be moved, under quarantine, to other pre-approved locations. The animals may be moved in sealed vehicles or be accompanied in transit by representatives of the Board in lieu of individual identification. Animals so moved shall be retained under quarantine at the new location. (3-19-99)

~~204. -- 249.~~ (RESERVED).

FORMER SECTION 250 HAS BEEN RENUMBERED AND MOVED TO SECTION 600

~~2505. -- 299.~~ (RESERVED).

FORMER SECTION 300 HAS BEEN RENUMBERED AND MOVED TO SECTION 900

300. CERTIFIED BRUCELLA OVIS FREE FLOCK.

301. BRUCELLA OVIS FREE FLOCK PROGRAM STANDARDS.

Flocks can be certified as *Brucella ovis* free by the Board under the following circumstances: (11-11-02)T

01. Flocks From Which Rams Are Not Leased, Rented Or Loaned: (11-11-02)T

a. One (1) negative *Brucella ovis* ELISA test annually for two (2) years on all rams over six (6) months of age exposed to the ewe flock. (11-11-02)T

b. Any new ram over six (6) months of age entering the flock for breeding purposes must be tested after sixty (60) days of purchase and test negative. (11-11-02)T

02. Flocks From Which Rams Are Leased, Rented Or Loaned: (11-11-02)T

a. One (1) negative *Brucella ovis* ELISA test annually for two (2) years on all rams over six (6) months of age exposed to the ewe flock. (11-11-02)T

b. All sexually active rams which leave the owners premises and return must be tested after sixty (60) days of sexual rest and test negative on a *Brucella ovis* test. (11-11-02)T

c. An positive test cancels the certification status. The certification process may be restarted after all sexually active males on the premises test negative. (11-11-02)T

- 03. Suspect Results:** (11-11-02)T
- a.** A suspect result requires isolation of the individual ram; and (11-11-02)T
- b.** A suspect result requires a retest in thirty (30) days. (11-11-02)T
- 04. Approved *Brucella Ovis* Tests:** (11-11-02)T
- a.** Tests must be performed by a laboratory approved by the board; and (11-11-02)T
- b.** Blood samples must be taken and sent to the approved laboratory by a licensed, accredited veterinarian; and (11-11-02)T
- c.** Tests must be an approved ELISA test for *Brucella ovis*. (11-11-02)T
- ~~3042.~~ -- ~~3499.~~ (RESERVED).

SECTION 350 HAS BEEN RENUMBERED AND MOVED TO SECTION 700

~~202~~400. CONDEMNATION AND DESTRUCTION OF DISEASED ANIMALS OR FLOCKS.

01. Animals Or Flocks Infected. Animals or flocks determined by representatives of the Board or USDA APHIS to be infected with scrapie or other contagious, infectious, or communicable diseases which have been identified by the Board to be diseases of concern to human health or the ~~sheep or goat~~ livestock industry of the state may be condemned by order of the Board. (3-19-99)(11-11-02)T

02. Animals Or Flocks Condemned. Animals or flocks condemned by order of the Board shall be destroyed or otherwise disposed of as directed by order of the Board and under the conditions set by the Board. (3-19-99)

~~401.~~ -- ~~499.~~ (RESERVED).

~~203~~500. INDEMNIFICATION.

01. Owners, Individuals, Partnerships, Corporations Or Other Legal Entities. Owners, individuals, partnerships, corporations or other legal entities whose animals or flocks have been destroyed or otherwise disposed of by order of the Board may be eligible for indemnification in the form of cash payment from the Sheep and Goat Disease Indemnity Fund for all or part of the value of the animals destroyed or otherwise disposed of and for the actual cost for burial or disposal of animal carcasses. (3-19-99)

02. Indemnity Payments Paid. Indemnity payments shall be paid only to an owner of sheep or goats that were born in the state of Idaho or were imported into the state in compliance with existing Idaho statutes and rules promulgated thereunder. (3-19-99)

03. Amount Of Indemnity To Be Paid For Each Animal. The amount of indemnity to be paid for each animal shall be determined by the Board and shall not exceed the difference between the appraised price, less federal indemnity, and the salvage value of the animal. In the event federal indemnity is not available the amount of indemnity shall not exceed the difference between the appraised price and salvage value. (3-19-99)

04. Appraisals. Appraisals shall be performed by a team comprised of an Animal Health representative, the owner, and a person with experience in sheep or goat marketing. (11-11-02)T

~~045.~~ Maximum Amount Of Indemnity. The maximum amount of indemnity for each animal shall not exceed: (3-19-99)

- a.** Ewes or does one (1) year of age or older - two hundred dollars (\$200) per head. (3-19-99)

b. Rams or ~~billies~~ bucks one (1) year of age or older - four hundred dollars (\$400) per head.
(~~3-19-99~~)(11-11-02)T

c. Lambs or kids under one (1) year of age - current market price per pound with a maximum of one hundred dollars (\$100) per head. (3-19-99)

056. Indemnity Payment Upon Approval Of Appraisal. Upon approval of the appraisal by the Board, one-half (1/2) of the indemnity payment will be paid at that time. The other one-half (1/2) of the indemnity payment, or the prorated portion thereof, will be paid at the end of the fiscal year. Indemnity payments shall be paid in their entirety in a single fiscal year and shall not exceed the amount in the fund. (~~3-19-99~~)(11-11-02)T

501. -- 599. (RESERVED).

25600. CLEANING AND DISINFECTION.

Barns, sheds, stockyards, trucks, aircraft, ferryboats and other vehicles, feed yards, stables, pens, corrals, lanes and premises which have been used in confining, trailing, or transporting any sheep or goats affected or infected with any contagious, infectious or communicable diseases, shall be cleaned and disinfected under state or federal supervision as directed by the Board or an authorized representative of the Board, and the owner of such premises, conveyances, or carrier shall be responsible for such cleaning and disinfecting. (3-19-99)

601. -- 699. (RESERVED).

35700. SHEEP RULES ASSESSMENTS.

The following rules shall apply to all sheep. (~~5-5-80~~)(11-11-02)T

01. Payment Of Assessment. The owner of sheep on July 1st of the assessment year shall be responsible for the payment of the assessment levied by the Boards as provided for in Section 25-130 and 25-131, Idaho Code. The rate of assessment shall be six cents (\$.06) per pound on all wool, in the grease basis, except tags, crutchings, and dead wool. (3-18-99)

02. Assessment As Resident Sheep. The assessment shall be levied and assessed to the producer at the time of the first sale of wool and shall be deducted by the first purchaser from the price paid to the producer at the time of such sale. (5-5-80)

03. Migratory Sheep. In the event that a sheep, which produces wool subject to this assessment, shall be located outside the state of Idaho during a part of the assessment year, the amount of the assessment shall be reduced on a pro rata basis. A grower will be required to request a pro rata adjustment in writing to the Board. (3-19-99)

04. Costs Of Collection. All costs of collection of delinquent assessments shall be borne as an additional charge against the delinquent assessee first purchaser. (7-1-93)

35701. -- 9899. (RESERVED).

3900. VIOLATIONS.

Any person, company, corporation or association or any agent, servant or employee of such, who shall violate or disregard any of these sheep and goat rules or any other sanitary or quarantine rule, order of the Board or inspector thereof shall be deemed guilty of a misdemeanor and upon conviction be fined not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) for each offense. (3-19-99)

901. -- 999. (RESERVED).

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.03 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTION CUSTODY REVIEW BOARD

DOCKET NO. 05-0103-0201

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(s) 20-520(1)(q) and 20-504, 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 complete text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 100 through 106.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy S. Bishop at (208) 334-5100 ext. 384.

DATED this 4th day of November, 2002.

Nancy S. Bishop
Deputy Attorney General
Idaho Department of Juvenile Corrections
400 North 10th St., 2nd Floor
P.O. Box 83720
Boise, Idaho 83720-0285
Phone (208) 334-5100 ext. 384
Fax (208) 334-5120

IDAPA 05, TITLE 01, Chapter 03

RULES OF THE DEPARTMENT OF JUVENILE CORRECTION CUSTODY REVIEW BOARD

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 02-10, October 2, 2002, pages 100 through 106.](#)

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 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY - GENERAL

DOCKET NO. 07-0301-0201

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 39-4107, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 107 through 111.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, Division of Building Safety, (208) 332-7151.

DATED this 6th day of November, 2002.

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

IDAPA 07, TITLE 03, Chapter 01

RULES OF BUILDING SAFETY - GENERAL

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 02-10, October 2, 2002, pages 107 through 111.

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 07 - DIVISION OF BUILDING SAFETY

07.03.02 - RULES OF THE ADVISORY BOARD

DOCKET NO. 07-0302-0201

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 39-4107, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 112 and 113.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, Division of Building Safety, (208) 332-7151.

DATED this 6th day of November, 2002.

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

IDAPA 07, TITLE 03, Chapter 02

RULES OF THE ADVISORY BOARD

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 02-10, October 2, 2002, pages 112 and 113.](#)

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 07 - DIVISION OF BUILDING SAFETY
07.03.03 - RULES GOVERNING MANUFACTURED BUILDINGS
DOCKET NO. 07-0303-0201
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 39-4107, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 114 through 120.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, Division of Building Safety, (208) 332-7151.

DATED this 6th day of November, 2002.

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

IDAPA 07, TITLE 03, Chapter 03

RULES GOVERNING MANUFACTURED BUILDINGS

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 02-10, October 2, 2002, pages 114 through 120.

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 07 - DIVISION OF BUILDING SAFETY
07.03.05 - RULES GOVERNING MANUFACTURED HOMES
DOCKET NO. 07-0305-0201
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 39-4107, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 121 through 123.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, Division of Building Safety, (208) 332-7151.

DATED this 6th day of November, 2002.

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

IDAPA 07, TITLE 03, Chapter 05

RULES GOVERNING MANUFACTURED HOMES

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 02-10, October 2, 2002, pages 121 through 123.

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 07 - DIVISION OF BUILDING SAFETY

07.03.06 - RULES GOVERNING THE USE OF THE UNIFORM BUILDING CODE

DOCKET NO. 07-0306-0201

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 39-4107, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 124 through 127.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, Division of Building Safety, (208) 332-7151.

DATED this 6th day of November, 2002.

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

IDAPA 07, TITLE 03, Chapter 06

RULES GOVERNING THE USE OF THE UNIFORM BUILDING 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 02-10, October 2, 2002, pages 124 through 127.

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 07 - DIVISION OF BUILDING SAFETY

07.03.07 - RULES GOVERNING CERTIFICATION

DOCKET NO. 07-0307-0201 (REPEAL OF CHAPTER)

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 39-4107, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, page 128. This chapter is being repealed in its entirety.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, Division of Building Safety, (208) 332-7151.

DATED this 6th day of November, 2002.

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

IDAPA 07, TITLE 03, Chapter 07

RULES GOVERNING CERTIFICATION

This chapter is being repealed in its entirety.

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 02-10, October 2, 2002, page 128.](#)

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 07 - DIVISION OF BUILDING SAFETY

07.03.07 - RULES GOVERNING THE USE OF THE INTERNATIONAL ENERGY CONSERVATION CODE

DOCKET NO. 07-0307-0202 (NEW CHAPTER)

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 39-4107, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 129 and 130.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, Division of Building Safety, (208) 332-7151.

DATED this 6th day of November, 2002.

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

IDAPA 07, TITLE 03, Chapter 07

RULES GOVERNING THE USE OF THE INTERNATIONAL ENERGY CONSERVATION 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 02-10, October 2, 2002, pages 129 and 130.](#)

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 07 - DIVISION OF BUILDING SAFETY
07.03.08 - RULES GOVERNING COMMERCIAL COACHES
DOCKET NO. 07-0308-0201
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(s) 39-4107, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 131 through 136.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, Division of Building Safety, (208) 332-7151.

DATED this 6th day of November, 2002.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
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IDAPA 07, TITLE 03, Chapter 08

RULES GOVERNING COMMERCIAL COACHES

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 02-10, October 2, 2002, pages 131 through 136.

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 07 - DIVISION OF BUILDING SAFETY
07.03.10 - RULES GOVERNING USE OF THE LIFE SAFETY CODE
DOCKET NO. 07-0310-0201 - (REPEAL OF CHAPTER)
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(s) 39-4107, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, page 137. This chapter is being repealed in its entirety.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, Division of Building Safety, (208) 332-7151.

DATED this 6th day of November, 2002.

Dave Munroe, Administrator
Division of Building Safety
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IDAPA 07, TITLE 03, Chapter 10

RULES GOVERNING USE OF THE LIFE SAFETY CODE

This chapter is being repealed in its entirety.

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 02-10, October 2, 2002, page 137.](#)

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 07 - DIVISION OF BUILDING SAFETY

07.03.10 - RULES GOVERNING USE OF THE INTERNATIONAL RESIDENTIAL CODE

DOCKET NO. 07-0310-0202 - (NEW CHAPTER)

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(s) 39-4107, 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 changes.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 138 and 139.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, Division of Building Safety, (208) 332-7151.

DATED this 6th day of November, 2002.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
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IDAPA 07, TITLE 03, Chapter 10

RULES GOVERNING USE OF THE INTERNATIONAL RESIDENTIAL 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 02-10, October 2, 2002, pages 138 and 139.](#)

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 07 - DIVISION OF BUILDING SAFETY

07.03.12 - RULES GOVERNING MANUFACTURED HOME INSTALLATIONS

DOCKET NO. 07-0312-0201

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(s) 44-2201 Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 140 through 142.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, Division of Building Safety, (208) 332-7151.

DATED this 6th day of November, 2002.

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

IDAPA 07, TITLE 03, Chapter 12

RULES GOVERNING MANUFACTURED HOME INSTALLATIONS

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 02-10, October 2, 2002, pages 140 through 142.](#)

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

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0201

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 on September 1, 2003, 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 Sections 33-105, 33-107, 33-1201, and 33-1204, 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.

Adds to current rules a requirement that technology competency must be demonstrated before being granted a renewed certificate. Evidence that an individual has met the technology competency requirement, which was previously set forth as an accreditation requirement, anytime from January 1997 to present will meet the new requirements.

The proposed rules have been amended for clarity and consistency.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 143 and 144.

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

DATED this 8th day of November, 2002.

Randi McDermott
State Board of Education
650 W. State St., Room 307
Boise, ID 83702
Phone: 208-334-2270
Fax: 208-334-2632
Email: rmcdermo@osbe.state.id.us

IDAPA 08, TITLE 02, Chapter 02

RULES GOVERNING UNIFORMITY

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 02-10, October 2, 2002, pages 143 and 144.

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. 08-0202-0201

SUBSECTIONS 011.01 and 011.03.a.

011. ~~PRESERVICE~~ TECHNOLOGY STANDARDS.

The proliferation of technology in our daily lives makes it essential that ~~all students are provided an opportunity to become technologically literate~~ certificated educators are technologically literate. The State Board of Education has established a statewide goal that teachers and administrators be trained in the use of technology for education.

(7-1-99)()

01. Preservice Competency. ~~Effective September 1999, a~~All applicants for initial Idaho certification (~~pre-K~~kindergarten through grade 12) from an Idaho approved teacher education program must demonstrate beginning technology skills by passing a basic educational technology competency assessment. (7-1-99)()

03. Standards. ~~The technology standards shall be based on the International Society for Technology in Education (ISTE) foundational standards. The assessments shall include the Idaho Technology Competency Exam, the Idaho Technology Portfolio Assessment or another process which meets the express approval of the State Board of Education.~~ **Waiver Of Technology Competency.** (7-1-99)()

a. When applying for certificate renewal, an automatic waiver of the technology requirement shall be granted for those certificated individuals who live outside of the state of Idaho and/or currently are not employed in the state of Idaho. This waiver applies only as long as the individual remains outside the state of Idaho or as long as the individual is not employed as an educator in the state of Idaho. ()

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0202

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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-1201, and 33-1204, 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.

These rules create a process for out-of-state certificate holders to obtain an interim 3-year, nonrenewable certificate in Idaho, replacing the current process that allows an interim of up to 5 years.

The proposed rules have been amended for clarity and to make clerical corrections.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 145 and 146.

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

DATED this 8th day of November, 2002.

Randi McDermott
State Board of Education
650 W. State St., Room 307
Boise, ID 83702
Phone: 208-334-2270
Fax: 208-334-2632
E-mail: rmcdermo@osbe.state.id.us

IDAPA 08, TITLE 02, Chapter 02

RULES GOVERNING UNIFORMITY

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 02-10, October 2, 2002, pages 145 and 146.**

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. 08-0202-0202

SUBSECTION 050.01

050. ~~ENDORSEMENT OF OUT-OF-STATE CERTIFICATES~~ IDAHO INTERIM CERTIFICATE.

A certificate issued by another state with equivalent education and currently valid may be endorsed for use in Idaho for the period of its validity, not in excess of five (5) years, providing the certificate to be endorsed has been issued for the same field in which the holder will provide services in Idaho. No emergency certificate from another state may be endorsed. (Section 33-1201, Idaho Code) (4-1-97)

01. ~~Prerequisites.~~ The following conditions must be met to qualify for endorsement: Issuance of Interim Certificate. The State Department of Education teacher certification office is authorized to issue a non-renewable, three-year (3) interim certificate to those applicants who hold a valid certificate/license from another state. (4-1-97)()

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0203

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 Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-1701 through 33-1708, and 49-2101 through 49-2105, 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.

Standards for public school teen driver education have been updated and now provide for minimum course standards for delivery of teen driver education. The proposed rules had also included changes to teen driver education offered through commercial driving schools; however, those changes are still under development. The changes related to public school programs have been agreed upon and are in response to requests from public school programs, thus, are ready to be implemented.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 147 and 148.

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

DATED this 8th day of November, 2002.

Randi McDermott
State Board of Education
650 W. State St., Room 307
Boise, ID 83702
Phone: 208-334-2270
Fax: 208-334-2632
E-mail: rmcdermo@osbe.state.id.us

IDAPA 08, TITLE 02, Chapter 02

RULES GOVERNING UNIFORMITY

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 02-10, October 2, 2002, pages 147 and 148.

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. 08-0202-0203

SUBSECTIONS 004.07, 004.09, AND 004.10

004. INCORPORATION BY REFERENCE.

The State Board of Education adopts and incorporates into its rules:

(4-5-00)

07. Incorporated Document. The Idaho Standards for Public School Driver Education and Training as approved on November 22, 2002. ()

09. Incorporated Document. The Idaho Driver Education Administrative Manual as approved on October 17, 1996. ()

10. Document Availability. The Idaho Driver Education Administrative Manual is available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702. ()

(BREAK IN CONTINUITY OF SECTIONS)

SECTION 230.01 AND 230.02

230. DRIVER EDUCATION.

01. Commercial Schools. All driver education courses offered in Idaho ~~public schools and~~ commercial schools must be conducted in compliance with all the requirements in the Idaho Driver Education Administrative Manual ~~dated as approved on~~ October 17, 1996 ~~and published by the State Department of Education and approved by the State Board of Education.~~ (4-1-97)()

02. Public Schools. All driver education courses offered in Idaho public schools must be conducted in compliance with all the requirements in the Idaho Standards for Public School Driver Education and Training as approved on November 22, 2002. ()

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0202

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 upon 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 Sections 33-105(1), 33-107(3), 33-116, and 33-1612, 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.

Removes requirement that nonpublic students participate in state testing at their own expense and designates the battery of tests related to Idaho standards be called Idaho Standards Achievement Tests, with distinction by grade level.

The proposed rules have been amended in response to comment and to make clarifications and clerical corrections. Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 149 through 153.

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

DATED this 8th day of November, 2002.

Randi McDermott
State Board of Education
650 W. State St., Room 307
Boise, ID 83702
Phone: 208-334-2270 / Fax: 208-334-2632
Email: rmcdermo@osbe.state.id.us

IDAPA 08, TITLE 02, Chapter 03

RULES GOVERNING THOROUGHNESS

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 02-10, October 2, 2002, pages 149 through 153.

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. 08-0203-0202

SUBSECTIONS 111.05, 111.06.j., 111.06.n., 111.07.d., and 111.12

111. ASSESSMENT IN THE PUBLIC SCHOOLS.

05. Scoring And Report Formats. Scores will be provided for each subject area assessed and reported in standard scores, benchmark scores, or holistic scores. Test results will be presented in a class list report of student scores, building/district summaries, content area criterion reports by skill, disaggregated group reports, and pressure sensitive labels *as appropriate*. Information about the number of students who are eligible for special education who participate in regular and alternate assessments, and their performance results, shall be included in reports to the public if it is statistically sound to do so and would not disclose performance results identifiable to individual students. (3-15-02)(____)

076. Comprehensive Assessment Program—(*Effective August 1, 2002*). The State approved comprehensive assessment program is outlined in Subsections 111.07.a. through 111.07.m. Each assessment will be comprehensive of and aligned to the Idaho State Achievement Standards it is intended to assess. In addition, districts are responsible for writing and implementing assessments in social studies, science, health and humanities. (3-15-02)(____)

j. Grade 9 - Direct Writing Assessment, *Level Testing on Grade 9 Idaho Standards Achievement Test covering Language Arts/Communication and Math Standards. Ninth grade students who meet eligibility criteria as established by the State Board of Education and who have parent approval may take the Idaho Standards Achievement Test (ISAT).* (3-15-02)(____)

n. **ISAT*—Students who do not receive a proficient score on a portion or portions of the High School ISAT Idaho Standards Achievement Test will retake the appropriate portion or portions each time thereafter that it is offered. Once a student achieves proficiency, *at a level established by the State Board of Education*, on a portion or portions of the assessment, regardless of which grade level, ~~nine~~ *ten* through twelve (910-12), that student is not required to continue taking that portion or portions. (3-15-02)(____)

087. Comprehensive Assessment Program Schedule—(*Effective August 1, 2002*). (3-15-02)(____)

ed. The Idaho Standards Achievement Tests will be administered twice annually in *October and May* the Fall and Spring *in a time period specified by the State Board of Education.* (3-15-02)(____)

132. Demographic Information. Demographic information will be required to assist in interpreting test results. It may include but not be limited to race, sex, ethnicity, *and* special programs, (Title I, English proficiency, migrant status, special education status, gifted and talented status, and socio-economic status). (3-15-02)(____)

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0203

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 upon 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 Sections 33-105(1) and 33-107(3), 33-116, and 33-1612, 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. Removed general statements of opinion in the preamble. Proposed necessary changes for consistency and alignment of Humanities standards by grade level; performed general editing; and removed of separate World History category in order to be more precise and avoid confusion with Social Studies Standards.

The proposed rules have been amended to make clarifications and clerical corrections.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 154 through 183.

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

DATED this 8th day of November, 2002.

Randi McDermott
State Board of Education
650 W. State St., Room 307
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IDAPA 08, TITLE 02, Chapter 03

RULES GOVERNING THOROUGHNESS

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 02-10, October 2, 2002, pages 154 through 183.

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. 08-0203-0203

SUBSECTIONS 856.10 AND 856.13

856. GLOSSARY OF HUMANITIES TERMS.

The following definitions apply only to Sections 856 through 954 of these rules.

(3-15-02)

140. Ethical/Ethics/Ethical. Relating to moral action, motivation, conduct or character. The discipline dealing with what is good and bad and with moral duty and obligation; ~~behaving according to those determinations.~~
(3-15-02)()

143. Historical/Culture/Living Culture. A culture, civilization that has existed in the past/~~as opposed to~~ one that is current and/or evolving.
(3-15-02)()

(BREAK IN CONTINUITY OF SECTIONS)

SUBSECTION 870.03.c.1.

870. STANDARD TWO.

Conduct analyses, engage in reasoned dialogue, and demonstrate informed judgment about philosophical, aesthetic, or ethical arts issues.

Standard Breakout - By the end of grade 3, the student will:	Content Knowledge and Skills:
01. Conduct analyses in the arts and humanities disciplines.	a. MUSIC: 1. Recognize and respond to characteristics and content of various musical forms. 2. Examine music as a form of communication. 3. Use arts vocabulary to discuss specific works of music. 4. Relate the significance of music to one's own life.
	b. VISUAL ARTS: 1. Recognize and respond to characteristics and content of various <u>visual</u> art forms. 2. Examine the visual arts as a form of communication. 3. Use arts vocabulary to discuss specific works of art.

Standard Breakout - By the end of grade 3, the student will:	Content Knowledge and Skills:
	<p>c. THEATRE:</p> <ol style="list-style-type: none"> Recognize and respond to characteristics of drama. Examine drama as a form of communication. Use arts vocabulary to discuss a dramatic performance. <p>d. DANCE:</p> <ol style="list-style-type: none"> Examine dance as a means of communicating meaning. Show how the human body is used to express or communicate action, idea, or experience through movement. Compare and contrast dance forms associated with specific groups of people, geographic regions, or time periods.
<p>02. Engage in reasoned dialogue about arts and humanities issues.</p>	<p>a. MUSIC:</p> <ol style="list-style-type: none"> Discuss the importance of music in one's own life. Draw conclusions about the meaning of the term "classical music." <p>b. VISUAL ARTS:</p> <ol style="list-style-type: none"> Discuss the importance of visual art in one's own life. Discuss how symbols create meaning in art. <p>c. THEATRE:</p> <ol style="list-style-type: none"> Discuss the role of drama in one's own life. Compare and contrast current forms of drama today (theatre, film, television). <p>d. DANCE:</p> <ol style="list-style-type: none"> Identify dance forms associated with particular places or events. Locate common themes in dance (such as friendship or family) and create a personal response to that theme. Show how dance elicits various interpretations.
<p>03. Demonstrate informed judgment about philosophical, aesthetic, or ethical arts issues.</p>	<p>a. MUSIC:</p> <ol style="list-style-type: none"> Recognize and verbalize emotions that are associated with music. Verbalize personal preferences for a specific work of music, using arts vocabulary. <p>b. VISUAL ARTS:</p> <ol style="list-style-type: none"> Discuss characteristics of one's own work and the work of others. Compare one's own response to a work of art and to another student's response. Show how expression in art causes different responses from viewers. <p>c. THEATRE:</p> <ol style="list-style-type: none"> Verbalize personal preferences of types <i>of for</i> drama (formal, informal) <i>within society today</i>. Identify the beginning, middle, and ending of dramatic performances. Explain preferences for different parts of a dramatic performance. <p>d. DANCE:</p> <ol style="list-style-type: none"> Develop and apply arts vocabulary when discussing art <u>dance</u> forms. Explain ideas that dances can represent. Suggest ways that artists get ideas. Voice personal preferences about dances within a classroom or other setting.

(3-15-02)()

(BREAK IN CONTINUITY OF SECTIONS)

SUBSECTION 887.02.a.

887. STANDARD TWO.

Conduct structural analyses, engage in reasoned dialogue, and demonstrate informed judgment about philosophical,

aesthetic, or ethical arts issues.

Standard Breakout - By the end of grade 3, the student will:	Content Knowledge and Skills:
01. Conduct analyses of language.	a. Identify ways one language influences another.
	b. Identify differences and similarities between English and the target language.
02. Engage in reasoned dialogue about language.	a. Compare and contrast the local culture(s) with the one(s) being studied, using authentic <u>materials and resources</u> .
	b. Connect the language of the culture(s) being studied to other disciplines across the curriculum.
03. Demonstrate informed judgment about philosophical, aesthetic, or ethical arts issues.	a. Evaluate a cultural concept or idea within the language of study.

(3-15-02)()

(BREAK IN CONTINUITY OF SECTIONS)

SUBSECTION 902.02.a.1.

902. STANDARD ONE.

Demonstrate an understanding of the cultural and historical contexts and interrelationships of the arts and humanities disciplines among various cultures.

Standard Breakout - By the end of grade 5, the student will:	Content Knowledge and Skills:
01. Understand the historical and cultural contexts of visual and performing arts.	a. MUSIC: 1. Identify by genre or style music from various cultures <u>by genre or style</u> . 2. Identify characteristics of music from two different historical periods. 3. Identify specific compositions as belonging to a particular era in music history.
	b. VISUAL ARTS: 1. Compare and contrast specific works of art from two different time periods. 2. Show how a specific work of art reflects events in history. 3. Compare works of art that represent two different cultures that existed during the same period of history. 4. Identify specific works as belonging to a particular era in art history.
	c. THEATRE: 1. Translate a specific historical event into a dramatic presentation. 2. Create stage props and scenery that convey the historical accuracy in a dramatic reenactment. 3. Improvise historical figures and dialogue typical of that person's culture involving historical figures.
	d. DANCE: 1. Research dance forms that have evolved during particular <u>specific</u> periods of history. 2. Explain how a dance from a specific culture or time period reflects values of its society.

Standard Breakout - By the end of grade 5, the student will:	Content Knowledge and Skills:
<p>02. Understand interrelationships among visual and performing arts disciplines.</p>	<p>a. MUSIC: 1. Identify <u>how</u> music and <u>another</u> art (or dance or drama) <u>that has form</u> <u>have</u> evolved from a similar ethnic, geographical, or historical origin. 2. Classify <u>ways</u> <u>similarities</u> in <u>which</u> the elements of music and other art disciplines of from a specific time period are similar.</p>
	<p>b. VISUAL ARTS: 1. Classify the ways in which ideas and subject matter of humanities disciplines are interrelated. 2. Describe how elements of various arts depict ideas and emotions. 3. Observe and describe the presence of the visual arts in today's society.</p>
	<p>c. THEATRE: 1. Identify the use of visual art, music, and movement in theatrical presentations. 2. Describe the relationship between <u>Define</u> reality and fantasy in drama and other art forms.</p>
	<p>d. DANCE: 1. Compare and contrast dance and other art forms associated with specific groups of people, geographic regions, or time periods. 2. List <u>Identify</u> ways in which art forms (including dance) have been transmitted from one generation to another.</p>

(3-15-02)()

(BREAK IN CONTINUITY OF SECTIONS)

SUBSECTION 940.03.d.5.

940. STANDARD THREE.

Communicate in the humanities disciplines through acquisition, application, and creative expression.

Standard Breakout - By the end of grade 8, the student will:	Content Knowledge and Skills:
<p>01. <u>Understand concepts essential to visual and performing arts.</u></p>	<p>a. MUSIC: 1. <u>Improvise simple melodic phrases.</u> 2. <u>Read and notate music.</u> 3. <u>Define basic principles of meter, rhythm, tonality, intervals, and chords.</u></p>
	<p>b. VISUAL ARTS: 1. <u>Describe factors that make a specific art media, technique, or process effective in communicating an idea.</u> 2. <u>Use different media, techniques, and processes to communicate an idea or to tell a story.</u></p>
	<p>c. THEATRE: 1. <u>Improvise dialogue to tell stories and record information at a personal level.</u> 2. <u>Create characters, environments, and situations to convey a specific idea or mood.</u> 3. <u>Vary movements and vocal qualities to convey an interpretation of a dramatic work.</u></p>

Standard Breakout - By the end of grade 8, the student will:	Content Knowledge and Skills:
	<p>d. DANCE:</p> <ol style="list-style-type: none"> 1. <u>Choreograph correct strengthening and stretching sequences that include all the large muscle groups.</u> 2. <u>Isolate the movement in major body parts.</u> 3. <u>Illustrate muscular involvement that results in movement qualities.</u> 4. <u>Identify and use correctly the large muscle groups in coordinated ways.</u> 5. <u>Maintain both stationary and moving alignment, balance, and control.</u>
<p>042. Communicate in the visual and performing arts through application of artistic concepts, knowledge, and skills.</p>	<p>a. MUSIC:</p> <ol style="list-style-type: none"> 1. Sing or play with good breath control, expression, and technical accuracy. 2. Demonstrate appropriate ensemble skills. 3. Improvise simple melodic phrases. 43. Implement elements of music composition (unity and variety, tension and release, balance, acoustic and electronic sound sources). 54. Read and notate music (time and key signatures, note values, standard notation symbols for pitch, duration, dynamics, articulation, expression). 6. Define basic principles of meter, rhythm, tonality, intervals, and chords. <p>b. VISUAL ARTS:</p> <ol style="list-style-type: none"> 4. Describe factors that make a specific art media, technique, or process effective in communicating an idea. 21. Illustrate how visual structures (line, color, shape, repetition, rhythm, balance) and functions of art improve communication of one's ideas. 32. Use visual, spatial, and temporal concepts to communicate meaning in a work of art. 4. Use different media, techniques, and processes to communicate an idea or to tell a story. <p>c. THEATRE:</p> <ol style="list-style-type: none"> 1. Describe factors that make a specific art media, technique, or process effective in communicating an idea. 2. Illustrate how visual structures (line, color, shape, repetition, rhythm, balance) and functions of art improve communication of one's ideas. 3. Use visual, spatial, and temporal concepts to communicate meaning in theatre. 4. Use nonverbal theatre (mime) <u>theatre</u> to communicate an idea or tell a story. <p>d. DANCE:</p> <ol style="list-style-type: none"> 1. Design an effective personal warm-up. 2. Choreograph correct strengthening and stretching sequences that include all the large muscle groups. 3. Isolate the movement in major body parts. 4. Illustrate muscular involvement that results in movement qualities (heavy, delicate, limp, powerful). 5. Identify and use correctly the large muscle groups in coordinated ways. 6. Maintain both stationary and moving alignment, balance, and control. 71. Identify and execute off-center movement phrases. 82. Identify and execute movement in the three planes (vertical/frontal, sagittal, horizontal). 93. Create and follow a floor pattern. 104. Select and/or make costumes that support the intent of a dance.
<p>023. Communicate in the visual and performing arts through creative expression.</p>	<p>a. MUSIC:</p> <ol style="list-style-type: none"> 1. Compose music within specific guidelines (ABA form, limited range, simple rhythms). 2. Use a variety of traditional and nontraditional sound sources and electronic media when composing music. 3. Perform a work of music considering the intent of its creator. 4. Demonstrate appropriate behavior while attending and/or participating in arts events.

Standard Breakout - By the end of grade 8, the student will:	Content Knowledge and Skills:
	<p>b. VISUAL ARTS:</p> <ol style="list-style-type: none"> 1. Perform or create <u>create and critique</u> a work considering the intent of its creator. 2. Create a work of art that expresses personal understanding, opinions, and beliefs using knowledge of the arts. 3. Demonstrate appropriate behavior while attending and/or participating in arts events. 4. Show respect for personal work and works of others. 5. <u>Create an art work that conveys a human experience or expression.</u> <p>c. THEATRE:</p> <ol style="list-style-type: none"> 1. Perform or create a work considering the intent of its creator. 2. Create a work of art that expresses personal understanding, opinions, and beliefs using knowledge of the arts. 3. Plan visual and aural elements and direct improvised and scripted scenes. 4. Demonstrate appropriate behavior while attending and/or participating in theatrical events. 5. Show respect for personal work and works of others. <p>d. DANCE:</p> <ol style="list-style-type: none"> 1. Perform two contrasting dance styles (hip-hop, lyrical jazz) within a single genre. 2. Perform two out of the three recreational forms (international folk, square, social). 3. Replicate a very fast dance (allegro vivace, presto). 4. Choreograph a duet demonstrating an understanding of choreographic principles. 5. Create a round or canon form for a group of dancers to perform. 6. Memorize, practice, refine, and perform a dance created by someone else.

(3-15-02)()

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0204

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 upon 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 Sections 33-105(1) and 33-107(3), 33-116, and 33-1612, 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. Adjustments to the Language Arts/ Communication Standards to ensure standards and content knowledge and skills are grade appropriate; and performed grammatical and technical wording changes.

The pending rule is being adopted as proposed. The original text of the proposed rules was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 184 through 215.

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

DATED this 8th day of November, 2002.

Randi McDermott
State Board of Education
650 W. State St., Room 307
Boise, ID 83702
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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 02-10, October 2, 2002, pages 184 and 215.](#)

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 13 - IDAHO FISH AND GAME COMMISSION

**13.01.03 - PUBLIC USE OF THE LANDS OWNED OR CONTROLLED
BY THE DEPARTMENT OF FISH AND GAME**

DOCKET NO. 13-0103-0201

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 36-104(b), Idaho Code.

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

Amendment to allow dog training and field trials on some department lands to benefit hunters and bird-dog trainers.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 279 through 281.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dallas Burkhalter at 208-334-3715.

DATED this 29th day of October 2002.

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

IDAPA 13, TITLE 01, Chapter 03

**PUBLIC USE OF THE LANDS OWNED OR CONTROLLED
BY THE DEPARTMENT OF FISH AND GAME**

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 02-10, October 2, 2002, pages 279 through 281.

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0201

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 36-104(b), Idaho Code.

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

Clarify Landowner Appreciation and Handicapped Motor Vehicle Permit requirements, corrections to outfitter allocation tag and deadline.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 282 through 286.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dallas Burkhalter at 208-334-3715.

DATED this 29th day of October 2002.

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

IDAPA 13, TITLE 01, Chapter 04

RULES GOVERNING LICENSING

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 02-10, October 2, 2002, pages 282 through 286.](#)

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.07 - RULES GOVERNING THE TAKING OF UPLAND GAME ANIMALS

DOCKET NO. 13-0107-0201

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 36-104(b), Idaho Code.

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

Biennial season update and proposed closure of pygmy rabbit season.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 287 through 289.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dallas Burkhalter at 208-334-3715.

DATED this 29th day of October, 2002.

Dallas Burkhalter
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600 South Walnut
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IDAPA 13, TITLE 01, Chapter 07

RULES GOVERNING THE TAKING OF UPLAND GAME ANIMALS

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 02-10, October 2, 2002, pages 287 through 289.

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 13 - IDAHO FISH AND GAME COMMISSION
13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS
IN THE STATE OF IDAHO

DOCKET NO. 13-0109-0201

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 36-104(b), Idaho Code.

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

Annual season adjustments for game bird seasons.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 290 through 299.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dallas Burkhalter at 208-334-3715.

DATED this 29th day of October, 2002.

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

IDAPA 13, TITLE 01, Chapter 09

RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

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 02-10, October 2, 2002, pages 290 through 299.

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 13 - IDAHO FISH AND GAME COMMISSION

**13.01.13 - RULES GOVERNING THE TAKING OF MIGRATORY BIRDS
IN THE STATE OF IDAHO**

DOCKET NO. 13-0113-0201

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 36-104(b), Idaho Code.

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

Annual season adjustments.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 300 through 302.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dallas Burkhalter at 208-334-3715.

DATED this 29th day of October, 2002.

Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut
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IDAPA 13, TITLE 01, Chapter 13

**RULES GOVERNING THE TAKING OF MIGRATORY BIRDS
IN THE STATE OF IDAHO**

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 02-10, October 2, 2002, pages 300 through 302.

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.14 - RULES GOVERNING FALCONRY IN THE STATE OF IDAHO

DOCKET NO. 13-0114-0201

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 36-104(b), Idaho Code.

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

Adjust the falconry season based on the annual upland game and game bird seasons.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 302 through 308.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dallas Burkhalter at 208-334-3715.

DATED this 29th day of October, 2002.

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IDAPA 13, TITLE 01, Chapter 14

RULES GOVERNING FALCONRY IN THE STATE OF IDAHO

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 02-10, October 2, 2002, pages 302 through 308.

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.15 - RULES GOVERNING THE USE OF DOGS

DOCKET NO. 13-0115-0201

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 36-104(b), Idaho Code.

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

Clarify the distinction between dog training and field trial permits.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October , 2002 Idaho Administrative Bulletin, Volume 02-10, pages 309 and 310.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dallas Burkhalter at 208-334-3715.

DATED this 29th day of October, 2002.

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IDAPA 13, TITLE 01, Chapter 15

RULES GOVERNING THE USE OF DOGS

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 02-10, October 2, 2002, pages 309 and 310.

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.16 - THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS

DOCKET NO. 13-0116-0201

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 36-104(b), Idaho Code.

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

Biennial adjustment of trapping and furbearer seasons.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 311 through 315.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dallas Burkhalter at 208-334-3715.

DATED this 29th day of October, 2002.

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IDAPA 13, TITLE 01, Chapter 16

THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS

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 02-10, October 2, 2002, pages 311 through 315.

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 16 - DEPARTMENT OF HEALTH AND WELFARE

NOTICE OF LEGISLATIVE ACTION AFFECTING THE DEPARTMENT OF HEALTH AND WELFARE ADMINISTRATIVE RULE CHAPTERS 16.03.09, 16.03.15, AND 16.06.08

DOCKET NO. 16-0000-0201

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 Sections 56-203(b) and 56-203(g), Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the October Administrative Bulletin, Volume 02-10, pages 339 through 343.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Ray Millar, at (208) 364-1844.

DATED this 4th day of November, 2002.

Sherri Kovach
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NOTICE OF LEGISLATIVE ACTION AFFECTING THE DEPARTMENT OF HEALTH AND WELFARE ADMINISTRATIVE RULE CHAPTERS 16.03.09, 16.03.15, AND 16.06.08

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 02-10, October 2, 2002, pages 339 and 343.](#)

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 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.05 - RULES GOVERNING HUMAN IMMUNODEFICIENCY VIRUS (HIV) RELATED SERVICES

DOCKET NO. 16-0205-0201

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 56-1003, 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.

Changes are being made to the proposed text in Section 200.06 to require a mental health diagnosis in order for the participant to qualify for mental health services. A new Subsection 200.08 has been added for psychosocial support services in response to public comments received. This added subsection renumbered the subsections in the proposed text. In Section 220, Subsections 220.02 and 220.03 were deleted as the issues were covered in Section 200 of these rules. Section 230 was amended to provide participants access to medications approved by the Food and Drug Administration for HIV treatment.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October Administrative Bulletin, Volume 02-10, pages 344 through 349.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Russell Duke at (208) 334-0670.

DATED this 5th day of November, 2002.

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IDAPA 16, TITLE 02, Chapter 05

RULES GOVERNING HUMAN IMMUNODEFICIENCY VIRUS (HIV) RELATED SERVICES

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 02-10, October 2, 2002, pages 344 through 349.

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 16-0205-0201

SUBSECTIONS 200.06 AND 200.08

200. WHAT SERVICES ARE AVAILABLE?

06. Mental Health Service. Mental health therapy and counseling *to an individual with a diagnosed mental illness* includes psychological and psychiatric treatment and counseling services, including individual and group counseling. The service must be provided by a mental health professional employed by or under contract with the Department's Mental Health Program. ()

08. Psychosocial Support Services. *Psychosocial support services includes peer counseling, support group services, caregiver support, bereavement counseling, drop-in counseling, and education provided to a participant focused on HIV related problems. These services will be provided by licensed counselors or licensed social workers.* ()

09. Substance Abuse Service. Substance abuse treatment and counseling includes the provision of treatment to address substance abuse problems provided in an outpatient or residential health service setting under contract with the Department's Substance Abuse Program. ()

10. Transportation Service. Transportation includes conveyance services provided to an individual in order to access HIV related services. ()

11. Limitations To Services. ()

a. Services and individual participant caps will be determined annually based upon available federal and state funding that has been allocated specifically for HIV related services. All services, with the exception of emergency services, must be included in a participant's individual service plan in order to be covered by Ryan White Title II funds. ()

b. The HIV related services will not be provided through this program if the services are available through other state or federal programs. ()

c. The Department may waive the limitations based on available funding, number of participant, and ability to maintain service throughout the year. ()

SECTION 220

220. HOW ARE FUNDS FOR THE HIV RELATED SERVICES DISTRIBUTED?

The Department is responsible for the distribution of Ryan White Grant funds. Distribution of funds is based on the needs identified using a periodic needs assessment in each geographic region of Idaho. The amount allocated to each geographic region will be based upon HIV prevalence, participants served during the previous twelve (12) month period, and results of needs assessment information. ()

SECTION 230

230. WHAT MEDICATIONS MAY BE PAID FOR THROUGH THE HIV-AIDS DRUG ASSISTANCE PROGRAM (ADAP)?

This program provides Food and Drug Administration (FDA) approved medications prescribed for the treatment of HIV disease to eligible participants. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.10 - IDAHO REPORTABLE DISEASES

DOCKET NO. 16-0210-0201

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2003 Idaho State Legislature for final approval. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224(5)(a) and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 6, 9, 10, 16 and 43, Title 39, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 3, 2002 Administrative Bulletin, Volume 02-7, pages 100 through 134.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Christine Giso at (208) 334-4927.

DATED this 5th day of November, 2002.

Sherri Kovach
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IDAPA 16, TITLE 02, Chapter 10

IDAHO REPORTABLE DISEASES

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 02-7, July 3, 2002, pages 100 through 134.](#)

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 16 - DEPARTMENT OF HEALTH AND WELFARE
16.02.12 - RULES GOVERNING PROCEDURES AND TESTING TO BE
PERFORMED ON NEWBORN INFANTS

DOCKET NO. 16-0212-0201 - (REPEAL OF CHAPTER)

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 Sections 39-909, 39-910, AND 39-911, 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 rules are being adopted as proposed. The original text of the proposed rules was published in the July Administrative Bulletin, Volume 02-7, page 135. This chapter is being repealed in its entirety.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Christina Giso at (208) 334-4927.

DATED this 5th day of November, 2002.

Sherri Kovach
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IDAPA 16, TITLE 02, Chapter 12

RULES GOVERNING PROCEDURES AND TESTING TO BE PERFORMED ON NEWBORN INFANTS

This chapter is being repealed in its entirety.

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 02-7, July 3, 2002, page 135.](#)

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 16 - DEPARTMENT OF HEALTH AND WELFARE
16.02.12 - RULES GOVERNING PROCEDURES AND TESTING TO BE
PERFORMED ON NEWBORN INFANTS

DOCKET NO. 16-0212-0202 - (REWRITE OF CHAPTER)

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 Sections 39-909, 39-910, AND 39-911, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July Administrative Bulletin, Volume 02-7, pages 136 through 140.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Christina Giso at (208) 334-4927.

DATED this 5th day of November, 2002.

Sherri Kovach
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IDAPA 16, TITLE 02, Chapter 12

RULES GOVERNING PROCEDURES AND TESTING TO BE PERFORMED ON NEWBORN INFANTS

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 02-7, July 3, 2002, page 136 through 140.](#)

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 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

DOCKET NO. 16-0309-0210

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(s)56-202(b) and 56-203(g), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Administrative Bulletin, Volume 02-10, pages 356 through 365.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Chris Cuellar, Alternative Care Coordinator, at (208) 364-1891.

DATED this 5th day of November, 2002.

Sherri Kovach
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IDAPA 16, TITLE 03, Chapter 09

RULES GOVERNING THE MEDICAL ASSISTANCE 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 02-10, October 2, 2002, page 356 through 365.](#)

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 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

DOCKET NO. 16-0309-0211

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 Sections 56-202(b) and 56-203(g), Idaho Code.

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

Changes are being made to the proposed text in response to public comment received. Subsection 569.11.h. is being amended to add "licensed social worker" to the list of those who can provide Psychosocial Rehabilitation services. This term was inadvertently omitted from the proposed rule and is being added in order to maintain consistency in provider qualifications for the provision of Psychosocial Rehabilitation (PSR) services between community-based and school-based providers. Subsection 569.11.i. is being amended to clarify the source of the definition of Psychosocial Rehabilitation Specialist.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October Administrative Bulletin, Volume 02-10, pages 366 through 371 .

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Mary Wells at (208) 364-1955.

DATED this 5th day of November, 2002.

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IDAPA 16, TITLE 03, Chapter 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

There are substantive changes from the proposed rule text.

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-10, October 2, 2002, pages 366 through 371.

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. 16-0309-0211

SUBSECTIONS 569.11.h. and 569.11.i.

569. PROVIDER STAFF QUALIFICATIONS.

Medicaid will only reimburse for services provided by qualified staff. The following are the minimum qualifications for providers of covered services: (4-5-00)

- 11. Psychosocial Rehabilitation.** Must be provided by: (7-1-99)
- h.** Licensed ~~certified~~ social worker, licensed masters social worker or licensed clinical social worker; (7-1-99)()
or
- i.** Psychosocial rehabilitation specialist as defined in Section 455 of these rules. (7-1-99)()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

DOCKET NO. 16-0309-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective 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 temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202, 56-203, 56-1003(1), 56-1004(1)(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 15, 2003.

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

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

The Idaho Medicaid Program will reimburse for out-of-state nursing home placements when services are not available in Idaho to meet the recipient's medical need, or in a temporary situation for limited period of time required to safely transport the recipient to an Idaho facility. This rulemaking is the companion to Docket No. 16-0310-0301.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which the public comment should be addressed.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226(1)(c), Idaho Code and are necessary in order to confer a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these amendments only clarify, but do not change, existing practice.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Jan Uren at (208) 364-1854.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 22, 2003.

DATED this 5th day of November, 2002.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0301

015. CHOICE OF PROVIDERS.

01. Service Selection. Each recipient may obtain any services available from any participating institution, agency, pharmacy, or practitioner of his choice, unless enrolled in a coordinated care plan. This, however, does not prohibit the Department from establishing the fees which will be paid to providers for furnishing medical and remedial care available under the MA Program, or from setting standards relating to the qualifications of providers of such care. (6-1-94)

02. Lock-In Option. (7-1-93)

a. The Department may implement a total or partial lock-in program for any recipient found to be misusing the MA Program according to provisions in Sections 226 through 233 of these rules; but (3-30-01)

b. In situations where the recipient has been restricted to a recipient lock-in program, that recipient may choose the physician and pharmacy of his choice. The providers chosen by the lock-in recipient will be identified in the Department's Eligibility Verification System (EVS). This information will be available to any Medicaid provider who accesses the EVS. (7-1-98)

03. Medical Care Provided Outside The State Of Idaho. Out-of-state medical care is subject to the same utilization review and other Medicaid coverage requirements and restrictions as medical care received within the state of Idaho. (3-30-01)

a. If payment is requested for transportation costs to receive the out-of-state medical care, the Department or its designee will determine if appropriate, comparable medical care is available closer to the recipient's residence. If such care is available, the Department or its designee will limit authorization to payment for transportation costs associated with a trip to the closer location. If it is determined necessary and appropriate for the medical care to be rendered at the out-of-state location, then the Department or its designee will authorize payment for transportation costs associated with a trip to the out-of-state location. Transportation costs to receive out-of-state medical care requires authorization pursuant to Section 150. (3-30-01)

b. ~~Long term care outside the State may be approved by the Department on an individual basis in temporary or emergency situations. Nursing home care will be limited to the period of time required to safely transport the recipient to an Idaho facility. Out of state care will not be approved on a permanent basis. The Idaho Medicaid Program will reimburse for out-of-state nursing home placements when services are not available in Idaho to meet the recipient's medical need, or in a temporary situation for a limited period of time required to safely transport the recipient to an Idaho facility.~~ (11-10-81)(8-1-02)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO

DOCKET NO. 16-0310-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective 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 temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-101 through 135, 56-202, 56-203, 56-1003(l), 56-1004(l)(a), Idaho Code; and 42 CFR Part 447.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 15, 2003.

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

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

The Idaho Medicaid Program will reimburse for out-of-state nursing home placements when services are not available in Idaho to meet the recipient's medical need, or in a temporary situation for a limited period of time required to safely transport the recipient to an Idaho facility. Reimbursement for out-of-state nursing homes will be at the per diem rate set by the Medicaid Program in the state where the nursing home is located. This rulemaking will also require a change in IDAPA 16.03.09, Subsection 015.03.b. Adds Section 005 "Incorporation by Reference".

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which the public comment should be addressed.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226(1)(c), Idaho Code and are necessary in order to confer a benefit to the public.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these amendments only clarify, but do not change, existing practice.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Jan Uren at (208) 364-1854.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 22, 2003.

DATED this 5th day of November, 2002.

Sherri Kovach, Administrative Procedures Coordinator
DHW – Administrative Procedures Section
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kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0310-0301

000. LEGAL AUTHORITY.

Title XIX (Medicaid) of the Social Security Act, as amended, is the basic authority for administration of the federal program (see 42 CFR Part 447). Title 56, Chapter 1, Idaho Code, establishes standards for provider payment for in-state providers. Section 56-202, Idaho Code, provides that the Department is responsible for administering the program. Further it authorizes the Department to take necessary steps for its proper and efficient administration.

~~(4-5-00)~~(8-1-02)T

01. General.

(7-1-93)

a. Fiscal administration of the Idaho Title XIX Medicaid Program will be in accordance with these rules ~~and the Federal~~ as well as 42 CFR Part 447 and the Provider Reimbursement Manual (PRM) Part I and Part II, found in HCFA Publication 15-1 and 15-2, which ~~is~~ are hereby incorporated by reference in Section 005 of these rules. These materials are available from HCFA, 7500 Security Blvd, Baltimore, M.D., 21244-1850 or on the internet @ ~~http://www.access.gpo.gov/nara/cfr/cfr-table-search.html~~. The provisions shall apply unless otherwise authorized.

~~(4-5-00)~~(8-1-02)T

b. Generally accepted accounting principles, concepts and definitions shall be followed in determining acceptable accounting treatments except as otherwise provided.

(1-16-80)

02. Compliance As Condition Of Participation. Compliance with the provisions in this chapter, its amendments, and additions is required for participation in the Idaho Title XIX (Medicaid) Program.

(4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

005. INCORPORATION BY REFERENCE.

Unless provided otherwise, any reference in these rules to any document identified in Section 005 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. The following documents are hereby incorporated by reference:

(8-1-02)T

01. 42 CFR Part 447. 42 CFR Part 447, "Payment for Services," revised as of October 1, 2001, is available from HCFA (CMS), 7500 Security Blvd, Baltimore, M.D., 21244-1850 or on the Code of Federal Regulations internet site at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>.

(8-1-02)T

02. Provider Reimbursement Manual (PRM). The Provider Reimbursement Manual (PRM), Part I and Part II (HCFA Publication 15-1 and 15-2), is available on the CMS internet site at http://cms.hhs.gov/manuals/pub151/PUB_15_1.asp and http://cms.hhs.gov/manuals/pub152/PUB_15_2.asp.

(8-1-02)T

005~~6~~ -- 049. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

250. COST LIMITS FOR NURSING FACILITIES.

Sections 250 through 312~~5~~ of these rules, provide procedures and specifications necessary to implement the provisions and accomplish the objectives of the nursing home reimbursement system as specified in Sections 56-101 through 56-135, Idaho Code. All audits related to fiscal years ending on or before December 31, 1999 are subject to rules in effect before July 1, 1999.

~~(4-5-00)~~(8-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

307. OUT-OF-STATE NURSING HOMES.

The Idaho Medicaid Program will reimburse for out-of-state nursing home placements when services are not available in Idaho to meet the recipient's medical need, or in a temporary situation for a limited period of time required to safely transport the recipient to an Idaho facility. Reimbursement for out-of-state nursing homes will be at the per diem rate set by the Medicaid Program in the state where the nursing home is located. Special rates will be allowed according to Section 311 of these rules. (8-1-02)T

3078. DISTRESSED FACILITY.

If the Department determines that a facility is operationally or financially unstable, is located in an under-served area, or addresses an under-served need, the Department may negotiate a reimbursement rate different than the rate then in effect for that facility. (4-5-00)

3089. INTERIM ADJUSTMENTS TO RATES AS A RESULT OF NEW MANDATES.

Certain costs may be excluded from the cost limit calculations, may be subject to retrospective settlement at the discretion of the Department, and may result in changes to the prospective rates as provided in this Section to assure equitable reimbursement: (4-5-00)

01. Changes Of More Than Fifty Cents Per Patient Day In Costs. Changes of more than fifty cents (\$.50) per patient day in costs otherwise subject to the cost limitations incurred by a facility as a result of changes in state or federal laws or rules will be reported separately on the cost report until such time as they can be properly reflected in the cost limits. (4-5-00)

a. The provider shall report these costs on a separate schedule or by notations on the cost report so that these costs can be identified and reconciled to the provider's general ledger. These costs will be reported separately and will not be reimbursed through the rate setting process until the costs are fully represented in the cost data used to establish the cost limitations and rates. (4-5-00)

b. If more than one (1) increase occurs as a result of one (1) or more law or rule changes, the costs from each event are to be reported separately. (4-5-00)

c. The computation of the cost increase amount or amounts is to be presented in detail on a supplementary schedule or schedules unless the Department states otherwise. (4-5-00)

02. Interim Rate Adjustments. For interim rate purposes, the provider may be granted an increase in its prospective rate to cover such cost increases. A cost statement covering a recent period may be required with justification for the increased costs. The actual amount related to such increases will be determined at audit and may be retrospectively settled. (4-5-00)

03. Future Treatment Of Costs. After the initial deadline has passed for all providers to file cost reports for reporting periods beginning on or after the date certain cost increases were first required, the Department will, at its option, include all of the previously excluded costs related to those increases in the calculation of costs subject to the cost center limits. The intent of this provision is for costs to be exempt from the cost limits until these costs are able to be fully and equitably incorporated into the data base used to project the cost limits. When cost increases which have been excluded from the cap are incorporated in the inflation indices used to set the cost limits, the cost indices will be adjusted to exclude the influence of such changes if the amount included in the index is identified. When the cost limits are set to include previously excluded amounts, any adjustments made to the indices related to the previously excluded costs will be removed. (4-5-00)

30910. MDS REVIEWS.

The following Minimum Data Set (MDS) reviews will be conducted: (~~4-5-00~~)(8-1-02)T

01. Facility Review. Subsequent to the picture date, each facility will be sent a copy of its resident roster (a listing of residents, their RUG classification, case mix index, and identification as Medicaid or other). It will be the facility's responsibility at that time to review the roster for accuracy. If the roster is accurate, the facility will sign and return the roster for rate setting. If any errors are detected, those errors will be communicated to the Department in writing along with any supporting documentation. If the signed resident roster is not returned and no errors are communicated to the Department, the original resident roster will be used for rate setting. Once the resident

roster has been used for rate setting, it will be considered final unless modified by subsequent Departmental review. (4-5-00)

02. Departmental Review. If a departmental review of the MDS data reveals errors that result in an incorrect case mix index, the provider's rate will be retroactively adjusted, for all quarters containing the incorrect assessment, and an amount due to or from the Department will be calculated. This does not include residents who received the default classification due to incomplete or inconsistent MDS data. (4-5-00)

3101. SPECIAL RATES.

Section 56-117, Idaho Code, provides authority for the Director to pay facilities a special rate for care given to patients who have long term care needs beyond the normal scope of facility services. These patients must have needs which are not adequately reflected in the rates calculated pursuant to the principles set forth in Section 56-102, Idaho Code. The payment for such specialized care will be in addition to any payments made in accordance with other provisions of this chapter. The incremental cost to a facility that exceeds the rate for services provided pursuant to the provisions of this section will be excluded from the computation of payments or rates under other provisions of Section 56-102, Idaho Code, and these rules. (4-5-00)

01. Determinations. A determination to approve or not approve a special rate will be made on a patient-by-patient basis. No rate will be allowed if reimbursement for these needs is available from a non-Medicaid source. A special rate request will be for an expected condition that will be on-going for a period of greater than two (2) weeks. (4-5-00)

02. Application. Until the facility applies for a special rate, patients with such needs will be included in the computation of the facility's rates following the principles described in Section 56-102, Idaho Code. (4-5-00)

03. Approval. Approved special rates will become effective on the date the application is received, but no earlier than the first day of the month in which the application for a special rate was received. (4-5-00)

04. Reporting. Costs equivalent to payments at the special rate will be removed from the cost components subject to limits, and will be reported separately. (4-5-00)

05. Limitation. The reimbursement rate paid will not exceed the provider's charges to other patients for similar services. (4-5-00)

06. Prospective Rate Treatment. Prospective treatment of special rates became effective July 1, 2000. Subsections 3101.07 through 3101.09 of these rules provide clarification of how special rates will be handled under the prospective payment system. ~~(3-15-02)~~(8-1-02)T

07. Residents Qualifying. Special rates are intended for residents who have long term care needs beyond the normal scope of facility services, and whose needs are not adequately reflected in the rates set pursuant to Section 56-102, Idaho Code. (3-15-02)

08. Determination Of Payment For Qualifying Residents. Special rates shall be reimbursed in one (1) of the methods described in Subsections 3101.08.a. through 3101.08.d. of these rules. ~~(7-1-02)F~~(8-1-02)T

a. Special Rate Units. If a facility operates a special rate unit; i.e., behavioral unit, or a Traumatic Brain Injury (TBI) unit, etc., the following reimbursement methods will apply under the circumstances described Subsections 3101.08.a.i. through 3101.08.a.vi. of these rules. ~~(7-1-02)F~~(8-1-02)T

i. Facility is Under the Direct Care Limit - If the facility operates a special rate unit, the costs of which do not exceed the direct care limit, with all direct care costs included in the rate calculation, no special rate shall be paid for the unit. (3-15-02)

ii. Facility is Over the Direct Care Limit - If the facility operates a special rate unit, the costs of which exceed the direct care limit, with all direct care costs included in the rate calculation, the special rate for the unit will be equal to the lesser of the per diem amount by which direct care costs exceed the limit, or the special rate add-on calculated as follows: each Medicaid resident approved for a special rate is classified using Medicare's grouper

(currently RUG's III v.5.12 44 Group) and is assigned a total rate equal to the applicable Medicare price that would be paid if the resident were Medicare eligible. The special rate "add-on" to the facility rate is calculated by subtracting the resident-specific Medicaid rate (based on each resident's Medicaid CMI) from the Medicare price. The average of the special rate add-on amounts calculated using this methodology shall be compared to the amount the provider is over the limit. The lesser amount is allowed as a special rate. (3-15-02)

iii. New Unit Added before July 1, 2000 - A unit added before July 1, 2000 that does not have sufficient historical cost data in the cost report used to set the rate shall receive the same rate that would have been set under the retrospective system until a cost report with sufficient cost detail is filed. (3-15-02)

iv. New Unit Added after July 1, 2000 - To qualify for special rates, new units, or increases to the number of licensed beds in an existing unit must first receive Departmental approval. Since a new unit will not have the cost history of an existing unit, the provider's relationship to the cap will not be considered in qualifying for a special rate. Those residents who are approved for special rates will have their special rate calculated as the difference between the applicable Medicare price under PPS, and the Medicaid rate for that individual resident as explained in Section 3101.08.a.ii. of these rules. However, the amount would not be limited to the amount the provider is over the limit, as the costs of the unit are not in the rate calculation. ~~(3-15-02)~~(8-1-02)T

v. One Hundred Percent (100%) Special Care Facility in Existence as of July 1, 2000 - If at July 1, 2000 an entire facility is devoted to caring for "special rate" residents, including Medicaid residents approved for special rates as well as private pay and other residents who would qualify for special rates if they were Medicaid eligible, the facility's allowable reimbursement will be calculated as follows. The costs of the direct care component will not be subject to the cost limit. However, those costs will still be case-mix adjusted based on the ratio of the Medicaid case-mix to the facility-wide case-mix index. (3-15-02)

vi. Customary Charge - If the cost to operate a special rate unit is being included in a facility's rate calculation process, the facility must report its usual and customary charge for that unit on the quarterly reporting form. A weighted customary charge shall be computed by taking the number of Medicaid days approved for special rates times the usual and customary charge for private pay individuals in that unit, plus the Medicaid days not in the special rate unit times the usual and customary charge for that portion of the facility. (3-15-02)

b. Equipment/Non-Therapy Supplies. Equipment and non-therapy supplies not adequately addressed in the current RUG's system shall be reimbursed at invoice cost as an add-on to the facility's rate for the resident receiving the equipment or supplies. The facility need not exceed the direct care limit to receive a special rate for such services. Items that qualify for such treatment include but are not limited to the following: air fluidized beds, overlay mattresses, TPN supplies and VAC wound care. (3-15-02)

c. Ventilator Dependent Residents and Residents Receiving Tracheotomy Care. In the case of ventilator dependent and tracheotomy residents, a two (2) step approach shall be taken to establish the special rate. The facility need not exceed the direct care limit to receive a special rate for ventilator care and tracheotomy care. The first step is the calculation of a staffing add-on for the cost, if any, of additional direct care staff required to meet the exceptional needs of these residents. The add-on shall be calculated following the provisions set forth in Subsection 3101.08.d. of these rules. The second step shall be an equipment, supply, or both add-on to be added to the rate up to the invoice cost or rental amount. The combined amount of these two (2) components shall be considered the special rate. ~~(7-1-02)~~(8-1-02)T

d. Residents Who Do Not Reside in a Special Rate Unit Requiring One-to-One Staffing Ratios. Facilities that do not have established units with a cost history built into their cost reports and rates may at times have residents who require unusual levels of staffing; such as, one-to-one staffing ratios. If the resident qualifies for a special rate, the additional reimbursement will be allowed as follows:

Example Using Sixteen (16) Hours of One-To-One Care	
Total hours per day:	24.0
Less minimum staff level required:	(2.0)

Example Using Sixteen (16) Hours of One-To-One Care	
Net special rate hours allowed:	22.0
Average wage rate of CNA's per WAHR survey:	\$7.53
Plus Benefits at Thirty percent (30%):	\$2.26
Allowed wages and Benefits	\$9.79
Allowable daily special rate add-on:	\$215.38
Divided by total hours:	24.0
Calculated hourly rate:	\$8.97
One to one hours approved:	16.0
Sixteen (16) hours of one to one add-on:	\$143.53

(3-15-02)

e. For differing levels of one-to-one care; i.e., eight (8) hours or twenty-four (24) hours, only the total hours of one-to-one care approved would be changed in Subsection 3101.08.d. The WAHR CNA wage rate as described in IDAPA 16.03.09, "Rules Governing the Medical Assistance Program," Section 148 will be updated prior to the July 1st rate setting each year. Should the WAHR survey be discontinued, prior amounts may be indexed forward, or a comparable survey may be conducted. ~~(3-15-02)~~(8-1-02)T

09. Treatment Of The Special Rate Cost For Future Rate Setting Periods. Special rates shall be established on a prospective basis similar to the overall facility rate. When a cost report is used to set a prospective rate contains special rate cost, an adjustment shall be made to "offset", or remove, the amount received for the special rates from the calculation of costs. The amount received shall be calculated by multiplying the special rate paid for each qualifying resident by the number of days that were paid. The case-mix index for each resident shall be left in the facility-wide average and the Medicaid average for rate setting purposes, as the offset would only be for the incremental portion of the rate, above what Medicaid would have paid. (3-15-02)

3142. PHASE-IN PROVISIONS.

The rates established pursuant to these rules shall be phased in over a three-year period as follows: (4-5-00)

01. July 1, 1999 Through June 30, 2000. During this period, providers will continue to be reimbursed under the previous retrospective system; however, the Department will also issue by January 1, 2000 "shadow rates" which will inform facilities what their rate would be under the provisions of these rules. (4-5-00)

02. July 1, 2000 Through December 31, 2000. Rates calculated under the provisions of these rules will be compared to the rates that were available to the same facility as of June 30, 1999. Facilities which would experience decreases in their rate of one dollar (\$1) or less per resident day will receive the rate established under the provisions of these rules with no phase-in. Facilities which would experience decreases in their rate of greater than one dollar (\$1) per resident day will have the decrease in their rate limited to the greater of one dollar (\$1) per resident day or twenty-five percent (25%) of the decrease. Facilities which would experience increases in their reimbursement rate will receive the increased rate. (4-5-00)

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

resident day or fifty percent (50%) of the decrease. Facilities which would experience increases in their reimbursement rate will receive the increased rate. (4-5-00)

04. July 1, 2001. Beginning with July 1, 2001, the rates established under the provisions of these rules will be fully implemented with no phase-in. (4-5-00)

3123. OVERSIGHT COMMITTEE.

The Director will appoint an oversight committee to monitor implementation of the Prospective Payment System (PPS) for nursing facility reimbursement that takes effect July 1, 1999. The committee will be made up of at least one (1) member representing each of the following organizations: the Department, the state association(s) representing free standing skilled care facilities, and the state association(s) representing hospital-based skilled care facilities. The committee will continue to meet periodically subsequent to the implementation of the PPS. After three (3) years of implementation, the committee will examine the inflation factors used to inflate costs forward for rate setting (DRI + one percent (+1%)), the inflation factors used in limiting the growth in the cost component limitations (DRI + two percent (+2%)), and the level of the minimum cost component limitations (not lower than limits established July 1, 1999). (4-5-00)

3134. DISPUTES.

01. Administrative Review Requirement. If any facility wishes to contest the way in which a rule or contract provision relating to the prospective, cost-related reimbursement system was applied to such facility by the Director, it shall first pursue the administrative review process set forth in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 03, Section 300, et seq., and Section 301, "Rules Governing Contested Cases Proceedings and Declaratory Rulings". (~~12-31-91~~)(8-1-02)T

02. Legal Challenge. The administrative review process need not be exhausted if a facility wishes to challenge the legal validity of a statute, rule, or contract provision. (12-31-91)

3145. DENIAL, SUSPENSION, REVOCATION OF LICENSE OR PROVISIONAL LICENSE -- PENALTY.

The Director is authorized to deny, suspend, or revoke a license or provisional license or, in lieu thereof or in addition thereto, assess monetary penalties of a civil nature not to exceed one thousand dollars (\$1,000) per violation in any case in which it finds that the facility, or any partner, officer, director, owner of five percent (5%) or more of the assets of the facility, or managing employee: (12-31-91)

01. Failed Or Refused To Comply. Failed or refused to comply with the requirements of Sections 56-101 through 56-135, Idaho Code, or the rules established hereunder; or (1-1-82)

02. False Statements. Has knowingly or with reason to know made a false statement of a material fact in any record required by this chapter; or (1-1-82)

03. Refused To Allow Representative. Refused to allow representatives or agents of the Director to inspect all books, records, and files required to be maintained by the provisions of this chapter or to inspect any portion of the facility's premises; or (1-1-82)

04. Wilfully Prevented, Interfered With, Or Attempted To Impede Work. Wilfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the Director and the lawful enforcement of any provision of this chapter; or (1-1-82)

05. Preservation Of Evidence. Wilfully prevented or interfered with any representative of the Director in the preservation of evidence of any violation of any of the provisions of this chapter. (12-31-91)

3156. -- 349. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.14 - RULES AND MINIMUM STANDARDS FOR HOSPITALS IN IDAHO

DOCKET NO. 16-0314-0201

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(s) 56-1005(8) and 39-1307, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Administrative Bulletin, Volume 02-10, pages 372 through 379.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Debby Ransom or Sylvia Creswell at (208) 334-6626.

DATED this 5th day of November, 2002.

Sherri Kovach
Administrative Procedures Coordinator
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IDAPA 16, TITLE 03, Chapter 14

RULES AND MINIMUM STANDARDS FOR HOSPITALS IN IDAHO

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 02-10, October 2, 2002, pages 372 through 379.](#)

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 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.22 - RULES FOR LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITIES IN IDAHO

DOCKET NO. 16-0322-0201

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(s) 56-1005(8), 39-3305, 39-3371, 39-3505 and 39-3561, 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 rules are being adopted as proposed. The original text of the proposed rules was published in the October 2, 2002 Administrative Bulletin, Volume 02-10, pages 380 through 418.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Debby Ransom at (208) 334-6626 or Virginia Loper at (208) 364-1868.

DATED this 5th day of November, 2002.

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IDAPA 16, TITLE 03, Chapter 22

RULES FOR LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITIES IN IDAHO

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 02-10, October 2, 2002, pages 380 through 418.

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 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.11 - RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES (DDA)

DOCKET NO. 16-0411-0201

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 Sections 39-4601, 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.

Changes are being made to the proposed text in response to public comment received. Subsection 809.01 is being amended to clarify and broaden the IBI professional requirements by deleting specific degree requirements. Subsection 809.02 is being amended to remove non-recognized degrees and to add required experience which is currently in effect in interpretive guidelines. Subsection 809.03 is being amended to strengthen and clarify the training and examination requirements for IBI providers.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October Administrative Bulletin, Volume 02-10, pages 419 through 421.

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

DATED this 5th day of November, 2002.

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IDAPA 16, TITLE 04, Chapter 11

RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES (DDA)

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 02-10, October 2, 2002, pages 419 through 421.

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. 16-0411-0201

SUBSECTION 809.01, 809.02, and 809.03

809. QUALIFICATIONS TO PROVIDE INTENSIVE BEHAVIORAL INTERVENTION (IBI).

A *professional person* qualified to provide or direct the provision of Intensive Behavioral Intervention (IBI) must meet the following requirements: (4-5-00)()

01. Degree ~~Or License~~. *Have* A qualified IBI professional *must* hold at least a bachelor's degree in *psychology, special education, social work, applied behavior analysis, speech and language pathology, occupational therapy, physical therapy, deaf education, elementary education or a related field or be a Licensed Professional Counselor Private Practitioner; and a health, human services, educational, behavioral science or counseling field from a nationally accredited university or college.* (4-5-00)()

02. Experience. *An individual applying for IBI paraprofessional or professional certification must be able to provide documentation of one (1) year's supervised experience working with children with developmental disabilities. The year's experience must include one thousand (1,000) hours of direct contact or care of children in a behavioral context with developmental disabilities.* ()

023. Training And Certification. *Have* Qualified IBI professionals and paraprofessionals must complete and pass a Department approved training *course* and *examination for certification* ~~which addresses course work, experience, ethical standards, continuing education and demonstrated competencies.~~ *The training must include a curriculum that addresses standards of competence for the provision of intensive behavioral intervention and ethical standards. Specifically, the curriculum must include: assessment of individuals, behavioral management, services or treatment of individuals, supervised practical experience, and an observation of demonstrated competencies. An individual applying for IBI professional certification or to be certified as an IBI trainer must also be able to demonstrate their competency in the provision of IBI services by passing a certification examination. A certified IBI professional who has a break in the provision of IBI services of more than one (1) year will be required to meet any additional Department requirements implemented subsequent to the individual's certification.* (4-5-00)()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.14 - RULES GOVERNING THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

DOCKET NO. 16-0414-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective December 1, 2002.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202 and 56-203, Idaho Code and Section 2602, Title XXVI, Public Law No. 97-203, also known as the Low-Income Home Energy Assistance Program.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 15, 2003.

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:

To avoid having to change this rule on an annual basis and to reduce procedural steps in the administrative rules performed by state employees, the benefit determination procedures and the percentages will be placed in the Intake Manual used for Low Income Home Energy Assistance Program. A summary for determining the annual benefit will replace the procedures in rule.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which the public comment should be addressed.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226(1)(c), Idaho Code and are necessary in order to confer a benefit.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking confers a benefit to the public.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Linda Stokes at (208) 334-5734.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 22, 2003.

DATED this 5th day of November, 2002.

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0414-0301

204. BENEFIT DETERMINATION.

Eligible participant households will have their LIHEAP benefit determined ~~using Subsections 204.01 through 204.03 of these rules:~~ as follows: ~~(4-5-00)(12-1-02)T~~

01. Actual Consumption Method. The actual consumption method is used if the eligible participant household heats ~~their~~ its residence with either natural gas or electricity and ~~have~~ has resided in the residence for one (1) year or longer. ~~Use table 204.01 to determine the base benefit under the Actual Consumption Method. The minimum base benefit is one hundred fifteen dollars (\$115). The maximum base benefit is five hundred fifty dollars (\$550).~~ Household benefit is calculated by multiplying the energy consumption cost by an annual benefit calculation factor. Annual minimum and maximum benefits per household are published each year in the Intake Manual used for LIHEAP

TABLE 204.01 ACTUAL CONSUMPTION METHOD	
Step 1.	List the annual consumption cost, excluding July, August and September, furnished by the energy supplier.
Step 2.	Determine if the eligible participant household resides in subsidized housing. If so, the base benefit is always low burden. Skip Step 3 in this case, and go to Step 4.
Step 3.	Divide the annual consumption cost from Step 1 by annualized countable income reported by the household. This gives the percentage of energy burden. 0% to 5% energy burden is low. 6% to 10% energy burden is average. 11% and above energy burden is high.
Step 4.	If the percentage of energy burden from Step 3 is low, multiply the annual consumption cost from Step 1 by 24% to determine the base benefit. If the percentage of energy burden from Step 3 is average, multiply the annual consumption cost from Step 1 by 29% to determine the base benefit. If the percentage of energy burden from Step 3 is high, multiply the annual consumption cost from Step 1 by 32% to determine the base benefit.

~~(3-15-02)(12-1-02)T~~

02. Average Annual Cost Method. The average annual cost method is used when the eligible participant household's actual consumption cost is unknown, or ~~they~~ it uses a heating source other than electricity or natural gas. Average cost is ~~established based on~~ determined by information gathered from provided by energy suppliers throughout the state. ~~Average cost~~ and is published ~~in~~ as the ~~a~~Annual ~~#~~Heating ~~e~~Cost ~~e~~Chart, which is available from the Department of Health and Welfare, ~~Bureau of Benefit Program Operations, Grants Unit.~~ The average cost is specific to county of residence and ~~source of home energy identify the average cost from the chart the household's heating source.~~ Use table 204.02 to determine the base benefit under Household benefit is calculated by multiplying the Average Annual Cost Method by an annual benefit calculation factor.

TABLE 204.02 AVERAGE ANNUAL COST METHOD	
Step 1.	Identify the household's average annual heating cost from the annual heating cost chart available from the Department of Health and Welfare, Bureau of Benefit Program Operations, Grants Unit.
Step 2.	Determine if the eligible participant household resides in subsidized housing. If so, the base benefit is always low burden. Skip Step 3 in this case, and go to Step 4.

TABLE 204.02 AVERAGE ANNUAL COST METHOD	
Step 3.	<i>Divide the average annual heating cost from Step 1 by annualized countable income reported by the household. This gives the percentage of energy burden. 0% to 5% energy burden is low. 6% to 10% energy burden is average. 11% and above energy burden is high.</i>
Step 4.	<i>If the percentage of energy burden from Step 3 is low, multiply the annual average heating cost from Step 1 by 24% to determine the base benefit. If the percentage of energy burden from Step 3 is average, multiply the annual average heating cost from Step 1 by 29% to determine the base benefit. If the percentage of energy burden from Step 3 is high, multiply the annual average heating cost from Step 1 by 32% to determine the base benefit.</i>

~~(3-15-02)~~(12-1-02)T

03. Annual Benefit Calculation Factor. Annual benefit calculation factors are determined each year based on the amount of federal funding for the upcoming program year. The particular factor used for a household's benefit calculation is determined by the household's energy cost burden (high, medium or low) expressed as a percentage of annualized income. A heating burden of zero percent (0%) to five percent (5%) is considered low, six percent (6%) to ten percent (10%) is medium, and eleven percent (11%) or greater is high. Benefit calculation methodology and the current benefit calculation factors are published in the Intake Manual used for LIHEAP, available at the Department of Health and Welfare, and community action agencies. ~~(12-1-02)~~T

034. Adjusting LIHEAP Benefit. *For both actual consumption and average annual cost methods,* ~~add~~ an adjusted benefit of twenty-five dollars (\$25) to the base benefit *if the eligible participant* of households containing at least one (1) of the following: ~~(4-5-00)~~(12-1-02)T

- a. Child under six (6) years of age. (4-5-00)
- b. Individual with disabilities as declared on the LIHEAP application form. (4-5-00)
- c. Individual sixty (60) years of age or older. (4-5-00)
- d. ~~Household contains m~~More than one (1) member. ~~(4-5-00)~~(12-1-02)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES
DOCKET NO. 16-0601-0201
NOTICE OF RULEMAKING
PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is March 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 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) 16-1623, 16-2001, 16-2401, 56-202(b), 56-204(a), 56-204(A), 56-1003(l), 56-1004, 56-1007, 56-803, 16-1822 and 16-1827, 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.

In Section 560 clarification is made as to the type of worker the rule is referencing by adding "family services" to Subsection 560.01.a. of the rules. In Sections 561 and 563 text is moved to more logical places within the rule. Pursuant to Section 67-5228, Idaho Code, transcriptional corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which 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 rules was published in the May 1, 2002 Administrative Bulletin, Volume 02-5, pages 68 through 70.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Chuck Halligan at (208) 334-6559.

DATED this 5th day of November, 2002.

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IDAPA 16, TITLE 06, Chapter 01

RULES GOVERNING FAMILY AND CHILDREN'S SERVICES

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 68 through 70.

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. 16-0601-0201

SUBSECTION 560.01.a.

560. DISPOSITION OF REPORTS.

Within five (5) days following completion of risk assessments, the Department shall determine whether the reports are substantiated or unsubstantiated. The substantiation of reports shall be determined using the following definitions, with consideration given to the age of the child, extenuating circumstances, prior history, parental attitude toward discipline, and severity of abuse or neglect: (3-1-02)T

01. Substantiated. Child abuse and neglect reports are confirmed by one (1) or more of the following: (3-1-02)T

a. Witnessed by a family services worker; (~~3-30-01~~)(3-1-02)T

SECTION 561

561. SUBSTANTIATED REPORTS.

For reports determined to be "substantiated", the appropriate information shall be entered into the Department's Central Registry for the reporting of child abuse, abandonment and neglect, and the alleged perpetrator so advised in writing. Notification will include how the individual can appeal to have the disposition status changed. The Department shall remove identifying information regarding a specific individual only when that individual has successfully appealed his name being placed on the Central Registry. (~~3-1-02~~)(3-1-02)T

SECTION 563

563. UNSUBSTANTIATED REPORTS.

If it is determined through the risk assessment that a report is "unsubstantiated", the family shall also be advised. Upon the individual's request, the field office shall issue written statements indicating that: (~~3-1-02~~)(3-1-02)T

01. ~~Request For Statement.~~ *Upon the individual's request, the field office shall issue written statements*

~~indicating that:~~

~~(3-18-99)~~

~~a01.~~ Insufficient Information. The Department has not obtained sufficient information to warrant further assessment of or action on that specific report; and ~~(3-18-99)~~(3-1-02)T

~~b02.~~ Further Reports. The Department shall fulfill its legal responsibility to investigate and take appropriate action on any further reports that elaborate on the previous allegations or relate new allegations. ~~(3-18-99)~~(3-1-02)T

~~02.~~ Removal Of Identifying Information From The Department's Central Registry Of Substantiated Child Protection Referral Dispositions. ~~The Department shall remove identifying information regarding a specific individual only when that individual has successfully appealed his name being placed on the Central Registry.~~
~~(3-1-02)T~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES
DOCKET NO. 16-0601-0301
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2002.

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 Sections 16-1624, 16-2001, 16-2402, 56-202(b), 56-203(b), 56-204(a), 56-204A, 56-1003, and 56-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 15, 2003.

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

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

The Board of Health and Welfare asked to have the term "legal parent" clarified in a previous rule change. Additional clarification is needed to make terms inclusive and to reduce confusion. Transcriptional and grammar changes are being made for consistency. The current practice for the appeal process needs to have the rules consistent with the IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". The rules are also being reviewed for obsolete language, terms that need to be defined, and corrections to references. The term "qualified individual" is being replaced with the term "certified adoption professional" and a definition is being added.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which the public comment should be addressed.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226(1)(b), Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal regulations.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because amendments were made to comply with governing law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Chuck Halligan, (208) 334-6559.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 22, 2003.

DATED this 5th day of November, 2002.

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0601-0301

010. DEFINITIONS AND ABBREVIATIONS.

For the purposes of the rules contained in Idaho Department of Health and Welfare Rules, IDAPA 16.06.01, "Rules Governing Family and Children's Services," the following terms and abbreviations are used as defined herein: (3-18-99)

01. IV-E Foster Care. Child care provided in lieu of parental care in a foster home, children's agency or institution eligible to receive Aid to Dependent Children under Title IV-E of the Social Security Act. (3-18-99)

02. Adoption Assistance. Funds provided to adoptive parent(s) of children who have special needs and/or could not be adopted without financial or medical assistance. (7-1-01)T

03. Adoption Services. Protective service through which children are provided with permanent homes, under new legal parentage, including transfer of the mutual rights and responsibilities that prevail in the parent-child relationship. (7-1-01)T

04. Alternate Care. Temporary living arrangements, when necessary for a child to leave his own home, through a variety of foster care, respite care, residential treatment and institutional resources, in accordance with the protections established in Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980" as amended by Public Law 105-89, the Adoption and Safe Families Act of 1997, the Child Protective Act, Section 16-1601 et seq., Idaho Code, and the Indian Child Welfare Act. (3-30-01)

05. Alternate Care Plan. A federally required component of the Family Plan for children in alternate care. The alternate care plan contains elements related to reasonable efforts, the family's plan, child's alternate care provider, compelling reasons for not terminating parental rights, Indian status, education, immunization, medical and other information important to the day-to-day care of the child. (7-1-01)T

06. Assessment. First step in the planning process which results in systematic documentation of the family's issues of concern, their strengths, and desired outcomes. (3-30-01)

07. Board. The Idaho State Board of Health and Welfare. (3-18-99)

08. Case Management. A change oriented service to families that assures and coordinates the provision of family risk assessment, case planning, treatment and other services, protection, advocacy, review and reassessment, documentation and timely closure of a case. (3-18-99)

09. Case Plan. See "Family Plan". (3-18-99)

10. Central Office. The state level administrative office of the Department of Health and Welfare located in Boise, Idaho. (3-18-99)

11. Certified Adoption Professional (formerly "qualified individual"). An individual certified by the Department who meets the qualifications specified in Section 889 of these rules for completion of pre-placement adoption home studies, reports to the court under the Termination of Parent and Child Relationship and Adoption of Children Acts, and placement supervision reports. (7-1-02)T

12. Child Mental Health. All of the following children under eighteen (18) years of age shall be served without regard to income or type of health insurance: (3-30-01)

a. Those who have a serious emotional disturbance or a grave disability due to a serious mental illness; and (3-30-01)

b. Present a significant risk of harm to themselves or to others, due to their mental illness; and

(3-30-01)

c. Because of their mental illness are at risk for out-of-home placements or are currently in out-of-home placement and lack adequate resources to participate in their community's non-public system of care; or (3-30-01)

d. Are involuntarily committed to the Department for out-of-home placement. (3-30-01)

123. Child Mental Health Services. Services provided in response to the needs of children with a serious emotional disturbance and their families. These services are provided in accordance with the provisions of Section 16-2402 et seq., Idaho Code, the "Children's Mental Health Services Act". (3-30-01)

134. Child Protection. All children under eighteen (18) who have been harmed or threatened with harm by a person responsible for their health or welfare through non-accidental physical or mental injury, sexual abuse (as defined by state law) or negligent treatment or maltreatment, including the failure to provide adequate food, clothing or shelter shall be served without regard to income. (3-30-01)

145. Child Protective Services. Services provided in response to potential, alleged or actual abuse, abandonment or neglect of individuals under the age of eighteen (18) in accordance with the provisions of Section 16-1601 et seq., Idaho Code, the "Child Protective Act". (3-18-99)

156. Compact Administrator. The individual designated to coordinate interstate transfers of persons requiring special services in accordance with the provisions of Section 16-21-01 et seq., Idaho Code; "Interstate Compact on the Placement of Children," Section 16-1901 et seq., Idaho Code; or the "Interstate Compact on Mental Health," Section 66-1201 et seq., Idaho Code; or the "Interstate Compact on Adoption and Medical Assistance," Section 39-7501 et seq., Idaho Code. (~~3-18-99~~)(7-1-02)T

167. Concurrent Planning. Planning which addresses a child's need for a permanent family by working toward family reunification while, at the same time, developing an alternative plan that will provide permanency for the child through adoption, guardianship, placement with a relative or other permanent placement. (3-30-01)

178. DHW Regions. Seven (7) geographically defined regions which serve as administrative units for the delivery of social services through local Department local offices. (3-18-99)

189. Day Care For Children. Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. (3-18-99)

1920. Day Treatment Services. Intensive nonresidential services that include an integrated set of educational, clinical, social, vocational and family interventions provided on a regularly scheduled, typically daily, basis. (3-18-99)

201. Department. The Idaho Department of Health and Welfare. (3-18-99)

212. Director. The Director of the Department of Health and Welfare or designee. (3-18-99)

223. Emergency Assistance To Families. Social services, crisis or crisis avoidance payments and placement services authorized by Department workers for Emergency Assistance eligible families to meet emergency need(s). (7-1-01)T

234. Extended Family Member Of An Indian Child. As defined by the law, or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is an Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (3-30-01)

245. FFP. Federal Financial Participation. (3-18-99)

- 256. Family.** Parent(s), legal guardian(s), related individuals including birth or adoptive immediate family members, extended family members and significant other individuals, who are included in the family plan. (7-1-01)T
- 267. Family And Children's Services (FACS).** Those programs and services directed to families and children, administered by the Department and provided in accordance with these rules. (3-18-99)
- 278. Family Assessment.** An ongoing process based on information gained through a series of meetings with a family to gain mutual perception of strengths and resources that can support them in creating long-term solutions related to identified service needs and/or safety issues that threaten family integrity, unity or the ability to care for their members. (3-18-99)
- 289. Family Case Record.** Electronic and hard copy compilation of all documentation relating to a family, including, but not limited to, legal documents, identifying information, and evaluations. (3-30-01)
- 2930. Family Centered Services.** An approach to the delivery of social services that focuses on families rather than individuals. Services are based on assessment of the entire family and a negotiated family plan designed to strengthen and maintain the family, while ensuring the safety, well being and permanency of children. (3-30-01)
- 301. Family Plan.** Also referred to as Service Plan. A written document that serves as the guide for provision of services. The plan, developed with the family, clearly identifies who does what, when, how and why. The family plan incorporates any special plans made for individual family members. If the family includes an Indian child, or child's tribe, tribal elders and/or leaders should be consulted early in the plan development. (3-30-01)
- 342. Family Services Worker.** Any of the direct service personnel, including social workers, psychologists, counselors and family therapists, working in regional Family and Children's Services Programs. ~~For purposes of pre-placement home studies, adoption home studies, reports to the court under the Termination of Parent and Child Relationship and Adoption of Children Acts, and Placement Supervision Reports, "family services workers" also include licensed counselors or psychologists, or individuals who have at least bachelor's degrees in social work, marriage and family therapy, or other social sciences.~~ (3-30-01)(7-1-02)T
- 323. Field Office.** A Department of Health and Welfare service delivery site. (3-18-99)
- 334. Goal.** A statement of the long term outcome or plan for the child and family. (3-18-99)
- 345. Guardianship Assistance.** State benefits provided to legal guardian(s) for the support of a child who would otherwise remain in the guardianship of the Department of Health and Welfare. For a child to come into the Department's guardianship, parental rights must have been terminated. (7-1-01)T
- 356. Independent Living.** Services provided to eligible foster or former foster youth ages fifteen (15) to twenty-one (21) designed to support a successful transition to adulthood. (3-30-01)
- 367. Indian.** Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 U.S.C. 1606. (3-18-99)
- 378. Indian Child.** Any unmarried person who is under the age of eighteen (18) who is: (3-18-99)
- a. A member of an Indian tribe, or (3-18-99)
 - b. Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe. (3-18-99)
- 389. Indian Child Welfare Act (ICWA).** The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (3-18-99)
- 3940. Indian Child's Tribe.** (3-18-99)

- a. The Indian tribe in which an Indian child is a member or eligible for membership, or (3-18-99)
- b. In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (3-18-99)
- 401. Indian Tribe.** Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. 1602(c). (3-18-99)
- 412. Information And Referral Services.** A service which enables individuals to gain access to human services through providing accurate, current information on community and Department resources. (3-30-01)
- 423. Intercountry Adoption Act of 2000 (P.L. 106-279).** Federal law designed to protect the rights of, and prevent abuses against children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and to insure that such adoptions are in the children's best interests; and to improve the ability of the federal government to assist U.S. citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States. (7-1-01)T
- 434. Interethnic Adoption Provisions Of 1996 (IEPA).** IEPA prohibits delaying or denying the placement of a child for adoption or foster care on the basis of race, color or national origin of the adoptive or foster parent(s), or the child involved. (7-1-01)T
- 45. Interstate Compact On The Placement Of Children (ICPC).** Interstate Compact on the Placement of Children (ICPC) in Chapter 21, Title 16, Idaho Code, ensures that the jurisdictional, administrative and human rights obligations of interstate placement or transfers of children are protected. (7-1-02)T
- 446. Issue.** Circumstances which brought a child and family to the attention of the Department. These circumstances typically involve safety issues which put the child at risk of harm. (3-30-01)
- 457. Kin.** Non-relatives who have a significant, family-like relationship with a child. Kin may include godparents, close family friends, clergy, teachers and members of a child's Indian tribe. Also known as fictive kin. (3-30-01)
- 468. Kinship Care.** Alternative care that is provided by kin. (3-30-01)
- 479. Legal Guardianship.** A judicially created relationship, including one made by a tribal court, between a child and a relative or non-relative caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decision making. The term "legal guardian" means the caretaker in such a relationship. For purposes of these rules a child must be in Department guardianship at the time the Petition for Legal Guardianship is filed with the court. Department guardianship may only take place when there has been a termination of parental rights. (7-1-01)T
- 4850. Licensed.** Facilities or programs being licensed in accordance with the provisions of Idaho Department of Health and Welfare Rules IDAPA 16.06.02, "Rules and Standards for Child Care Licensing". (3-18-99)
- 4951. Licensing.** See Idaho Department of Health and Welfare Rules, IDAPA 16.06.02, "Rules and Standards for Child Care Licensing," Section 100. (3-18-99)
- 502. Medicaid.** See "Title XIX". (3-30-01)
- 513. Multiethnic Placement Act Of 1994 (MEPA).** MEPA prohibits states or public and private foster care and adoption agencies that receive federal funds from delaying or denying the placement of any child solely on the basis of race, color or national origin. (3-18-99)

524. Objective. Behaviorally specific description of how the family circumstances will look when the risk factors which brought a child and family to the Department's attention, either no longer exist or are significantly reduced. (3-30-01)

535. Parent(s). The person(s) who, by birth or through adoption, is considered legally responsible for a child. For purposes of these rules, when it is necessary to be more specific, identifiers will be added to parent(s): birth parent(s), foster parent(s), adoptive parent(s), step-parent(s), and pre-adoptive parent(s). The term "legal guardian(s)" is not included in the definition of parent(s). ~~(7-1-01)~~(7-1-02)T

546. Permanency Planning. A primary function of family services initiated in all cases to identify programs, services and activities designed to establish permanent home and family relationships for children within a reasonable amount of time. (3-18-99)

557. Personal Care Services (PCS). Services to eligible Medicaid recipients that involve personal and medically oriented tasks dealing with the physical or functional impairments of the individual. (3-18-99)

568. P.L. 96-272. Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980". (3-30-01)

579. P.L. 105-89. Public Law 105-89, the federal "Adoptions and Safe Families Act of 1997," amends P.L. 96-272 and prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family. (3-30-01)

586. Planning. An orderly rational process which results in identification of goals and formulation of timely strategies to fulfill such goals, within resource constraints. (3-30-01)

596. Prevention. Programs, services and activities aimed at preventing child abuse and neglect and severe emotional disturbance. (3-30-01)

602. Protective Services. To provide assistance in response to potential, actual or alleged neglect, abuse or exploitation of children. (3-18-99)

613. Purchase Of Services. Provision of services to children and families by local agencies or individuals who contract with DHW. (3-30-01)

624. Qualified Expert Witness--ICWA. A person who is most likely to be a qualified expert witness in the placement of an Indian child is: (3-18-99)

a. A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs pertaining to family organization and child rearing practices; (3-18-99)

b. An individual who is not a tribal member who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; (3-18-99)

c. A professional person who has substantial education and experience in a pertinent specialty area and substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian community; or (3-18-99)

d. An individual regarded as being a qualified expert who is referred by the Indian child's tribe, the Department's ICWA Specialist, or the Bureau of Indian Affairs. (3-18-99)

635. Relative. Person related to a child by blood, marriage, or adoption. (3-30-01)

646. Reservation. Indian country as defined in 18 U.S.C. Section 1151, and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation.

Such term includes but is not limited to the Kootenai Reservation, the Coeur d'Alene Reservation, the Nez Perce Reservation, the Duck Valley Reservation, and the Shoshone-Bannock Reservation. (3-18-99)

657. Respite Care. Time limited care provided to children. Respite care is utilized in circumstances which require short term, temporary placement of a child from the home of their usual care giver to that of another licensed or agency approved family. In general, the duration of a respite placement is from one (1) to fourteen (14) days. (3-30-01)

668. Risk Assessment. Standardized protocol for contact between a family services worker and a family to objectively determine if safety issues, risk issues or immediate service needs exist, which require further Family and Children's Services response. (3-30-01)

679. SSI (Supplemental Security Income). Income maintenance grants for eligible persons who are aged, blind or disabled. These grants are provided under Title VI of the Social Security Act and are administered by the Social Security Administration and local Social Security Offices. (3-18-99)

6870. Safety Plan. Plan developed by the Department and a family which assures the immediate safety of a child who has been determined to be conditionally safe or unsafe. (3-30-01)

6971. Self-Reliance Services. Supportive social services provided to individuals and their families to increase their ability to obtain and retain employment. (3-18-99)

702. Serious Emotional Disturbance (SED). An emotional or behavioral disorder or a neuropsychiatric condition which results in a serious disability, which requires sustained treatment interventions and causes the child's functioning to be impaired in at least one (1) of the following areas: thought, perception, affect and/or behavior. A disorder shall be considered to be a serious disability if it causes substantial impairment in functioning. Functional impairment shall be assessed using the Child and Adolescent Functional Assessment Scale (CAFAS). Substantial impairment shall require a full eight (8) scale score of eighty (80) or higher with "moderate" impairment in at least one (1) of the following three (3) scales: Self-harmful behavior; Moods/emotions; or thinking. A substance abuse disorder or conduct disorder, and/or developmental disorder, alone does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance. (7-1-01)(7-1-02)T

713. Social Service Block Grant. The social service block grant funds are federal funds provided to states to assist in the development of comprehensive social service programs to help those with special needs to achieve and maintain a greater degree of economic self support and self reliance, to prevent neglect, abuse, or exploitation of children and adults who are unable to protect their own interests, to prevent or reduce inappropriate institutional care, and to secure referral or admission for institutional care when other forms of care are not appropriate. (3-18-99)

724. TAFI. Temporary Assistance to Families in Idaho. (3-18-99)

735. Target Population. Group of persons, residing within a defined geographical area, who are identified as being at risk for an adverse social or health condition or combination of conditions and whom the program is designed to serve. (3-18-99)

746. Title IV-A. Title under the Social Security Act which provides public assistance to families with dependent children and is commonly identified as Aid to Families with Dependent Children (AFDC), repealed in 1997 except for eligibility requirements for Title IV-E. (3-18-99)

757. Title IV-B. Title under the Social Security Act which provides Child Welfare Services. This categorical service program is aimed at improving the general welfare of children regardless of income. (3-18-99)

768. Title IV-E. Title under the Social Security Act which provides funding for foster care maintenance (formerly provided for under Title IV-A of the Social Security Act) and adoption assistance payments for certain eligible children. (3-18-99)

779. Title XIX (Medicaid). Title under the Social Security Act which provides "Grants to States for Medical Assistance Programs". (3-18-99)

780. Title XXI. (Children's Health Insurance Program). Title under the Social Security Act which provides access to health care for uninsured children under the age of nineteen (19). (3-18-99)

7981. Tribal Court. A court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings. (3-18-99)

802. Unmarried Parents' Services. Unmarried parent(s) services are aimed at achieving or maintaining self-reliance or self-support for unmarried parent(s). These services include counseling for all unmarried parent(s) who need such service in relation to their plans for their children and arranging for and/or paying for prenatal and confinement care for the well-being of the parent and infant. (7-1-01)T

843. Voluntary Services Agreement. A written and executed agreement between the Department and parent(s) or legal guardian(s) regarding the goal, issues, objectives and task responsibility including payment. A children's mental health family services plan is the Voluntary Service Agreement. (7-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

420. OTHER SOURCES OF ALTERNATE CARE - CASEY FAMILY PROGRAM, BOISE DIVISION. Children may be referred to the Casey Family Program, Boise Division for placement when it is determined that reunification of the ~~birth~~ family is not anticipated to be possible. Once the child has been accepted into the Casey Family Program, Boise Division, the Program will provide direct case management services pursuant to a contract with the Division of Family and Community Services with final responsibility for decision-making continuing to rest with the Department. Children placed with the Casey Family Program shall continue to be eligible for all Department programs, and regional and Casey Family staff shall combine resources to the extent possible to serve these children in the most effective manner. (~~3-30-01~~)(7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

554. RESPONSE PRIORITIES. The Department shall use the following statewide standards for responding to allegations of abuse, neglect or abandonment, using the determination of risk to the child as the primary criterion. Any variance from these response standards shall be documented in the family's case file with a description of action taken, which shall be reviewed and signed by the Child Protective Supervisor. (3-18-99)

01. Priority I. The Department shall respond immediately if a child is in immediate danger involving a life-threatening or emergency situation. Emergency situations include sexual abuse when a child may have contact with the alleged perpetrator and circumstances indicate a need for immediate response. Law enforcement shall be notified and requested to respond or to accompany a family services worker. Every attempt should be made to coordinate the Department's assessment with law enforcement's investigation. The child shall be seen by a Department family services worker, law enforcement, and medical personnel if applicable, immediately unless written regional protocol agreements direct otherwise. All allegations of physical abuse of a child through the age of six (6) or with profound developmental disabilities should be considered under Priority I unless there is reason to believe that the child is not in immediate danger. (3-30-01)

02. Priority II. A child is not in immediate danger but allegations of abuse, including physical or sexual abuse, or serious physical or medical neglect are clearly defined in the referral. Law enforcement shall be notified within twenty-four (24) hours. The child shall be seen by the family services worker within forty-eight hours (48) of the Department's receipt of the referral. Law enforcement must be notified within twenty-four (24) hours of

receipt of all Priority II referrals which involve issues of abuse or neglect. (3-18-99)

03. Priority III. A child may be in a vulnerable situation because of services needs which, if left unmet, may result in harm, or a child is without parental care for safety, health and well being. The child and parent(s) or legal guardian(s) will be interviewed for substantiation of the facts, and to assure that there is no ~~parental~~ abuse or neglect by parent(s) or legal guardian(s). A family services worker shall respond within three (3) calendar days and the child must be seen by the worker within five (5) calendar days of the Department's receipt of the referral.

~~(7-1-02)T~~(7-1-02)T

04. Notification To Referent. The Department of Health and Welfare, Family and Children's Services, shall notify the reporting individual of the receipt of the referral within five (5) days. (3-18-99)

(BREAK IN CONTINUITY OF SECTIONS)

642. ACCESS TO SERVICES.

The Department will prioritize services to seriously emotionally disturbed children and their families. Services may be accessed through a voluntary application for services or through involuntary legal proceedings. When regional service capacity is reached, every reasonable effort will be made to obtain alternative services for the child and family. Their names will also be placed on a waiting list for Department services. (3-30-01)

01. Local Resources And Plan Development. Children with serious emotional disturbances and their families may have access to local resources and services which do not require placement outside their home into alternate care. A plan will be developed between the Department, the parent(s) or legal guardian(s), the child, if appropriate, and the service provider. This plan will be specific, measurable and objective in the identification of the goal(s), relevant issues, objectives and outcomes. (7-1-02)T

02. Payment For Treatment. When parent(s) or legal guardian(s) request Department payment for a child's treatment, a service agreement must be negotiated and signed by the parent(s) or legal guardian(s) and the Department. A referral will be made to Child Support Services to collect payment for the cost of out-of-home care. (7-1-02)T

03. Involuntary Placement Under The Children's Mental Health Services Act. When a seriously emotionally disturbed child presents a significant danger to himself or herself and/or to others and the child's parent(s) or legal guardian(s) will not consent to a voluntary placement of the child, the child can be placed involuntarily through a court order. Involuntary Treatment Orders are limited to one hundred twenty (120) days and can be changed to a voluntary placement upon the request of the consenting parent(s) or legal guardian(s). At the end of one hundred twenty (120) days, a judicial redetermination is required to extend the involuntary treatment order for an additional set period of time. (7-1-02)T

04. Use Of Public Funds And Benefits. Public funds and benefits will be used to provide services for children with serious emotional disturbances, including all Jeff D. class members and their families. Services should be planned and implemented to maximize the support of the family's ability to provide adequate safety and well-being for the child at home. If the child cannot receive adequate services within the family home, community resources shall be provided to minimize the need for institutional or other residential placement. Services shall be individually planned with the family to meet the unique needs of each child and family. Services shall be provided without requiring that parent(s) or legal guardian(s) relinquish custody of their child. ~~(7-1-02)T~~(7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

714. VOLUNTARY TERMINATION.

The Department becomes involved in voluntary terminations when a ~~parent or~~ parent(s) requests the Department to place their special needs child or children for adoption and when voluntary termination is a goal in the family case

plan. Parent(s) requesting placement of a potentially healthy unborn or healthy newborn child should be referred to the licensed private adoption agencies in Idaho. ~~(7-1-02)F~~(7-1-02)T

715. VOLUNTARY CONSENT.

In obtaining a parent's consent to terminate their parental rights through the Department, a Consent to Terminate Parental Rights and Waiver of Rights to Hearing shall be signed before the Magistrate Judge. Once ~~the~~ a parent's consent has been given before the court, a corresponding petition under the Termination of Parent and Child Relationship Act shall be filed by legal counsel representing the Department. ~~(3-30-01)F~~(7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

719. INVESTIGATION.

An investigation of the allegations in the petition and a report recommending disposition of the petition under the Termination of Parent and Child Relationship Act shall be completed and submitted to the court within thirty (30) days, unless an extension of time is granted by the court. The purpose of this investigation is to verify the allegations through all available sources, including the petitioner, ~~birth~~ parent(s) and possibly the extended ~~birth~~ family of the child. The Report to the Court under the Termination of Parent and Child Relationship Act, is to serve as an aid to the court in determining a disposition that complies with the Indian Child Welfare Act where applicable, or that will be in the best interest of the child. If a petition is filed by a party other than the Department, the court may order such an investigation by the Department. The law also allows completion of an investigation by an authorized agency or a ~~qualified individual~~ certified adoption professional, prior to adjudication and disposition. If the Department is the petitioner, the report shall accompany the petition. Reports submitted under the Termination of Parent and Child Relationship Act based on ~~the birth~~ a parent's voluntary consent shall include: ~~(7-1-02)F~~(7-1-02)T

- 01. Description Of Investigation.** The circumstances of the petition and the facts determined from the investigation; and (3-18-99)
- 02. Child-Related Factors.** Child related factors, including: (3-18-99)
 - a.** Child's current functioning and behaviors; (3-18-99)
 - b.** Medical, educational and developmental needs of the child; (3-18-99)
 - c.** Child's history and past experiences; (3-18-99)
 - d.** Child's identity needs; (3-18-99)
 - e.** Child's interests and talents; (3-18-99)
 - f.** Child's attachments to current caretakers and any absent parent; (3-18-99)
 - g.** Child's current living situation; (3-18-99)
 - h.** Indian child's membership or eligibility for membership in tribe(s); (3-18-99)
 - i.** Indian child's contacts with tribe(s); (3-18-99)
 - j.** The present circumstances, history, condition and desire of the parent whose rights are being terminated regarding plans for the child; (3-18-99)
 - k.** Such other facts as may be pertinent to the parent and child relationship and this particular case; i.e., compliance with Interstate Compact Placement on Children; and (3-18-99)
 - l.** A recommendation and reasons as to whether or not the termination of the parent and child

relationship should be granted.

(3-18-99)

(BREAK IN CONTINUITY OF SECTIONS)

721. REPORT TO THE COURT - INVOLUNTARY TERMINATION.

If a petition for an involuntary termination of parental rights has been brought before the Magistrate Court, an investigation or report to the court under the Termination Act is required. If the petition has been filed by the Department a report is required pursuant to Section 16-2008(b), Idaho Code. Reports submitted under the Termination Act based on an involuntary termination of parental rights shall include: (3-30-01)

- 01. Allegations.** The allegations contained in the petition. (3-30-01)
- 02. Investigation.** The process of the assessment and investigation. (3-30-01)
- 03. Family Circumstances.** The present condition of the child and parent(s), especially the circumstances of the parent(s) whose rights are being terminated and contact with the parent(s) of a minor parent, unless lack of contact is explained. (7-1-02)T
- 04. Medical Information.** The information forms regarding the child, birth mother, and birth father shall be submitted with the Report to the Court. Reasonably known or available medical and genetic information regarding both birth parents and source of such information, as well as reasonably known or available providers of medical care and services to the birth parents. (3-30-01)
- 05. Efforts To Maintain Family.** Other facts that pertain to the parent and child relationship including what reasonable efforts have been made to keep the child with the family. (3-30-01)
- 06. Absent Parent.** Reasonable efforts made by the petitioner to locate ~~the~~ an absent parent(s) and provision of notification to an unmarried father of the paternity registry requirement pursuant to Section 16-1513, Idaho Code. (~~7-1-02~~)T(7-1-02)T
- 07. Planning.** Proposed plans for the child consistent with: (3-30-01)
 - a.** The Indian Child Welfare Act, including potential for placement with the Indian child's extended family, other members of the Indian child's tribe, or other Indian families; and (3-30-01)
 - b.** The Multi-Ethnic Placement Act and Interethnic Placement Act and regulations prohibiting states from delaying or denying cross-jurisdictional adoptive placements with an approved family which shall include individualized documentation regarding this child's needs in permanent placement. (3-30-01)
- 08. Compliance With The Indian Child Welfare Act.** Documentation of compliance with the Indian Child Welfare Act, including identification of whether the child is Indian and if so: (3-30-01)
 - a.** Notification of the pending proceedings by registered mail with return receipt requested, to the parent(s) or Indian custodian(s) and the Indian child's tribe, or to the Secretary of the Interior if their identity or location cannot be determined; (7-1-02)T
 - b.** Notification of the right of the parent(s) or Indian custodian(s), and the Indian child's tribe, to intervene in the proceeding and their right to be granted up to twenty (20) additional days to prepare for the proceeding; (7-1-02)T
 - c.** Notification that if the court determines indigency, the parent(s) or Indian custodian(s) shall have the right to court-appointed counsel; (7-1-02)T
 - d.** Evidence, including identity and qualifications of expert witnesses, that continued custody of the

child by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child;
(7-1-02)T

e. A recommendation and the reasons therefor as to whether or not termination of the parent and child relationship is in the best interest of the child; and (3-30-01)

f. Upon the court's written decision to terminate parental rights, two certified copies of the "Findings of Fact, Conclusions of Law and Decree" are to be placed in the child's permanent record. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

760. PSYCHOLOGICAL EVALUATION.

An evaluation by a psychologist or a psychiatrist can be required by the family services worker when ~~either~~ an applicant has received or is currently receiving treatment for psychological problems or mental illness or when the family services worker, in consultation with his supervisor, determines that there appear to be emotional problems in the family that merit further evaluation. (~~3-30-01~~)(7-1-02)T

761. DENIAL OF APPLICATION.

Following an initial interview, an applicant~~s~~ who does not appear to meet the Department's requirements at the time of initial application may be denied a full home study. The family shall be advised why they were ineligible for a full home study and provide notice to the applicant of their right to appeal this decision. Upon resolution of the factors leading to the denial, the applicant may again file an application and receive a home study. (~~3-30-01~~)(7-1-02)T

762. APPLICATION AND DATA COLLECTION.

Following the initial interview, the application, medical forms, list of items to be verified and other pertinent information needed to complete the adoptive home study shall be given to the ~~potential~~ prospective adoptive parent(s). (~~7-1-02~~)(7-1-02)T

01. Interviews. Family assessment interviews as well as individual interviews must be held with the ~~potential~~ prospective adoptive parent(s). (~~7-1-02~~)(7-1-02)T

02. Home Study Of Applicant. A full home study must then be made to determine the ability of the applicant~~s~~ to meet the needs of children available for adoption, and ~~to determine~~ the kind specific characteristics of children ~~for whom they~~ the applicant indicates would be most suitably placed in the home. For an Indian child, the study shall also determine the prevailing social and cultural standards of the Indian community in which the parent(s) or extended family resides or maintains social and cultural ties. (~~7-1-02~~)(7-1-02)T

03. Submission Of Completed Home Study. Once the adoptive home study has been initiated, the completion of the home study shall occur within three (3) months. The original and one (1) copy of the completed home study and all supporting documentation must be submitted to the State Adoption Program Specialist immediately upon approval of the supervisor. (3-18-99)

763. APPLICANT RESPONSIBILITIES.

It shall be the responsibility of the adoptive applicant~~s~~ to keep the field office informed of any changes of circumstances, or of any subsequent decision against adoption. An applicant~~s~~ ~~are~~ is to maintain contact with the Department on an annual basis. In the absence of contact from the adoptive applicant~~s~~, the Department shall initiate contact on an annual basis to confirm the accuracy of information in the files and the status of the application. The contact shall be verified by a written annual update to the adoption home study. (~~3-30-01~~)(7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

770. ADOPTIVE HOME STUDIES.

Pre-placement home studies for Department adoptions, ~~and for~~ independent, relative and step-parent adoptions shall document the following: ~~(3-18-99)~~(7-1-02)T

01. Residence. References who can verify that the family has resided and maintained a dwelling within the State of Idaho for at least six (6) consecutive months prior to the filing of the petition. (3-18-99)

02. Verification Of Ages Of Adopting Parent(s). Legal verification that the person(s) adopting is at least fifteen (15) years older than the child or twenty-five (25) years of age or older, except in cases where the adopting person is a spouse of ~~a birth~~ the child's parent, shall be accomplished by: ~~(3-18-99)~~(7-1-02)T

a. Viewing a certified copy of the birth certificate filed with the Bureau of Vital Statistics; or (3-18-99)

b. Viewing one (1) of the following documents for which a birth certificate was presumably required prior to its issuance, such as armed services or other governmental identification, including a valid Idaho driver's license, passport, visa, alien identification cards or naturalization papers. (3-30-01)

c. If verifying documentation is not available, the report shall indicate the date and place of birth and reason for lack of verification. (3-18-99)

03. Medical Examination. A medical examination, with the medical report form signed and dated by the examining physician. (3-18-99)

04. Photograph. A photograph of the adopting family. (3-18-99)

771. -- 779. (RESERVED).

780. FACTORS TO BE CONSIDERED IN DETERMINING SUITABILITY OF ADOPTIVE PARENTS.

01. Indian Child. For an Indian child, absent good cause to the contrary, the following preferences for placement under the Indian Child Welfare Act shall be followed: (3-18-99)

a. Extended family; (3-18-99)

b. Other members of the child's tribe; or (3-18-99)

c. Other Indian families. (3-18-99)

02. Needs Of Adoptive Child. The primary ~~eligibility~~ factor in the review of a prospective adoptive ~~parent(s)' family's~~ eligibility is the ~~applicant(s)'~~ ability to protect and promote the best interests of a child to be placed in their home. ~~(7-1-02)~~(7-1-02)T

03. Availability Of ~~Potential~~ Prospective Adoptive Families. The Department will not delay or deny the placement of a child with an approved family that is located outside of the jurisdiction responsible for the care and planning for the child. ~~(3-18-99)~~(7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

800. PLACEMENT OF THE CHILD.

The field office shall provide full confidential background information and discuss the child's history fully with the ~~adopting~~ prospective adoptive parent(s) prior to the placement. The disclosure of background information shall be confirmed at the time of placement by a written statement from the family services worker to the prospective adoptive family which they will be asked to acknowledge and sign. A copy of this statement shall be provided to the adoptive family and one (1) copy will be kept in the child's permanent record. The child's record shall be reviewed by the

placing region's Program Manager or designee prior to being forwarded to the supervising family services worker. The child's case record must be complete and transferred to the supervising family services worker at the time of placement. ~~(7-1-02)F~~(7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

830. FEES FOR ADOPTIONS THROUGH THE DEPARTMENT.

The application fee covers the costs of processing the ~~adoptive~~ adoption application and does not guarantee that the family will receive a child for adoption. The application fee is non-refundable. Money collected through the Department's adoption program may be utilized to pay state adoption assistance payments for children with special needs ~~children~~, purchase of service fees, recruitment costs and placement fees for private agencies serving children who have special needs. Families who are not able to pay the costs associated with the ~~P~~pre-placement ~~H~~home ~~S~~study, ~~S~~supervisory reports, or the ~~R~~report to the ~~C~~court, may apply to the Regional Family and Children's Services Program Manager for waiver of the fees. ~~(3-18-99)~~(7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

832. PLACEMENT SUPERVISION - TRANSFER FROM OTHER PUBLIC AGENCY.

~~If~~ When a ~~couple~~ prospective adoptive parent(s) moves to Idaho ~~after~~ with a child who has been placed with them by the public agency in their former state of residence, the Interstate Compact on the Placement of Children (ICPC) coordinator of the former state of residency may request ~~shall~~ courtesy supervision ~~to~~ be provided at no charge to the family. ~~(3-30-01)~~(7-1-02)T

833. PLACEMENT SUPERVISION - TRANSFER FROM OUT OF STATE PRIVATE AGENCY.

~~If~~ When a ~~couple~~ prospective adoptive parent(s) moves to Idaho, ~~after~~ with a child who has been placed with them by a private agency in their former state of residence, the sending state agency shall arrange through the Interstate Compact ~~for on~~ the Placement of Children, services through one ~~(1)~~ of Idaho's private, licensed adoption agencies, or a qualified individual approved for termination and adoption services ~~certified adoption professional~~. ~~(3-18-99)~~(7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

850. INDEPENDENT, RELATIVE AND STEPPARENT ADOPTIONS.

Independent adoptive placements shall be handled in accordance with Section 16-1506, Idaho Code. Person(s) petitioning to adopt a child should have initially completed a pre-placement home study that includes a positive recommendation for adoption. Proceedings to adopt a child shall be commenced by the filing of a petition by the ~~person or~~ person(s) proposing to adopt the child. Within five (5) days of receiving a petition to adopt a minor child by a person(s) unrelated to the child or not married to a ~~birth~~ parent of the child, the court shall serve a copy of the petition on the Director. The court may also request the Department to conduct an investigation in the case of a relative or step parent adoption. The pre-placement investigation home study and the adoption investigation report to the court shall be completed by licensed qualified staff of the Department, licensed staff of a qualified child-placing children's adoption agency, or a qualified individual ~~certified adoption professional~~. ~~(3-18-99)~~(7-1-02)T

01. Prospective Adoptive Parent Is The Spouse Of Birth A Child's Parent. ~~Where~~ When ~~the~~ a prospective adoptive parent is married to the ~~birth~~ parent of the adoptive child being adopted, the ~~R~~report to the ~~C~~court under the Adoption of Children Act shall be completed for the prospective adoptive parent only upon order of the court. ~~(3-18-99)~~(7-1-02)T

02. Exigent Circumstances. In exigent circumstances where the prospective adoptive parent(s) are

determined by the court to have been unable to complete the pre-placement study with a positive recommendation prior to the time the child is placed in the home, the child shall remain in the home unless the court determines that another placement is appropriate. When exigent circumstances exist, the pre-placement home study, combined with the adoption report under the Adoption of Children Act, shall be initiated within five (5) days of placement, and shall be completed within sixty (60) days. (3-30-01)

851. -- 859. (RESERVED).

860. PROCEDURES FOLLOWING THE ADOPTIVE PLACEMENT.

Following the placement there shall be a supervisory period of at least six (6) months before the initiation of legal adoption proceedings. In situations where a foster family has a significant relationship with a child and the child has been placed in their home for at least the last twelve (12) months, the supervisory period may be reduced to a minimum of three (3) months. The family services worker shall make scheduled visits to the home at least monthly during this period to assist the child and the family in their adjustment to each other and will update the child's permanent record by means of monthly progress reports. When completion of the adoption is recommended by the field office and approved by the State Adoption Program Specialist, the Department shall request the prospective adoptive parent(s) to contact their attorney. The regional family services worker shall provide the attorney with the necessary documentation to file the petition for adoption. (~~7-1-02~~)(7-1-02)T

861. PROGRESS REPORTS.

Progress reports shall be prepared regularly and shall be based on the family services worker's findings. (3-18-99)

01. Initial And Subsequent Reports. The first progress report must be made within two (2) weeks after placement, and subsequent progress reports must be made at intervals not to exceed thirty (30) days. These reports shall include: (7-1-02)T

- a.** The family services worker's observation of the child and the prospective adopting parent(s), with emphasis on: (3-18-99)
 - b.** Special needs/circumstances of child(ren) at time of placement; (3-18-99)
 - c.** Services provided to child(ren) and family during report period; (3-18-99)
 - d.** Services to be provided to child(ren) and family; (3-18-99)
 - e.** General appearance and adjustment of child(ren) during report period (may include eating, sleep patterns, responsiveness, bonding); (3-18-99)
 - f.** School/day care/day treatment program adjustment; (3-18-99)
 - g.** Health/developmental progress, medical practitioner information; (3-18-99)
 - h.** Whether the child(ren) have been accepted for coverage on family's medical insurance, when coverage begins, and whether there will be any limitations/exclusions; (3-30-01)
 - i.** Family's adjustment to adoptive placement; (3-18-99)
 - j.** Whether respite care is a need for the family; (3-18-99)
 - k.** Changes in family situation or circumstances; (3-18-99)
 - l.** Areas of concern during report period as addressed by both child(ren) and adoptive parent(s); and (3-18-99)
 - m.** Date of next required six (6) month review or twelve (12) month permanency hearing; (3-18-99)
- 02. Monthly Foster Care Payments - Pre-Adoptive Placement.** To receive Title IV-E monthly foster

~~care payments~~ During the period pending completion of adoption, the prospective adoptive parent(s) must have a foster care license is required for all prospective adoptive parents. (3-30-01)(7-1-02)T

03. Adoptive And Foster Home Studies. A foster home evaluation completed by the Department of Health and Welfare or a licensed children's adoption agency forms the foundation of the pre-placement adoptive homestudy. (3-30-01)

04. Final Progress Report. The final report shall include pertinent information about the readiness of the child and the family for completion of the adoption. The family's decision to apply for adoption assistance benefits for the child should be documented. The family's attorney who will be handling the finalization of the adoption should be identified. The family's health insurance carrier should be identified, along with the date the child's medical coverage will begin. An up-to-date medical report on the child must be obtained from the child's physician, so that the Department will have current information about the health of the child. Any problem in placement shall be brought to the attention of the Department. (3-30-01)

862. PETITION TO ADOPT UNDER THE ADOPTION OF CHILDREN ACT.

01. Filing A Petition. When the family and the child who was placed for adoption in that home are ready to finalize the adoption, the family's attorney shall file a petition to adopt with the court. A copy of that petition shall be served upon the director of the Department. Upon receipt of a copy of the petition to adopt, the family services worker, licensed children's adoption agency worker or qualified individual certified adoption professional shall verify the allegations set forth in the petition and make a thorough investigation of the matter and report the findings in writing to the court within thirty (30) days. (3-30-01)(7-1-02)T

02. Registration And Acknowledgment. Upon receipt of the petition to adopt, the field office shall register ~~# the petition~~ and acknowledge receipt to the court and to the petitioner(s) or private adoption agency. If the licensed adoption agency or qualified individual certified adoption professional ~~which who~~ completed the pre-placement home study is not identified, ~~that~~ the information should be obtained from the petitioner~~'s~~(s)' attorney. The register shall indicate the date the petition was received, the date the study is due in court, the date the completed study was sent to the court, whether an Indian child is involved, and other pertinent data. (3-18-99)(7-1-02)T

863. INVESTIGATION OF PETITION TO ADOPT AND REPORT TO THE COURT.

According to Section 16-1506, Idaho Code, an investigation ~~of~~ regarding the allegations stated in the petition and subsequent written report to the court on the investigation is required to of findings must be filed with the court unless the investigation is waived by order of the court. The ~~completed report to the court shall be filed with the~~ prospective adoptive family's pre-placement home study will be filed at the same time as the written report of investigation. If the family services worker, licensed child placing agency staff, or certified adoption professional is unable to complete the study within thirty (30) days, an extension of time shall be requested in writing of the court, stating the reasons for the request. If the worker suspects that the child is of Indian heritage and the child's tribe or the Secretary of the Interior has not been notified, the worker shall inform the court and the petitioner's attorney and the independent agency of the need to comply with the Indian Child Welfare Act. The This adoption report to the court shall ~~contain~~ address the following: (3-30-01)(7-1-02)T

~~01- Initial Interview. Upon receipt of the petition, the family services worker or qualified individual shall arrange an initial interview with the adopting family.~~ (3-30-01)

~~02- Time Frame For Investigation. If the family services worker or qualified individual is unable to complete the study within thirty (30) days, an extension of time shall be requested in writing of the court, stating the reasons for the request. If the family services worker suspects that the child is of Indian heritage and the child's tribe or the Secretary has not been notified, the family services worker shall inform the court and the petitioner's attorney and the independent agency of the need to comply with the Indian Child Welfare Act.~~ (3-30-01)

~~031. Legal Availability Of The Child. It is the responsibility of the petitioners, through their attorney, to present documentary evidence to the court so the judge can examine it and be satisfied that the identity, birthdate, and parentage of the child are as represented in the petition. The family services worker shall review the documentary evidence presented by the petitioners to verify the allegations contained in the petition.~~ The family services worker shall interview the family and any other person(s) having knowledge in the matter, review all documentary evidence

presented by the petitioner(s), record the information and source ~~in the report to the court~~ of the information, noting any discrepancies ~~found~~. Such documentary evidence shall include but is not limited to the following:

~~(3-30-01)~~(7-1-02)T

a. The birth certificate of the child ~~and the birth or death certificates of the birth parent(s) from the Bureau of Vital Statistics;~~

~~(7-1-02)~~(7-1-02)T

b. The consent(s) of ~~both birth~~ the child's parent(s) to terminate their parental rights, termination decrees for any parent(s) whose parental rights have been terminated involuntarily by the court, and documentation of marriage and divorce ~~decrees;~~

~~(3-30-01)~~(7-1-02)T

c. Indian child's parent(s) or Indian custodian(s), and tribe have received notice of their right to intervene; and

(7-1-02)T

d. Consent to adoption has been secured for all persons from whom it is required, including a legal guardian(s), to make the child legally available for adoption.

~~(7-1-02)~~(7-1-02)T

e. The death certificate of a deceased parent;

(7-1-02)T

f. Verification from the Bureau of Vital Statistics of the registry of any putative father; and

(7-1-02)T

g. The Interstate Compact on the Placement of Children Form 100-A, for a child born outside of the state of Idaho, to determine if required state authorizations have been given, or if the Compact does not apply.

(7-1-02)T

042. Needs Of The Child. The ~~study~~ report to the court shall address the needs of the child ~~in regards to the proposed adoption~~, including but not limited to:

~~(3-18-99)~~(7-1-02)T

a. The history of the child and the child's birth family;

(3-18-99)

b. The family history for a child who has been previously adopted, should include information about the child's previous adoptive family and the circumstances of the disruption;

(7-1-02)T

~~bc.~~ A detailed description of ~~the~~ the circumstances ~~of that brought about~~ the placement with the prospective adoptive family;

~~(3-30-01)~~(7-1-02)T

~~ed.~~ The state of Idaho Social, Medical and Genetic History forms shall be completed and submitted to the court, showing reasonably known or available medical and genetic information regarding both birth parents and the child, as well as reasonably known or available providers of medical care and services to birth parents and child; and

(3-30-01)

~~de.~~ The appropriateness of the prospective adoptive family for the particular child or children who are the subject of the petition.

~~(3-30-01)~~(7-1-02)T

~~e.~~ A financial accounting, approved by the court, of any financial assistance given to the birth parent(s) which exceeds five hundred dollars (\$500), pursuant to Section 18-1511, Idaho Code.

~~(3-30-01)~~

053. Degree Of Relationship Of The Child To Petitioners. In those cases where the court has ordered an investigation of petitions to adopt by relatives or step parents, the study shall record such alleged relationship and specify the documentary evidence the petitioners have of that relationship.

(3-30-01)

064. Evaluation And Recommendation. The family services worker shall provide a brief summary of data presented in prior sections and ~~for~~ the pre-placement home study, supporting the recommendation regarding the adoption.

~~(3-18-99)~~(7-1-02)T

075. Medical Information. A copy of medical and genetic information compiled in the investigation

shall be made available to the ~~adopting~~ prospective adoptive family by the family services worker or ~~qualified individual~~ certified adoption professional prior to the final order of adoption. (3-30-01)(7-1-02)T

086. Confidentiality Of Information. The family services worker shall exercise caution in discussing identifying information and avoid revealing that information in the petition while attempting to secure the necessary facts for the study. (3-30-01)

07. Financial Accounting. A financial accounting must be approved by the court, of any financial assistance given to the birth parent(s) which exceeds five hundred dollars (\$500), in accordance to Section 18-1511, Idaho Code. (7-1-02)T

864. -- 869. (RESERVED).

870. REMOVAL OF A CHILD FROM A ~~AN~~ PROSPECTIVE ADOPTIVE HOME.

Despite careful assessment of the child and the family prior to placement, circumstances may arise which make it necessary to remove the child from the prospective adoptive home prior to adoption. The child may manifest problems ~~that~~ the family is unable to accept or to handle constructively; or changed circumstances may develop ~~that~~ which make it inadvisable for the placement to continue. The final decision to remove a child from ~~an~~ prospective adoptive home ~~may result due to the request of the adoptive parent(s), or upon the decision of~~ will be made by the Department as the legal guardian of the child and reported to the State Adoption Program Specialist. (7-1-02)F(7-1-02)T

~~01. Prior Approval On Decision For Removal. The decision for removal may be made by the Department, the family or, in some cases, jointly. The removal must be prior authorized by the Department and reported to the State Adoption Program Specialist. (3-30-01)~~

02871. TEMPORARY REPLACEMENT AFTER DISRUPTION.

When a disruption occurs and it becomes necessary to remove a child from ~~an~~ prospective adoptive home, the field office where the child has been placed shall be responsible for finding a temporary arrangement for the child until another permanent placement can be arranged. In the case of the adoption of an Indian child, the consent of the parent(s) may be withdrawn for any reason at any time prior to the entry of a final decree of adoption, and the child returned to the parent(s). (7-1-02)F(7-1-02)T

8742. PREFERENCES FOR TEMPORARY PLACEMENT - INDIAN CHILD.

Preferences for placement of an Indian child shall be observed in the temporary and permanent placement unless the child is being returned to the parent(s) or Indian custodian(s) from whose custody the child was originally removed. (3-18-99)

8723. -- 879. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

884. OPENING SEALED RECORDS OF ADOPTIONS.

~~Pursuant to~~ In addition to the exceptions noted in Section 16-1511, Idaho Code, ~~upon the motion of petitioners, or upon its own motion the probate court will order that the record of its proceedings in any adoption proceeding must be sealed. When such order has been made and entered, the court must seal such record and thereafter the seal will not be broken except~~ a sealed adoption proceedings may be opened in the following circumstances according to the Indian Child Welfare Act: (3-18-99)(7-1-02)T

01. Motion Of Petitioners. Upon the motion of petitioners or the person adopted; (3-30-01)

021. Individual's Motion Of An Indian Individual. Upon motion of an Indian individual who has reached the age of eighteen (18) and was the subject of an adoption, the court shall provide tribal affiliation, if any, of the individual's biological parent(s) and other information necessary to protect any rights flowing from the

individual's tribal relationship;

~~(7-1-02)~~(7-1-02)T

~~032.~~ **Other Request From The Secretary Of The Interior Or The Indian Child's Tribe.** Upon request of the Secretary of the Interior or the Indian child's tribe, evidence of efforts to comply with the Indian Child Welfare Act shall be made available; ~~and~~ to the parties requesting such information. ~~(3-30-01)~~(7-1-02)T

~~04.~~ **Resealing Records.** ~~Such record can be resealed.~~ (3-30-01)

885. -- 889. (RESERVED).

889. CERTIFIED ADOPTION PROFESSIONAL REQUIREMENTS.

An applicant requesting to become a Certified Adoption Professional must meet the following criteria: (7-1-02)T

01. College Degree. A minimum of a bachelor's degree in a field deemed related to adoptions by the Department's Family and Children's Services Program, such as social work, psychology, family counseling ~~other or related behavioral science~~; and (7-1-02)T

02. Adoption Training. Must have completed a minimum of twenty (20) hours of training in adoption services within the last four (4) years. (7-1-02)T

03. Designee Of A Tribe. Individuals designated by the Indian child's tribe to perform these duties are not subject to the provisions in Subsections 889.01 and 889.02 of this rule. (7-1-02)T

890. QUALIFIED INDIVIDUAL REQUIREMENTS TERMS OF CERTIFICATION FOR ADOPTION PROFESSIONALS.

~~Qualified individuals are family services workers as defined in these rules or others with related college degrees and professional experience, deemed related to the field of adoptions by the Family and Children's Services program manager, who have completed a minimum of twenty (20) hours of training in adoption services within the last four (4) years and who are certified by the Department. Certification will be for a period of four (4) years. Individuals designated by the Indian child's tribe to perform these duties are not subject to these provisions.~~ (3-18-99)

01. Certification. Certification for adoption professionals will be completed through the regional Family and Children's office and will be effective for a period of four (4) years. (7-1-02)T

~~02.~~ **Recertification.** ~~Qualified Individuals~~ Certified adoption professionals must apply for renewal of their certificate every four (4) years and provide documentation of twenty (20) hours of current adoption training during that period. ~~(3-18-99)~~(7-1-02)T

03. Denial Of Recertification. The Department may choose not to recertify a ~~qualified individual for one (1) or more of the following reasons~~ certified adoption professional. Notification of denial will be made by the Department by certified mail. The notice shall state the specific grounds for denial of recertification. This decision may be appealed within ~~thirty-five~~ twenty-eight (3528) days of receipt of notification under the provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". Grounds for denial of recertification are one (1) or more of the following: ~~(3-30-01)~~(7-1-02)T

a. Substandard quality of work following the development of a quality improvement plan; (3-30-01)

b. Failure to gain twenty (20) additional hours of adoption continuing education required for recertification; or (3-30-01)

c. A demonstrated pattern of negligence or incompetence in performing the duties of a ~~qualified individual~~ certified adoption professional. ~~(3-30-01)~~(7-1-02)T

024. Decertification. A ~~qualified individual~~ certified adoption professional can be decertified by the Department at any time during a four (4) year period of certification. Notification of decertification will be made by the Department by certified mail. The notice shall state the specific grounds for decertification. This decision may be appealed within ~~thirty-five~~ twenty-eight (3528) days of receipt of notification under the provisions in IDAPA

16.05.03. "Rules Governing Contested Case Proceedings and Declaratory Rulings". Grounds for decertification are one (1) or more of the following: ~~(3-30-01)~~(7-1-02)T

- a. Conviction for a felony; (3-30-01)
- b. Negligence in carrying out the duties of a ~~qualified individual~~ certified adoption professional; ~~(3-30-01)~~(7-1-02)T
- c. Misrepresentation of facts regarding their qualifications ~~to be a qualified individual~~ and/or the qualifications of a prospective adoptive family to adopt; and ~~(3-30-01)~~(7-1-02)T
- d. A demonstrated pattern of failure to obtain Departmental review and approval of ~~P~~pre-~~P~~placement ~~H~~homestudies and ~~P~~placement ~~S~~supervision ~~R~~reports. ~~(3-30-01)~~(7-1-02)T

891. ~~QUALIFIED INDIVIDUALS'~~ CERTIFIED ADOPTION PROFESSIONAL'S CLIENT RELATIONSHIP.
~~Qualified individuals~~ A certified adoption professional shall not assume a legal relationship with any child for whom they have been contracted to perform services. ~~(3-18-99)~~(7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

893. RECORDS OF THE QUALIFIED INDIVIDUAL CERTIFIED ADOPTION PROFESSIONAL.
Records of the pre-placement home studies, court reports, and supervisory reports provided by the ~~qualified individual~~ certified adoption professional must be made available to the regional Family and Children's Services program manager or designee one (1) week prior to the required court filing date. The regional designee will be responsible for monitoring of quality of the services provided. ~~(3-30-01)~~(7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

895. DEPARTMENT RESPONSIBILITY TO QUALIFIED INDIVIDUAL CERTIFIED ADOPTION PROFESSIONAL.
The regional Family and Children's Services designee shall review the reports provided within a timely manner to insure filing of documentation by required court date by the ~~qualified individual~~ certified adoption professional. The region shall initiate corrective action plans when the documentation of any ~~Qualified Individual~~ certified adoption professional is determined to be incorrect or substandard. ~~(3-30-01)~~(7-1-02)T

(BREAK IN CONTINUITY OF SECTIONS)

922. RETROACTIVE ADOPTION ASSISTANCE BENEFITS.
The Department of Health and Welfare, Division of Family and Community Services may negotiate retroactive adoption assistance benefits for a maximum of twenty-four (24) months from the date of adoption assistance application, identified in Section 920 of these rules. ~~(3-18-99)~~(7-1-02)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

DOCKET NO. 16-0602-0201

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is August 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 Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section(s) 39-1111, 39-1208, 39-1209, 39-1210, 39-1211, 39-1213 and 56-1005(8), 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.

Subsection 006.10 deleted the statement that the program could not "limit a child's access to parents or guardians or restrict a minor's ability to leave the program at any time of his own free will". In Subsection 805.01.a. added clarifying statement "in the base camp or on expeditions". In Section 810 reformatted and renumbered for clarity, added a further qualification for staff. In Section 812 deleted reference to "rules", added "licenses" to the list of requirements for ongoing training of direct care staff to upgrade their skills. Section 821 changed "adventure" to "field", referring to the field portion of the program which takes place away from the main base of operations. In Section 822 deleted redundant phrases, clarified the language in regards to prescription medication taken by a child in the program and added language in regards to Sickle Cell Anemia and Thalassemia that; "The examination form must also include written approval by a medical professional for the child's participation in strenuous exercise, exposure to the cold temperatures and participation in activities that may occur in altitudes over five thousand (5000) feet." In Section 829 added "additional" to the requirement stating that one (1) quart of water be provided for every twenty-five (25) pounds of body weight over one hundred fifty (150) pounds. In Section's 835, 836, 840, 842 and 861 transcriptional changes were made for clarification and in Section 841 clarified how contraband is to be disposed of.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which the public comment should be addressed.

Pursuant to Section 67-5228, Idaho Code, transcriptional, and clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which 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 rules was published in the July 3, 2002 Administrative Bulletin, Volume 02-7, pages 194 through 215.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jim Puett at (208) 334-5700 or Ed Van Dusen at (208) 334-5702.

DATED this 5th day of November, 2002.

Sherri Kovach
Administrative Procedures Coordinator
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
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IDAPA 16, TITLE 06, Chapter 02

RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

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 02-7, July 3, 2002, pages 194 through 215.](#)

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. 16-0602-0201

SUBSECTION 006.10

006. DEFINITIONS.

For the purposes of the rules contained in this Chapter, the following terms are used as defined below: (3-30-01)

10. Children's Therapeutic Outdoor Program. A program which is designed to provide behavioral, substance abuse, or mental health services to minors in an outdoor setting and serves either adjudicated or non-adjudicated youth. ~~The program may not limit a child's access to parents or guardians; restrict a minor's ability to leave the program at any time of his own free will; and does not apply to~~ Children's Therapeutic Outdoor programs do not include outdoor programs for minors that are primarily designed to be educational or recreational that may include Boy Scouts, Girl Scouts, 4-H and other youth organizations. ~~(8-1-02)T(8-1-02)T~~

SUBSECTION 805.01.a.

805. BASE CAMP REQUIREMENTS.

01. Base Camp. A children's therapeutic outdoor program shall have a base camp or field office in

Idaho, here after referred to as a base camp. Base camp at a minimum shall: (8-1-02)T

a. Be staffed and monitored twenty-four (24) hours a day when there are children in care in the base camp or on expeditions; ~~(8-1-02)T~~(8-1-02)T

SUBSECTIONS 810.01.a. through 810.d. and 810.02.c.

810. STAFF QUALIFICATIONS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.

Qualifications of staff, interns, and volunteers shall be verified through written verification of a complete criminal history check as required by IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks," work experience, education, and classroom instruction. A program which provides children's therapeutic outdoor programs shall have the following staff: (8-1-02)T

01. Chief Administrator. A children's therapeutic outdoor program shall have a chief administrator who is primarily responsible for ensuring that the program is at all times in compliance with applicable licensing rules and that staff are familiar with all program policies and procedures. The chief administrator may also function as the field director. The chief administrator shall: (8-1-02)T

a. Be at least twenty-five (25) years of age; (8-1-02)T

b. Have two (2) years experience working with children and three (3) years experience in staff supervision and administration; and either; (8-1-02)T

ei. At the time of appointment, at a minimum, have a Bachelor's degree in a relevant discipline; or (8-1-02)T

ii. Have completed a career development program which includes work related experience, training, or college credits that provide a level of achievement equivalent to the Bachelor's degree; and (8-1-02)T

ec. Have a minimum of thirty (30) semester hours or forty-five (45) quarter hours in recreational therapy or related experience, or one (1) year of outdoor youth program field experience; and (8-1-02)T

fd. Demonstrate or obtain proficiency in the required training criteria set forth in Subsection 812.02 of these rules. (8-1-02)T

02. Field Director. A children's therapeutic outdoor program shall have a field director who is primarily responsible for the quality of the field activities, coordinates field operation, supervises direct care staff, and manages the field office. The field director shall be responsible for compliance with applicable licensing rules and ensure that staff are familiar with all program policies and procedures. The field director shall: (8-1-02)T

c. ~~Demonstrate or obtain proficiency in the required training criteria set forth in Subsection 812.02 of these rules within ninety (90) days of assuming administrative responsibilities and prior to any provision of direct care to children~~ Have a minimum of forty (40) twenty-four (24) hour field days of program experience or equivalent experience in outdoor programs documented in his personnel file; and ~~(8-1-02)T~~(8-1-02)T

SUBSECTIONS 812.02.n. and 812.02.o.

812. SKILLS AND TRAINING.

Skills and training for each staff, intern, and volunteer shall be documented and kept on file at the base camp. (8-1-02)T

02. **Training.** Training must supplement any deficiencies. The curriculum shall include at a minimum: (8-1-02)T

n. Federal, state, and local ~~rules and~~ regulations including, ~~but not limited to,~~ Idaho State Department of Health and Welfare, Idaho State Department of Fish and Game, Idaho Outfitters and Guides, and State and Federal land use agencies; and ~~(8-1-02)T~~(8-1-02)T

o. Ongoing training for direct care staff to upgrade their skills, including mandatory training to maintain skills, ~~and~~ certifications and licenses. ~~(8-1-02)T~~(8-1-02)T

SUBSECTION 821.02

821. ASSESSMENTS.

Preadmission and subsequent assessments shall be performed on each child. (8-1-02)T

02. **Subsequent Assessments.** Subsequent assessments shall be done at least one (1) week before the child leaves for the ~~adventure~~ field portion of the program away from the main base of operations. The assessment shall include: ~~(8-1-02)T~~(8-1-02)T

SUBSECTIONS 822.02 through 822.04

822. PHYSICAL EXAMINATION.

A child shall have a physical examination within thirty (30) days prior to entrance into the children's therapeutic outdoor program. (8-1-02)T

02. **Prior Physical Examination.** A physical examination ~~for~~ of a child who is coming into a children's therapeutic outdoor program directly from a children's residential care facility, shall be acceptable provided the physical examination is current as required by Section 571 of these rules, ~~and~~ meets the criteria set forth in Subsection 822.01 ~~for the physical examination as required for participants,~~ occurred prior to entrance into the field, and includes a new CBC and electrolyte screen; ~~(8-1-02)T~~(8-1-02)T

03. **Medical Special Needs.** If a child is currently taking or has been ~~receiving~~ taking prescribed medication within the past six (6) months prior to placement in the children's therapeutic outdoor program, a specific notation must be made on the physical examination form by the medical professional, ~~which~~ The medical professional must also include approval for the child's participation in an outdoor, high impact environment and a description of any possible special needs due to the use of medication in said environment. ~~(8-1-02)T~~(8-1-02)T

04. **Sickle Cell Anemia And Thalassemia.** If a child is in a risk group for Sickle Cell Anemia or Thalassemia, written approval must be ~~noted~~ included on the physical examination form by the medical professional. ~~A statement that the child can participate in activities, that may occur in altitudes over five thousand (5,000) feet, include strenuous exercise, or expose the child to cold temperatures.~~ The examination form must also include written approval by the medical professional for the child's participation in strenuous exercise, exposure to cold temperatures and participation in activities that may occur in altitudes over five thousand (5000) feet. ~~(8-1-02)T~~(8-1-02)T

SECTION 828

828. ~~OUTINGS EXPEDITION~~ AND HIKING LIMITS ~~AND~~ REQUIREMENTS.

SUBSECTION 829.01.a.

829. WATER REQUIREMENTS.

01. Water. Children shall have access to potable water while hiking. At a minimum the program shall: (8-1-02)T

a. Provide each child with six (6) quarts of potable water a day, unless a child's weight exceeds one hundred fifty (150) pounds, then one (1) additional quart of potable water will be provided for every twenty-five (25) pounds of body weight over one hundred fifty (150) pounds; and ~~(8-1-02)T~~(8-1-02)T

SUBSECTION 835.06

835. HEALTH CARE.

06. Weekly Physical Assessment. At least every seven (7) days, each child's physical condition shall be assessed by a Wilderness First Responder (WFR), an Emergency Medical Technician (EMT), or qualified medical professional. The results of the assessment shall be recorded in the daily log and shall at a minimum include: ~~(8-1-02)T~~(8-1-02)T

SUBSECTIONS 836.03, 836.05.d., and 836.07

836. MEDICATION STORAGE AND ADMINISTRATION.

A children's therapeutic outdoor program shall have and follow policies and procedures on the storage, administration, and disposal of prescription and nonprescription medication. (8-1-02)T

03. Prescription Medication. All prescription medications shall be issued by a qualified medical professional's valid order that includes the dosage to be given. ~~(8-1-02)T~~(8-1-02)T

05. Documentation. There shall be a written record of all medications given to the child. The record shall include: (8-1-02)T

d. The ~~amount of~~ dosage given and whether the child did or did not take the medication; and ~~(8-1-02)T~~(8-1-02)T

07. Disposal Of Unused Medication. All unused and expired medication must be disposed of so ~~they~~ are it is not available to anyone. When medication is disposed of, this must be witnessed by at least one (1) other staff member and the disposal documented in the child's record. ~~(8-1-02)T~~(8-1-02)T

SUBSECTION 841.03

841. CONTRABAND.

A children's therapeutic outdoor program shall define prohibited contraband in a written policy. (8-1-02)T

03. Disposal. It shall be the responsibility of the administrator or designee to dispose of all contraband not confiscated by law enforcement, in accordance with the program's contraband policy. When contraband is disposed of, this must be witnessed by at least one (1) other staff member and the disposal documented in the child's record. ~~(8-1-02)T~~(8-1-02)T

SUBSECTION 842.02.a.

842. SEARCHES.

If a children's therapeutic outdoor program conducts searches of children, staff or visitors, it shall have and follow written policies and procedures. Searches shall be completed in the least intrusive manner possible for the type of search being conducted. All contraband will be disposed of in accordance with Section 841 of these rules. All searches shall be documented, including the reasons for the search, the persons conducting the search, and any results. The policies and procedures at a minimum shall require: (8-1-02)T

02. Strip Searches. Strip searches may only be conducted after a pat down search whenever there is reason to believe that contraband may be found through additional searches. Only the administrator or his designee shall authorize strip searches. Strip searches are to be conducted as follows: (8-1-02)T

- a.** Staff shall be trained in the proper search techniques ~~that do~~ and staff shall not touch the child; ~~(8-1-02)T~~(8-1-02)T

SUBSECTION 861.02

861. PLAN.

For a children's therapeutic outdoor program that conducts a solo component as part of the therapeutic process there shall be a plan for the solo component, as well as an individual solo plan for each child. The plans shall be documented and must be approved by the senior field staff to ensure that the children are not exposed to unreasonable risks. The plans shall include the following: (8-1-02)T

02. Ability. There shall be consideration of the maturity level, health, ~~and~~ physical ability and emotional state of the child. ~~(8-1-02)T~~(8-1-02)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.03 - RULES AND MINIMUM STANDARDS GOVERNING ALCOHOL/DRUG ABUSE PREVENTION AND TREATMENT PROGRAMS

DOCKET NO. 16-0603-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective November 1, 2001 and July 1, 2002.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-311 and 56-1005(8), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 15, 2003.

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:

A new section (Section 145) is added that provides standards by which Outpatient Drug Court Facilities can be approved for substance abuse treatment. Three required sections (Sections 004, 005, 006) have been added that were not present in the current rule. Section 010 Definitions, has been revised adding three definitions, title changes to the licensed social worker to comply with the Social Work Licensing Act, the deletion of a category of counselor trainee that is no longer applicable and deletion of addresses that are not necessary. Needed clarification and updates are made pertaining to supervision of counselors, work experience of program directors working with adolescents, reimbursement by programs under contract with the Department, and the use of patient placement criteria.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which the public comment should be addressed.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Sections 67-5226(1)(a) and 67-5226(1)(b), Idaho Code and are necessary in order to protect the public health, safety, welfare and to comply with amendments to governing law.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted with a sub-committee of the State Drug Court Coordinating Committee, Idaho Supreme Court, Local Trial Court Administrators, existing drug courts, Department of Correction, the Department of Health and Welfare – Substance Abuse Program, and substance abuse and mental health private providers.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Pharis Stanger at (208) 334-4944.

Anyone can submit written comments regarding this proposed rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before January 22, 2003.

DATED this 5th day of November, 2002.

Sherri Kovach, Administrative Procedures Coordinator
DHW – Administrative Procedures Section
450 West State Street, 10th Floor

P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone
(208) 332-7347 fax
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0603-0301

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. (11-1-01)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. (11-1-01)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (11-1-01)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State St., Boise, Idaho 83720-0036. (11-1-01)T

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code and IDAPA 16.05.01, "Rules Governing Protection and Disclosure of Department Records". (11-1-01)T

0047. -- 009. (RESERVED).

010. DEFINITIONS.

The following terms are defined as they are used in these rules. Nothing in any of these definitions shall be read as being in conflict with definitions stated in Section 39-302, Idaho Code. (4-26-95)

01. Active Client. A client ~~receiving~~ who receives services from an alcohol/drug abuse treatment program, who has had face to face contact with a qualified professional of the program within the preceding thirty (30) days. ~~(4-26-95)~~(11-1-01)T

02. Aftercare. Services to provide support to an individual who is in a recovery program. (4-26-95)

03. Alternative Activities. Prevention services that provide opportunities for persons at risk for substance abuse to participate in activities that exclude alcohol, tobacco, and other drugs. (4-5-00)

04. Applicant. A person, agency, or organization who has filed an application to become an approved alcohol/drug treatment program under these rules. (4-26-95)

05. Appropriate. A term used to indicate that a particular procedure, treatment, test or service is effective, is clearly indicated, is adequate in quantity and is provided in the best setting to meet the client's needs. (4-26-95)

06. Approved Alcohol/Drug Abuse Treatment Program. An alcohol/drug abuse treatment program which provides activities to treat problems related to alcohol and drug use, which is approved in accordance with

Section 39-305, Idaho Code, and these rules and minimum standards. Approved alcohol/drug abuse treatment programs in Idaho may be private for profit, private nonprofit, or operated by a governmental unit. (4-26-95)

07. Assessment. The collection of data necessary to develop an individualized treatment strategy aimed at eliminating or reducing alcohol/drug consumption by a thorough evaluation of the person's physical, psychological, and social status, a determination of the environmental forces that contribute to the alcohol/drug using behavior, and examination of the person's support system and resources. (4-26-95)

08. CARF. The Commission on Accreditation of Rehabilitation Facilities, ~~101 North Wilmot Road, Suite 500, Tucson, Arizona 85711.~~ (4-26-95)(11-1-01)T

09. Certificate Of Approval. A certificate issued by the Department of Health and Welfare to an alcohol/drug abuse treatment program and facilities which it deems to be in compliance with these rules and minimum standards. (4-5-00)

10. Certified, Credentialed Or Licensed Alcohol/Drug Counselor. A counselor possessing voluntary certification or licensure by a recognized state or national alcohol/drug abuse/addiction counselor credentialing or certifying organization. Knowledge and skills may be acquired through a combination of specialized training, education and experience. (4-26-95)

11. Certified Prevention Specialist. A person recognized by the Idaho Board of Alcohol/Drug Counselor's Certification as a specialist in substance abuse education and the prevention of alcohol/drug abuse. This level of certification does not give authority to provide any form of counseling. (4-5-00)

~~**12. Certified Chemical Dependency Trainee (CDT).** A person possessing voluntary apprentice level certification or licensure by a recognized state or national alcohol/drug abuse/addiction credentialing or certifying organization. They are persons who do not meet the requirements for a certified or licensed alcohol/drug counselor, but do have sufficient alcohol/drug education and training to enable them to work with clients under the supervision of a qualified professional. (4-5-00)~~

132. Clinical Director. The program staff member responsible for oversight of all clinical aspects of the treatment services provided. (4-26-95)

143. Client. A person receiving treatment for alcohol/drug use, abuse, or addiction. The term is synonymous with patient, resident, consumer or recipient of treatment. (4-26-95)

154. Community-Based Process. Prevention services to involve and assist communities and social institutions to incorporate prevention into their existing services/work and to transfer the knowledge and skills required for them to deliver prevention services. (4-5-00)

15. Competencies. Competencies are the knowledge, skills and attitudes required for the members of the substance abuse clinical staff as a prerequisite to proficiency in the professional treatment of substance abuse. The model of competencies is determined by the Department. (11-1-01)T

16. Contract. A formal agreement with any organization, agency or individual specifying the services, personnel, products or space to be provided by, to or on behalf of the program and the consideration to be expended in exchange. (4-26-95)

17. Counselor. A licensed professional counselor under Title 54, Chapter 34, Idaho Code, or an individual holding a masters degree in counseling from an approved college or university and who, for the purposes of these rules and minimum standards, also shall have specialized training, education, or experience in the treatment of persons with problems related to alcohol/drug use. (4-26-95)

18. Criminogenic Need. A client attribute shown by research to be correlated with criminal behavior and to be an appropriate target for treatment intervention. (11-1-01)T

189. Current. Any license, permit, certificate or other documentation of review or inspection of the

- program, its staff or facility sites which is dated within the preceding twenty-four (24) months. (4-5-00)
- ~~1920.~~ **Department.** The Idaho Department of Health and Welfare. (4-26-95)
- 201. Detoxification Services.** Services necessary to monitor individuals who are undergoing the systematic reduction of a toxic agent from the body during withdrawal. (4-26-95)
- ~~212.~~ **Director.** The Director of the Department of Health and Welfare. (4-26-95)
- 223. Discharge.** The point at which the client's active involvement in treatment is terminated, and the program no longer maintains active responsibility for the care of the client. (4-26-95)
- 24. Drug Court Outpatient Treatment Facility.** A Department approved setting for the treatment of alcohol and drug problems for individuals under the jurisdiction of a local drug court. (11-1-01)T
- 25. Drug Court Team.** Individuals who collectively plan and evaluate services to drug court participants and determine participant compliance, progress, sanctions, movement from one treatment phase to another, and continuation or termination from drug court treatment. (11-1-01)T
- ~~236.~~ **Early Intervention Prevention Services.** Organized activities that are designed for individuals within indicated populations who are experimenting with alcohol, tobacco, or other drugs or exhibit other risk related behaviors. The goal of services for these populations is to modify the risk behavior to prevent the need for substance abuse treatment. (4-5-00)
- 247. Early Intervention Treatment Services.** Services which may be delivered in a treatment setting and are designed to explore and address problems or risk factors that appear to be related to an individual's substance use. The goal of the service is to assist the individual in recognizing the harmful consequences of inappropriate substance use. (4-5-00)
- 258. Education.** Strategies that teach people critical information about alcohol and other drugs and the physical, emotional and social consequences of their use. (4-26-95)
- 269. Emergency Treatment.** The immediate resolution of an acute physical, social, or psychological emergency caused by excessive or chronic alcohol/drug use. (4-26-95)
- ~~2730.~~ **Environmental Activities.** Services that focus on institutional and community change to prevent or reduce substance abuse within given geographical areas. (4-5-00)
- ~~2831.~~ **Executive Director.** The individual appointed by the governing body to act on its behalf in the overall management of the program. Other job titles may include administrator, director, superintendent, program administrator, president, vice-president and executive vice-president. (4-26-95)
- ~~2932.~~ **Facility.** The building(s) including furnishings and fixtures, where persons with alcohol or drug problems receive services. This is synonymous with offices, clinic, or physical plant. (4-26-95)
- 3033. Governing Body.** The individual(s), board of directors, group or agency that has ultimate authority and responsibility for the overall operation of an alcohol/drug abuse treatment program. (4-26-95)
- 314. Guardian.** A parent, trustee, conservator, committee or other individual or agency empowered by law to act on behalf of, or have responsibility for, a client or applicant for treatment services. (4-26-95)
- 325. Halfway House Facility.** A setting for services provided to persons who need the support of an alcohol/drug-free environment to maintain recovery. (4-26-95)
- 336. Incapacitated.** As a result of alcohol or drug use, a person is unconscious or his judgment is otherwise so impaired that he is incapable of making a rational decision with respect to his need for treatment, or is incompetent to consent to treatment. (4-26-95)

347. Incompetent Person. A person who has been adjudged incompetent by a court of law having jurisdiction in the state of Idaho. (4-26-95)

358. Indirect Provision Of Services. Services provided to clients through agreements a program has made with self-employed individuals or outside agencies/organizations. These agreements may be verbal commitments, contractual arrangements, letters of agreement, or memorandum of understanding. The services may be provided at the program's facility or at another location. (4-26-95)

369. Individualized Treatment Plan. A written action plan, based on assessment data, that identifies the client's clinical needs, the strategy for providing services to meet those needs, treatment goals and objectives and the criteria for terminating the specified interventions. (4-26-95)

3740. Information Dissemination. Prevention services that inform the general public and others about the nature and extent of alcohol and other drug use, abuse and addiction, its effect on individuals, families and communities, and available prevention and treatment programs and other resources. (4-5-00)

3841. Inpatient Treatment Facility. A setting for the treatment of alcohol/drug problems that is also a licensed hospital as defined by Title 39, Chapter 13, Idaho Code. (4-26-95)

3942. Intoxicated Person. A person whose mental or physical functioning is impaired as a result of alcohol or drug use, including the inappropriate use of prescription drugs. (4-26-95)

403. Inventory Of Services. The various program activities intended to cause or support the reduction or elimination of alcohol or drug use. These activities may include, but are not limited to, education, individual, group or family counseling, vocational rehabilitation services, medical and psychological services, and self-help groups. These services may include activities provided by the program through contractual arrangement with an outside organization. (4-26-95)

44. Level Of Service Inventory - Revised (LSI-R). An assessment tool used to assess criminal offenders for their risk to commit further offenses and their service needs. (11-1-01)T

475. JCAHO. The Joint Commission of on American Health Care Accreditation of Healthcare Organizations, 875 North Michigan Avenue, Chicago, Illinois 60611. (4-26-95)(11-1-01)T

426. Medically Trained Personnel. A licensed nurse, nurse practitioner, physician's assistant or licensed physician. (4-26-95)

437. Medical Screening. An examination done by a licensed nurse, nurse practitioner, physician's assistant or a licensed physician. (4-26-95)

448. Medical Supervision. Care provided under the direction of a licensed physician. (4-26-95)

459. NFPA. The National Fire Protection Association—~~Batterymarch Park, Quincy, Massachusetts~~
02269. (4-26-95)(11-1-01)T

4650. Nurse. A licensed professional nurse (R.N.), licensed practical nurse (L.P.N.) or nurse practitioner as defined by Title 54, Chapter 14, Idaho Code, and who, for the purposes of these rules and minimum standards, also shall have specialized training, education, and experience treating persons with problems related to alcohol/drug use or abuse. (4-26-95)

4751. Outpatient Treatment Facility. A setting for treatment activities of alcohol/drug problems that does not provide twenty-four (24) hour per day care. (4-26-95)

4852. Person. Any individual, firm, partnership, corporation, company, association, joint stock association, governmental unit or legal successor thereof. (4-26-95)

~~4953.~~ **Pharmacist.** An individual licensed under Title 54, Chapter 17, Idaho Code, to prepare, preserve, compound and dispense drugs and chemicals. (4-26-95)

504. Physician. A person who is licensed to practice medicine in the state of Idaho in accordance with the provisions of the Medical Practice Act, Section 54-1801, et seq., Idaho Code, and who, for the purposes of these rules and minimum standards, also shall have specialized training, education, and experience in alcohol/drug treatment. (4-26-95)

515. Physician Assistant. A person who is licensed to render patient services under the direction of a physician in the State of Idaho in accordance with the provisions of the Medical Practice Act, Section 54-1801, et seq., Idaho Code, and who, for the purposes of these rules and minimum standards, also shall have specialized training, education, and experience in alcohol/drug treatment. (4-26-95)

526. Policies. The rules adopted by the alcohol/drug abuse treatment program for the regulation of its internal affairs and its dealings with others. (4-26-95)

537. Prevention Services. Activities through programs to inform, educate, impart skills, and provide appropriate referrals. The prevention strategies used include information dissemination, education, alternatives, problem identification and referral, community-based process, and environmental. (4-5-00)

548. Problem Identification And Referral. Prevention services to identify and assess those who are engaging in age inappropriate alcohol and tobacco use or the use of illicit drugs for the first time. The purpose of the services is to determine if their behavior can be reversed through education. This strategy does not include a determination of the need for treatment. (4-5-00)

559. Program. Refers to the organization offering alcohol/drug treatment services. It includes the organization's facilities, management, staffing pattern, and activities. A program receives a certificate of approval from the Department of Health and Welfare. (4-26-95)

560. Program Evaluation. Processes primarily used by the program's administration to assess and monitor, on a regular or continuous basis, program operation, service delivery, quality assurance, and client outcome. (4-26-95)

5761. Provisional Approval. A temporary certificate of approval issued to a alcohol/drug abuse treatment program in operation at the time of promulgation of new rules, in order to afford reasonable time to comply with the new rules and to obtain approval, or which, while not in full compliance with rules, has no deficiencies which would endanger the health, safety and welfare of clients and is in the process of making the necessary changes to comply fully. (4-26-95)

5862. Psychologist. A person who is licensed in accordance with Title 54, Chapter 23, Idaho Code, to practice psychology and who, for the purposes of these rules and minimum standards, also shall have specialized training, education, and experience in alcohol/drug treatment. (4-26-95)

5963. Qualified Professional. A member of one (1) of the following professional disciplines, as defined herein: certified, credentialed or licensed alcohol and drug counselor, licensed professional counselor, licensed nurse, licensed physician, psychologist, counselor holding a master's degree in a related field from an approved college or university, licensed, licensed clinical or ~~certified~~ licensed masters social worker, a person holding a bachelor's degree in a related field, or a person holding an associate degree in chemical dependency counseling who has applied for the Certified Alcohol/Drug Counselor (CADC), pending successful completion of the next testing cycle. A qualified professional must have one thousand forty (1,040) hours of supervised experience providing substance abuse treatment. (~~4-26-95~~)(7-1-02)T

604. Quality Assurance. An ongoing evaluative process that not only ensures compliance with minimum standards but provides for continuous improvements in the quality of services. (4-26-95)

615. Residential Treatment Facility. A setting for the treatment of alcohol/drug problems that provides twenty-four (24) hour per day living accommodations for clients. (4-26-95)

626. Retrospective Care Review. Evaluative activities of the client file conducted when the individual is no longer an active client. (4-26-95)

637. Screening. A brief process conducted prior to admission to the drug/alcohol treatment program to determine if the individual meets the program's admission criteria. (4-26-95)

648. Service. The activities of a treatment program grouped according to a common goal or purpose. Examples of services are Treatment Services, Food Services, Social Services, Nursing Services, and Vocational Rehabilitation Services. (4-26-95)

659. Social Worker. A person who is licensed to practice social work under the Social Work Licensing Act, Title 54, Chapter 32, Idaho Code, and who, for the purposes of these rules and minimum standards also shall have specialized training, education, and experience in alcohol/drug treatment. (4-26-95)

6670. Staff Member. A person who is directly employed by or assigned to the program on either a full-time or part-time basis. (4-26-95)

671. State Alcohol/Drug Authority. The Idaho Department of Health and Welfare is designated as the State Alcohol/Drug Authority in Section 39-303, Idaho Code. (4-26-95)

6872. Treatment. Provision of individual therapy, group therapy, assessment, education, and other appropriate services. (4-26-95)

6973. Treatments. The activities of a program that have as a desired outcomes the elimination or reduction of alcohol and drug use and arresting, reversing, or retarding of problems associated with alcohol or drug abuse, or both. (4-26-95)

704. Treatment Supervisor. The person responsible for the overall management of all aspects of the provision of a treatment service or multiple treatment services. Examples of this are: adolescent treatment supervisor, adult treatment supervisor, residential treatment supervisor. (4-26-95)

715. Uniform Fire Code. Refers to the latest edition of the Uniform Fire Code, according to Sections 41-253 and 41-254, Idaho Code, as minimum standards for the protection of life and property from fire and explosions. (4-26-95)

011. -- 019. (RESERVED).

020. GENERAL REQUIREMENTS.

01. Certificate Of Approval Required. A certificate of approval is required for an alcohol/drug abuse treatment program to directly or indirectly provide alcohol/drug treatment in the state of Idaho. A director or owner of a program must submit a completed application to the Department on forms provided by the Department along with an application fee prior to the date of the initial operation or expiration of the certificate of approval. Approval is required for an alcohol/drug abuse treatment program to be included on the Department's list of programs which meet the standards specified in these rules. Programs must be on the list in order to receive referrals from the Department or any law enforcement officer and to receive any kind of state or federal reimbursement. (4-26-95)

02. Approved Alcohol/Drug Abuse Treatment ~~Programs~~ Facilities. Pursuant to these rules, the Department may approve facilities that provide substance abuse treatment. These shall not be interpreted as being in conflict with Section 39-304, Idaho Code. These facilities include: ~~(4-26-95)~~(11-1-01)T

- a. Inpatient Facility; (4-26-95)
- b. Residential Facility; (4-26-95)
- c. Outpatient Facility; (4-26-95)

- d. Halfway House Facility; (4-26-95)
- e. Detoxification Facility. (4-26-95)
- f. Drug Court Outpatient Facility. (11-1-01)T

03. Approval For A Program With Multiple Facilities. An alcohol/drug treatment program may be approved for more than one (1) facility type when that program complies with the specific requirements of each. Failure of any one (1) facility type to receive approval shall not affect the approval of other facility types. (4-26-95)

04. Approval For Multiple Facilities Attached To One Program. An alcohol/drug abuse treatment program with more than one (1) facility type may submit one (1) application for all facilities located in the same Department region. (4-26-95)

- a. The application shall list each facility by type. (4-5-00)
- b. A certificate of approval will be issued for each facility site. (4-26-95)
- c. Failure of any one facility to receive approval shall not affect the approval of other facilities listed in the application. (4-26-95)

05. Programs Serving Adolescents. Any alcohol/drug abuse treatment program which provides treatment for persons under the age of eighteen (18) shall meet the following standards: (4-26-95)

a. Any alcohol/drug abuse treatment program which provides services to adolescents shall require all staff members having contact with adolescents to submit to a criminal history check in accordance with the provisions of the Idaho Department of Health and Welfare Rules, IDAPA 16.06.02, Section 611, "Rules Governing Standards for Child Care Licensing". (4-26-95)

b. Shall provide separate treatment activities for adults and adolescents. (4-26-95)

c. Any alcohol/drug abuse treatment program which provides twenty-four (24) hour per day residential care as an alternative to parental care and outpatient treatment for persons under the age of eighteen (18) shall also be licensed under the Child Care Licensing Reform Act, Title 39, Chapter 12, Idaho Code. (~~4-26-95~~)(11-1-02)T

- i. Application for child care licensure is made to the Department of Health and Welfare. (4-26-95)
- ii. Facilities licensed as hospitals under Title 39, Chapter 13, Idaho Code, are exempt from this requirement. (4-26-95)

06. Out-Of-State Program And Facilities Approval. The Department will accept the approval and certification by the state in which a treatment program and facilities are located and utilized by Idaho clients. Programs operated within the state of Idaho, irrespective of the program headquarters, must meet the Department's approval and certification requirements. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

032. EXECUTIVE DIRECTOR.

All alcohol/drug abuse treatment programs shall have provisions for an executive director in accordance with the standards set forth in this section. (4-26-95)

- 01. Appointment/Hiring Procedure.** The governing body shall appoint or hire an executive director

for the alcohol/drug abuse treatment program. When more than one person in a program has executive authority from, and responsibility to, the governing body, those persons shall comply with all standards that relate to the executive director. (4-26-95)

02. Qualifications. The qualifications of the executive director shall be stated in the governing body bylaws or administrative procedures. (4-26-95)

a. The executive director is a qualified professional with previous responsibility relevant to administration of an alcohol/drug treatment program. (4-26-95)

b. Experience may be substituted for requirements of a qualified professional, if carefully evaluated, justified and documented by the governing body. (4-26-95)

c. In residential programs primarily serving children or adolescents, the executive director ~~shall~~ must meet the requirements established in ~~the "Child Care Licensing Act", Title 39, Chapter 12, Idaho Code IDAPA 16.06.02, "Rule Governing Standards for Child Care Licensing," Section 784.~~ (4-26-95)(11-1-01)T

03. Authority. The governing body bylaws and administrative policies state the executive director's responsibility to the governing body for the overall operation of the program, including the control, utilization and management of its physical and financial assets and the recruitment and direction of staff. (4-26-95)

04. Responsibilities. The governing body bylaws or administrative policies shall state the executive director's responsibilities in assisting the governing body in formulating policy by preparing, presenting and reviewing with them: (4-26-95)

a. A current table of organization which sets forth lines of staff authority, responsibility and communication in accordance with policies established by the governing body. (4-26-95)

b. Policies and procedures to guide the administration and operation of the program. (4-26-95)

c. Long-term and short-term plans for the program, including the plan for an inventory of treatments as outlined in Section 040 of these rules. (4-26-95)

d. Reports on the nature and extent of funding and other available resources. (4-26-95)

e. Reports describing the program's operations. (4-26-95)

f. Reports evaluating the efficiency and effectiveness of program activity. (4-26-95)

g. Budgets and financial statements. (4-26-95)

h. Any data, information, reports and records requested by the Department. (4-26-95)

05. Continuing Education. There shall be on file at the program documentation that the executive director attends and participates in continuing education opportunities. (4-26-95)

06. Guardianship. The executive director shall not act as, or become legal guardian of, any client of the alcohol/drug abuse treatment program. (4-26-95)

(BREAK IN CONTINUITY OF SECTIONS)

050. STAFF COMPOSITION.

The alcohol/drug treatment program shall have a sufficient number of treatment staff, qualified professionals, administrative and support staff to provide for the care and treatment of clients, in accordance with the standards set

forth in this section. (4-26-95)

01. Supervision. Unless otherwise specified, programs providing treatment services shall provide for the following supervisory staff: (4-26-95)

a. Program Administrator. The program shall provide for a Program Administrator who is responsible for oversight of all services provided by the program. (4-26-95)

b. Treatment Supervisor. The program shall provide for a Treatment Supervisor who shall be located on-site at the treatment facility. The individual may supervise more than one (1) treatment activity. This position can also be the Clinical Director, Program Administrator, or both. In those instances where these positions are combined, standards shall be met for all positions. (4-26-95)

c. Clinical Director. The program shall provide for a Clinical Director who can be the same individual or position as the Program Administrator, Treatment Supervisor, or both. In those instances where these positions are combined, all standards shall be met. (4-26-95)

02. Qualifications. Qualifications of the supervisory staff shall be verified through written documentation of work experience, education and classroom instruction. The supervisory staff shall meet the following standards: (4-26-95)

a. Program Administrator. Combination of education and experience as follows: (4-26-95)

i. Five (5) years full-time paid professional experience in alcohol/drug abuse treatment with at least one (1) year in administration; or (4-26-95)

ii. Bachelor's Degree in relevant field and four (4) years paid full-time professional experience with one (1) year in administration; or (4-26-95)

iii. Master's Degree and three (3) years paid full-time professional experience with one (1) year in administration; and (4-26-95)

iv. Knowledge and demonstrated competence in planning, budget, and other administrative duties. (4-26-95)

b. Treatment Supervisor. Combination of education and experience as follows: (4-26-95)

i. Five (5) years full-time paid professional experience in alcohol/drug abuse treatment with at least two (2) years in direct treatment; or (4-26-95)

ii. Bachelor's Degree in relevant field and four (4) years paid full-time professional experience with two (2) years in direct treatment; or (4-26-95)

iii. Master's Degree and three (3) years paid full-time professional experience with two (2) years in direct treatment; and (4-26-95)

iv. One (1) year paid full-time experience in supervision. (4-26-95)

v. Knowledge and experience in treatment including client evaluation, counseling techniques, relapse prevention, case management, and family therapy. (4-26-95)

c. Clinical Director. Combination of education and experience as follows: (4-26-95)

i. Master's Degree and five (5) years paid full-time professional experience with three (3) years in direct alcohol-drug abuse treatment and one (1) year paid full-time experience in supervision; and (4-26-95)

ii. Knowledge and experience demonstrating competence in treatment including client evaluation,

counseling techniques, relapse prevention, case management, and family therapy. (4-26-95)

iii. For outpatient programs providing services to adolescents, the clinical director must have two (2) years of experience working with families or children in a social service setting, working knowledge of child and adolescent growth and development, and the effects of alcohol and drugs on a child's growth and development. (11-1-01)T

03. Clinical Supervision. The alcohol/drug abuse treatment program shall provide for supervision of all clinical activities by qualified professionals. (4-26-95)

a. The written plan for an inventory of treatments provides and defines the procedure for the supervision of all clinical activities by qualified professionals. (4-26-95)

b. All members of the treatment team who have been assigned specific treatment responsibilities shall be qualified by training or experience and demonstrated competence. (4-26-95)

c. All members of the treatment team shall be supervised by qualified professionals who have a combination of education and experience sufficient to supervise such treatment. (4-26-95)

d. Clinical supervision must include a documented evaluation of the competencies of the members of the clinical staff, and a plan and activities which bring those competencies to proficiency. The evaluation will be conducted within one (1) month of initial hire and annually thereafter. Documentation of the evaluation and a record of improvement activities must be present in the staff personnel file. (11-1-01)T

04. Sufficient Personnel Required. The alcohol/drug program shall employ the number and variety of staff necessary to provide the services and treatments offered by the program as a multidisciplinary team. (4-26-95)

a. The program shall employ at least one (1) certified/ credentialed alcohol/drug counselor, or other qualified professional for each facility; or (4-5-00)

b. If the program arranges for the provision of counseling services, it shall have a valid written agreement or contract with a certified/credentialed alcohol/drug counselor. (4-26-95)

c. When qualified professionals are not available or needed on a full-time basis, arrangements shall be made to obtain qualified professionals on an attending, continuing consultative or part-time basis. (4-26-95)

d. Qualified administrative and support staff shall be sufficient in number and variety to support the operations of the program. (4-26-95)

05. Certified Prevention Specialist. By July 1, 2000, at least one (1) Certified Prevention Specialist shall be employed or under contract to supervise or coordinate and monitor prevention services provided directly or indirectly by the program. (4-5-00)

06. JCAHO Accreditation. The Department may approve programs with JCAHO accreditation with the following provisions: (4-5-00)

a. Organization chart with proof that staff meet minimum credential or certification standards; (4-5-00)

b. Criminal history checks; (4-5-00)

c. TB checks; and (4-5-00)

d. Payment of fee. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

074. DEPARTMENT REIMBURSEMENT SCHEDULE.

Programs ~~shall~~ under contract with the Department will be reimbursed for treatment services in accordance with the Department's reimbursement schedule. The schedule is based on one hundred percent (100%) to one hundred seventy-five percent (175%) of the current Federal Poverty Guidelines adjusted for the number of persons in the family household unit. The Department's reimbursement of treatment program fees ranges from ninety-five percent (95%) to thirty percent (30%) in increments of ninety-five percent (95%), ninety percent (90%), eighty percent (80%), seventy percent (70%), sixty percent (60%), fifty percent (50%), forty percent (40%), thirty-five percent (35%), and thirty percent (30%) by income. The treatment program shall collect the client's share of the fee. The reimbursement schedule shall be updated with each revision of the Federal Poverty Guidelines. ~~(4-5-00)~~(11-1-01)T

(BREAK IN CONTINUITY OF SECTIONS)

100. ADMISSION POLICIES AND PROCEDURES.

All alcohol/drug abuse treatment programs shall have policies and procedures governing the admission process. These shall be available to clients and their families and to the general public. (4-26-95)

01. Admission Policies. The admission policies and procedures shall be in writing and shall specify the following: (4-26-95)

a. Criteria for determining the eligibility of individuals for admission. (4-26-95)

b. The information to be obtained on all applicants or referrals for admission. (4-26-95)

c. The procedures for accepting referrals from outside agencies and organizations. (4-26-95)

d. The records to be kept on all applicants. (4-26-95)

e. The statistical data to be kept on the admission process. (4-26-95)

f. The procedures to be followed, including alternative referrals, when an applicant is found ineligible for admission. (4-26-95)

02. Methods Of Admission. Methods of admission shall be based on the needs of clients as identified through a screening. (4-26-95)

a. Screening is conducted prior to admission to treatment to determine if the client meets the admission criteria. (4-26-95)

b. The screening is done by a qualified professional. (4-26-95)

c. The results of the screening shall be clearly explained to the client, and family when appropriate. (4-26-95)

03. Acceptance For Treatment. Acceptance of a client for treatment shall be based on an admission procedure that assures the following: (4-26-95)

a. The care provided by the program at that facility site is appropriate for the client and must be based on admission, continued stay and discharge criteria approved by the Department. ~~(4-26-95)~~(11-1-01)T

b. Assessment data is collected to develop a preliminary treatment plan. (4-26-95)

c. If the potential client is a minor or an incompetent person, a parent, legal guardian or other legal

representative may make application for voluntary admission to treatment. (4-26-95)

d. No otherwise qualified individual is denied access to treatment services on the basis of race, color, ethnicity, religion, sex, veteran and handicap status. (4-26-95)

04. Provisions For Persons Requiring Protective Custody. For persons coming voluntarily or being brought by a law enforcement officer to an alcohol/drug abuse treatment program for protective custody, the program shall comply with the provisions of Section 39-307A, Idaho Code. (4-26-95)

05. Assure Applicants Understand Rights And Responsibilities. During the admission process, every effort shall be made to assure that applicants understand the following: (4-26-95)

a. The nature and goals of the treatment program. (4-26-95)

b. The hours during which services are available. (4-26-95)

c. The treatment costs to be borne by the client, if any. (4-26-95)

d. The rights and responsibilities of clients, including the rules governing client conduct and the types of infractions that can result in disciplinary action or discharge from the program. (4-26-95)

06. Precautions. Reasonable precautions shall be taken in all admissions to ensure the safety of the client, other clients and staff of the program and members of the community. (4-26-95)

(BREAK IN CONTINUITY OF SECTIONS)

110. CLIENT RECORDS.

All alcohol/drug treatment facilities shall meet the client records standards set forth in this section. (4-26-95)

01. Written Client Record Required. The alcohol/drug abuse treatment program shall maintain a written client record on each client. All entries in the client record shall be signed and dated. Symbols and abbreviations shall be used only if they have been approved by the professional staff and only when there is an explanatory legend. Symbols and abbreviations shall not be used in the recording of diagnoses. (4-26-95)

a. The client record shall describe the client's situation at the time of admission and include the services provided, all progress notes, and the client's status at the time of discharge. At a minimum the record shall contain: (4-26-95)

i. Identifying data recorded on standardized forms including the client's name, home address, home telephone number, date of birth, gender, marital status, race or ethnic origin, next of kin or person to contact, educational level, type and place of employment, date of initial contact or admission to the program, source of any referral, legal status including relevant legal documents, name of personal physician, record of any known drug reactions or allergies, and other identifying data as indicated. These forms shall be dated with the date the information was gathered and signed by the staff member gathering the information. (4-26-95)

ii. All assessments completed with the client shall be dated, signed by the person providing the assessment, and give a full accounting of the findings of such assessments. (4-26-95)

iii. Notes for each treatment session charting the client's progress. (4-5-00)

iv. All staffing notes pertaining to the client. (4-26-95)

v. All medical records regarding the client. These may include documentation of a medical examination, results of any medical tests, including urine tests performed by the program, and results of any medical

tests reported to the program which were performed outside the program. (4-26-95)

vi. Documentation that justifies the client meets criteria for admission, continued stay and discharge. The documentation must be based on admission, continued stay and discharge criteria approved by the Department. (11-1-01)T

b. The client record shall contain information on any unusual occurrences, such as: (4-26-95)

i. Treatment complications. (4-26-95)

ii. Accidents or injuries to the client. (4-26-95)

iii. Serious illness. (4-26-95)

iv. Procedures that place the client at risk or cause unusual pain. (4-26-95)

v. Death of the client. In the event of a client's death, the person must be pronounced dead in accordance with the provisions of Idaho law and a summation statement shall be entered in the record in the form of a discharge summary. (4-26-95)

c. The client record shall contain correspondence concerning the client's treatment and signed and dated notations of telephone calls concerning the client's treatment. (4-26-95)

d. The client record shall contain a plan for aftercare. (4-26-95)

e. A discharge summary shall be entered in the client record within a reasonable period of time not to exceed fifteen (15) days following discharge, as determined by the professional staff and policies or standards. (4-26-95)

02. Maintenance Of Client Records. The executive director or designee shall maintain, control and supervise client records and is responsible for maintaining their quality in accordance with these standards. (4-26-95)

a. The active client's records shall be kept at the facility site where the client is being treated. (4-26-95)

b. Written policies and procedures govern the compilation, storage, dissemination and accessibility of client records. (4-26-95)

i. The policies and procedures shall be designed to assure that the program fulfills its responsibility to safeguard and protect client records against loss, unauthorized alteration or disclosure of information. (4-26-95)

ii. The policies and procedures shall be designed to assure that each client record contains all required information. (4-26-95)

iii. The policies and procedures shall be designed to assure uniformity in the format and forms used in client records. (4-26-95)

iv. The policies and procedures shall require entries in client records to be dated and signed. (4-26-95)

v. The program shall provide adequate facilities for the storage, processing and handling of client records, including suitably locked and secured rooms and files. (4-26-95)

vi. When a program stores client data in electronic or other types of automated information systems, adequate security measures shall prevent inadvertent or unauthorized access to such data. (4-26-95)

vii. Client records shall be maintained for a minimum of five (5) years from the date they are officially closed. (4-26-95)

c. A written policy shall govern the disposal of client records. Methods of disposal shall be designed to assure the confidentiality of client information. (4-26-95)

03. Confidentiality And Disclosure Of Information. The program shall have written policies and procedures that protect the confidentiality of client records and govern the disclosure of information in the records. (4-26-95)

a. The policies and procedures shall specify the conditions under which information on applicants or clients may be disclosed and the procedures for releasing such information in accordance with public law. (4-26-95)

b. The program shall comply with federal regulations 42 CFR, Subchapter A, Part 2, regarding confidentiality of the records of alcohol and drug abuse clients. (4-26-95)

c. Nothing in any law or rule shall prevent the proper disclosure of information regarding child abuse, abandonment or neglect. Any suspected incidents of child abuse, abandonment or neglect shall be reported to the proper law enforcement agency or to the Department within twenty-four (24) hours in accordance with Idaho Child Protective Act, Section 16-1619 of the Idaho Code. (4-26-95)

(BREAK IN CONTINUITY OF SECTIONS)

1456. -- 149. (RESERVED).

146. DRUG COURT OUTPATIENT TREATMENT FACILITY.

Alcohol/drug abuse programs seeking approval for this facility type must meet all standards set forth in Section 146, in addition to all other applicable rules and minimum standards in this chapter. (11-1-01)T

01. Governing Body For The Drug Court Outpatient Treatment Facility. A drug court outpatient treatment facility must have a governing body for the alcohol/drug abuse treatment program, which can be the local Drug Court Board. (11-1-01)T

a. The governing body must develop a written mission statement, goals and objectives that establish the program's philosophy and direction for treatment services. (11-1-01)T

b. The governing body must establish bylaws and administrative policies to guide relationships between itself and the responsible administrative and professional staffs and the community. Current copies of the bylaws and administrative policies must be readily available to all members of the governing body, the Department and other persons in accordance with their responsibilities or involvement in implementing the policies of the program. (11-1-01)T

02. Staff Composition. The alcohol/drug treatment program must have a sufficient number of treatment staff, qualified professionals, administrative and support staff to provide for the care and treatment of clients, in accordance with the standards set forth in Subsection 146.08.g. (11-1-01)T

a. Unless otherwise specified, programs providing treatment services must provide for the following supervisory staff: (11-1-01)T

i. The program must provide for a Program Administrator who is responsible for oversight of all services provided by the program. (11-1-01)T

ii. The program must provide for a Treatment Supervisor to provide on-site supervision at the treatment facility. The individual may supervise more than one (1) treatment activity. This position can also be the Clinical Director, Program Administrator, or both. In those instances where these positions are combined, standards must be met for all positions. (11-1-01)T

iii. The program must provide for a Clinical Director who can be the same individual or position as the Program Administrator, Treatment Supervisor, or both. In those instances where these positions are combined, all standards must be met. The Clinical Director can be a single individual who will provide for statewide oversight of clinical activities but need not provide direct clinical supervision of staff. (11-1-01)T

b. Supervisory staff, which includes the Program Administrator, Treatment Supervisor and Clinical Director, must meet the qualifications listed in Subsection 050.02 of this rule. (11-1-01)T

03. Application And Eligibility For Participation In A Drug Court Alcohol/Drug Treatment Program. The local Drug Court Board and State Drug Court Coordinating Committee are responsible for developing policies and procedures for assessment and participation in a drug court alcohol/drug treatment program. (11-1-01)T

04. Client Expectations. Alcohol/drug abuse treatment programs must have written policies and procedures that specify client expectations of drug court treatment including: (11-1-01)T

a. Impartial access to treatment regardless of race, religion, gender, ethnicity, age or a disability that does not preclude participation in the alcohol/drug abuse treatment program. (11-1-01)T

b. Respect for personal dignity in the provision of all care and treatment. (11-1-01)T

c. Adequate and humane services, regardless of the source of financial support. (11-1-01)T

d. An individualized treatment plan, based on assessment of current needs. (11-1-01)T

e. Client access to their treatment plan. (11-1-01)T

f. What information will be shared and the nature of communications with members of the local drug court team. (11-1-01)T

05. Client To Be Informed Of Expectations. Each client must be informed of these expectations and sign a written statement of client expectations, which includes who the client may contact with questions, concerns or complaints regarding services provided. (11-1-01)T

06. Admissions And Discharge Policies And Procedures. The local Drug Court Board is responsible for developing policies and procedures governing the treatment admissions process which must include use of eligibility guidelines, the LSI-R, substance abuse assessments, program capacity, acceptance and appropriateness for treatment. The Board is also responsible for developing policies and procedures governing the treatment discharge process. (11-1-01)T

07. Individualized Treatment Plan. The alcohol/drug abuse treatment program must have a written, individualized treatment plan for each client that addresses the alcohol/drug abuse affects on the major life areas and is based on assessment of the client's clinical and criminogenic needs. (11-1-01)T

a. Overall responsibility for development and implementation of the treatment plan must be assigned to a qualified professional staff member. (11-1-01)T

b. Beginning with the completion of the assessment process, and within timeframes set by the local Drug Court Board, a detailed individualized treatment plan must be developed which meets the following requirements: (11-1-01)T

i. Specifies the services necessary to meet the client's needs. (11-1-01)T

ii. Includes referrals for needed services that the program does not provide. (11-1-01)T

iii. Contains specific goals that the client must achieve to reduce or eliminate alcohol or drug use. (11-1-01)T

- iv. Contains specific objectives that relate to the goals, are written in measurable terms and includes expected achievement dates. (11-1-01)T
- v. Specifies the frequency of treatments. (11-1-01)T
- c. When appropriate, the client shall participate in the development of the treatment plan and such participation must be documented in the client's record. (11-1-01)T
- d. A specific plan for involving the family or significant others must be included when indicated. (11-1-01)T
- 08. Treatment Services Provided In A Drug Court Outpatient Treatment Facility.** (11-1-01)T
 - a. Services in outpatient facilities must be provided at designated times. (11-1-01)T
 - b. Counseling services must be provided through the outpatient program on an individual, family or group basis. (11-1-01)T
 - c. The services must include educational instruction and written materials on the nature and effects of alcohol/drug use and abuse and the recovery process, as well as cognitive behavioral interventions to address the identified criminogenic needs. Substance abuse assessments must include the use of the LSI-R. (11-1-01)T
 - d. The program must provide or refer to adjunct services as indicated by client need. (11-1-01)T
 - e. Standards for group treatment must be present for the effective delivery of education, skill training and process groups and must specify the maximum number of participants allowed for each type of group. (11-1-01)T
 - f. The drug court treatment program must provide supervision as follows: (11-1-01)T
 - i. Qualified professionals will supervise all treatment activities. (11-1-01)T
 - ii. Establish procedures for supervision of all clinical activities, which specify frequency and type of supervisory contact, and periodic client file reviews. (11-1-01)T
 - g. There must be adequate, qualified staff to maintain appropriate client/staff ratios as set by the State Drug Court Coordinating Committee, and sufficient staff to provide necessary support to the professional staff. (11-1-01)T
 - h. The program must employ at least one (1) certified/credentialed alcohol/drug counselor, or other qualified professional for each facility; or (11-1-01)T
 - i. If the program arranges for the provision of counseling services, it must have a valid written agreement or contract with a certified/credentialed alcohol/drug counselor. (11-1-01)T
 - ii. When qualified professionals are not available or needed on a full-time basis, arrangements must be made to obtain qualified professionals on an attending, continuing consultative or part-time basis. (11-1-01)T

IDAPA 17 - INDUSTRIAL COMMISSION

17.07.01 - SAFETY RULES FOR ELEVATORS, ESCALATORS, AND MOVING WALKS

DOCKET NO. 17-0701-0201

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is November 6, 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 Sections 72-508 and 72-721, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the 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.

Pursuant to Section 67-5228, Idaho Code, clerical corrections have been made to 17.07.01.003 and an exemption for jobs that were let for bid prior to November 1, 2002, has been added to 17.07.01.026.01. These amendments are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Industrial Commission amended the temporary rule with the same revisions which 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 October 2, 2002, Idaho Administrative Bulletin, Volume 02-10, pages 423 through 432.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Tom Limbaugh, Commissioner, Industrial Commission, (208) 334-6000, or Dave Munroe, Administrator, Division of Building Safety, (208) 332-7100.

DATED this 6th day of November, 2002.

Tom Limbaugh, Commissioner
Industrial Commission
317 Main Street
PO Box 83720, Boise, ID 83720-0041
(208) 334-6000 / (208) 334-2321

IDAPA 17, TITLE 07, Chapter 01

SAFETY RULES FOR ELEVATORS, ESCALATORS, AND MOVING WALKS

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 02-10, October 2, 2002, pages 423 through 432.

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. 17-0701-0201

SECTION 003

003. ADMINISTRATIVE APPEALS.

There are no provisions for administrative appeal of these rules. The procedures for appeals in safety matters are prescribed by Sections ~~and 72-714 and through 72-718 through and 72-722~~, Idaho Code. ~~(11-1-02)T~~(11-6-02)T

SUBSECTION 026.01

026. INSPECTIONS.

Elevators installed or operated in the state of Idaho, unless otherwise exempted by these rules, shall have an inspection in accordance with the ANSI/ASME standards incorporated by reference in Subsections 004.01, 004.02, 004.03, and 004.11 of these rules. The following types of inspections are required. (11-1-02)T

01. Acceptance Inspection. An acceptance inspection shall be conducted by a Qualified Elevator Inspector representing the owner for all new or altered elevators, unless otherwise exempted by these rules. In addition, elevators in public schools and in state owned or occupied buildings will have their inspections witnessed by a state inspector from the Division of Building Safety. The changes to Subsection 026.01 shall not apply to new elevator installations that were let for bid before November 1, 2002. ~~(11-1-02)T~~(11-6-02)T

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.19 - INSURANCE RATES AND CREDIT RATING

DOCKET NO. 18-0119-0201

NOTICE OF RULEMAKING - TEMPORARY RULE

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

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section(s) 41-211 and 41-1843, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for temporary rulemaking:

This is a temporary rule to implement Section 41-1843, Idaho Code, relating to the use of credit rating or credit history by insurers in determining rating and coverage of insurance, which was enacted as Senate Bill No. 1408 by the Legislature in 2002 and takes effect January 1, 2003. The rule limits how insurers may use an insured's credit history as a basis for nonrenewing, canceling, or declining to issue certain types of policies, or charging a higher premium rate than would otherwise be charged.

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

To implement Section 41-1843 Idaho Code, which becomes effective January 1, 2003.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Shad Priest at (208) 334-4250.

Dated this 13th day of November 2002.

Mary L. Hartung, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720, Boise, ID 83720-0043
Telephone No. (208) 334-4250

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0119-0201

IDAPA 18, TITLE 01, Chapter 19

INSURANCE RATES AND CREDIT RATING

000. LEGAL AUTHORITY.

This rule is promulgated pursuant to the authority granted by Title 41, Sections 41-211 and 41-1843, Idaho Code. (1-1-03)T

001. TITLE AND SCOPE.

01. Title. This chapter shall be cited in full as IDAPA 18.01.19, "Insurance Rates and Credit Rating." (1-1-03)T

02. Scope. This rule implements Section 41-1843, Idaho Code, enacted as Senate Bill No. 1408 by the legislature in 2002 relating to the use of credit rating or credit history by insurers in determining rating and coverage of insurance. (1-1-03)T

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. (1-1-03)T

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. (1-1-03)T

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. (1-1-03)T

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

This office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The department's mailing address is: Idaho Department of Insurance, PO Box 83720, Boise, Idaho 83720-0043. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. (1-1-03)T

006. PUBLIC RECORDS.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, and Title 41, Idaho Code. (1-1-03)T

007. – 009. (RESERVED).

010. DEFINITIONS.

As used in this rule, unless the context requires otherwise, the following words shall have the following meanings: (1-1-03)T

01. Consumer Report. Any written, oral, or other communication of any information by a consumer reporting agency regulated under the federal Fair Credit Reporting Act (15 U.S.C. 1681) that bears on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living. (1-1-03)T

02. Credit Factor. A factor or criterion that consists of or is derived from information obtained from a consumer report that is used by an insurer in determining policy premium rates, or in determining whether to issue, cancel or nonrenew a policy. (1-1-03)T

03. Department. The Idaho Department of Insurance. (1-1-03)T

04. Noncredit Factor. Any factor other than a credit factor that is reasonably expected to affect the risk assumed by an insurer and is used by the insurer in determining policy premium rates, or in determining whether to issue, cancel or nonrenew a policy. (1-1-03)T

05. Policy. A contract for property or casualty insurance, as defined by Chapter 5, Title 41, Idaho Code, that is purchased or maintained primarily for personal, family or household purposes. (1-1-03)T

06. Weight. The consideration given by an insurer to a particular credit or noncredit factor relative to other factors considered in the underwriting or rating process. (1-1-03)T

011. -- 099. (RESERVED).

100. USE OF CREDIT FACTORS.

01. Prohibited Acts. An insurer shall not charge a higher premium than would otherwise be charged, or cancel, nonrenew or decline to issue a policy, based in any part upon credit factors unless: (1-1-03)T

a. The decision is also based on a noncredit factor or factors; and (1-1-03)T

b. The aggregate weight given to the noncredit factors considered in making the decision is at least as great as the aggregate weight given to the credit factors considered in making the decision. (1-1-03)T

02. Application of Rule. To determine whether a decision to issue, nonrenew or cancel a policy, or to charge a higher rate than would otherwise be charged, is based primarily upon a credit factor or factors, the Department will apply the following criteria: (1-1-03)T

a. If an insurer declines to issue, nonrenews or cancels a policy based in any part upon a credit factor, the insurer must be able to show that it also relied upon a noncredit factor or combination of noncredit factors in making the decision and that the noncredit factor(s) played at least as great a role in the decision as did the credit factor. (1-1-03)T

b. If an insurer relies in any part upon a credit factor in establishing an initial rate for new business, the insurer must be able to show that it also considered noncredit factors in establishing the initial rate and that not more than one-half (1/2) of the premium rate is attributable to the credit factor. (1-1-03)T

c. If an insurer relies in any part upon a credit factor to impose an increase in premium rate for a customer, the insurer must be able to show that the increase was also based upon a change in at least one noncredit factor and that not more than one-half of the increase is attributable to the credit factor. (1-1-03)T

03. Information Used In Reviewing Insurer's Decision. To evaluate whether an underwriting or rating decision was based primarily upon credit factors, the department may require the insurer to explain in detail the insurer's underwriting or rating process, identify all factors considered in the process, and describe how the process was applied in the case under review. The department may also require the insurer to apply its underwriting or rating process to hypothetical cases submitted to the insurer by the Department. (1-1-03)T

101. -- 199. (RESERVED).

200. OTHER LAWS OR RULES.

Nothing in this rule shall be construed to limit or modify any other laws or rules imposing restrictions regarding rating, issuing, canceling or nonrenewing a policy. (1-1-03)T

201. -- 299. (RESERVED).

300. TRADE SECRETS.

Any information submitted by an insurer pursuant to this rule that the insurer considers to be a trade secret as defined by Section 9-340D, Idaho Code, and not subject to public disclosure, shall be clearly identified as such at the time it is submitted to the department. (1-1-03)T

301. -- 399. (RESERVED).

400. RETENTION OF RECORDS.

Insurers subject to this rule shall document the factors and criteria considered in underwriting and rating decisions and shall retain the documentation for at least five (5) years from the date of the decision. (1-1-03)T

401. -- 499. (RESERVED).

500. VIOLATIONS.

A failure to comply with this rule is a violation of Section 41-1843, Idaho Code. (1-1-03)T

501. -- 999. (RESERVED).

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.48 - PRIVACY OF CONSUMER FINANCIAL INFORMATION
DOCKET NO. 18-0148-0201
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 Sections 41-211 and 41-1334, Idaho Code.

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

In response to written comments received from interested parties, the text of pending rule has been amended to incorporate the changes described below and to make typographical, transcriptional, and clerical corrections. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 4, 2002 Idaho Administrative Bulletin, Volume 02-9, pages 108 through 133.

The title of the pending rule is being corrected to delete the erroneous reference to health information; references to workers compensation insurance are being deleted from the rule and the definition of consumer has been modified to delete the reference to "claimants"; language has been added to clarify that certain means of compliance listed in the rule are examples only and are not the exclusive means of compliance; and wording has been added to clarify that the Director has discretion to seek imposition of penalties for violations of the rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Shad Priest at (208) 334-4250.

Dated this 13th day of November, 2002.

Mary L. Hartung, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250
Fax: (208) 334-4398

IDAPA 18, TITLE 01, Chapter 48

PRIVACY OF CONSUMER FINANCIAL INFORMATION

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 02-9, September 4, 2002, pages 108 through 133](#).

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 18-0119-0201

Language That Has Been Deleted From The Original Proposed Rule Has Been Removed And New Language Is Shown In Italics

IDAPA 18, TITLE 01, Chapter 48

18.01.48 - RULE TO IMPLEMENT THE PRIVACY OF
CONSUMER FINANCIAL INFORMATION

SECTION 001 IS BE REPRINTED IN ITS ENTIRETY

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 Information". ()

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; ()

c. Provides methods for individuals to prevent a licensee from disclosing that information; *and* ()

d. *Includes examples and sample clauses that are not exclusive, but, to the extent applicable, will constitute compliance with this rule.* ()

03. Applicability. This rule applies to nonpublic personal financial information about individuals who obtain or are 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. ()

SUBSECTIONS 010.02, 010.05, 010.05.d.i.(2), 010.05.d.i.(3), 010.05.e.i., 010.05.e.ii., 010.09, and 010.09.b.ii.

010. DEFINITIONS -- A Through D.

As used in this rule, unless the context requires otherwise: ()

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. *Examples:* ()

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. *Examples:* ()

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 an insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee; or ()

(3) The individual is a mortgagor of a mortgage covered under a mortgage insurance policy; and ()

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; *or* ()

ii. Covered under a group or blanket insurance policy or group annuity contract issued by the 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. *Examples:* ()

b. A consumer does not have a continuing relationship with a licensee if: ()

ii. The licensee sells the consumer travel insurance in an isolated transaction; ()

SUBSECTIONS 011.04.a.i., 011.04.a.ii., 011.04.b., 011.04.c., and 011.09.b.

011. DEFINITIONS -- E Through Z.

As used in this rule, unless the context requires otherwise: ()

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: ()

i. The principal otherwise complies with, and provides the notices required by, the provisions of this rule; and ()

ii. 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. ()

b. Subject to Paragraph 011.04.c., “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. ()

c. 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: ()

09. Personally Identifiable Financial Information. ()

b. *Examples of personally identifiable financial information:* ()

SECTION 202

202. SATISFYING THE PRIVACY NOTICE INFORMATION REQUIREMENTS - EXAMPLES.

SUBSECTION 300.02

300. REVISED PRIVACY NOTICES.

02. *Examples of Application of General Rule.* ()

SUBSECTION 350.02.a.iii.

350. DELIVERY.

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: ()

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; *or* ()

SUBSECTION 402.03

402. LIMITS ON SHARING ACCOUNT NUMBER INFORMATION FOR MARKETING PURPOSES.

03. *Examples of Information Not Considered To Be A Policy Number Or Account.* ()

SECTION 502

502. VIOLATION.

Any person who releases nonpublic personal information in violation of these rules, or otherwise fails to comply with these rules, *may be found by the Director to be* in violation of Chapter 13, Title 41, Idaho Code, and subject to penalties as set forth in that chapter. ()

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.01 - RULES GOVERNING ELIGIBILITY FOR ADMISSION, RESIDENCY AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES AND DIVISION OF VETERANS SERVICES ADMINISTRATIVE PROCEDURE

DOCKET NO. 21-0101-0201

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 the 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 65-202, 65-204, and 66-907, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 439 through 444.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Richard Jones at (208) 334-3513.

DATED this 8th day of November, 2002.

Richard W. Jones, Administrator
Division of Veterans Services
320 Collins Road, Boise, Idaho 83702
Phone: (208) 334-3513
Fax: (208) 334-2627

IDAPA 21, TITLE 01, Chapter 01

RULES GOVERNING ELIGIBILITY FOR ADMISSION, RESIDENCY AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES AND DIVISION OF VETERANS SERVICES ADMINISTRATIVE PROCEDURE

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 02-10, October 2, 2002, pages 439 through 444.

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 21 - DIVISION OF VETERANS SERVICES
21.01.02 - RULES GOVERNING EMERGENCY RELIEF FOR VETERANS
DOCKET NO. 21-0102-0201
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 the 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 65-201, 65-202, 65-203, 65-204, and 65-207, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 445 and 446.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Richard Jones at (208) 334-3513.

DATED this 8th day of November, 2002.

Richard W. Jones, Administrator
Division of Veterans Services
320 Collins Road
Boise, Idaho 83702
Phone: (208) 334-3513
Fax: (208) 334-2627

IDAPA 21, TITLE 01, Chapter 02

RULES GOVERNING EMERGENCY RELIEF FOR VETERANS

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 02-10, October 2, 2002, pages 445 and 446.](#)

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 21 - DIVISION OF VETERANS SERVICES

21.01.03 - RULES GOVERNING MEDICAID QUALIFIED UNITS IN IDAHO STATE VETERANS HOMES

DOCKET NO. 21-0103-0201

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 65-202, 65-204, and 65-907, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, page 447.

In the proposed rule docket number 21-0103-0201, the chapter name was inadvertently published as "Rules Governing Emergency Relief for Veterans."

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Richard W. Jones, Administrator, (208) 334-3513.

DATED this 8th day of November, 2002.

Richard W. Jones, Administrator
Division of Veterans Services
320 Collins Road
Boise, Idaho 83702
Phone: (208) 334-3513
Fax: (208) 334-2627

IDAPA 21, TITLE 01, Chapter 02

RULES GOVERNING MEDICAID QUALIFIED UNITS IN IDAHO STATE VETERANS HOMES

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 02-10, October 2, 2002, page 447](#).

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 21 - DIVISION OF VETERANS SERVICES

21.01.04 - RULES GOVERNING THE IDAHO STATE VETERANS CEMETERY

DOCKET NO. 21-0104-0201

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 the 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 65-202, Idaho Code.

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

This new chapter to the Idaho Division of Veterans Service is necessary to establish rules for the operation and maintenance of the new Idaho State Veterans Cemetery. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 448 through 453.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Richard Jones at (208) 334-3513.

DATED this 8th day of November, 2002.

Richard W. Jones, Administrator
Division of Veterans Services
320 Collins Road
Boise, Idaho 83702
Phone: (208) 334-3513
Fax: (208) 334-2627

IDAPA 21, TITLE 01, Chapter 04

RULES GOVERNING THE IDAHO STATE VETERANS CEMETERY

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 02-10, October 2, 2002, pages 448 through 453.](#)

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 22 - BOARD OF MEDICINE

22.01.01 - RULES OF THE BOARD OF MEDICINE FOR LICENSURE TO PRACTICE MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY

DOCKET NO. 22-0101-0201

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 54-1806 (2), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 456 and 457.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

DATED this 28th day of October, 2002.

Nancy M. Kerr
Executive Director
Idaho State Board of Medicine
1755 Westgate Drive
PO Box 83720
Boise, Idaho 83720-0058
(208) 327-7000, Fax (208) 327-7005

IDAPA 22, TITLE 01, Chapter 01

RULES OF THE BOARD OF MEDICINE FOR LICENSURE TO PRACTICE MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY

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 02-10, October 2, 2002, pages 456 and 457.](#)**

**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 22 - BOARD OF MEDICINE

22.01.03 - RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS

DOCKET NO. 22-0103-0201 - (FEE RULE)

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. When the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1806(2), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002, Idaho Administrative Bulletin, Volume 02-10, pages 458 through 465.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-1806(11), Idaho Code. This rule change does not impose any new or additional fee. The purpose of adding this new language is to specifically identify graduate physician assistants as separate from physician assistants. The renewal and penalty fees for renewal of a cancelled license did not change for the graduate physician assistant.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

DATED this 28th day of October, 2002.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive
PO Box 83720, Boise, Idaho 83720-0058
(208) 327-7000, Fax (208) 327-7005

IDAPA 22, TITLE 01, Chapter 03

RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS

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 02-10, October 2, 2002, pages 458 through 465.

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 22 - BOARD OF MEDICINE

22.01.05 - RULES GOVERNING LICENSURE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

DOCKET NO. 22-0105-0201

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 54-2202, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002, Idaho Administrative Bulletin, Volume 02-10, pages 466 through 469.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

DATED this 28th day of October, 2002.

Nancy M. Kerr
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IDAPA 22, TITLE 01, Chapter 05

RULES GOVERNING LICENSURE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

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 02-10, October 2, 2002, pages 466 through 469.

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 22 - BOARD OF MEDICINE

22.01.09 - RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

DOCKET NO. 22-0109-0201 - (FEE RULE)

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. When the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1806(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. This rule is being adopted to clarify licensure requirements and fees for reinstatement, to allow the Board to collect costs for extraordinary expenses related to license application, to add a Code of Ethics and to make minor housekeeping changes. The changes in the text of the pending rule that differ from the proposed rule are: to remove the Code of Ethics as incorporated by reference and add it as Appendix A; to add text to accurately identify the Accreditation Council for Occupational Therapy Education as the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education pursuant to a comment made by the American Occupational Therapy Association; to add the specific date for qualification for licensure by endorsement as noted by a comment by an Occupational Therapy Licensure Board member, and finally adding text to require in rule that an applicant must report any licenses issued as well as any denied pursuant to a comment from the Board's attorney.

Pursuant to Section 67-5227, Idaho Code, typographical, transcriptional, and/or clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5228, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 2, 2002, Idaho Administrative Bulletin, Volume 02-10, pages 470 through 477.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-1806(11), Idaho Code.

This rule change does not impose any new or additional fee. The purpose of adding this new language is to clarify the process and the fees for converting an inactive license to an active license. In the past, converting an inactive license to an active license has been considered the same as reinstating a lapsed license and the fee charged has always been and continues to be the same as for reinstatement.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

DATED this 4th day of November, 2002.

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IDAPA 22, TITLE 01, Chapter 09

**RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS**

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 02-10, October 2, 2002, pages 470 through 477.

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. 22-0109-0201

SECTION 004

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into this rule.

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SUBSECTIONS 020.02 and 020.04.d.

020. GENERAL QUALIFICATIONS FOR LICENSURE.

02. Education. Each applicant shall provide evidence of successful completion of the academic requirements of a program in occupational therapy accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, or an accrediting agency recognized by the United States Secretary of Education, the Council for Higher Education Accreditation, or both.

()

024. Examination. Each applicant shall either pass an examination required by the Board or shall be entitled to apply for licensure by endorsement or limited permit.

(1-5-88)

d. An applicant may obtain his examination scores and may review his papers in accordance with Section 54-3707(3), Idaho Code.

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SUBSECTIONS 021.01.a., 021.01.d., and 021.05

021. APPLICATION FOR LICENSURE.

01. Licensure By Examination. Each applicant for licensure by examination shall submit a completed written application to the Board, on forms prescribed by the Board, together with the application fee. The application

shall be verified and under oath and shall require the following information: (7-1-99)

a. A certificate of graduation from an approved Occupational Therapy curriculum; or an approved Occupational Therapy Assistant's curriculum accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, or an accrediting agency recognized by the United States Secretary of Education, the Council for Higher Education Accreditation, or both; (+-5-88)(____)

d. The disclosure of the issuance or denial of registration or licensure by any state or district regulatory body; (+-5-88)(____)

05. Occupational Therapists Practicing In Idaho On Effective Date Of These Rules. All persons practicing Occupational Therapy in Idaho and holding American Occupational Therapy Certification Board (AOTCB) registration on ~~the effective date of these rules~~ January 5, 1988, shall qualify for license by endorsement, providing completed application is submitted within the six (6) months following ~~the effective date of these rules~~ January 5, 1988. (+-5-88)(____)

APPENDIX A

OCCUPATIONAL THERAPY CODE OF ETHICS

Preamble

All Occupational Therapists, Occupational Therapy Assistants, Graduate Occupational Therapists, Graduate Occupational Therapy Assistants, and Occupational Therapy Aides are responsible for maintaining and promoting the ethical practice of occupational therapy. Occupational therapy personnel shall act in the best interest of the patient/client at every level of practice. This Code of Ethics, modeled in principle and the spirit of the Code of Ethics of the American Occupational Therapy Association, sets forth principals for the ethical practice of occupational therapy for occupational therapy personnel. This Code of Ethics shall be binding on all Occupational Therapists, Occupational Therapy Assistants, Graduate Occupational Therapists, Graduate Occupational Therapist Assistants, and Occupational Therapy Aides.

Principle 1.

Occupational therapy personnel shall demonstrate, a concern for the well-being of the recipients of their services. (beneficence).

Principle 2.

Occupational therapy personnel shall take reasonable precautions to avoid imposing or inflicting harm upon the recipient of services or to his or her property. (nonmaleficence)

Principle 3.

Occupational therapy personnel shall respect the recipient and/or their surrogate(s) as well as the recipient's rights. (autonomy, privacy, confidentiality)

Principle 4.

Occupational therapy personnel shall achieve and continually maintain high standards of competence. (duties)

Principle 5.

Occupational therapy personnel shall comply with laws and policies guiding the profession of occupational therapy. (justice)

Principle 6.

Occupational therapy personnel shall provide accurate information about occupational therapy services. (veracity)

Principle 7.

Occupational therapy personnel shall treat colleagues and other professionals with fairness, discretion, and integrity. (fidelity)

IDAPA 22 - BOARD OF MEDICINE

22.01.13 - RULES FOR THE LICENSURE OF DIETITIANS

DOCKET NO. 22-0113-0201 - (FEE RULE)

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. When the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-3505(2), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 478 through 483.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-1806(11), Idaho Code. This rule change does not impose any new or additional fee. The purpose of adding this new language is to clarify the process and the fees for converting an inactive license to an active license. In the past, converting an inactive license to an active license has been considered the same as reinstating a lapsed license and the fee charged has always been and continues to be the same as for reinstatement.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

DATED this 28th day of October, 2002.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
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IDAPA 22, TITLE 01, Chapter 13

RULES FOR THE LICENSURE OF DIETITIANS

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 02-10, October 2, 2002, pages 478 through 483.](#)

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 24 - BUREAU OF OCCUPATIONAL LICENSES

24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS

DOCKET NO. 24-0301-0201

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(s) 54-707, Idaho Code,

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. Change expiration date and reinstatement of licenses to be in accordance with Section 67-2614, Idaho Code, and establish requirement for licenses cancelled over five (5) years.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 508 and 509.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 7th day of November, 2002.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
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IDAPA 24, TITLE 03, Chapter 01

RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 02-10, October 2, 2002, pages 508 and 509.](#)

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 24 - BUREAU OF OCCUPATIONAL LICENSES

24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY

DOCKET NO. 24-0401-0201

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(s) 54-821, 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. Clarify high school education equivalency; clarify working floor space in an establishment; establish that no original license fee is required for relocation of contiguous shop within the same primary; establish requirements for an out of business shop; establish requirements for practical and written reexamination; delete models for nail technology exam may not have artificial nails; establish requirements for instructor reexamination.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 510 through 518.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 7th day of November, 2002.

Rayola Jacobsen
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IDAPA 24, TITLE 04, Chapter 01

RULES OF THE BOARD OF COSMETOLOGY

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 02-10, October 2, 2002, pages 510 through 518.

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 24 - BUREAU OF OCCUPATIONAL LICENSES

24.05.01 - RULES OF THE BOARD OF ENVIRONMENTAL HEALTH SPECIALIST EXAMINERS

DOCKET NO. 24-0501-0201 - (REPEAL OF CHAPTER)

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 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule.

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 complete text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, page 519. This chapter is being repealed in its entirety.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson, (208) 334-3233

DATED this 7th day of November, 2002.

Rayola Jacobsen
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IDAPA 24, TITLE 05, Chapter 01

RULES OF THE BOARD OF ENVIRONMENTAL HEALTH SPECIALIST EXAMINERS

This chapter is being repealed in its entirety.

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 02-10, October 2, 2002, page 519](#).

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 24 - BUREAU OF OCCUPATIONAL LICENSES

24.09.01 - RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

DOCKET NO. 24-0901-0201

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(s) 54-1604, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. Deletes the reference under nursing home administrator-in-training requirement to the facility administrator not being the preceptor.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 520 - 521.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 7th day of November, 2002.

Rayola Jacobsen
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IDAPA 24, TITLE 09, Chapter 01

RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-10, October 2, 2002, pages 520 and 521.

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 24 - BUREAU OF OCCUPATIONAL LICENSES

24.11.01 - RULES OF THE STATE BOARD OF PODIATRY

DOCKET NO. 24-1101-0201

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(s) 54-605, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 522 and 523.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson (208) 334-3233.

DATED this 7th day of November, 2002.

Rayola Jacobsen
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IDAPA 24, TITLE 11, Chapter 01

RULES OF THE STATE BOARD OF PODIATRY

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 02-10, October 2, 2002, pages 522 and 523.

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 24 - BUREAU OF OCCUPATIONAL LICENSES
24.12.01 - RULES OF THE BOARD OF PSYCHOLOGIST EXAMINERS

DOCKET NO. 24-1201-0201

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(s) 54-2305, 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. Adds that the reexamination fee shall be charged by the national examination entity plus \$25 processing fee and change reciprocity to endorsement fee.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 524 and 525.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 7th day of November, 2002.

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IDAPA 24, TITLE 12, Chapter 01

RULES OF THE BOARD OF PSYCHOLOGIST EXAMINERS

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 02-10, October 2, 2002, pages 524 and 525.](#)

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 24 - BUREAU OF OCCUPATIONAL LICENSES
24.12.01 - RULES OF THE BOARD OF PSYCHOLOGIST EXAMINERS

DOCKET NO. 24-1201-0202

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 or 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)54-2305, 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. Allows a one (1) year carryover of continuing education hours; deletes unnecessary record keeping requirement; require the training faculty to be on site and of adequate size; clarifies the definition of a professional psychology program.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 2, 2002, Idaho Administrative Bulletin, Volume 02-10, pages 526 through 531.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 7th day of November, 2002.

Rayola Jacobsen
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IDAPA 24, TITLE 12, Chapter 01

RULES OF THE BOARD OF PSYCHOLOGIST EXAMINERS

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 02-10, October 2, 2002, pages 526 through 531.](#)

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 24 - BUREAU OF OCCUPATIONAL LICENSES

24.14.01 - RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS

DOCKET NO. 24-1401-0201

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(s) 54-3204 Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 532 through 541.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 7th day of November, 2002.

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Bureau of Occupational Licenses
1109 Main St. STE 220
P.O. Box 83720
Boise, ID 83720-0063
(208) 334-3233 (208) 334-3945, fax

IDAPA 24, TITLE 14, Chapter 01

RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS

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 02-10, October 2, 2002, pages 532 through 541.](#)

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 24 - BUREAU OF OCCUPATIONAL LICENSES

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

DOCKET NO. 24-1501-0201 - (FEE RULE)

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 after the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. After the pending rule is approved, rejected, 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) 54-3404, 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.

Editor's Note: In Section 250.01, Subsection 250.01.e. was inadvertently omitted from the proposed rule that published in Volume 02-10. The original agency rule submission included this change establishing a fee for intern registration. The Office of Administrative Rules regrets any confusion this may have caused. This correction is being published in the Bulletin following this notice.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 542 through 552.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 67-5226(2), Idaho Code. The Governor has found that the fee being imposed is justified and necessary to avoid immediate danger and the fee is described herein: The statute authorizing the above fee is 54-3402, Idaho Code. Establishes fee for Marriage and Family Therapist Intern registration at \$25.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson (208) 334-3233

DATED this 6th day of November, 2002..

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Suite 220
P.O. Box 83720
Boise, ID 83720-0063
(208) 334-3233
(208) 334-3945, fax

IDAPA 24, TITLE 15, Chapter 01

**RULES OF THE IDAHO LICENSING BOARD OF PROFESSIONAL COUNSELORS
AND MARRIAGE AND FAMILY THERAPISTS**

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 02-10, October 2, 2002, pages 542 through 552.](#)**

**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. 24-1501-0201

SUBSECTION 250.01.e.

250. FEES (Rule 250).

- | | | |
|-----------------------|---|----------------------|
| 01. | Application Fee. Application fee: | (7-1-97) |
| a. | Professional Counselor - Seventy-five dollars (\$75). | (3-13-02) |
| b. | Clinical Professional Counselor - Seventy-five dollars (\$75). | (3-13-02) |
| c. | Pastoral Counselor - Seventy-five dollars (\$75). | (3-13-02) |
| d. | <i>Conditional Counseling License - Seventy-five dollars (\$75).</i> | (3-18-99) |
| ed. | Marriage and Family Therapist - Seventy-five dollars (\$75). | (3-13-02) |
| e. | <u><i>Intern Registration - Twenty-five dollars (\$25).</i></u> | () |

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.16.01 - RULES OF THE STATE BOARD OF DENTURITY

DOCKET NO. 24-1601-0201 - (FEE RULE)

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 after the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. After the pending rule is approved, rejected, 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) 54-3309, 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. Inserts rules for Administrative Appeals. Incorporation by Reference; adds Bureau contact information; adds Public Records section; adds Bureau definition; adds the board may meet and have examinations at such other times as determined by the board; establishes the examination shall include a theory examination; establishes grading and reexamination requirements; establishes the reexamination fee shall be the same as the original examination fee.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 553 through 555.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 67-5226(2) and 54-3312, Idaho Code. Adds a \$300 reexamination fee.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 7th day of November, 2002.

Rayola Jacobsen, Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Suite 220
P.O. Box 83720, Boise, ID 83720-0063
(208) 334-3233 (208) 334-3945, fax

IDAPA 24, TITLE 16, Chapter 01

RULES OF THE STATE BOARD OF DENTURITY

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 02-10, October 2, 2002, pages 553 through 555.](#)

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 24 - BUREAU OF OCCUPATIONAL LICENSES

24.17.01 - RULES OF THE STATE BOARD OF ACUPUNCTURE

DOCKET NO. 24-1701-0201

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, 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) 54-4705 and 67-2609, 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 complete text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 556 through 560.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson, (208) 334-3233.

DATED this 7th day of November, 2002.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Suite 220
P.O. Box 83720
Boise, ID 83720-0063
(208) 334-3233 (208) 334-3945 fax

IDAPA 24, TITLE 17, Chapter 01

RULES OF THE STATE BOARD OF ACUPUNCTURE

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 02-10, October 2, 2002, pages 556 through 560.](#)

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 24 - BUREAU OF OCCUPATIONAL LICENSES

24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD

DOCKET NO. 24-1801-0201

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(s) 54-4106, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 561.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 6th day of November, 2002.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Suite 220
P.O. Box 83720
Boise, ID 83720-0063
(208) 334-3233 (208) 334-3945 fax

IDAPA 24, TITLE 18, Chapter 01

RULES OF THE REAL ESTATE APPRAISER BOARD

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 02-10, October 2, 2002, page 561.](#)

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 24 - BUREAU OF OCCUPATIONAL LICENSES

24.19.01 - RULES OF THE BOARD OF RESIDENTIAL CARE FACILITY ADMINISTRATORS

DOCKET NO. 24-1901-0201 - (FEE RULE)

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 after the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. After the pending rule is approved, rejected, 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) 54-4205, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. Further defines courses approved for continuing education; changes the requirement for renewal of a license to be in accordance with Section 67-2614, Idaho Code; increase the license application fee to \$50 and deletes reference recertification in annual renewal fee.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the 10/02/2002 Idaho Administrative Bulletin, Volume 02-10, pages 562 through 563.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-4205(g), Idaho Code. Pursuant to section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Increases the application fee to \$50.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson.

DATED this 7th day of November, 2002.

Rayola Jacobsen, Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Suite 220
P.O. Box 83720, Boise, ID 83720-0063
(208) 334-3233 (208) 334-3945, fax

IDAPA 24, TITLE 19, Chapter 01

RULES OF THE BOARD OF RESIDENTIAL CARE FACILITY ADMINISTRATORS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-10, October 2, 2002, pages 562 and 563.

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 24 - BUREAU OF OCCUPATIONAL LICENSES

24.19.01 - RULES OF THE BOARD RESIDENTIAL CARE FACILITY ADMINISTRATORS

DOCKET NO. 24-1901-0202

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(s) 54-2305, 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. Establishes that an applicant for examination shall be required to register with and pay the examination fee to NAB; deletes contents of examination; establishes passing score to be determined by NAB; deletes requirement for retakes; adds approved courses of study for licensure.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 564 through 566.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 7th day of November, 2002.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Suite 220
P.O. Box 83720
Boise, ID 83720-0063
(208) 334-3233 (208) 334-3945, fax

IDAPA 24, TITLE 19, Chapter 01

RULES OF THE BOARD RESIDENTIAL CARE FACILITY ADMINISTRATORS

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 02-10, October 2, 2002, pages 564 through 566.

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 25 - OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-0202

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and are now pending review by the 2003 Idaho State Legislature for final approval. A pending rule becomes final and effective upon adjournment of the legislature unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If a 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 pending rules. The action is authorized pursuant to Section 36-2107(b) and (d), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rules was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 567 through 576.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the pending rule, contact: Jake Howard, Executive Director, (208) 327-7380 - FAX 327-7382

DATED this 7th day of November, 2002.

Jake Howard
Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172
Boise, Idaho 83706
(208) 327-7380
FAX (208) 327-7382

IDAPA 25, TITLE 01, Chapter 01

RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

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 02-10, October 2, 2002, pages 567 through 576.](#)

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 26 - DEPARTMENT OF PARKS AND RECREATION

26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-0202

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 67-4223, 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 text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 577 through 593..

The change in Definition 010.04 defines Camping Unit and more accurately describes a family unit and an acceptable number of additional vehicles; the change in Rule 075.02 clarifies establishment and enforcement of interim rules; the changes in Rule 150.01, 150.02, 150.03, and 150.05 identify appropriate Idaho Code sections; the deletions in Rule 150.04 and 150.06 strike unnecessary references; the change in Rule 175.02 clarifies day use hours; the change in Rule 200.01 clarifies authorized occupancy guidelines; the change in Rule 250.02 clarifies the assessment of reservation service fees; the change to Rule 250.04 explains the assessment of special charges; the change to Rule 250.05.c clarifies the requirements for facility use fees and applicable deposits; the deletion to Rule 275.06 strikes unnecessary language; the change to Rule 450.05 provides needed clarification.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dean Sangrey, Division Administrator, Operations (208) 334-4180, ext. 250.

DATED this 25th day of November, 2002.

Rick Collignon, Director
Idaho Department of Parks and Recreation
5657 Warm Springs Ave., Boise, ID 83716
PO Box 83720, Boise, ID 83720-0065
(208) 334-4180 - FAX (208) 334-5232

IDAPA 26, TITLE 01, Chapter 20

RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

There are substantive changes from the proposed rule text.

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-10, October 2, 2002, pages 577 through 593.

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. 26-0120-0202

SUBSECTION 010.04

010. DEFINITIONS.

As used in this chapter:

(1-1-94)

04. Camping Unit. A single family unit including a mother and father and their children, or a party of no more than four (4) persons occupying one (1) vehicle with built-in sleeping accommodations or a vehicle with a maximum of two (2) tents. ()

SUBSECTION 075.02

075. AUTHORITY CONFERRABLE ON EMPLOYEES - ENFORCEMENT.

072. Park Manager Authority. The park manager or designee may establish and enforce all rules, including interim rules. Interim rules which shall apply to the public safety, use, and enjoyment or protection of natural, cultural, or other resources within lands administered by the department. Those rules shall be posted for public view and shall be consistent with established state laws and these rules. All state, county, and local laws are in effect and subject to enforcement within lands administered by the department. Interim rules shall expire in one hundred twenty (120) days unless approved by the Board. (7-1-99)()

SUBSECTIONS 150.01 through 150.06

150. USE OF MOTORIZED VEHICLES.

All motorized vehicles shall stay on authorized established department roadways or parking areas except for trails and areas which are clearly identified by signs for off-road use. Drivers and vehicles operated within lands administered by the department shall be licensed or certified as required under state law. The ~~drivers~~ operators of all vehicles shall comply with the motor vehicle entry fee requirements, speed and traffic rules of the department, and all other federal, state, local laws, and state ordinances and laws governing traffic on public roads. (3-30-01)()

01. Use Of Parking Spaces For Persons With A Disability. Special zones and parking spaces within state parks are designated and signed for exclusive use by vehicles displaying a special license plate or card denoting legal handicap status as provided in Section 49-213, Idaho Code. (3-30-01)()

02. Overdriving Road Conditions And Speeding Prohibited. No person shall drive a vehicle at a speed greater than the posted speed or a reasonable and prudent speed under the conditions, whichever is less. Every person shall drive at a safe and appropriate speed when traveling on park roads, in congested areas, when pedestrians or bicyclists are present, or by reason of weather or hazardous highway conditions as provided in Section 49-654, Idaho Code. ~~(3-30-01)~~()

03. Motorcycle Safety Helmets. Persons under eighteen (18) years of age shall wear a protective safety helmet when riding upon a motorcycle as operator or passenger within Idaho State Parks as provided in Section 49-666, Idaho Code. ~~(3-30-01)~~()

04. Snowmobile Operation Limited. No person shall operate a snowmobile on any regularly plowed park road. Access on non-plowed roads and trails shall only be permitted when authorized by the park manager. (3-30-01)

05. Compliance With Posted Regulatory Signs Required. Persons operating vehicles within state parks are required to obey posted regulatory signs as provided in Section 49-807, Idaho Code. ~~(3-30-01)~~()

06. Obedience To Traffic Direction Required. No person shall willfully fail or refuse to comply with any lawful order or directions of any park employee invested with authority to direct, control or regulate traffic within a state park. (3-30-01)

SUBSECTION 175.02

175. PUBLIC BEHAVIOR.

02. Day Use. Between the hours of 10 p.m. and 7 a.m., unless otherwise posted, all persons not registered for the night or attending park sponsored activities are to leave the park. ()

SUBSECTION 200.01

200. CAMPING.

01. Occupancy. Camping shall be permitted only in designated campsites with a maximums of: ~~eight (8) people, one (1) extra vehicle, two (2) tents, and one (1) motor vehicle or towed unit with built in sleeping accommodations~~ one (1) camping unit per campsite, unless the site has been approved to accommodate a second unit by the Park Manager or designee, or unless these rules authorize exceeding this limit. Additional vehicle(s) may be parked at the site with permission of the park manager. A campsite will be determined occupied only after the required camping fees have been paid and registration information completed. ~~(3-10-00)~~()

SUBSECTIONS 250.02, 250.04, and 250.05.c.

250. FEE SCHEDULE.

032. Reservation Service Charge Fees. ~~Where reservations are available a non-refundable reservation service charge of six dollars (\$6) shall be charged. A non-refundable service charge of six dollars (\$6) will be assessed for each campsite reserved. This fee will be waived for campers with a current Idaho RV registration sticker and reimbursed to the Department by the RV Program. A service charge of ten dollars (\$10) will be assessed for the cancellation or modification of each campsite reserved that involves reducing the planned length of stay if notice is received more than twenty-four (24) hours in advance of the scheduled arrival time. Cancellations or modifications made less than twenty-four (24) hours in advance of the scheduled arrival time shall result in assessment of a ten~~

dollar (\$10) service charge and may require the forfeiture of the first night's camping fee. (7-1-99)()

~~094.~~ **Special Charges.** ~~A fee of twenty dollars (\$20) shall be charged for each check returned for insufficient funds.~~ The cost to the agency for returned checks will be passed on to the issuer of the insufficient funds check. (3-10-00)()

~~405.~~ **Group Facility Fees.** (3-13-97)

~~c. The reservation service charge together with the first night group use fee~~ Unless other arrangements are made with the Park Manager or designee, all group facility use fees and any required applicable deposits are required to be prepaid to confirm a group use facility reservation. The reservation service charge is non-refundable. First night group Unless otherwise provided for in these rules, all use fees shall be refunded if notice of cancellation is provided not later than 2 p.m., local time, ~~ten~~ twenty-one (21) days prior to date of scheduled arrival. Unless otherwise provided for in these rules, during the primary season, the percent of fees refunded for cancellations made less than twenty-one (21) days prior to date of scheduled arrival will be based on the ability of the Park Manager or designee to register the cancelled sites to other parties. (3-10-00)()

SUBSECTION 275.06

275. CRITERIA FOR INDIVIDUAL CAMPSITE, CAMPING CABIN, YURT AND TEPEE RESERVATIONS FOR PARKS THAT HAVE A RESERVATION PROGRAM.

~~06. Late Arrival.~~ Reservations shall only be held until 1 p.m. of the day immediately following the first reserved night. Check-in time cannot be guaranteed in any reserved site prior to 2 p.m. on the designated date of arrival. Park Manager Authority. The Park Manager or designee may deny a reservation to any individual whose prior documented behavior has violated department rules or whose in-park activities are incompatible with the park's operation. (3-10-00)()

SUBSECTION 450.05

450. SWIMMING AND BOATING WATER USE WATERFRONT AREA RESTRICTIONS.

~~05.~~ **Compliance With Laws.** Vessels operating on public waters administered by the department shall fully comply with the Idaho Safe Boating Act, Title 67, Chapters 70 and the Marine Sewage Disposal Act, Title 67, Chapter 75, Idaho Code and the rules promulgated thereunder. The director may establish rules prohibiting the use of boat motors or to limit the horsepower capacity on those vessels operating on waters administered by the department. (3-13-97)()

IDAPA 31 - 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 - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Idaho Public Utilities Commission 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 the Public Utilities Commission has adopted a pending rule. This action is authorized pursuant to Sections 61-515.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any changes 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. No comments were received concerning the proposed rule. The original text of the pending rule and the reasons for its adoption were published in the September 4, 2002, Idaho Administrative Bulletin, Volume 02-9, at pages 181 and 182.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Weldon B. Stutzman, Deputy Attorney General, at (208) 334-0318.

DATED this 30th day of October, 2002.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington St. (83702-5983)
PO Box 83720, Boise, ID 83720-0074
Tele: (208) 334-0338 / FAX: (208) 334-3762

IDAPA 31, TITLE 11, Chapter 01

SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 02-9, September 4, 2002, pages 181 and 182.](#)

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 31 - PUBLIC UTILITIES COMMISSION

31.21.01 - CUSTOMER RELATIONS RULES FOR GAS, ELECTRIC AND WATER PUBLIC UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION (THE UTILITY CUSTOMER RELATIONS RULES)

DOCKET NO. 31-2101-0201

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted on a 2-1 vote by the Idaho Public Utilities Commission 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 the Public Utilities Commission has adopted a pending rule. This action is authorized pursuant to Sections 61-515, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any changes 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. Most of the comments received support the proposed changes and the Commission determined to adopt the pending rule as proposed. The original text of the pending rule and the reasons for its adoption were published in the October 2, 2002, Idaho Administrative Bulletin, Volume 02-10, at pages 605 through 608.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Weldon B. Stutzman, Deputy Attorney General, at (208) 334-0318.

DATED this 30th day of October, 2002.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington St. (83702-5983)
PO Box 83720, Boise, ID 83720-0074
Tele: (208) 334-0338 / FAX: (208) 334-3762

IDAPA 31, TITLE 21, Chapter 01

CUSTOMER RELATIONS RULES FOR GAS, ELECTRIC AND WATER PUBLIC UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION (THE UTILITY CUSTOMER RELATIONS RULES)

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-10, October 2, 2002, pages 605 and 608.

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 33 - REAL ESTATE COMMISSION

33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 33-0101-0201

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Real Estate Commission and is now pending review by the 2003 Idaho State Legislature for final approval. The pending rule will become final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by the 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, notice is hereby given that the Real Estate Commission has adopted a pending rule. The action is authorized pursuant to Section 54-2007, Idaho Code.

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

The pending rule simply deletes definitions that were moved to statute on July 1, 2002. Also, there is a change in the requirement regarding display of license certificates in branch offices.

The pending rule is being adopted as proposed. The original text of the proposed rules was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, page 609 and 610.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donna Jones, (208) 334-3285 ext. 232.

Dated this 7th day of November, 2002.

Donna M. Jones
Executive Director
Agency: Idaho Real Estate Commission
Physical Address: 633 N. Fourth St., Boise, ID 83702
PO Box 83720, Boise, ID 83720
(208) 334-3285; (208) 334-2050 (fax)

IDAPA 33, TITLE 01, Chapter 01

RULES OF THE IDAHO REAL ESTATE COMMISSION

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 02-10, October 2, 2002, pages 609 and 610.](#)

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 33 - REAL ESTATE COMMISSION

33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 33-0101-0202 - (FEE RULE)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Real Estate Commission and is now pending review by the 2003 Idaho State Legislature for final approval. The pending rule will become final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by the 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, notice is hereby given that the Real Estate Commission has adopted a pending rule. The action is authorized pursuant to Section 54-2007, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rule and the text of the pending rule: The pending rule eliminates the requirement that IREC collect a \$10 "administration fee" for handling the Errors and Omissions Group Insurance applications, reflecting the fact that IREC has out-sourced that function. Additionally, the rules eliminate the requirement that licensees file their "certificates of coverage" with the Commission, providing for self-certification subject to audit by the Commission.

The pending rule is being adopted as proposed. The original text of the proposed rules was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 611 through 613.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. No new fees are added, and, in fact, a \$10 "administrative fee" is being eliminated.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donna Jones, (208) 334-3285 ext. 232.

Dated this 7th day of November, 2002.

Donna M. Jones
Executive Director
Agency: Idaho Real Estate Commission
Physical Address: 633 N. Fourth St., Boise, ID 83702
PO Box 83720, Boise, ID 83720
(208) 334-3285; (208) 334-2050 (fax)

IDAPA 33, TITLE 01, Chapter 01

RULES OF THE IDAHO REAL ESTATE COMMISSION

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-10, October 2, 2002, pages 611 through 613.

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 33 - REAL ESTATE COMMISSION

33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 33-0101-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 13, 2002.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2007, Idaho Code.

PUBLIC HEARING: Public hearing concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 31, 2003.

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 Commission has decided to permit licensees to "self-certify" their CE compliance when renewing or reactivating a license. To be effective, of course, the certification is subject to verification. The Commission believes that allowing the licensee to self-certify his completion of the CE requirements - rather than submit a hefty packet of documents with the application - is a benefit to the licensee as well as the Commission.

The Rules set forth the type of CE documentation the licensee will need to keep, and authorize the Commission to request the documentation in order to verify the certificate of compliance. The rules also provide that the license will be inactivated if he fails to comply with the Commission's request for verification, and restate for the licensee the consequences of submitting a false certificate (which already exist by statute). Finally, the rules list the "approved CE topics," which had previously only been listed in Policy. The standards set forth in these rules are deemed necessary by the Commission to allow it to continue this much-desired self-certification program.

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

The rule confers a benefit in that it sets forth standards allowing the licensee to "self-certify" he has met the Continuing Education requirements necessary to renew his license. Without self-certification, the licensee will be required to submit documentation with his application for license renewal or re-activation.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:
No new fees involved.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donna Jones, (208) 334-3285 ext. 232.

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 February 7, 2003.

Dated this 7th day of November, 2002.

Donna M. Jones, Executive Director
Idaho Real Estate Commission
633 N. Fourth St., Boise, ID 83702
PO Box 83720, Boise, ID 83720
(208) 334-3285; (208) 334-2050 (fax)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 33-0101-0301

305. -- ~~9399.~~ (RESERVED).

RULES 400 THROUGH 499 - CONTINUING EDUCATION

400. CONTINUING EDUCATION A PREREQUISITE FOR RENEWAL OF ACTIVE LICENSE.

Every licensee applying to renew a license on active status, or applying to change from inactive to active license status, shall first meet the continuing education requirements set forth in Sections 54-2018 and 54-2023, Idaho Code. (11-13-02)T

401. OBTAINING CONTINUING EDUCATION CREDIT.

In addition to those courses that have been certified or preapproved for continuing education by the Commission, and as provided in Section 54-2023(5)(e), Idaho Code, a licensee may obtain continuing education credit for the successful completion of any course meeting either of the following descriptions, without the preapproval or certification of the Commission: (11-13-02)T

01. Professional Designation Courses. Courses developed by national professional organizations and that are required in order to earn professional designations from a national organization in specialized areas of licensed real estate practice; or (11-13-02)T

02. Courses Accredited By Other Professions. Courses approved by and offered in satisfaction of another professional or occupational licensing authority's education requirements, if within the approved topics listed in Rule 402. (11-13-02)T

402. APPROVED TOPICS FOR CONTINUING EDUCATION.

01. Topics Approved By The Commission. Approved topic areas for continuing education, as provided for in Sections 54-2023 and 54-2036, Idaho Code, include the following: (11-13-02)T

- a.** Real estate ethics; (11-13-02)T
- b.** Legislative issues that influence real estate practice; (11-13-02)T
- c.** Real estate law; contract law; agency; real estate licensing law and administrative rules; (11-13-02)T
- d.** Fair housing; affirmative marketing; Americans with Disabilities Act; (11-13-02)T
- e.** Real estate financing, including mortgages and other financing techniques; (11-13-02)T
- f.** Real estate market measurement and evaluation; (11-13-02)T

- g.** Land use planning and zoning; land development; construction; energy conservation in building; (11-13-02)T
- h.** Real estate investment; (11-13-02)T
- i.** Accounting and taxation as applied to real property; (11-13-02)T
- j.** Real estate appraising; (11-13-02)T
- k.** Real estate marketing procedures related specifically to actual real estate knowledge; (11-13-02)T
- l.** Real estate inspections; (11-13-02)T
- m.** Property management; (11-13-02)T
- n.** Timeshares, condominiums and cooperatives; (11-13-02)T
- o.** Real estate environmental issues and hazards, including lead-based paint, underground storage tanks, radon, etc., and how they affect the practice of real estate; (11-13-02)T
- p.** Water rights; (11-13-02)T
- q.** Brokerage office management and supervision; and (11-13-02)T
- r.** Use of calculators or computers as applied to the practice of real estate. (11-13-02)T
- 02.** **Other Topics.** Upon written request, the Commission may also approve any other topic that directly relates to real estate brokerage practice and that directly contributes to the accomplishment of the primary purpose of continuing education, which is to help assure that licensees possess the knowledge, skills, and competency necessary to function in the real estate business in a manner that protects and serves the public interest. The knowledge or skills taught in an elective course must enable licensees to better serve real estate consumers. (11-13-02)T
- 03.** **Topics Not Eligible For Continuing Education Credits.** The following activities shall not be eligible for approval for compliance with the continuing education requirement: (11-13-02)T
- a.** Those which are specifically exam preparation in nature; (11-13-02)T
- b.** Those which deal with office or business skills, such as: (11-13-02)T
- i.** Typing; (11-13-02)T
- ii.** Speed reading; (11-13-02)T
- iii.** Memory improvement; (11-13-02)T
- iv.** Body language; (11-13-02)T
- v.** Motivation and similar activities; (11-13-02)T
- c.** Those which are held in conjunction with a brokerage firm's sales promotion or sales meetings; or (11-13-02)T
- d.** Those which are held by trade organizations for licensee's orientation. (11-13-02)T
- 403.** **CERTIFICATION OF COMPLIANCE AND SATISFACTORY PROOF.**

As required by Section 54-2018, Idaho Code, a licensee applying to renew an active license, or to change from inactive to active status, shall certify having met the continuing education requirements set forth in Section 54-2023, Idaho Code, in the form and manner approved by the commission. The licensee shall keep satisfactory proof of having completed the requirement, and upon request, shall provide satisfactory proof to the Commission of having completed the requirement. (11-13-02)T

01. Commission Request For Proof Of Compliance. The commission may request satisfactory proof of continuing education compliance from any licensee who has submitted a certification of continuing education compliance. The request shall state the time within which the proof must be received in the Commission office, which time shall not be less than ten (10) business days. (11-13-02)T

02. Satisfactory Proof Of Compliance. Upon request from the Commission, the licensee shall submit satisfactory proof of having met the continuing education requirement. Satisfactory proof shall include, for each course listed in the certificate of compliance, the following: (11-13-02)T

- a.** Satisfactory evidence of having successfully completed the course, which shall consist of: (11-13-02)T
 - i.** A transcript of the course taken; (11-13-02)T
 - ii.** A letter from the provider verifying successful completion of the course; or (11-13-02)T
 - iii.** A course completion certificate; and (11-13-02)T
 - iv.** Shall clearly identify the licensee, the title of the course or challenge exam, the course provider, the number of classroom hours, and the challenge exam or course completion date; and (11-13-02)T
- b.** Satisfactory evidence that the course listed is approved for continuing education credit, as provided by section 54-2023, Idaho Code, which shall be established by the course certification approval number. The Commission may, in its sole discretion, accept alternative documentation establishing that the course is approved for credit. (11-13-02)T

404. FAILURE TO SUBMIT SATISFACTORY PROOF - INACTIVATION OF LICENSE. Failure of a licensee to comply with a Commission request for satisfactory proof of continuing education compliance shall be deemed an insufficient application for licensure under Section 67-5254, Idaho Code, and shall result in the immediate inactivation of the license. The inactivation of the license shall be deemed a partial expiration of the license. (11-13-02)T

405. AUTHORITY TO INVESTIGATE AND DISCIPLINE NOT LIMITED. Nothing in these rules shall limit the Commission's authority granted in Sections 54-2058 through 54-2065, Idaho Code, to investigate and discipline a licensee for misconduct. (11-13-02)T

406. FALSIFICATION OF CERTIFICATES OR DOCUMENTATION. Any licensee who, acting alone or in concert with others, wilfully or knowingly causes or allows a Certification of Continuing Education Compliance, or any written documentation verifying a Certification of Continuing Education Compliance, to be submitted to the Commission which is false, fraudulent, or misleading, shall be subject to disciplinary action, including but not limited to suspension or revocation of license, in accordance with Chapter 52, Title 67, Idaho Code; provided, however, that nothing herein shall entitle such licensee to notice and hearing on the automatic inactivation of license provided for in these rules. (11-13-02)T

407. -- 999. (RESERVED).

IDAPA 33 - REAL ESTATE COMMISSION

33.01.02 - RULES OF PRACTICE AND PROCEDURE OF THE IDAHO REAL ESTATE COMMISSION GOVERNING CONTESTED CASES

DOCKET NO. 33-0102-0201

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to temporary rule is December 19, 2002. This rule has been adopted by the Real Estate Commission and is now pending review by the 2003 Idaho State Legislature for final approval. The pending rule will become final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by the 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, notice is hereby given that the Real Estate Commission has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 54-2007, Idaho Code.

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

After receiving comments to the proposed rule, the commission has decided to remove Sections 153 and 456. With the exception to these Sections being removed, the pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 614 through 636.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donna Jones, (208) 334-3285 ext. 232.

Dated this 7th day of November, 2002.

Donna M. Jones, Executive Director
Agency: Idaho Real Estate Commission
Physical Address: 633 N. Fourth St., Boise, ID 83702
PO Box 83720, Boise, ID 83720
(208) 334-3285; (208) 334-2050 (fax)

IDAPA 33, TITLE 01, Chapter 02

RULES OF PRACTICE AND PROCEDURE OF THE IDAHO REAL ESTATE COMMISSION GOVERNING CONTESTED CASES

There are substantive changes from the proposed rule text.

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

**The complete text of the proposed rule was published in the Idaho Administrative
Bulletin, [Volume 02-10, October 2, 2002, pages 614 through 636.](#)**

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. 33-0102-0201

~~153. CONSIDERATION OF REPORT.~~

~~The agency head shall consider the Executive Director's report in executive session, in accordance with Sections 67-2345 and 9-340C(9), Idaho Code, and shall exclude any Commission staff, including the Executive Director, any Commission prosecuting attorney, and any other person who was involved in the investigation being reported or may be involved in the prosecution of any administrative complaint that may be authorized. The decision whether to authorize the filing of an administrative complaint or whether to provide further directions to the Executive Director concerning the matter shall be made in open session.~~ (8-15-02)F

~~1543. -- 199. (RESERVED).~~

(BREAK IN CONTINUITY OF SECTIONS)

~~456. PUBLIC INQUIRIES ABOUT OR RECOMMENDATIONS FOR COMMISSION ISSUANCE OF AN ADMINISTRATIVE COMPLAINT (RESERVED).~~

~~This rule sets forth procedures to be followed by the agency head, its individual members, Commission attorneys, Commission staff and hearing officers upon receipt of a public inquiry whether the Commission will file an administrative complaint, or of a recommendation that the Commission should file an administrative complaint.~~ (8-15-02)F

~~**01- Agency Head.** When the public contacts the agency head, or an individual member of the agency head, to inquire whether an administrative complaint should be filed by the Commission staff or to recommend that an administrative complaint be filed, the agency head or its individual members may:~~ (8-15-02)F

~~**a-** Explain the Commission's procedures;~~ (8-15-02)F

~~**b-** Explain the Commission's jurisdiction or authority (including the statutes or rules administered by the Commission); and~~ (8-15-02)F

~~**c-** Direct the public to appropriate personnel who can provide assistance in submitting allegations to Commission staff for investigation.~~ (8-15-02)F

~~**d-** The agency head or its members may also discuss whether given allegations would, in the agency head's or member's opinion, warrant the issuance of an administrative complaint or warrant direction to staff to pursue further investigation. No statement of the agency head or its members in response to a public inquiry constitutes a finding of fact or other decision on the underlying matter.~~ (8-15-02)F

~~**02- Commission Administrative Attorney.** When the public contacts the Commission's administrative attorney to inquire whether an administrative complaint should be issued by the Commission or to recommend that an administrative complaint be issued, the administrative attorney may:~~ (8-15-02)F

~~**a-** Explain the Commission's procedures;~~ (8-15-02)F

~~**b-** Explain the Commission's jurisdiction or authority (including an explanation of the statutes or~~

~~rules administered by the Commission); and~~

~~(8-15-02)F~~

~~e. Direct the public to appropriate personnel who can provide assistance in submitting allegations to Commission staff for investigation.~~

~~(8-15-02)F~~

~~03. **Commission Prosecuting Attorney.** The Commission's prosecuting attorney may discuss whether given allegations would, in the attorney's opinion, warrant the issuance of an administrative complaint or warrant direction to staff to pursue further investigation. The Commission is not bound by the attorney's advice or recommendations, and the attorney should notify the public that neither the Commission staff nor the agency head is obligated to follow the attorney's advice or recommendations.~~

~~(8-15-02)F~~

~~04. **Commission Staff.** When the public contacts the Commission staff to inquire whether an administrative complaint should be issued or to recommend that an administrative complaint be issued, a member of the Commission's staff authorized to respond to public inquiries about administrative complaints may:~~

~~(8-15-02)F~~

~~a. Explain the Commission's procedures;~~

~~(8-15-02)F~~

~~b. Explain the Commission's jurisdiction or authority (including an explanation of the statutes or rules administered by the Commission);~~

~~(8-15-02)F~~

~~c. Direct the public to appropriate personnel who can provide assistance in submitting allegations to Commission staff for investigation; and~~

~~(8-15-02)F~~

~~d. Express an opinion whether given allegations would, in the Commission staff's opinion, warrant the issuance of an administrative complaint or warrant Commission staff's further investigation.~~

~~(8-15-02)F~~

~~e. The Commission is not bound by the Commission staff's advice or recommendations, and the Commission staff should notify the public that the Commission is not obligated to follow the Commission staff's advice or recommendations.~~

~~(8-15-02)F~~

~~05. **Hearing Officers.** When the public contacts a hearing officer to inquire whether an administrative complaint should be issued by the Commission or to recommend that an administrative complaint be issued, the hearing officer should not discuss the matter, but should refer the member of the public to other Commission personnel.~~

~~(8-15-02)F~~

IDAPA 35 - STATE TAX COMMISSION

35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-0202

NOTICE OF VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the proposed rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 63-105, Idaho, Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this rulemaking:

The proposed Rule 292 "Calculation Of Refunds For Nontaxable Uses Of Motor Fuels In Motor Vehicles" amended interpretation received numerous public comments. Based upon these comments, the Tax Commission concluded more work was required before moving forward with this proposed rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Randy Nilson, at (208) 334-7530.

DATED this 30th day of October, 2002.

Randy Nilson
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd. Plaza IV
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7530
Fax: (208) 334-7844

THIS PROPOSED RULEMAKING HAS BEEN VACATED AND IS NULL AND VOID.

IDAPA 37 - DEPARTMENT OF WATER RESOURCES

37.02.03 - WATER SUPPLY BANK RULES

DOCKET NO. 37-0203-0201

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 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 42-1762, Idaho Code.

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

The purpose of this rulemaking is to amend Rule 035 to provide for deposit of water bank rental funds received from federal agencies into the federal grant fund.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, page 693 and 694.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Norman C. Young at (208) 327-7910.

DATED this 13th day of November, 2002.

Joe Jordan, Chairman
Idaho Water Resource Board
1301 N. Orchard
Boise, Idaho 83706
(208) 327-7910 (office)
(208) 327-7866 (Fax)

IDAPA 37, TITLE 02, Chapter 03

WATER SUPPLY BANK RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 02-10, October 2, 2002, pages 693 and 694.](#)

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 37 - DEPARTMENT OF WATER RESOURCES

37.03.03 - RULES AND MINIMUM STANDARDS FOR THE CONSTRUCTION AND USE OF INJECTION WELLS

DOCKET NO. 37-0303-0202

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 Sections 42-3913, 42-3914 and 42-3915, 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 Environmental Protection Agency promulgated revisions to the Class V Underground Injection Control (UIC) regulations, adding new federal requirements to the Idaho Department of Water Resources' Waste Disposal and Injection Well Program. The pending rule incorporates the new requirements and also incorporates certain standards and provisions of the Idaho Ground Water Quality Rule.

Changes between the text of the proposed rule and the text of the pending rule include the following:

Rule 3 was modified to include actions which may be taken pursuant to Title 42, Chapter 39, Idaho Code. This change was requested during public comment.

In Subsection 010.04 "aquifer recharge and storage" was added as a recognized use in the definition of Beneficial Use. This change was requested during public comment. The word "propogation" was changed to "propagation" the correct spelling.

In Subsection 010.26 (in the Proposed Rule see Subsection 010.32) the definition of "Maximum Contaminant Level" has been deleted to reflect the incorporated standards of the Idaho Ground Water Quality Rule. This change was requested during public comment for clarification purposes. This deletion will require renumbering of the subsequent definitions in Section 010.

In Subsection 010.45 (in the Proposed Rule see Subsection 010.46) the definition of "Remediation Project" has been changed. "The word "Means" is removed. The term "directed efforts" is replaced with "actions". The term "through management practices or the construction of barriers, trenches and other similar facilities for prevention of contamination" is deleted. The last sentence beginning with "For the purposes..." is removed in its entirety and inserted at the end of Subsection 035.01.b.

In Subsection 010.47 (in the Proposed Rule see Subsection 010.48) the definition of "Sanitary Waste" is changed by deleting entirely the last sentence in the definition which begins with, "Sources of these wastes..."

In Subsection 025.03.d.ii. the word "service" was removed as a typographical or clerical correction pursuant to Section 67-5228, Idaho Code, and replaced with the word "surface."

In Subsection 035.01.b. the following sentence is added to the end of the existing paragraph, "For the purposes of these rules, all wells or groups of wells associated with a "Remediation Project" may be administered as one (1) "well" at the discretion of the Director".

In Subsection 045.07 the last sentence was removed; "Class V injection well permits may be cancelled at any time for cause by the Director." This change was requested during public comment. Permit cancellation policies are discussed

elsewhere in the rules.

In Rule 050, the second Subsection "03" was changed to "04" and original "04" was changed to "05" as typographical or clerical corrections pursuant to Section 67-5228, Idaho Code. As a result of the previous changes, the cited Subsection "050.01.a." in updated Subsection 050.04.b. is changed to "050.02".

In Subsection 050.03.a.ii., the term "Radiochemical" was changed to "Radiological" as a typographical or clerical correction pursuant to Section 67-5228, Idaho Code.

In Subsection 050.03.d., the cited Subsection "010.47" was changed to "010.57" as a typographical or clerical correction pursuant to Section 67-5228, Idaho Code.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 2, 2002 Idaho Administrative Bulletin, Volume 02-10, pages 695 through 717.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Mark Slifka at 208-327-7887.

DATED this 13th day of November, 2002.

Joseph L. Jordan, Chairman
Idaho Water Resource Board
1301 North Orchard, Boise, ID 83706
208-327-7880 / 208-327-7886 (fax)

IDAPA 37, TITLE 03, Chapter 03

**RULES AND MINIMUM STANDARDS FOR THE CONSTRUCTION
AND USE OF INJECTION WELLS**

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 02-10, October 2, 2002, pages 695 through 717.**

**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. 37-0303-0202

003. ADMINISTRATIVE APPEALS (Rule 3).

~~Any person aggrieved by the Director's decision shall have the right to a hearing before the Idaho Water Resource Board pursuant to Rule Subsection 014.01. of these rules. Challenges to these rules may be filed pursuant to Title 67, Chapter 52, Idaho Code, or actions taken under these rules may be appealed pursuant to Title 42, Chapter 39, or Section 42-1701A, Idaho Code.~~ (7-1-93)()

SUBSECTIONS 010.04, 010.26, 010.45, 010.47, and 010.32 through 010.58 (renumbered)

010. DEFINITIONS (Rule 10).

~~04. Beneficial Use. A use of water that is reasonable and necessary to the user and is consistent with the interests of the public in the best utilization of water supplies. Beneficial uses include but are not limited to domestic, agricultural, municipal and industrial supplies, stock water, and fish propagation. One (1) or more of the recognized beneficial uses of water including but not limited to, domestic, municipal, irrigation, hydropower generation, industrial, commercial, recreation, aquifer recharge and storage, stockwatering and fish propagation uses, as well as other uses which provide a benefit to the user of the water as determined by the Director. Industrial use as used for purposes of these rules includes, but is not limited to, manufacturing, mining and processing uses of water.~~ (7-1-93)()

~~26. Maximum Contaminant Level (MCL). Means the maximum permissible level of a contaminant in water that is delivered to any user of a public water system. MCLs are the basis of the drinking water standards and the water quality standards as applied to injection well operation and protection of beneficial uses of ground water. Primary MCLs are required drinking water quality standards that also constitute waste disposal and injection well operational standards at the wellhead. Secondary MCLs are suggested drinking water quality standards that, in addition to primary MCLs, are indicators of unreasonable contamination of ground water when detected at points of diversion for beneficial use.~~ (7-1-93)

~~2732. Modify. To alter the construction of an injection well, but does not include cleaning or redrilling operations which neither deepen nor increase the dimensions of the well.~~ (7-1-93)

~~33. Motor Vehicle Waste Disposal Wells. Injection wells that receive or have received fluids from vehicle repair or maintenance activities, such as an auto body repair shop, automotive repair shop, new and used car dealership, specialty repair shop (transmission and muffler repair shop), or any facility that does any vehicular repair work.~~ ()

~~2834. Operate. To allow fluids to enter an injection well by action or inaction of the operator.~~ (7-1-93)

~~2935. Operator. Any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district, federal agency or other entity that operates or proposes to operate any injection well.~~ (7-1-93)

~~306. Owner. Any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district, federal agency or other entity owning land on which any injection well exists or is proposed to be constructed.~~ (7-1-93)

~~347. Perched Aquifer. Ground water separated from an underlying main body of ground water by an unsaturated zone.~~ (7-1-93)

~~328. Permanent Abandonment. The discontinuance of use of an injection well in accordance with current IDAPA 37.03.09, Rules for "Well Construction Standards". Permanent abandonment requires plugging the well bore with bentonite grout, cement grout, concrete, puddling clay, or other impermeable material to prevent the~~

upward or downward migration of fluids. (7-1-93)()

332. Person. Any individual, association, partnership, firm, joint stock company, trust, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any other legal entity which is recognized by law as the subject of right and duties (Idaho Code 30-101 EPHA). (7-1-93)

40. Point Of Beneficial Use. The top or surface of a drinking water source, directly below an injection well, where water is available for a beneficial use. ()

3541. Point Of Diversion For Beneficial Use. A location such as a producing well or spring where ground water is taken under control and diverted for a beneficial use. (7-1-93)

342. Point Of Injection. The ~~deepest point below land surface from which injected fluids leave the bore, hole or shaft of an~~ last accessible sampling point prior to waste being released into the subsurface environment through a Class V injection well. For example, the point of injection for a Class V septic system might be the distribution box. For a drywell, it is likely to be the well bore itself. (7-1-93)()

3643. Radioactive Material. Any material, solid, liquid or gas which emits radiation spontaneously. Radioactive geologic materials occurring in their natural state are not included. (7-1-93)

3744. Radioactive Waste. Any fluid which contains radioactive material in concentrations which exceed those established for discharges to water in an unrestricted area by ~~the Board of Environmental Quality~~ 10 CFR 20.1302.(b)(2)(i) and Table 2 in Appendix B of 10 CFR 20. (7-1-93)()

45. Remediation Project. Removal, treatment or isolation of a contaminant from ground water through actions or the removal or treatment of a contaminant in ground water as approved by the Director. ()

3846. Replacement Well. An injection well constructed to replace an existing injection well, authorized for use under these rules, that meets the following criteria: (7-1-93)

- a. The replacement well is located within two hundred (200) feet of the existing injection well. (7-1-93)
- b. The injected fluids are from the same source as the fluids injected through the existing injection well. (7-1-93)
- c. The injected fluids are of equal or better quality than the fluids injected through the existing well. (7-1-93)
- d. Construction features of the replacement well are similar to the features of the existing well and meet or exceed minimum well construction standards. (7-1-93)
- e. The distance between the point of injection and the nearest boundary of the receiving aquifer is at least as great as that distance for the existing injection well. (7-1-93)
- f. The existing injection well is abandoned by an approved method within thirty (30) days of completion of construction of the replacement well. (7-1-93)

3947. Sanitary Waste. Any ~~fluid generated through domestic activities, such as food preparation, cleaning and personal hygiene~~ liquid or solid waste originating from humans and human activities, such as wastes collected from toilets, showers, wash basins, floor drains, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. (7-1-93)()

408. Schedule Of Compliance. A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with the standards. (7-1-93)

49. Septic System. An injection well that is used to inject sanitary waste below the surface. A septic system is typically comprised of a septic tank and subsurface fluid distribution system or disposal system. ()

450. Shallow Injection Well. An injection well which is less than or equal to eighteen (18) feet in vertical depth below land surface. (7-1-93)

4251. State. The state of Idaho. (7-1-93)

52. Subsurface Fluid Distribution System. An assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground, usually part of a septic system. ()

4353. Surface Runoff Water. Runoff water from the natural ground surface and cropland. Runoff from urbanized areas such as streets, parking lots, airports, and runoff from animal feedlots, agricultural processing facilities and similar facilities is not included within the scope of this phrase. (7-1-93)

4454. Temporary Abandonment. The prevention of injection by use of a removable or retrievable device, such as a packer or cap. (7-1-93)

455. Unauthorized Abandonment. The permanent abandonment of any injection well that has not received the approval of the Department prior to abandonment, or was not abandoned in a method approved by the Director. (7-1-93)

4656. Unreasonable Contamination. Endangerment of a drinking water source or the health of persons or other beneficial uses by injection. See "endangerment". (7-1-93)

4757. Water Quality Standards. Refers to those standards found in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements" and IDAPA 58.01.11, "Ground Water Quality Rule". (7-1-93)()

~~48. Wellhead.~~ *That point, downstream of any filters or treatment devices, where fluids enter the injection well.* (7-1-93)

58. Well. For the purposes of these rules, "well" means "injection well." ()

SUBSECTION 025.03.d.ii.

025. CLASSIFICATION OF INJECTION WELLS - AUTHORIZATIONS, PROHIBITIONS AND EXEMPTIONS (Rule 25).

03. Authorizations, Prohibitions And Exemptions. (7-1-93)

d. Construction of large capacity cesspools or motor vehicle waste disposal wells is prohibited. Construction and use of other Class V shallow injection wells are authorized by these rules without permit provided that: (7-1-93)()

ii. Use of the shallow injection well shall not result in unreasonable contamination of a drinking water source or cause a violation of surface or ground water quality standards that would affect a beneficial use. (7-1-93)()

SUBSECTION 035.01.b.

035. APPLICATION FOR PERMIT TO CONSTRUCT, MODIFY OR MAINTAIN AN INJECTION WELL (Rule 35).

01. Application Requirements For All Class V Wells, Except Those Class V Wells Authorized Without Permit. (7-1-93)

b. ~~One (1)~~ Each application for permit to construct, modify or maintain ~~each~~ an injection well, as required by these rules, shall be accompanied by a filing fee ~~of fifty dollars (\$50) per well as specified in Section 42-3905, Idaho Code, payable to the Department of Water Resources. For the purposes of these rules, all wells or groups of wells associated with a "Remediation Project" may be administered as one (1) "well" at the discretion of the Director.~~ (7-1-93)()

SUBSECTION 045.07

045. THE DIRECTOR'S ACTION ON DRAFT PERMITS AND DURATION OF APPROVED PERMITS (Rule 45).

The role of the Director is to determine whether or not the injection wells and their respective owners or operators are in compliance with the intent of these rules, thus protecting the ground waters of the state against unreasonable contamination or deterioration of quality and preserving them for diversion to beneficial uses. (7-1-93)

07. Duration Of Approved Permits. The length of time that a permit may be in effect for Class V wells requiring permits shall not exceed ten (10) years. (7-1-93)

046. -- 049. (RESERVED).

SUBSECTIONS 050.03.a.ii., 050.03.d., 050.04, 050.04.b., and 050.05

050. STANDARDS FOR THE QUALITY OF INJECTED FLUIDS AND CRITERIA FOR LOCATION AND USE (Rule 50).

023. Standards For Quality Of Fluids Injected By Class V Wells ~~Requiring Permits.~~ (7-1-93)()

a. ~~Drinking~~ Ground water quality standards for chemical and radiological contaminants in injected fluids. After the effective date of these standards, the following limits shall not be exceeded in injected fluids from a well when such fluids will or are likely to reach a drinking water source: (7-1-93)()

ii. ~~Radiochemical~~ Radiological contaminants. ~~Radiochemical~~ Radiological levels of the injected fluids ~~at the wellhead~~ shall not exceed those levels specified by the ~~primary maximum contaminant levels in the drinking water~~ ground water quality standards. (7-1-93)()

d. Contamination by an injection well of ground water produced at an existing point of diversion for beneficial use, or a point of diversion for beneficial use developed in the future, shall not exceed water quality standards defined by Rule Subsection 010.457. (7-1-93)()

034. Criteria For Location And Use Of Class V Wells Requiring Permits. (7-1-93)

b. These location requirements in Table 1 may be waived, as per Rule Subsection 050.042-~~cc~~, when the applicant can demonstrate that any springs or wells within the calculated perimeter of the generated perched water zone will not be contaminated by the applicant's waste disposal or injection well. Monitoring by the applicant of the production wells or springs in question may be required to demonstrate that they are not being contaminated.

Determined Radii of Perched Water Zones Based on Maximum Average Weekly Injection Rates (cfs) of Class V Injection Wells *	
Injection (cfs)	Radius of Generated Perched Water Zone (ft)
0 - 0.20	800
0.20 - 0.60	1,400
0.61 - 1.00	1,800
1.01 - 2.00	2,500
2.01 - 3.00	3,000
3.01 - 4.00	3,500
4.01 - 5.00	4,000
Greater than 5.00	As determined by the Director

* Injection rates shall be based on the average volume of wastes injected by the well during the week of greatest injection in an average water year. (7-1-93)(_____)

045. Standards For The Quality Of Fluids Injected By Subclass 5A7 Wells (closed-loop heat exchange). (7-1-93)

IDAPA 48 - DEPARTMENT OF COMMERCE

48.01.03 - RULES GOVERNING IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM

DOCKET NO. 48-0103-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective October 3, 2002.

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 Sections 67-4715, 67-4717, and 67-4718, 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 January 15, 2003.

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 revise the existing rules to increase the limit at which grantees can shift ITC dollars (\$2,500) between line items during a grant cycle.
- To raise the formal bid requirement for projects greater than \$2,500.
- To utilize the same electronic format as grant applications for application amendments.

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

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted with Idaho Department of Commerce staff, the Idaho Travel Council, and industry participants of the ITC grant program at the Idaho Travel Council meeting October 2-3, Rexburg, Idaho. Discussion was generated prior to this meeting and an on-line survey conducted to revise and improve the existing rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Idaho Department of Commerce, Carl Wilgus (208) 334-2470.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 22, 2003.

DATED this 7th day of November, 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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 48-0103-0101

010. DEFINITIONS, REGIONAL/LOCAL/SPECIAL INTEREST PROMOTION.

The applicant must establish that the plan will attract more visitors to the region and keep them in the region longer. All plans must identify Idaho and market various attractions and events throughout the region. Regional applications must be a true region-wide promotion, and must promote the planning region as defined in the legislation. The following items are eligible projects: (10-3-01)T

01. Advertising. Ranked Primary. Priority will be given to advertising that is image-driven and targets specific attractions or events within the region and ties to the state advertising plan. Markets, concepts, attractions and events will be defined in the application. If developed as a co-op, pre-approval is required by the Department of Commerce. Applicant must state in the application: (10-3-01)T

a. Objective and placement of advertising. (2-22-93)

b. Geographic target audience. (2-22-93)

c. Demographic target audience. (2-22-93)

d. Fulfillment plans. (2-22-93)

02. Hospitality. Ranked Primary. Hospitality training will be an allowable item under the grant program. A detailed plan for the training must be included in the application. (2-22-93)

03. Convention Promotion. Ranked Primary. Trade shows (to be approved prior to the application process) and convention advertising. Concept and placement must be submitted with application. (2-22-93)

04. Site Visits/Familiarization Tours (FAMS). Ranked Primary. Tour Operators, Travel Writers, Convention Planners, Winters Sports Clubs and Airline Sales People are groups that can be invited for site visits and FAMS. Grant funds can be used for in-state transportation, fuel expenses, rental vans, motorcoaches, invitations, baggage tags, information folders and miscellaneous snacks, such as coffee, soda pop, and candy bars. Airfare for FAM participants, up to fifty percent (50%) of the total cost, and lodging at fifty percent (50%) of the state rate will be eligible with prior ITC staff approval. Grant funds cannot be used to pay for alcoholic beverages, and attractions. Familiarization tours will be allowed per diem for meals in accordance with state guidelines. Partial reimbursement, per state guidelines, will be made if participant is not being hosted on the FAM tour a complete day. FAMS must be coordinated and approved in writing by the Department of Commerce. (10-3-01)T

05. Fulfillment. Ranked Primary. Includes expenses directly related to implementing ITC funded plan. Eligible costs are for shipping, stuffing, sorting, envelopes, postage, eligible website costs per ITC guidelines, long distance phone calls and watts line. (Only one (1) 1-800 line per Region, and it must be centrally located and made available for use within the Region for travel and convention promotion). A distribution plan must be outlined in the application and expenses must be properly documented before reimbursement will be made. (10-3-01)T

06. Travel And Trade Shows. Ranked Primary. Specific shows and the number of attendees per show shall be approved prior to the application process. The applicant must identify in the application whether or not a portable display booth is available and what literature will be distributed at the show. (2-22-93)

07. Slide Shows/Videos. Ranked Tertiary. Applicant must state in the application the purpose of the slide show/video, how it will be used to promote the area, and how the slide show/video ties in with the applicant's overall marketing. (2-22-93)

08. Marketing Research. Ranked Primary. To allow marketing research in conjunction with the statewide marketing and research efforts. (2-22-93)

09. Capital Outlay. Ranked Secondary. Equipment with a useful life of more than one (1) year, costing one hundred fifty dollars (\$150) or more per unit. No more than one (1) piece of any like equipment per Region. (7-1-98)

a. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant will vest upon acquisition with the grantee. (2-22-93)

b. Useful Life. The useful life of all equipment acquired through the travel grant program is five (5) years. (2-22-93)

c. Use. (2-22-93)

i. Equipment shall be used by the grantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the ITC. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by the ITC. (2-22-93)

ii. The grantee shall also make equipment available for use on other projects or programs currently or previously supported by the ITC, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the ITC. (2-22-93)

iii. The grantee may not use equipment acquired with grant funds to provide services for a fee. (2-22-93)

iv. When acquiring replacement equipment, the grantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property; or, the proceeds will be reinvested into the grantee's current grant program, subject to the approval of the ITC. Sale proceeds are not cash match. (2-22-93)

d. Management Requirements. Capital outlay purchased with grant funds must be accounted for on the property record supplied by the ITC. When the property is initially purchased, the grantee will provide all the required information on the property record. Send the original to the Department of Commerce and keep a copy for your files. The property is tracked through its useful life. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements: (2-22-93)

i. Property records maintained must include a description of the property; a serial number or other identification number; the acquisition date and cost of the property; the location, use and condition of the property; and any ultimate disposition information including the date of disposal and sale price of the property. (2-22-93)

ii. The grantee will conduct an annual physical inventory of the property and the results will be reported to the ITC for reconciliation with the property records. This report will accompany the final narrative progress report, and must be received before final ITC reimbursement, to the grantee, is made. The ITC will conduct a physical inventory of the property at least once every two (2) years. (2-22-93)

iii. A control system must be developed to ensure adequate safeguards to prevent loss, damage or theft of the property. (2-22-93)

iv. Adequate maintenance procedures must be developed to keep the property in good condition. (2-22-93)

e. Disposition. Disposition of equipment purchased with ITC funds will be made as follows: (7-1-98)

i. Items of equipment which have exceeded their useful life may be retained, sold or otherwise disposed of. It is recommended the sale proceeds be used to acquire like equipment or enhance the grantee's current grant program. Sale proceeds are not cash match. (2-22-93)

ii. Items of equipment which have not exceeded their useful life may be sold with written authorization from the ITC. The grantee will be required to use the proceeds to purchase like equipment or to enhance the current grant program. (2-22-93)

f. Procurement. When procuring equipment under the travel grant program, the grantee will follow the same policies and procedures for purchases over ~~two~~ five thousand ~~five hundred~~ dollars (\$~~2,500~~5,000) as outlined in the Bid Process section of the administrative rules. (~~3-19-99~~)(10-3-02)T

g. Purchasable Equipment. A list of purchasable equipment under the travel grant program is listed below: (2-22-93)

i. Travel Show Booth (per ITC requirements). (2-22-93)

ii. Video Equipment: Player/Recorder, Television, Monitor, Camera. (2-22-93)

iii. Movie Projector. (2-22-93)

iv. Slide Projector. (2-22-93)

v. Computer Hardware per ITC guidelines. (10-3-01)T

vi. Equipment not listed above may be fundable at the discretion of the ITC. (2-22-93)

h. Rental Costs. Grantees are encouraged to complete projects in the most cost effective manner. If the purchase of equipment is not feasible due to a low use factor, the grantee will be allowed to enter into rental agreements to meet their equipment needs. Rental costs exceeding ~~two~~ five thousand ~~five hundred~~ dollars (\$~~2,500~~5,000) will not be exempt from the travel grant program's bid process. (~~3-19-99~~)(10-3-02)T

i. Application. When applying for grant funds to acquire equipment, the applicant must stipulate need for equipment, its location, intended use, and contact person. (2-22-93)

10. Brochure. Ranked Primary. Includes expenses for brochure photography, design, and printing. Applicant shall state the purpose of the brochure, indicate if it is a reprint or new design, provide an estimated amount to be printed, and give a brief description of its layout and design. Additionally, applicant shall indicate its target audience, distribution plan, and include samples of the brochure, if available. For printing requirements, see Subsection 204.08. (2-22-93)

11. Other Items. Any other items not included above may be eligible as pre-approved by the Department of Commerce. (2-22-93)

(BREAK IN CONTINUITY OF SECTIONS)

204. PLAN REQUIREMENTS. Applicants must follow these requirements: (2-22-93)

01. Goals/Objectives. The needs of the plan must be consistent with the ITC Strategic Objectives. (2-22-93)

02. Adequate Management. The applicant must show his/her ability to properly operate and maintain the management and accounting system for the plan. (7-1-98)

03. Previous Grant Versus New Application. The ITC encourages successful applicants to complete all grants in a timely fashion. When considering applicants for funding, the ITC will scrutinize the applicant's historic

grant record in terms of timeliness and effectiveness of implementation. (2-22-93)

04. Application Completeness. The applicant must submit applications to the Department of Commerce on the appropriate forms which will be provided by the department. The application must include a complete plan, grant summary sheet signed by the grantee, a detailed scope of work and a budget which includes sufficient funds for sales tax and an audit. (7-1-98)

05. Application Amendments/Withdraws. Amendments to either the scope of work or the budget on grant applications will be allowed only if ~~written~~ changes are submitted (~~one (1) original and fourteen (14) copies~~) to the Department of Commerce ten (10) working days prior to the grant awards utilizing the same format as the application submittal. Any other changes must occur on the floor during awards by the Council and can only be amended by a member of the Council. Applicants wishing to withdraw applications must provide written notice to the Department of Commerce ten (10) working days prior to grant awards. ~~(2-22-93)~~(10-3-02)T

06. Plan Duration. Applicants are encouraged to limit the duration of their plan to fourteen (14) months or less. (2-22-93)

07. Local/Regional Support. Applicants may show local/regional support of the plan by submitting up to three (3) letters of support. One (1) letter summarizing local match must be submitted with the application. (2-22-93)

08. Credit Logo And Printing Identification. All plans funded by the Idaho Regional Travel and Convention Grant Program shall credit said program. (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 be used in all publications in a color in keeping with the design of the piece and must be pre-approved by ITC staff before final printing. (1-22-02)T

b. Eight and one-half by eleven inch (8 1/2" x 11") or larger brochures will incorporate the use of a one-half inch (1/2") logo; eight by ten inch (8" x 10") or smaller brochures, will incorporate the use of a one-fourth inch (1/4") logo. (10-3-01)T

c. Printing Identification: ITC grant year, assigned ITC grant number, printed quantity. (10-3-01)T

d. State 800 Telemarketing Number: "For additional information on Idaho, call 1-800-VISIT-ID." (2-22-93)

e. The word "IDAHO" shall appear prominently on the front of the brochure. The ITC approved logo will appear on either the front cover, the inside front cover, or the back cover of the brochure. (10-3-01)T

f. Other printed materials, web sites, and print advertising shall include the approved ITC logo. Size of logo to be proportional to the size of website or publication. See www.idoc.state.id.us for current downloadable graphic elements. (10-3-01)T

i. Slide shows, videos, films, TV productions or commercials will include the approved ITC logo. Size to be proportional to the size of the grantee approved content. (10-3-01)T

ii. Radio advertisements will include the following ITC acknowledgement: "Paid Idaho Travel Council". (10-3-01)T

iii. Billboards will include the approved ITC logo. Size to be proportional to the size of the display. (10-3-01)T

iv. Trade show booths will display the approved ITC logo in a size and location easily viewable by the

public. (10-3-01)T

g. Fams funded by the Idaho Regional Travel and Convention Grant Program will credit that program with the approved ITC logo in materials appropriate to the event. (10-3-01)T

h. Failure to comply with crediting the ITC for project funding could jeopardize payment for that project and future plan funding. (2-22-93)

09. Consultants. Indirect personnel costs are inherently eligible when applying for a specific project to be subcontracted to a consultant. The following regulations apply to hiring a consultant: (7-1-98)

a. The contract between the consultant and the grantee must be approved by the Department of Commerce and shall include language stating the contractor has sufficient Workmen's Compensation or liability insurance. Payment will not be reimbursed until the Department of Commerce has approved the contract. (2-22-93)

b. Consultant's billing must be itemized. Lump sum billings will not be eligible for payment. (2-22-93)

c. The Council will not fund retainers or other regular ongoing fees for consultant services or pay a consultant to administer a grant. (2-22-93)

(BREAK IN CONTINUITY OF SECTIONS)

209. BID PROCESS.

01. Bids. Regional Travel and Convention Program grantees must utilize a bid process for purchases or services over ~~two~~ five thousand ~~five hundred~~ dollars (\$2,5,000). (~~3-19-99~~)(10-3-02)T

02. Documentation. Prior to reimbursement for each cost, the appropriate information shall be submitted to the Department of Commerce which documents the following: (2-22-93)

a. Item or service to be purchased. (7-1-98)

b. Informal bids are required for projects between one thousand five hundred dollars (\$1,500) and ~~two~~ five thousand ~~five hundred~~ dollars (\$2,5,000). This consists of contacting three (3) vendors. Formal bids are required for projects greater than ~~two~~ five thousand ~~five hundred~~ dollars (\$2,5,000). This requires three (3) written bids from vendors. (~~10-3-01~~)(10-3-02)T

c. List vendors contacted and their response (list those contacted whether or not a response was received). (7-1-98)

d. Justify why the successful vendor was selected. (2-22-93)

e. Annual renewal of the subcontract can be made without rebidding, upon execution of a new contract between the grantee and the subcontractor and approval by the Department of Commerce. This can be done only after the initial three (3) bids have been processed. Subcontract renewal is authorized for up to three (3) years beyond the initial contract year. (7-1-98)

f. If a vendor is going to donate part of his/her charges as match, he/she shall have been the lowest bidder. (2-22-93)

(BREAK IN CONTINUITY OF SECTIONS)

222. PLAN SELECTION.

The Idaho Travel Council is responsible for the selection of plans to be awarded. Selection of Regional Travel and Convention Grants is as follows: (2-22-93)

01. Committee Presentation. At a regularly scheduled ITC meeting, applications for the Regional Travel and Convention Grant Program are presented, discussed and voted upon by the Idaho Travel Council. Grant applicants may be present to comment and answer questions. (2-22-93)

02. Contract Preparation. Once the Idaho Travel Council has selected plans to be funded, the Department of Commerce will notify all applicants, by letter, of their funding status. (2-22-93)

a. All contracts will be signed for a period of no more than fourteen (14) months unless otherwise stipulated in the contract. (2-22-93)

b. If applicable, special conditions of funding will be outlined. (2-22-93)

c. The grant will take effect upon the date of award. Grant monies cannot be obligated or expended until that date. No expenditures can be reimbursed until the contract is signed by the Director of the Department of Commerce. (2-22-93)

d. Extensions and amendments shall be discouraged. However, in the event of an extension or amendment, the grantee may shift, ~~with written notification~~, up to ~~two thousand five hundred (\$2,500)~~ twenty-five percent (25%) of the total ITC dollars awarded, between line items, not to exceed ten thousand dollars (\$10,000) during the entire grant cycle. The grantee must complete the appropriate amendment form, and all ITC members will vote on each amendment, for dollar amounts in excess of ~~two ten thousand five hundred (\$2,510,000)~~. From the Department of Commerce, extensions of up to ninety (90) days can be granted. ~~(4-5-00)~~(10-3-02)T

e. In the event a plan can be completed for less than the grant amount, the difference between actual plan costs and the grant amount shall revert to the respective regional grant funds. (2-22-93)

IDAPA 50 - COMMISSION FOR PARDONS AND PAROLE

50.01.01 - RULES OF THE COMMISSION FOR PARDONS AND PAROLE

DOCKET NO. 50-0101-0101

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 20-223, 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 complete text of the proposed rule was published in the November 7, 2001 Idaho Administrative Bulletin, Volume 01-11, pages 90 through 106.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Laurie L. Jilbert at 208-334-2520.

DATED this 12th day of November, 2002.

Olivia Craven
Executive Director
Commission of Pardons and Parole
3125 S. Shoshone, Suite A
PO Box 83720
Boise, ID 83720-1807
208-334-2520/208-334-3501

IDAPA 50, TITLE 01, Chapter 01

RULES OF THE COMMISSION FOR PARDONS AND PAROLE

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 02-11, November 7, 2002, pages 90 through 106.](#)

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 - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2003 Idaho State Legislature for final approval. The rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-seventh Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. 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.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 4, 2002, Volume 02-9, pages 233 through 305. The rule has been adopted as initially proposed with the exception of Sections 106, 203, 401, 404, 405, 585 and 586. Those listed sections have been withdrawn from this rulemaking and will remain in effect as they are currently codified in the Idaho Administrative Code. The rulemaking record, which contains a complete consideration of the issues raised by the public and an explanation of the reasons for changes between the text of the proposed rule and the text of the pending rule, can be obtained by contacting the undersigned.

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 rulemaking, contact Kate Kelly at (208) 373-0502 or kkelly@deq.state.id.us.

DATED this 13th day of November, 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

IDAPA 58, TITLE 01, Chapter 01

RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 02-9, September 4, 2002, pages 233 through 305](#).

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. 58-0101-0202

With the exception of Sections 106, 203, 401, 404, 405, 585 and 586, the rule has been adopted as initially proposed Idaho Administrative Bulletin, September 4, 2002, Volume 02-9, pages 233 through 305. The listed sections have been withdrawn from this rulemaking and will remain in effect as they are currently codified in the Idaho Administrative Code. The text of these sections is not being reprinted in this Bulletin.

- 106. ABBREVIATIONS.
- 203. PERMIT REQUIREMENTS FOR NEW AND MODIFIED STATIONARY SOURCES.
- 401. TIER II OPERATING PERMIT.
- 404. PROCEDURE FOR ISSUING PERMITS.
- 405. CONDITIONS FOR TIER II OPERATING PERMITS.
- 585. TOXIC AIR POLLUTANTS NON-CARCINOGENIC INCREMENTS.
- 586. TOXIC AIR POLLUTANTS CARCINOGENIC INCREMENTS.

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 - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2003 Idaho State Legislature for final approval. The rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-seventh Idaho Legislature if the rule is approved by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. The rule may be rejected, amended or modified by concurrent resolution of the Legislature.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107, 39-110, 39-115(3), 39-118D, and 39-119 Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 4, 2002, Volume 02-9, pages 306 through 312. DEQ received public comments concerning the proposed rule and has revised the initial proposal as allowed under Section 67-5227, Idaho Code, at Sections 387 through 392, 395, 396, 398 and 399. The remaining sections have been adopted as initially proposed. The rulemaking record, which contains a complete consideration of the issues raised by the public and an explanation of the reasons for changes between the text of the proposed rule and the text of the pending rule can be obtained by contacting the undersigned.

FEE SUMMARY: This rulemaking revises the requirements for the annual registration of Tier I sources, and the annual assessment and payment of fees to support the Tier I permitting program. Collection of the fees is authorized by Sections 39-115(3), 39-118D and 39-119, Idaho Code.

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 rulemaking, contact Kate Kelly at (208) 373-0502 or kkelly@deq.state.id.us.

DATED this 13th day of November, 2002.

Paula J. Gradwohl
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1410 N. Hilton
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IDAPA 58, TITLE 01, Chapter 01

RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-9, September 4, 2002, pages 306 through 312.

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. 58-0101-0203

387. REGISTRATION AND REGISTRATION FEES.

The purpose of Sections 387 through 399Z 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 permitting 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 399Z 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 I 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 I operating permit application, the Department shall reconsider Sections 387 through 397 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 399Z apply shall, by ~~May~~ April 1, 1993 2003 or within fifteen (15) days following the adjournment of the 2003 regular session of the legislature, whichever is later, and each ~~May~~ April 1 thereafter register with the Department and submit the following information as specified in Subsections 389.01 through 389.05: (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 shall~~ 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 as provided in Section 393.~~ ~~(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 emitting~~ 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-~~five~~ thousand dollars (\$50~~5~~,000); ~~(3-30-01)(_____)~~

(2) Four thousand five hundred (4,500) tons per year and above shall pay thirty-~~three~~ thousand dollars (\$30~~3~~,000); ~~(3-30-01)(_____)~~

(3) Three thousand (3,000) tons per year and above shall pay twenty-~~two~~ thousand dollars (\$20~~2~~,000); ~~(3-30-01)(_____)~~

(4) One thousand (1,000) tons per year and above shall pay ~~fifteen~~ ~~seventeen~~ thousand ~~five~~ hundred dollars (\$~~15,000~~ 17,500); ~~(3-30-01)(_____)~~

(5) Five hundred (500) tons per year and above shall pay ~~seven~~ ~~eight~~ thousand five hundred dollars (\$7~~8~~,500); ~~(3-30-01)(_____)~~

(6) Two hundred (200) tons per year and above shall pay five thousand ~~five hundred~~ dollars (\$5,0~~500~~); ~~(3-30-01)(_____)~~

(7) Less than two hundred (200) tons per year shall pay two thousand ~~five~~ ~~seven~~ hundred ~~fifty~~ dollars (\$2,50~~750~~); plus ~~(3-30-01)(_____)~~

ii. A per ton annual fee of thirty-~~three~~ dollars (\$30~~3~~) 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 ~~ten~~ thousand dollars (\$10~~10~~,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-~~five~~ thousand dollars (\$50~~5~~,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~~ ~~seven~~ thousand dollars (\$25~~7~~,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~~ ~~nineteen~~ thousand ~~five~~ ~~two~~ hundred ~~fifty~~ dollars (~~\$17,500~~ 19,250); ~~(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 eight~~ thousand ~~five two~~ hundred ~~fifty~~ dollars (\$~~7,500~~ 8,250); and (3-30-01)()

(6) Less than two hundred (200) tons per year not to exceed two thousand ~~five~~ seven hundred ~~fifty~~ dollars (\$~~2,507~~50). (3-30-01)()

b. The fee-for-service shall be as follows: Sources requesting Section 300 permit modifications or renewals, or receiving program maintenance services, including but not limited to site visits, response to public inquiries, modeling, responses to site questions and opacity readings by the Department shall ~~pay an additional fee be assessed a fee for actual time expended and expenses incurred by the Department in the previous calendar year in an amount not to exceed seven thousand five hundred dollars (\$7,500) per facility per year as a fee-for-service. Fees shall be:~~ Service shall be conducted by qualified Department staff or contractors. (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. Shortfall. In the event that, on June 30, 2003 or June 30, 2004 the amount of fees assessed by the Department under Subsection 389.06.a. is less than one million one hundred thousand dollars (\$1,100,000), the difference shall be paid by the registrants to which Section 388 applies. ()

a. The shortfall will be calculated as follows: ()

i. Dividing the amount of the shortfall by the total tons of pollutants registered for the previous calendar year by all registrants; and ()

ii. Calculating a per-ton fee which, when multiplied by the total tons registered generates a number in the amount of the shortfall. ()

b. Each registrant shall then be assessed by September 1 of the year and shall pay by October 1 of the year a supplemental fee to make up any shortfall of the one million one hundred thousand dollars (\$1,100,000) in the amount of the tons of emissions registered for that facility in the previous calendar year multiplied by the per-ton fee calculated in Subsection 389.07.a. ()

c. Subsection 389.07 of this rule shall apply only in state fiscal years 2004 and 2005. ()

07g. Radionuclide Registration Fee. ()

a. A registration fee of five dollars per curie per year (\$5/curie/year) ~~for shall be paid by~~ 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)()

b. The registration fee may be paid as provided in Section 397. ()

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 399Z shall be furnished on request. (7-1-02)()

391. REGISTRATION FEE.

All facilities to which ~~this~~ Sections 391-87 through 397 apply shall pay to the Department an annual registration fee as required by ~~Subsections 389-06 and 389-07~~. The Department shall determine the fee based on the information supplied by the registrant and the Department's analysis ~~and engineering and technical practice of information available~~. 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.~~ (7-1-02)(____)

392. 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 registrant, to which Sections 387 through 397 apply, by certified mail, an assessment of the annual fee payable by the registrant. (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)

(BREAK IN CONTINUITY OF SECTIONS)

395. APPEALS.

Persons may file an appeal within thirty-five (305) days of the date the person received ~~the an~~ assessment ~~and receipt~~ issued under Subsection 389.07 or Section 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)

398. EXEMPTIONS.

01. Registration Fees. The following facilities or sources are exempt from paying registration fees under Sections 387 through 397: (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~~: ~~(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~~: ~~(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)

399~~7~~. 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 389. ~~(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 389. All other provisions of Sections 389~~7~~ through 397 shall remain applicable to the person. ~~(7-1-02)~~(____)

398. -- 399. (RESERVED).

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0201 - (FEE RULE)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2003 Idaho State Legislature for final approval. The rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-seventh Idaho Legislature if the rule is approved by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. The rule may be rejected, amended or modified by concurrent resolution of the Legislature.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This rule regulates activities not regulated by the federal government but mandated by Idaho statute. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 7, 2002, Volume 02-8, pages 83 through 101. DEQ received public comments concerning the proposed rule and has revised the initial proposal as allowed under Section 67-5227, Idaho Code, at Sections 003 and 403 through 408 and 411. Sections 409, 410 and 412 have been renumbered due to the addition of a new Section 407. The proposed definition of Health Hazard at Subsection 003.50 has been removed and the remaining definitions have been renumbered accordingly. Section 002 has been adopted as initially proposed. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public and an explanation of the reasons for changes between the text of the proposed rule and the text of the pending rule, is included in the rulemaking record, which can be obtained by contacting the undersigned.

FEE SUMMARY: This rule will allow reasonable fees to be charged for application, examination and renewals. The fees will be used to help fund the ongoing costs of administering the wastewater certification program. Indirect fees will result from continuing education requirements. Imposition of the fees is authorized by Section 39-119, Idaho Code.

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 rule, contact Nancy Bowser at (208)373-0502 or nbowser@deq.state.id.us.

DATED this 13th day of November, 2002.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
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IDAPA 58, TITLE 01, Chapter 02

WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

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 02-8, August 7, 2002, pages 83 through 101.

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. 58-0102-0201

The Following Subsections 003.50 Through 003.132 Have Been Renumbered

Substantive Changes Have Been Made To Subsections 003.83, .92, .100, .114, .122, .128, .132, .133,

003. DEFINITIONS.

For the purpose of the rules contained in IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," the following definitions apply: (4-5-00)

4750. Hydrologic Unit Code (HUC). A unique eight (8) digit number identifying a subbasin. A subbasin is a United States Geological Survey cataloging unit comprised of water body units. (4-5-00)

4851. Hydrologically-Based Design Flow. A statistically derived receiving water design flow based on the selection and identification of an extreme value (e.g., 1Q10, 7Q10). The underlying assumption is that the design flow will occur X number of times in Y years, and limits the number of years in which one or more excursions below the design flow can occur. (8-24-94)

4952. Hypolimnion. The deepest zone in a thermally-stratified body of water. It is fairly uniform in temperature and lies beneath a zone of water which exhibits a rapid temperature drop with depth of at least one (1) degree C per meter. (3-20-97)

503. Inhibition Concentration-25 (IC-25). A point estimate of the toxicant concentration that would cause a twenty-five percent (25%) reduction in a non-lethal biological measurement of the test organisms, such as reproduction or growth. Determined using curve fitting with an assumption of a continuous dose-response relationship. An IC-25 is approximately the analogue of NOEC. (8-24-94)

514. Instantaneous Concentration. A concentration of a substance measured at any moment (instant) in time. (8-24-94)

525. Inter-Departmental Coordination. Consultation with those agencies responsible for enforcing or administering the practices listed as approved best management practices in Subsection 350.03. (7-1-93)

536. Intermittent Waters. A stream, reach, or water body which has a period of zero (0) flow for at least one (1) week during most years. Where flow records are available, a stream with a 7Q2 hydrologically-based flow of less than one-tenth (0.1) cfs is considered intermittent. Streams with natural perennial pools containing significant aquatic life uses are not intermittent. (4-5-00)

547. Land Application. A process or activity involving application of wastewater, surface water, or semi-liquid material to the land surface for the purpose of disposal, pollutant removal, or ground water recharge. (8-24-94)

558. LC-50. The toxicant concentration killing fifty percent (50%) of exposed organisms at a specific time of observation (e.g., ninety-six (96) hours). (3-20-97)

569. Load Allocation (LA). The portion of a receiving water's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources. (8-24-94)

5760. Loading Capacity. The greatest amount of pollutant loading that a water can receive without violating water quality standards. (8-24-94)

5861. Lower Water Quality. A measurable adverse change in a chemical, physical, or biological parameter of water relevant to a beneficial use, and which can be expressed numerically. Measurable change is determined by a statistically significant difference between sample means using standard methods for analysis and statistical interpretation appropriate to the parameter. Statistical significance is defined as the ninety-five percent (95%) confidence limit when significance is not otherwise defined for the parameter in standard methods or practices. (3-20-97)

5962. Lowest Observed Effect Concentration (LOEC). The lowest concentration of a toxicant or an effluent that results in observable adverse effects in the aquatic test population. (8-24-94)

603. Man-Made Waterways. Canals, flumes, ditches, and similar features, constructed for the purpose of water conveyance. (7-1-93)

614. Maximum Weekly Maximum Temperature (MWMT). The weekly maximum temperature (WMT) is the mean of daily maximum temperatures measured over a consecutive seven (7) day period. The MWMT is the single highest WMT that occurs during a given year. (3-15-02)

625. Milligrams Per Liter (mg/l). Milligrams of solute per liter of solution, equivalent to parts per million, assuming unit density. (7-1-93)

636. Mixing Zone. A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (7-1-93)

647. National Pollutant Discharge Elimination System (NPDES). Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (8-24-94)

658. Natural Background Conditions. No measurable change in the physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. (3-15-02)

662. Nephelometric Turbidity Units (NTU). A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. (8-24-94)

670. Nonpoint Source Activities. Activities on a geographical area on which pollutants are deposited or dissolved or suspended in water applied to or incident on that area, the resultant mixture being discharged into the waters of the state. Nonpoint source activities on ORWs do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments. Nonpoint sources activities include, but are not limited to: (3-20-97)

- a. Irrigated and nonirrigated lands used for: (7-1-93)
- i. Grazing; (7-1-93)

- ii. Crop production; (7-1-93)
- iii. Silviculture; (7-1-93)
- b. Log storage or rafting; (7-1-93)
- c. Construction sites; (7-1-93)
- d. Recreation sites; (3-20-97)
- e. Septic tank disposal fields. (8-24-94)
- f. Mining; (3-20-97)
- g. Runoff from storms or other weather related events; and (3-20-97)
- h. Other activities not subject to regulation under the federal national pollutant discharge elimination system. (3-20-97)

~~687~~. **No Observed Adverse Effect Level (NOAEL)**. A threshold dose of a toxic substance or an effluent below which no adverse biological effects are observed, as identified from chronic or subchronic human epidemiology studies or animal exposure studies. (8-24-94)

~~697~~. **No Observed Effect Concentration (NOEC)**. The highest concentration of a toxic substance or an effluent at which no adverse effects are observed on the aquatic test organisms. Determined using hypothesis testing with the assumption of a noncontinuous threshold model of the dose-response relationship. (8-24-94)

~~703~~. **Nuisance**. Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (7-1-93)

~~744~~. **Nutrients**. The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (7-1-93)

~~725~~. **One Day Minimum**. The lowest daily instantaneous value measured. (3-20-97)

~~736~~. **One Hour Average**. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of one (1) hour. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the one-hour period may be needed to obtain a more representative mean. (3-20-97)

~~77~~. **Operating Experience**. The number of years spent in performance of duties at a wastewater system. ()

~~748~~. **Operator**. For purposes of Sections 851 and 852, Any person presently or who was at any time during a release in control of, or having responsibility for, the daily operation of the petroleum storage tank (PST) system. (7-1-93)()

~~79~~. **Operator Certifying Entity**. An organization that contracts with the Department to provide public wastewater operator certification services. ()

~~7580~~. **Outstanding Resource Water (ORW)**. A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been designated by the legislature and subsequently listed in this chapter. ORW constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality. (3-20-97)

~~7681~~. **Outstanding Resource Water Mixing Zone**. An area or volume of an ORW where pollutants are

allowed to mix with the ORW receiving water at a location distinct from the sampling point where compliance with ORW quality standards is measured. An ORW mixing zone will be downstream from the discharge of a tributary or a segment immediately upstream which contains man caused pollutants as a result of nonpoint source activities occurring on that tributary or segment. As a result of the discharge, the mixing zone may not meet all water quality standards applicable to the ORW, but shall still be protected for existing beneficial uses. The Department, after consideration of input from interested parties, will determine the size, configuration and location of mixing zones which are necessary to meet the requirements of this chapter. (7-1-93)

7782. Owner. For purposes of Sections 851 and 852, ~~Any~~ person who owns or owned a petroleum storage tank (PST) system any time during a release and the current owner of the property where the PST system is or was located. (7-1-93)()

83. Owner Of Public Wastewater System. For purposes of Sections 403 through 413, the person, company, corporation, district, association or other organizational entity which holds legal title to the public wastewater system, *and* who provides, or intends to provide wastewater service to system users and is ultimately responsible for the public wastewater system operation. ()

784. Person. An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-97)

7985. Petroleum Products. Products derived from petroleum through various refining processes. (7-1-93)

806. Petroleum Storage Tank (PST) System. Any one or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. (7-1-93)

847. Point Source. Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (7-1-93)

828. Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (3-20-97)

839. Potable Water. A water which is free from impurities in such amounts that it is safe for human consumption without treatment. (7-1-93)

8490. Primary Treatment. Processes or methods that serve as the first stage treatment of wastewater, intended for removal of suspended and settleable solids by gravity sedimentation; provides no changes in dissolved and colloidal matter in the sewage or wastes flow. (7-1-93)

8591. Project Plans. Documents which describe actions to be taken under a proposed activity. These documents include environmental impact statements, environmental assessments, and other land use or resource management plans. (7-1-93)

92. Public Wastewater System Or Wastewater System. For purposes of Sections 403 through 413, a public wastewater system *means those systems, including collection systems and treatment systems, that are owned by a city, county, state or federal unit of government, a non profit corporation, district, association, political*

subdivision or other public entity, or that generate or collect two thousand five hundred (2,500) or more gallons a day; or that have been constructed in whole or in part with public funds. This does not include any wastewater treatment system operated and maintained exclusively by a single family residence or any wastewater system consisting solely of a gravity flow, non-mechanical septic tank and subsurface treatment and distribution system, or industrial wastewater systems under private ownership. ()

~~8693.~~ **Receiving Waters.** Those waters which receive pollutants from point or nonpoint sources. (7-1-93)

~~8794.~~ **Recharge.** The process of adding water to the zone of saturation. (7-1-93)

~~8895.~~ **Recharge Water.** Water that is specifically utilized for the purpose of adding water to the zone of saturation. (7-1-93)

96. **Reciprocity.** A system by which operator certificates issued by any other operator certification program are recognized as valid and equal to Idaho's Certification Program provision. ()

~~897.~~ **Reference Stream Or Condition.** A water body which represents the minimum conditions necessary to fully support the applicable designated beneficial uses as further specified in these rules, or natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin. In highly mineralized areas or in the absence of such reference streams or water bodies, the Director, in consultation with the basin advisory group and the technical advisors to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported. (3-20-97)

~~908.~~ **Release.** Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (8-24-94)

~~912.~~ **Resident Species.** Those species that commonly occur in a site including those that occur only seasonally or intermittently. This includes the species, genera, families, orders, classes, and phyla that: (8-24-94)

a. Are usually present at the site; (8-24-94)

b. Are present only seasonally due to migration; (8-24-94)

c. Are present intermittently because they periodically return or extend their ranges into the site; (8-24-94)

d. Were present at the site in the past but are not currently due to degraded conditions, and are expected to be present at the site when conditions improve; and (8-24-94)

e. Are present in nearby bodies of water but are not currently present at the site due to degraded conditions, and are expected to be present at the site when conditions improve. (8-24-94)

100. **Responsible Charge (RC).** For purposes of Sections 403 through 413, responsible charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and/or on-call direction of employees and assistants. ()

~~92101.~~ **Responsible Persons In Charge.** Any person who: (8-24-94)

a. By any acts or omissions, caused, contributed to or exacerbated an unauthorized release of hazardous materials; (8-24-94)

b. Owns or owned the facility from which the unauthorized release occurred and the current owner of the property where the facility is or was located; or (8-24-94)

c. Presently or who was at any time during an unauthorized release in control of, or had responsibility for, the daily operation of the facility from which an unauthorized release occurred. (8-24-94)

93102. Saturated Zone. Zone or layer beneath the earth's surface in which all of the pore spaces of rock or soil are filled with water. (7-1-93)

94103. Secondary Treatment. Processes or methods for the supplemental treatment of wastewater, usually following primary treatment, to affect additional improvement in the quality of the treated wastes by biological means of various types which are designed to remove or modify organic matter. (7-1-93)

95104. Seven Day Mean. The average of the daily mean values calculated over a period of seven (7) consecutive days. (3-20-97)

96105. Sewage. The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (8-24-94)

97106. Short-Term Or Temporary Activity. An activity which is limited in scope and is expected to have only minimal impact on water quality as determined by the Director. Short-term or temporary activities include, but are not limited to, those activities described in Subsection 080.02. (3-20-97)

98107. Silviculture. Those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber. (3-20-97)

99108. Sludge. The semi-liquid mass produced by partial dewatering of potable or spent process waters or wastewater. (7-1-93)

1002. Special Resource Water. Those specific segments or bodies of water which are recognized as needing intensive protection: (7-1-93)

- a. To preserve outstanding or unique characteristics; or (7-1-93)
- b. To maintain current beneficial use. (7-1-93)

1010. Specialized Best Management Practices. Those practices designed with consideration of geology, land type, soil type, erosion hazard, climate and cumulative effects in order to fully protect the beneficial uses of water, and to prevent or reduce the pollution generated by nonpoint sources. (3-3-87)

10211. State. The state of Idaho. (7-1-93)

10312. State Water Quality Management Plan. The state management plan developed and updated by the Department in accordance with Sections 205, 208, and 303 of the Clean Water Act. (3-20-97)

10413. Steady-State Model. A fate and transport model that uses constant values of input variables to predict constant values of receiving water quality concentrations. (8-24-94)

114. Substitute Responsible Charge Operator. A public wastewater operator holding a valid certificate at a class equal to or greater than the public wastewater system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. ()

1015. Subsurface Disposal. Disposal of effluent below ground surface, including, but not limited to, drainfields or sewage beds. (7-1-93)

1016. Suspended Sediment. Organic and inorganic particulate matter which has been removed from its

site of origin and measured while suspended in surface water. (7-1-93)

1017. Technology-Based Effluent Limitation. Treatment requirements under Section 301(b) of the Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under Section 402 of the Clean Water Act. (8-24-94)

1018. Total Maximum Daily Load (TMDL). The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (8-24-94)

1019. Toxicity Test. A procedure used to determine the toxicity of a chemical or an effluent using living organisms. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent. (8-24-94)

1020. Toxic Substance. Any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the State and upon exposure, ingestion, inhalation or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic substances include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA pursuant to Section 307(a) of the federal Clean Water Act. (8-24-94)

1021. Treatment. A process or activity conducted for the purpose of removing pollutants from wastewater. (7-1-93)

1022. Treatment System. Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. A treatment system may also be known as a treatment facility. This definition does not apply to Sections 403 through 413. (7-1-93)()

1023. Trihalomethane (THM). THM means one of the family of organic compounds named as derivatives of methane, wherein three (3) of the four (4) hydrogen atoms in the molecular structure of methane are substituted by one (1) of the chemical elements chlorine, bromine or iodine. (7-1-93)

1024. Twenty-Four Hour Average. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of twenty-four (24) consecutive hours. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the twenty-four (24)-hour period may be needed to obtain a more representative mean. (3-20-97)

1025. Unique Ecological Significance. The attribute of any stream or water body which is inhabited or supports an endangered or threatened species of plant or animal or a species of special concern identified by the Idaho Department of Fish and Game, which provides anadromous fish passage, or which provides spawning or rearing habitat for anadromous or desirable species of lake dwelling fishes. (8-24-94)

126. User. Any person served by a public wastewater system. ()

127. Validated Examination. An exam that is independently reviewed by subject matter experts to ensure that the exam is based on an operator job analysis and is relevant and related to the classification of the system or facility. ()

128. Waiver. For purposes of Subsection 409.09 (Professional Growth Requirement), "waiver" means the deferral of the annual continuing education units (CEUs) required for operator certification renewal for any certified operator deployed out of state or country due to active military service, when such deployment makes it

impossible for the operator to accrue the required CEUs by the certification renewal date (March 1). ()

11629. Wasteload Allocation (WLA). The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. (8-24-94)

11730. Wastewater. Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. (7-1-93)

131. Wastewater Land Application Endorsement. A non-renewable, one-time examination to determine competency of an operator working with a wastewater land application system. This examination may be taken in conjunction with the certification examination equal to or greater than the classification of the wastewater system or subsequent to having already taken and passed the certification examination equal to or greater than the classification of the wastewater system. ()

132. Wastewater Collection System Operator. The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater collection system in order to safeguard the public health and environment. ()

133. Wastewater Treatment Operator. The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater treatment system in order to safeguard the public health and environment. ()

SUBSECTIONS 403.01.a., 403.02, and 403.02.b.

403. CLASSIFICATION OF WASTEWATER SYSTEMS.

01. Classification Requirement. All public wastewater systems will be classified based on indicators of potential health risks. ()

a. Classification rating forms developed in accordance with the criteria in Subsection 403.02 must be completed by the public wastewater system owner or designee for every public wastewater treatment system and wastewater collection system. The Department will review the rating forms and classify the systems. ()

02. Classification Criteria. Public wastewater systems shall be classified under a system that uses the following criteria: ()

b. Complexity or size of collection systems. ()

SUBSECTIONS 404.01, 404.02, 404.04 through 404.06, and 404.09

404. WASTEWATER SYSTEM OPERATOR CERTIFICATION REQUIREMENTS.

01. System Operator Certification Requirement. Owners of all public wastewater systems must place the direct supervision of their wastewater system(s), including each treatment system and each collection system, under the responsible charge of an operator who holds a valid certification equal to or greater than the classification of the wastewater treatment system and collection system. An operator in responsible charge of both a wastewater treatment system and a collection system shall hold two (2) certificates, one (1) for wastewater treatment and one (1) for collection. ()

02. Responsible Charge Operator Certification Requirement. An operator in responsible charge of a public wastewater system in Idaho must hold a valid certification equal to or greater than the classification of the

wastewater system(s), including each treatment system, where present, and each collection system as determined by the Department. ()

04. Wastewater Operator Certification. All other operating personnel at public wastewater systems including each treatment system and collection system must hold a valid certificate. ()

05. Compliance Deadline. All public wastewater systems addressed in these rules shall be in compliance with these rules by April 15, 2006. ()

06. Qualifications For Certification. To qualify for a certificate an applicant must meet requirements of employment, education, experience, and examination as described in Section 406 or Section 407. Applicants may also receive certification through grandparenting as described in Section 405 or through reciprocity upon evaluation of his or her qualifications and comparison of Idaho certification rules to those of another state on a case-by-case basis. ()

09. Optional Wastewater Operator Certification. Any operator of a wastewater system not required to meet this rule may choose to become certified in accordance with the criteria in Sections 405, 406 407 or 408. Upon issuance of a certificate, the operator is subject to certification renewal requirements referenced in Section 409. ()

SUBSECTIONS 405.01, 405.02, and 405.06

405. GRANDPARENTING.

01. Grandparenting Certificate. The Department may issue a grandparenting certificate only to a wastewater operator who was in responsible charge of an existing public wastewater system as of April 15, 2003. The grandparenting certificate will be site specific and non-transferable and can only be issued to a wastewater operator of a system that has demonstrated his or her competency to the Director and which, because of state law changes to meet these rules, a system must have a certified wastewater operator for the first time. ()

02. Application Limitations. The owner of the system must submit an application to the Department for grandparenting by April 15, 2006. Applicants shall be subject to an application fee to cover processing costs. ()

06. Grandparent Professional Growth Requirement. In the first certification renewal cycle, every grandparented operator must complete and show documentation of completion of a one-time training requirement. The one-time training shall include all information covered by the qualifying certification exam for the certification class the operator holds. Following the first renewal cycle, the operator must meet the professional growth requirements described in Subsection 409.09. ()

SECTION 406 and SUBSECTION 406.03 (all of subsection 03)

406. CERTIFICATION REQUIREMENTS FOR A WASTEWATER TREATMENT OPERATOR.

Every operator shall submit an application to the Department and meet the criteria in Section 406 to qualify for a certification classification in lagoons, wastewater treatment and, where applicable, in wastewater land application. See Section 407 for certification requirements for a public wastewater collection system operator. Applicants shall be subject to an application fee to cover examination and processing costs. ()

03. Education And Experience Requirements. ()

a. Basic Education and Experience Certification Requirements. ()

i. To qualify for an Operator-In-Training Certificate, an operator must have a high school diploma or GED and pass an OIT exam. After passing an OIT exam, a “one-time” non-renewable certificate of “Operator-In-Training” will be issued. This certificate will be valid for three (3) years only. After working one (1) year in the field and with no further testing required, the Operator-In-Training will be issued a Class I Certificate upon proof of twelve (12) months of operating experience in a Class I or higher public wastewater treatment system. ()

ii. To qualify for a Lagoon certificate, an operator must have a high school diploma or GED and twelve (12) months of acceptable experience operating a Lagoon system. ()

iii. To qualify for a Class I certificate, an operator must have a high school diploma or GED and one (1) year of acceptable operating experience of a Class I or higher treatment system. ()

iv. To qualify for a Class II certificate, an operator must have a high school diploma or GED and three (3) years of acceptable operating experience of a Class I or higher treatment system. ()

v. To qualify for a Class III certificate, an operator must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience of a Class II or higher treatment system, including two (2) years active, daily, on-site charge of personnel or a major segment of a system in the same or next lower class. ()

vi. To qualify for a Class IV certificate, an operator must have a high school diploma or GED; four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience of a Class III or higher treatment system, including two (2) years of active, daily, on-site charge of personnel or a major segment of a system in the same or next lower class. ()

vii. To qualify for a Wastewater Land Application Endorsement, an operator must have a high school diploma or GED and the minimum operating experience appropriate to the classification of the wastewater system. ()

b. Substituting Education for Experience. Applicants may substitute education for operating and responsible charge experience as specified below: ()

i. For Class I or Lagoon certificate, no substitution for operating experience shall be permitted. ()

ii. For Class II, a maximum of one and one-half (1½) years of post high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1½) years of operating experience. ()

iii. For Class III and IV, a maximum of two (2) years of post high school education in the environmental control field, engineering or related science may be substituted for two (2) years of operating experience; however, the applicant must still have one (1) year of active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class. ()

iv. Education substituted for operating experience shall not also be applied to the education requirement. ()

v. One (1) year of post high school education, other than described in Subsections 406.03.b.ii. and 406.03.b.iii., may be substituted for one (1) year experience, up to maximum of fifty percent (50%) of required operating or active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class. ()

c. Substituting Experience for Education. Where applicable, operating and responsible charge experience or operating and active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class experience may be substituted for education as specified below: ()

i. One (1) year of operating experience may be substituted for two (2) years of grade school with no limitation or one (1) year high school with no limitation. ()

ii. For Class III and IV, additional responsible charge experience (that exceeding the two (2) year class requirements) may be substituted for post high school education on a two (2) for one (1) basis: two (2) years additional responsible charge = one (1) year post high school education. ()

d. Substituting Experience for Experience. Where applicable, up to one-half (½) of the operating experience requirement for Class II, III and IV may be substituted for experience that includes, but is not limited to, the following: ()

i. Experience as an environmental or operations consultant; ()

ii. Experience in an environmental or engineering branch of federal, state, county, or local government; ()

iii. Experience as a wastewater collection system operator; ()

iv. Experience as a wastewater treatment plant operator; ()

v. Experience as a water distribution system operator and/or manager; ()

vi. Experience as a water treatment plant operator; or ()

vii. Experience in waste treatment operation and maintenance. ()

e. Equivalency Policy for Education or Experience Substitutions. Substitutions for education or experience requirements needed to meet minimum requirements for certification will be evaluated upon the following equivalency policies: ()

i. High School - High School diploma, a GED, or other equivalent. ()

ii. College - Thirty-five (35) credits equals one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields). ()

iii. Continuing Education Units (CEU) for relevant operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours equals one (1) CEU; forty-five (45) CEUs equals one (1) year of college. ()

SECTION 407 (entire section)

407. CERTIFICATION REQUIREMENTS FOR A WASTEWATER COLLECTION SYSTEM OPERATOR.
Every operator shall submit an application to the Department and shall meet the criteria in this Section to qualify for a certification classification in wastewater collections. Applicants shall be subject to an application fee to cover examination and processing costs. ()

01. Employment Requirement. Except for an Operator-In-Training (OIT) Classification, applicants for certification must be currently employed or working in the wastewater field. ()

02. Examination Requirement. Applicants must pass a written validated examination with a score of seventy percent (70%) or better. The examination will reflect different levels of knowledge, ability and judgment required for the established certification classes. Examinations will be administered in accordance with established examination procedures. ()

03. Education And Experience Requirements. ()

- a. Basic Education and Experience Certification Requirements. ()
- i. To qualify for an Operator-In-Training Certificate, an operator must have a high school diploma or GED and pass an OIT exam. After passing an OIT exam, a "one-time" non-renewable certificate of "Operator-In-Training" will be issued. This certificate will be valid for three (3) years only. After working one (1) year in the field and with no further testing required, the Operator-In-Training will be issued a Class I Certificate upon proof of twelve (12) months of operating experience in a Class I or higher public wastewater collection system. ()
- ii. To qualify for a Class I certificate, an operator must have a high school diploma or GED and one (1) year of acceptable operating experience of a Class I or higher collection system. ()
- iii. To qualify for a Class II certificate, an operator must have a high school diploma or GED and three (3) years of acceptable operating experience. ()
- iv. To qualify for a Class III certificate, an operator must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience. ()
- v. To qualify for a Class IV certificate, an operator must have a high school diploma or GED; four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience. ()
- b. Substituting Education for Experience. Applicants may substitute education for operating and responsible charge experience as specified below: ()
- i. For Class I certificate, no substitution for operating experience shall be permitted. ()
- ii. For Class II, a maximum of one and one-half (1½) years of post high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1½) years of operating experience. ()
- iii. For Class III and IV, a maximum of two (2) years of post high school education in the environmental control field, engineering or related science may be substituted for two (2) years of operating experience. ()
- iv. Education substituted for operating experience shall not also be applied to education requirement. ()
- v. One (1) year of post high school education, other than described in Subsections 407.03.b.ii. and 407.03.b.iii., may be substituted for one (1) year experience, up to maximum of fifty percent (50%) of required operating or active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class. ()
- c. Substituting Experience for Education. Where applicable, operating and responsible charge experience or operating and active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class experience may be substituted for education as specified below: ()
- i. One (1) year of operating experience may be substituted for two (2) years of grade school with no limitation or one (1) year high school with no limitation. ()
- ii. For Class III and IV, responsible charge experience may be substituted for post high school education on a two (2) for one (1) basis: two (2) years responsible charge = one (1) year post high school education. ()
- d. Substituting Experience for Experience. Where applicable, up to one-half (½) of the operating experience requirement for Class II, III and IV may be substituted for experience that includes, but is not limited to, the following: ()

- i. Experience as an environmental or operations consultant; ()
 - ii. Experience in an environmental or engineering branch of federal, state, county, or local government; ()
 - iii. Experience as a wastewater collection system operator; ()
 - iv. Experience as a wastewater treatment plant operator; ()
 - v. Experience as a water distribution system operator and/or manager; ()
 - vi. Experience as a water treatment plant operator; or ()
 - vii. Experience in waste treatment operation and maintenance. ()
- e. Equivalency Policy for Education or Experience Substitutions. Substitutions for education or experience requirements needed to meet minimum requirements for certification will be evaluated upon the following equivalency policies: ()
- i. High School - High School diploma, a GED, or other equivalent. ()
 - ii. College - Thirty-five (35) credits equals one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields). ()
 - iii. Continuing Education Units (CEU) for relevant operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours equals one (1) CEU; forty-five (45) CEUs equals one (1) year of college. ()

SECTION 408 (entire section)

408. RECIPROCIITY.

The Director may waive examination requirements for applicants holding certificates or licenses issued by other States which have equivalent certification requirements. Applicants shall be subject to an application fee to cover processing costs. ()

SUBSECTIONS 409.01 through 409.04, 409.08, and 409.10

409. CERTIFICATES AND RENEWALS.

01. Certificate Issuance. Upon satisfying the requirements of Section 405, 406, 407 or 408, a certificate will be issued to the applicant designating his or her level of operating competency. ()

02. Certificate Renewal. Operators shall be subject to payment of fees and professional growth requirements to qualify for certificate renewal. Renewal fees shall be based on processing costs. Certificates shall be valid for two (2) years, beginning on March 1 of the year of issuance. ()

03. Grandparent Certificate Issuance Limitation. A grandparent certification shall not be issued within seventy-five (75) days of the certification renewal deadline in Subsection 409.02 to allow the grandparented operator sufficient time to meet the professional growth requirement referenced in Subsection 409.09. ()

04. Invalidation Of Certificates. Certificates for which the renewal fees and evidence of completion of approved training, as referenced in Subsection 409.09, are not received within sixty (60) days after the expiration date will be invalid. ()

08. Certificate Signatures. Certificates shall be signed by the *Director or his designee.* ()

10. Temporary Professional Growth Waiver. The Department may, at its discretion, temporarily waive the CEU requirements outlined in Subsections 405.06 and 409.09 for certified wastewater system operators who present documentation of deployment out of state or country on active military duty for a period of time that makes it impossible for the operator to meet the CEU requirements prior to the renewal deadline. Upon completion of active deployment, the operator shall have twelve (12) calendar months from the date of return to the state to make up the CEUs missed during deployment. This waiver does not alter the CEU requirements in Subsections 405.06 or 409.09 for the certification renewal cycle in progress at the time the operator returns to the state. ()

SECTION 410 (entire section)

410. CONTRACTING FOR SERVICES.

Public wastewater systems that do not have a certified public wastewater system operator may contract with a certified public wastewater system operator or with a public wastewater system having certified operators to provide supervision. The contracted public wastewater system operator or contracted entity shall employ an operator certified at the grade equal to or greater than the classification of the system. ()

SUBSECTIONS 411.01

411. PENALTIES.

The Director may assess penalties in accordance with the following provisions: ()

01. General Authority. *The Department may enforce these rules and seek those remedies as provided in Title 39, Chapter 1, Idaho Code.* ()

SECTION 412 (entire section)

412. SUSPENSION, REDUCTION OR REVOCATION.

01. Suspension, Reduction Or Revocation Of An Operator's Certificate. The Director may suspend, reduce, or revoke a wastewater operator certificate, following *notice and an opportunity for a hearing before the Board when the following conditions are found:* ()

a. It is found that the individual holding the wastewater certificate has engaged in misconduct such as fraud, falsification of the application, or falsification of operating records. ()

b. The individual holding the wastewater certificate has failed to perform his or her duties as described in the definition of "Wastewater Collection System Operator" or the definition of "Wastewater Treatment Operator" found in Section 003 of these rules. ()

c. It is found that the individual holding the wastewater certificate has failed to use reasonable care and judgment in the performance of his duties as described in the definition of "Wastewater Collection System Operator" or the definition of "Wastewater Treatment Operator" found in Section 003 of these rules, or the application of his knowledge and ability in the performance of his duties is unsatisfactory. ()

02. Appeals. In the event of a decision to suspend, reduce or revoke a certificate under the conditions set forth in Section 412, the holder of that certificate may appeal the decision as provided for in Sections 39-107(6) and 39-107(7), Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". ()

SECTION 413 (entire section)

413. ADVISORY GROUP.

Stakeholder Involvement. Ongoing stakeholder involvement may be provided through a wastewater advisory committee at the Department. ()

~~40314.~~ -- 419. (RESERVED).

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.03 - INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES

DOCKET NO. 58-0103-0201

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2003 Idaho State Legislature for final approval. The rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-seventh Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This rule is an amendment to longstanding administrative rules which regulate activities that are not regulated by the federal government. The action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, July 3, 2002, Volume 02-7, pages 253 through 277. DEQ received public comments concerning the proposed rule and has revised the initial proposal as allowed under Section 67-5227, Idaho Code, at Sections 003 through 008. The remaining sections have been adopted as initially proposed. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public and an explanation of the reasons for changes between the text of the proposed rule and the text of the pending rule, is included in the rulemaking record, which can be obtained by contacting the undersigned.

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 rulemaking, contact Barry Burnell at (208)373-0502 or bburnel@deq.state.id.us.

DATED this 13th day of November, 2002.

Paula J. Gradwohl
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IDAPA 58, TITLE 01, Chapter 03

INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES

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 02-7, July 3, 2002, pages 253 through 277.

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. 58-0103-0201

SUBSECTIONS 003.02, 003.04, 003.13.d. have substantive changes to them.

SUBSECTIONS 003.05 through 003.42 have been renumbered

003. DEFINITIONS.

For the purposes of these rules, the following definitions apply.

(5-7-93)

02. Alternative System. Any system for which the Department has issued design guidelines or which the Director judges to be a ~~simple~~ modification of a standard system. ~~(10-1-90)()~~

04. Bedroom. ()

a. Any room within a dwelling that may be primarily used for sleeping and consists of the following elements: ()

i. Floor space of at least ninety (90) square feet; ()

ii. Electrical service and ventilation; ()

iii. Provides privacy to the occupants; ()

iv. One (1) window or door suitable for emergency escape and rescue; and ()

v. One (1) interior method of entry and exit. ()

b. Living rooms, dining rooms, kitchens, halls, bathrooms, are not considered bedrooms. An unfinished basement that has separate entry and exit, one of which is suitable for emergency escape and rescue, shall qualify as a minimum of one (1) bedroom. A bedroom may include a room listed as a den, study, office, library, sewing room, sleeping loft, or craft room on building plans if conditions of Subsections 003.04.a.i. through 003.04.a.v. are met. ()

045. Blackwaste. Human body waste, specifically excreta or urine. This includes toilet paper and other products used in the practice of personal hygiene. (10-1-90)

056. Blackwater. A wastewater whose principal pollutant is blackwaste; a combination of blackwaste and water. (10-1-90)

067. Board. Idaho State Board Of Environmental Quality. (10-1-90)

~~078.~~ **Building Sewer.** The extension of the building drain beginning five (5) feet outside the inner face of the building wall. (10-1-90)

~~082.~~ **Central System.** Any system which receives blackwaste or wastewater in volumes exceeding twenty-five hundred (2,500) gallons per day; any system which receives blackwaste or wastewater from more than two (2) dwelling units or more than two (2) buildings under separate ownership. (10-1-90)

~~0910.~~ **Construct.** To make, form, excavate, alter, expand, repair, or install a system, and, their derivations. (5-7-93)

~~101.~~ **Director.** The Director of the Idaho Department of Environmental Quality or the Director's designee or authorized agent. (10-1-90)

~~11.~~ **Existing System.** *Any system which was installed prior to the effective date of these rules.* (5-7-93)

~~122.~~ **Expand.** To enlarge any nonfailing system. (10-1-90)

~~133.~~ **Failing System.** Any system which exhibits one (1) or more of the following characteristics: (10-1-90)

a. The system does not meet the intent of these rules as stated in Subsection 004.01. (5-7-93)

b. The system fails to accept blackwaste and wastewater. (10-1-90)

c. The system discharges blackwaste or wastewater into the waters of the State or onto the ground surface. (10-1-90)

d. The system was not constructed in accordance with the terms of the permit and may pose a risk to human health or the environment. ()

~~14.~~ **Floodway.** Floodway means that portion of the floodplain which is effective in carrying flow, where the flood hazard is generally the greatest, and where water depths and velocities are the highest. ()

~~145.~~ **Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (5-7-93)

~~156.~~ **High Groundwater Level - Normal, Seasonal.** High ground water level may be established by the presence of low chroma mottles, actual ground water monitoring or historic records. (5-7-93)

a. The normal high groundwater level is the highest elevation of ground water that is maintained or exceeded for a continuous period of six (6) weeks a year. (5-7-93)

b. The seasonal high groundwater level is the highest elevation of ground water that is maintained or exceeded for a continuous period of one (1) week a year. (5-7-93)

~~167.~~ **High Water Mark.** The line which the surface water impresses on the ~~soil~~ bank by covering it for sufficient periods of time to prevent the growth of terrestrial vegetation. (10-1-90)()

~~178.~~ **Individual System.** Any standard, alternative or subsurface system which is not a central system. (10-1-90)

~~182.~~ **Install.** To excavate or to put in place a system or a component of a system. (10-1-90)

~~1920.~~ **Installer.** Any person, corporation, or firm engaged in the business of excavation for, or the construction of individual or subsurface sewage ~~disposal~~ treatment and distribution systems in the State. (10-1-90)()

201. Large Soil Absorption System. A large soil absorption system is a subsurface sewage ~~disposal~~ treatment and distribution system designed to receive two thousand five hundred (2,500) gallons of wastewater or more per day, including where the total wastewater flow from the entire proposed project exceeds two thousand five hundred (2,500) gallons per day but the flow is separated into absorption modules which receive less than two thousand five hundred (2,500) gallons per day. (5-7-93)()

212. Limiting Layer. A characteristic subsurface layer or material which will severely limit the capability of the soil to treat or absorb wastewater including, but not limited to, water tables, fractured bedrock, fissured bedrock, excessively permeable material and relatively impermeable material. (10-1-90)

223. Mottling. Irregular areas of different color in the soil that vary in contrast, density, number and size. Mottling generally indicates poor aeration and impeded drainage. (5-7-93)

234. New System. A system which is or might be authorized or approved on or after the effective date of these rules. (5-7-93)

245. Nondischarging System. Any system which is designed and constructed to prevent the discharge of blackwaste or wastewater. (10-1-90)

256. Permit. An individual or subsurface system installation permit or installer's registration permit. (10-1-90)

267. Pollutants. Any chemical, biological, or physical substance whether it be solid, liquid, gas, or a quality thereof, which if released into the environment can, by itself or in combination with other substances, create a public nuisance or render that environment harmful, detrimental, or injurious to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational, aesthetic, or other beneficial uses. (10-1-90)

278. Public System. Any system owned by a county, city, special service district, or other governmental entity or Indian tribe having the authority to dispose of blackwaste or wastewater; a municipal wastewater treatment facility. (10-1-90)

289. Repair. To remake, reform, replace, or enlarge a failing system or any component thereof as is necessary to restore proper operation. (10-1-90)

2930. Scarp. The side of a hill, canyon, ditch, river bank, roadcut or other geological feature characterized by a slope of forty-five (45) degrees or more from the horizontal. (10-1-90)

301. Sewage. Sewage has the same meaning as wastewater. (10-1-90)

32. Single Family Dwelling Equivalent. Is a term used to compare the amount of domestic wastewater generated by a multiple residential, industrial, institutional food services, commercial and industrial, or seasonal and recreational facility to a typical residential structure. Four hundred and fifty (450) gallons of domestic wastewater per day is equivalent to a single family dwelling. For example a twenty (20) unit apartment complex with a system designed for five thousand (5,000) gallons per day as based on Subsection 007.08 is equivalent to eleven point one (11.1) single family dwellings. ()

313. Soil Texture. The relative proportion of sand, silt, and clay particles in a mass of soil. (10-1-90)

324. Standard System. Any system recognized by the Board through the adoption of design and construction regulations. (10-1-90)

335. Subsurface System. Any system with a point of discharge beneath the earth's surface. (10-1-90)

346. Surface Water - Intermittent, Permanent, Temporary. (7-1-93)

a. Any waters of the State which flow or are contained in natural or man-made depressions in the earth's surface. This includes, but is not limited to, lakes, ponds, streams, ~~canals, and ditches~~ and also man-made

ditches, drains, or canals that intercept ground water and discharge directly or hydraulically to surface water. (10-1-90)(____)

b. An intermittent surface water exists continuously for a period of more than two (2) months but not more than six (6) months a year. (10-1-90)

c. A permanent surface water exists continuously for a period of more than six (6) months a year. (10-1-90)

d. A temporary surface water exists continuously for a period of less than two (2) months a year. (10-1-90)

357. System. Beginning at the point of entry physically connected piping, treatment devices, receptacles, structures, or areas of land designed, used or dedicated to convey, store, stabilize, neutralize, treat, or dispose of blackwaste or wastewater. (10-1-90)

38. Unstable Landform. Areas showing evidence of mass down slope movement. (____)

362. Wastewater. Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, grey water or commercial or industrial pollutants; and sewage. (10-1-90)

40. Wastewater Master Plan. A planning document describing the long term plan for wastewater collection, treatment and disposal for a municipality, sewer district or other applicable entity. These plans generally describe the sizing and locations of collection and treatment facilities based on existing and future land use, topography, geology, ground water, surface water, and other factors. They also can describe a proposed order of development, but not construction schedules, since construction schedules are too dependent on financing and other unknown issues. (____)

3741. Waters Of The State. All the accumulations of water, surface and underground, natural and artificial, public and private or parts thereof which are wholly or partially within, which flow through or border upon the state of Idaho. (10-1-90)

3842. Water Table. The surface of an aquifer. (10-1-90)

SUBSECTION 004.05

004. GENERAL REQUIREMENTS.

05. Failing System. The owner of any failing system shall obtain a permit ~~and cause the failing system's repair:~~ (10-1-90)

~~a-~~ As to replace the failing system as soon as practical after the owner becomes aware of its failure. (10-1-90)

~~b-~~ As directed in proper notice from the Director. In no case shall the time frame for obtaining a permit exceed seven (7) working days. Construction shall be completed within thirty (30) calendar days of permit issuance unless otherwise specified by the Director in writing. (10-1-90)(____)

SUBSECTIONS 005.05.f., 005.05.f.v., 005.05.f.vi., 005.16, and 005.17.b.

005. PERMIT AND PERMIT APPLICATION.

05. Basis For Permit Application Denial. The Director may deny a permit application if in the Director's judgment any of the following apply: (10-1-90)()

~~ef.~~ Public or central wastewater treatment facilities systems are reasonably accessible. Factors the Director may consider in determining reasonable access to public systems include: (10-1-90)()

v. Whether the cost to construct the offsite sewer line to the development property line, less any latecomers reimbursement, is less than two hundred percent (200%) of the estimated costs of installing permitable subsurface sewage treatment and distribution systems; ()

vi. Whether the local jurisdiction has developed a mechanism to ensure that the cost to extend the wastewater collection line to the property line of the development is borne with rough proportionality to the benefit derived by all potential users from the improvement; or ()

16. Permit Fee. All applications shall be accompanied by payment of ~~the a~~ fee specified as provided in Idaho Department of ~~Health and Welfare~~ Environmental Quality Rules, IDAPA ~~16.05.05, Subsections 110 through 110.02 58.01.14,~~ "Rules Governing Fees for ~~Health and~~ Environmental Operating Permits, Licenses, and Inspections Services". (5-7-93)()

17. Permit Revocation. ()

b. Notice of Revocation. Except in cases of emergency, the Director shall issue a written notice of intent to revoke to the permittee prior to final revocation. Revocation shall become final within thirty-five (35) days of receipt of the notice by the permittee, unless within that time the permittee requests an administrative hearing in writing. The hearing shall be conducted in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". The department will request that upon receipt of the notice of intent to revoke, all construction, repair, replacement, or installation activities associated with the permit shall be suspended until a final determination has been made. ()

SUBSECTIONS 006.06 and 006.07

006. INSTALLER'S REGISTRATION PERMIT.

06. Exemption. An installer's permit shall not be required for: (10-1-90)

~~a.~~ Any person, corporation, or firm constructing a central or municipal subsurface sewage disposal system if that person, corporation, or firm is a licensed public works contractor as provided in Title 54, Chapter 19, Idaho Code, is experienced in the type of system to be installed and is under the direction of a professional engineer licensed in the state of Idaho; or (5-7-93)

~~b.~~ A home owner and resident installing his own standard or basic alternative system. A home owner may install one (1) standard or basic alternative system in a three (3) year period if the home owner can, prior to installation, pass an examination as required in Subsection 006.02. (5-7-93)()

07. Application Fee. All applications shall be accompanied by payment of ~~the a~~ fee specified as provided in Idaho Department of ~~Health and Welfare~~ Environmental Quality Rules, IDAPA ~~16.05.05, Section 120 58.01.14,~~ "Rules Governing Fees for ~~Health and~~ Environmental Operating Permits, Licenses, and Inspections Services". (5-7-93)()

SUBSECTION 007.07 and 007.08

007. SEPTIC TANKS DESIGN AND CONSTRUCTION STANDARDS.

07. Minimum Septic Tank Capacities. (7-1-93)

~~a.~~ Tanks serving one (1) or two (2) single dwelling units:

MINIMUM CAPACITY PER DWELLING UNIT	
Number of Bedrooms	Minimum Liquid Capacity (Gallons)
1 or 2	900
3 or 4	1,000

For each bedroom over four (4) add two hundred fifty (250) gallons. (10-1-90)

~~b.~~ Tanks serving all other flows. Septic tank capacity shall be equal to two (2) times the average daily flow as determined from Subsection 007.08. The minimum tank capacity shall be seven hundred and fifty (750) gallons. The minimum size septic tank capacity is one thousand (1,000) gallons. For single family dwellings and mobile homes with more than four (4) bedrooms add two hundred and fifty (250) gallons to the minimum septic tank capacity for each bedroom over four (4). For wastewater flows exceeding five hundred (500) gallons per day (GPD) the minimum shall be equal to two (2) times the average daily flow as determined in Subsection 007.08 or as determined from similar facilities with metered flow or other published wastewater flow estimates, such as American Water Works Association or Metcalf and Eddy, 1991, which ever is greater or is accepted by the Director. Peak wastewater flow rates for facilities with non-uniform wastewater generation rates shall be used for design purposes unless a method of flow equalization is provided in the design.

(12-31-91)()

08. Wastewater Flows From Various Establishments In Gallons Per Day (GPD). The following table shall be used to estimate wastewater flows from dwellings, multiple residential, institutional, food services, commercial and industrial, and seasonal and recreational facilities:

ESTABLISHMENTS	
Single Family Dwelling and Mobile Homes, 3 bedroom. Add/subtract 50 gallons/bedroom	250/Unit
MULTIPLE RESIDENTIAL	GPD/Unit
Hotel: With Private Baths Without Private Baths	60/Bedspace 40/Bedspace
Motel: With Kitchenette	40/Bedspace 60/Bedspace
Boarding House: Add for each nonresident	150/Bedspace 25
Rooming House/Bunk House Staff Resident Nonresident	40/Resident 40/Staff 15/Staff

ESTABLISHMENTS	
Apartments	250/Unit
INSTITUTIONAL	<u>GPD/Unit</u>
Assembly Hall/Meeting House	2/Seat
Church: With Kitchen	3/Seat 7/Seat
Hospital: Kitchen only Laundry only	250/Bedspace 25/Bedspace 40/Bedspace
Nursing Home/Rest Home	125/Bedspace
Day School: Without Showers With Showers With Cafeteria, add Staff-Resident Nonresident	20/Student 25/Student 3/Student 40/Staff 20/Staff
FOOD SERVICE	<u>GPD/Unit</u>
Conventional Service: Toilet & Kitchen Wastes Kitchen Wastes	13/Meal 3.3/Meal
Take Out or Single Service	2/Meal
Dining Hall: Toilet & Kitchen Wastes Kitchen Wastes	8/Meal 3.3/Meal
Drinking Establishment	2/Person
Food Service Employee	15/Employee
COMMERCIAL AND INDUSTRIAL	<u>GPD/Unit</u>
Bowling Alley	125/Lane
Laundry - Self Service	50/Wash
Public Transportation Terminal	5/Fare
Service Station	10/Vehicle
Car Wash: 1st Bay Additional Bays	50/Vehicle 1000 500 each
Shopping Center (No food/laundry)	1/Pkg.Sp.
Theaters (including Concession Stand): Auditorium Drive-in	5/Seat 10/Space
Offices	20/Employee

ESTABLISHMENTS	
Factories: No Showers With Showers Add for Cafeteria	25/Employee 35/Employee 5/Employee
Stores	2/Employee
Public Restrooms <u>Toilet Wastes</u> <u>Toilet & Shower Wastes</u>	<u>5/Person</u> <u>15/Person</u>
SEASONAL AND RECREATIONAL	<u>GPD/Unit</u>
Fairground (Peak Daily Attend)	1/Person
Stadium	2/Seat
Swimming Pool: Toilet & Shower Wastes	10/Person
Parks & Camps (Day Use): Toilet & Shower Wastes	15/Person
Roadside Rest Area: Toilet & Shower Wastes Toilet Waste	10/Person 5/Person
Overnight Accommodation: Central Toilet Central Toilet & Shower	25/Person 35/Person
Designated Camp Area: Toilet & Shower Wastes Toilet Wastes	90/Space 65/Space
Seasonal Camp	50/Space
Luxury Cabin	75/Person
Travel Trailer Park with Sewer and Water Hook-up	125/Space
Construction Camp	50/Person
Resort Camps	50/Person
Luxury Camps	100/Person
Country Clubs Resident Member Add for Nonresident Member	100/Member 25/Person
Public Restrooms: Toilet Wastes Toilet & Shower Wastes	5/Person 15/Person

(10-1-90)()

SUBSECTION 008.04

008. STANDARD SUBSURFACE ~~DISPOSAL~~ TREATMENT AND DISTRIBUTION FACILITY DESIGN AND CONSTRUCTION.

04. Standard Subsurface ~~Disposal~~ Treatment And Distribution Facility Specifications. The following table presents additional design specifications for new subsurface sewage ~~disposal~~ treatment and ~~distribution~~ facilities.

SUBSURFACE DISPOSAL TREATMENT AND DISTRIBUTION FACILITY TABLE	
Item	All Soil Groups
Length of Individual Distribution Laterals	100 Feet Maximum
Grade of Distribution Laterals and Trench Bottoms	Level
Width of Trenches	1 Foot Minimum 6 Feet Maximum
Depth of Trenches	2 Feet Minimum 4 Feet Maximum
Total Square Feet of Trench	1500 Sq.ft. Max.
Undisturbed Earth Between Trenches	6 Feet Minimum
Undisturbed Earth Between Septic Tank and Trenches	6 Feet Minimum
Depth of Aggregate	
Total	12 In. Minimum
Over Distribution Laterals	2 In. Minimum
Under Distribution Laterals	6 In. Minimum
Depth of Soil Over Top of Aggregate	12 In. Minimum

(10-1-90)()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-0201

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2003 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-seventh Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require the Board to adopt amendments to federal law as set out in this pending rule.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 7, 2002, Volume 02-8, pages 162 through 169. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

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 questions concerning the proposed rulemaking, contact John Brueck at (208)373-0502 or jbrueck@deq.state.id.us.

Dated this 13th day of November, 2002.

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IDAPA 58, TITLE 01, Chapter 05

RULES AND STANDARDS FOR HAZARDOUS WASTE

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 02-8, August 7, 2002, pages 162 through 169.

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.

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Bulletin Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

IDAPA 02 – DEPARTMENT OF AGRICULTURE PO Box 790, Boise, ID 83701

02-0801-0301, Rules Governing Sheep and Goats and the Idaho Board of Sheep Commissioners. Enables the Idaho Sheep Commission to control scrapie, a fatal neurological disease, and makes the rules consistent with new federal scrapie rules. Comment by: 1/22/03.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE PO Box 83720, Boise, ID 83720-0036

16-0309-0301, Rules Governing the Medical Assistance Program. The Idaho Medicaid Program will reimburse for out-of-state nursing home placements when services are not available in Idaho, or in a temporary situation for limited period of time required to safely transport the recipient to an Idaho facility. Comment by: 1/22/03.

16-0310-0301, Rules Governing Medicaid Provider Reimbursement in Idaho. The Idaho Medicaid Program will reimburse for out-of-state nursing home placements when services are not available in Idaho, or in a temporary situation for a limited period of time required to safely transport the recipient to an Idaho facility, at the per diem rate set by the Medicaid Program in the state where the nursing home is located. Comment by: 1/22/03.

16-0414-0301, Rules Governing the Low Income Home Energy Assistance Program. Removes the benefit determination procedures and percentages from rule and puts them in the Intake Manual used for LIHEAP and replaces them with an annual benefit determination summary. Comment by: 1/22/03.

16-0601-0301, Rules Governing Family and Children's Services. Adds definition for "certified adoption professional" to replace "qualified individual"; clarifies term "legal parent" to make it more inclusive; makes appeals process consistent with department rules; removes obsolete language and updates references. Comment by: 1/22/03.

16-0603-0301, Rules and Minimum Standards Governing Alcohol/Drug Abuse Prevention and Treatment. New section provides standards by which Outpatient Drug Court Facilities can be approved for substance abuse treatment; adds required sections to rule; adds new definitions; changes titles to the licensed social worker to comply with the Social Work Licensing Act; deletes a category of counselor trainee that is no longer applicable and addresses that are not necessary; clarifies and updates rules pertaining to supervision of counselors, work experience of program directors working with adolescents, reimbursement by programs under contract with the Department, and the use of patient placement criteria. Comment by: 1/22/03.

IDAPA 33 – IDAHO REAL ESTATE COMMISSION PO Box 83720, Boise, ID 83720

33-0101-0301, Rules of the Idaho Real Estate Commission. Allows licensees to "self-certify" their continuing education compliance when renewing or reactivating a license; sets forth CE documentation licensee needs to keep; authorizes Commission to request the documentation in order to verify the certificate of compliance; sets consequences for failure to comply; and lists the "approved CE topics". Comment by: 2/7/03.

**IDAPA 48 – DEPARTMENT OF COMMERCE
PO Box 83720, Boise, ID 83720-0093**

48-0103-0301, Rules of the Idaho Regional Travel and Convention Grant Program. Increases the limit at which grantees can shift ITC dollars (\$2500) between line items during a grant cycle; raises the formal bid requirement for projects greater than \$2,500; and utilizes the same electronic format as grant applications for application amendments. Comment by: 1/22/03.

Please refer to the Idaho Administrative Bulletin, **January 1, 2003, Volume 03-1** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

Citizens of your county can view all issues of the Idaho Administrative Bulletin at the county law libraries.

Copies of the Administrative Bulletin and other rules publications are available for purchase. For subscription information and ordering see our website or call (208) 332-1820 or write the Office of Administrative Rules, Department of Administration, 650 W. State St., Room 100, Boise, ID 83720-0306. Visa and MasterCard accepted for most purchases.

The Idaho Administrative Bulletin and Administrative Code are available on-line at: **<http://www2.state.id.us/adm/adminrules/>**

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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