

IDAHO ADMINISTRATIVE BULLETIN

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October 1, 2003 -- Volume 03-10

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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 Bulletins are cited by year and volume number. For example, Bulletin 02-1 refers to the first Bulletin issued in calendar year 2002, 03-1 refers to the first Bulletin issued in calendar year 2003. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No.02-1 refers to January 2002; Volume No. 02-2 refers to February 2002; 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, etc.

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, governed by the Administrative Procedure Act, comprises five distinct activities; Negotiated, Proposed, Temporary, Pending, and Final rulemaking. Not all rulemakings include 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, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a Notice of Intent to Promulgate a Rule in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed and/or temporary rule.

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. However, a temporary rule that imposes a fee or charge may be adopted only if the Governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.

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.

State law requires that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. 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. Combining the rulemaking allows for a single publication of the text.

An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rulemaking that is being vacated, the agency, in most instances, should rescind the temporary rule.

PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures 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 procedures and is in effect and enforceable.

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 may be adopted to reject the rulemaking 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 or FAX (208) 332-1896.

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. 38-0501-0301"

"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).

"0301" 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 2003.

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 | January 1, 2003 | February 5, 2003 | February 26, 2003 |
| 03-3 | March, 2003 | February 5, 2003 | March 5, 2003 | March 26, 2003 |
| 03-4 | April, 2003 | March 5, 2003 | April 2, 2003 | April 23, 2003 |
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| 03-6 | June, 2003 | April 30, 2003 | June 4, 2003 | June 25, 2003 |
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| 03-8 | August, 2003 | July 2, 2003 | August 6, 2003 | August 27, 2003 |
| 03-9 | September, 2003 | July 30, 2003 | September 3, 2003 | September 24, 2003 |
| 03-10 | October, 2003 | **August 20, 2003 | October 1, 2003 | October 22, 2003 |
| 03-11 | November, 2003 | October 1, 2003 | November 5, 2003 | November 26, 2003 |
| 03-12 | December, 2003 | October 29, 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 19, 2003 | January 7, 2004 | January 28, 2004 |
| 04-2 | February, 2004 | January 7, 2004 | February 4, 2004 | February 25, 2004 |
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| 04-12 | December, 2004 | November 3, 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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IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.38 - INSURANCE AVAILABILITY FOR RIDESHARING ARRANGEMENTS

DOCKET NO. 18-0138-0301 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 41-211, Idaho Code.

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

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

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

This chapter is being repealed in its entirety because it is no longer needed. The chapter references and implements sections of the Idaho Code relating to ridesharing that are no longer in existence.

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

The rule does not impose or increase a fee.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not undertaken because the Idaho code sections upon which the rule was based are no longer in existence.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact Shad Priest at (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

Dated this 12th day of August, 2003.

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

IDAPA 18.01.38 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 19 - BOARD OF DENTISTRY

19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY

DOCKET NO. 19-0101-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Sections 54-912(4) and 54-924(8), Idaho Code.

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

The proposed rulemaking is for the following purposes: to incorporate the American Dental Association's Principles of Ethics, Code of Professional Conduct and Advisory Opinions (ADA Code) into the Board of Dentistry's administrative rules by reference; to specify that a violation of the ADA Code constitutes unprofessional conduct; to specifically identify the six (6) areas of specialty dental practice recognized and licensed by the Board of Dentistry; to provide that false, fraudulent and misleading advertising by dentists and dental professionals is prohibited as unprofessional conduct; to define the terms advertisement and advertising; to specify types of advertising that will be considered to be false, fraudulent and misleading to the public; and to provide that false, fraudulent and misleading advertising may result in disciplinary action by the Board of Dentistry against a dentist's or dental specialist's license.

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. Notice of the proposed rulemaking was previously provided to interested parties.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michael J. Sheeley, Executive Director, at (208) 334-2369.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 14th day of August, 2003.

Michael J. Sheeley, Executive Director
Idaho State Board of Dentistry
708½ W. Franklin Street
Boise, Idaho 83702
(208) 334-2369 (telephone)
(208) 334-3247 (facsimile)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 19-0101-0301

004. INCORPORATION BY REFERENCE (Rule 6).

Pursuant to Section 67-5229, Idaho Code, this chapter incorporates by reference the following documents: (7-1-93)

01. Documents. (7-1-93)

a. American Association of Oral and Maxillofacial Surgeons, Office Anesthesia Evaluation Manual, 6th Edition, 2000. (3-15-02)

b. American Dental Association, Council on Dental Education, Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, October 2000. (3-15-02)

c. American Dental Association, Council on Dental Education, Guidelines for Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists, October 2000. (3-15-02)

d. American Dental Association, Infection Control Recommendations for the Dental Office and the Dental Laboratory, JADA, August 1992. (7-1-93)

e. Centers for Disease Control, Recommended Infection Control Practice for Dentistry, 1993. (3-18-99)

f. American Dental Association, Principles of Ethics, Code of Professional Conduct and Advisory Opinions (ADA Code), January 2003 (as amended). ()

02. Availability. These documents are available for public review at the Idaho State Board of Dentistry, 708 1/2 West Franklin Street, Boise, Idaho 83720, or the Idaho State Law Library, Supreme Court Building, 451 W. State Street, Boise, Idaho 83720. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

040. UNPROFESSIONAL CONDUCT (Rule 40).

A dentist or hygienist shall not engage in unprofessional conduct in the course of his practice. Unprofessional conduct by a person licensed under the provisions of Title 54, Chapter 9, Idaho Code, is defined as, but not limited to, one (1) of the following: (7-1-93)

01. Fraud. Obtaining fees by fraud or misrepresentation, or over-treatment either directly or through an insurance carrier. (7-1-93)

02. Unlicensed Practice. Employing directly or indirectly any suspended or unlicensed dentist or dental hygienist to practice dentistry or dental hygiene as defined in Title 54, Chapter 9, Idaho Code. (7-1-93)

03. Unlawful Practice. Aiding or abetting licensed persons to practice dental hygiene or dentistry unlawfully. (7-1-93)

04. Dividing Fees. A dentist shall not divide a fee for dental services with another party, who is not a partner or associate with him in the practice of dentistry, unless: (7-1-93)

a. The patient consents to employment of the other party after a full disclosure that a division of fees will be made; (7-1-93)

b. The division is made in proportion to the services performed and responsibility assumed by each dentist or party. (7-1-93)

05. Controlled Substances. Prescribing or administering controlled substances not reasonably

necessary for, or within the scope of, providing dental services for a patient. In prescribing or administering controlled substances, a dentist shall exercise reasonable and ordinary care and diligence and exert his best judgment in the treatment of his patient as dentists in good standing in the state of Idaho, in the same general line of practice, ordinarily exercised in like cases. A dentist may not prescribe controlled substances for or administer controlled substances to himself. A dentist shall not use controlled substances as an inducement to secure or maintain dental patronage or aid in the maintenance of any person's drug addiction by selling, giving or prescribing controlled substances. (3-18-99)

06. Harassment. The use of threats or harassment to delay or obstruct any person in providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of Title 54, Chapter 9, Idaho Code, or the Board's Rules, or to aid in such compliance. (7-1-93)

07. Discipline In Other States. Conduct himself in such manner as results in a suspension, revocation or other disciplinary proceedings with respect to his license in another state. (3-18-99)

08. Altering Records. Alter a patient's record with intent to deceive. (7-1-93)

09. Office Conditions. Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession in the state of Idaho and current recommendations of the American Dental Association and the Centers for Disease Control as referred to in Subsections 006.01.c. and 006.01.d. (7-1-93)

10. Abandonment Of Patients. Abandonment of patients by licensees before the completion of a phase of treatment, as such phase of treatment is contemplated by the customary practice and standards of the dental profession in the state of Idaho, without first advising the patient of such abandonment and of further treatment that is necessary. (7-1-93)

11. Use Of Intoxicants. Practicing dentistry or dental hygiene while under the influence of an intoxicant or controlled substance where the same impairs the dentist's or hygienist's ability to practice dentistry or hygiene with reasonable and ordinary care. (7-1-93)

12. Mental Or Physical Illness. Continued practice of dentistry or dental hygiene in the case of inability of the licensee to practice with reasonable and ordinary care by reason of one (1) or more of the following: (7-1-93)

a. Mental illness; (7-1-93)

b. Physical illness, including but not limited to, deterioration through the aging process, or loss of motor skill. (7-1-93)

13. Consent. Revealing personally identifiable facts, data or information obtained in a professional capacity without prior consent of the patient, except as authorized or required by law. (3-18-99)

14. Scope Of Practice. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform. (3-18-99)

15. Delegating Duties. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or with the exercise of reasonable care and control should know, that such a person is not qualified by training or by licensure to perform them. (3-18-99)

16. Unauthorized Treatment. Performing professional services that have not been authorized by the patient or his legal representative. (3-18-99)

17. Supervision. Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed professional. (7-1-93)

18. Legal Compliance. Failure to comply with any provisions of federal, state or local laws, statutes, rules, and regulations governing the practice of dentistry. (3-18-99)

19. Exploiting Patients. Exercising undue influence on a patient in such manner as to exploit a patient for the financial or personal gain of a practitioner or of a third party. (7-1-93)

20. Misrepresentation. Willful misrepresentation of the benefits or effectiveness of dental services. (7-1-93)

21. Disclosure. Failure to advise patients or their representatives in understandable terms of the treatment to be rendered, alternatives, and disclosure of reasonably anticipated fees relative to the treatment proposed. (3-18-99)

22. Sexual Misconduct. Making suggestive, sexual or improper advances toward a patient or committing any lewd or lascivious act upon or with a patient. (7-1-93)

23. Patient Management. Use of unreasonable and/or damaging force to manage patients, including but not limited to hitting, slapping or physical restraints. (7-1-93)

24. American Dental Association Compliance. Failure to comply with the American Dental Association, Principles of Ethics, Code of Professional Conduct and Advisory Opinions (ADA Code), as incorporated by reference in this chapter. ()

041. -- 044. (RESERVED).

045. LICENSURE OF DENTAL SPECIALISTS (Rule 45).

01. Qualifications. Each applicant shall have a general license for the practice of dentistry in the state of Idaho or another state. Any applicant who desires to be licensed in one (1) of the Board recognized specialties, which include and are limited to Endodontics, Oral and Maxillofacial Surgery, Orthodontics, Pediatric Dentistry, Periodontics, and Prosthodontics, must be a graduate of and hold a certificate from both a dental school and a Graduate Training Program that ~~is~~ are accredited by the Commission on Dental Accreditation of the American Dental Association. Any dentist licensed in Idaho who has met the educational requirements and standards approved by the Board, and who has practiced in ~~an American Dental Association~~ Board recognized specialty prior to February 1, 1992, may be granted a specialty license by the Board without undergoing examination. (3-18-99)()

02. Application. Application for license to practice a recognized dental specialty must be filed in the office of the Board of Dentistry, Statehouse Mail, Boise, Idaho. The application must be attested before a notary public. (7-1-93)

03. Examination. Specialty licensure in those specialties recognized ~~by the American Dental Association~~ may be granted solely at the discretion of the Idaho State Board of Dentistry. An examination covering the applicant's chosen field may be required and, if so, will be given by the Idaho State Board of Dentistry or its agent. Candidates who are certified by the American Board of that particular specialty as of the date of application for specialty licensure, and who meet the qualifications set forth in the Board's Rules, may be granted specialty licensure by Board approval. (4-2-03)()

04. Advertising And Limitation Of Practice. No dentist shall announce or otherwise hold himself out to the public as a specialist unless he has first complied with the requirements established by the Idaho State Board of Dentistry for such specialty and has been issued a specialty license authorizing him to do so. ~~The issuing of a specialty license allows him to announce to the public that he is specially qualified in a particular branch of dentistry.~~ Any individual granted a specialty license must limit his practice to the specialty(s) in which he is licensed. (7-1-93)()

046. ADVERTISING (Rule 46).

Dentists and dental hygienists licensed to practice in Idaho may advertise in any medium or by other form of public communication so long as any such advertising is not false, deceptive, misleading or not readily subject to

verification. In addition to any other applicable grounds, a violation of this advertising rule shall constitute and be considered as unethical and unprofessional conduct pursuant to the Idaho Dental Practice Act and this chapter. ()

01. General Advertising Provisions. ()

a. “Advertisement” shall mean any public communication, made in any form or manner whatsoever, about a licensee’s professional services or qualifications for the purpose of soliciting business. “Advertising” or “advertise” shall mean holding out, broadcasting, mailing, publishing, transmitting, announcing, distributing or otherwise disseminating any advertisement, whether directly or indirectly through the efforts of another person or entity. Any sign soliciting business, whether at the location of the dental practice or otherwise, shall be considered as an advertisement. A licensee who engages or authorizes another person or entity to advertise for or on the licensee’s behalf is responsible for the content of the advertisement unless the licensee can prove that the content of the advertisement was contrary to the licensee’s specific directions. ()

b. If the form or manner of advertising consists of or contains verbal communication to the public by television, radio, or other means, the advertisement shall be prerecorded and approved for broadcast by the licensee and a recording of the actual advertisement shall be retained by the licensee for a period of two (2) years. Upon receipt of a written request from the Board, a licensee shall provide any such recorded advertisement to the Board within five (5) working days. ()

c. Any advertisement made under or by means of a fictitious or assumed business name or in the name of a professional service corporation shall be the responsibility of all licensees who are owners of the business or corporation. ()

02. Prohibited Advertising. A licensee shall not advertise in any form or manner which is false, misleading or deceptive to the public or which is not readily susceptible to verification. False, misleading or deceptive advertising or advertising that is not readily susceptible to verification includes, but is not limited to, advertising that: ()

a. Makes a material misrepresentation of fact or omits a material fact; ()

b. Makes a representation likely to create an unjustified expectation about the results of a dental procedure; ()

c. Compares a licensee’s services with another licensee’s services unless the comparison can be factually substantiated; ()

d. Makes a representation that is misleading as to the credentials, education, or the licensing status of a licensee; ()

e. Represents that the benefits of a dental insurance plan will be accepted as full payment when deductibles or copayments are required; ()

f. Makes a representation that is intended to take advantage of the fears or emotions of a particularly susceptible type of patient; and ()

g. Refers to benefits of dental procedures or products that involve significant risks without including realistic assessments of the safety and efficacy of those procedures or products. ()

03. Specialty Advertising. The Board recognizes and licenses the following specialty areas of dental practice: Endodontics; Oral and Maxillofacial Surgery; Orthodontics; Pediatric Dentistry; Periodontics; and Prosthodontics. The specialty advertising rules are intended to allow the public to be informed about recognized dental specialties and specialization competencies of licensees and to require appropriate disclosures to avoid misperceptions on the part of the public. ()

a. An advertisement shall not state that a licensee is a specialist, or specializes in a recognized

specialty area of dental practice, or limits his practice to any recognized specialty area of dental practice unless the licensee has been issued a license or certification in that specialty area of dental practice by the Board. Use of words or terms in advertisements such as "Endodontist," "Pedodontist," "Pediatric Dentist," "Periodontist," "Prosthodontist," "Orthodontist," "Oral and Maxillofacial Surgeon," "Oral Surgeon," "Specialist," "Board Certified," "Diplomate," "Practice Limited To," and "Limited To Specialty Of" shall be prima facie evidence that the licensee is announcing or holding himself out to the public as a specialist or that the licensee specializes in a recognized area of dental practice. ()

b. A licensee who has not been licensed or certified by the Board in a recognized specialty area of dental practice may advertise as being qualified in a recognized specialty area of dental practice so long as each such advertisement, regardless of form, contains a prominent disclaimer that the licensee is "licensed as a general dentist" or that the specialty services "will be provided by a general dentist". Any disclaimer in a written advertisement shall be in the same font style and size as that in the listing of the specialty area. ()

c. A licensee shall not advertise as being a specialist in or as specializing in any area of dental practice which is not a Board recognized and licensed specialty area unless the advertisement, regardless of form, contains a prominent disclaimer that the advertised area of dental practice is not recognized as a specialty area of dental practice by the Idaho Board of Dentistry. Any disclaimer in a written advertisement shall be in the same font style and size as that in the listing of the specialty area. ()

0467. -- 049. (RESERVED).

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.01- RULES GOVERNING ADMISSION, RESIDENCY, AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES AND DIVISION OF VETERANS SERVICES ADMINISTRATIVE PROCEDURE

DOCKET NO. 21-0101-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 65-202, 65-204, and 66-907, Idaho Code.

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

Changes are being made to comply with changes made to the federal Medicaid regulations and to do general clean up of the rules.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes being made conform to changes in federal Medicaid regulations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OR WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Richard W. Jones at (208) 334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 11th day of August 2003.

Richard W. Jones, Administrator
Idaho Division of Veterans Services
320 Collins Road, Boise, Idaho 83702
Telephone: (208) 334-3513 / FAX (208) 334-2627

THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0101-0301

100. ELIGIBILITY REQUIREMENTS.

An applicant/resident must be a veteran of the armed forces and must satisfy the following requirements, pursuant to Sections 66901 and 66907, Idaho Code: (3-30-01)

01. Idaho Residency. The applicant must be a bona fide resident of the state of Idaho at the time of admission to a Home. (3-30-01)

02. Incompetent Applicants. Applicants who are considered incompetent must provide copies of guardianship or power of attorney. (3-30-01)

03. Necessity Of Required Services. Applicants must meet the requirements for the level of care for which they apply. (3-30-01)

a. Nursing Care. To be eligible to receive nursing care in a state veterans home, applicants must be referred by a VA physician or a physician currently licensed by the Idaho Board of Medicine to practice medicine or surgery in the state of Idaho. (3-30-01)

b. Residential Care. Each applicant must submit to a physical examination performed ~~at the VA Medical Center or by the clinical specialist assigned to a Home~~ by a licensed physician and meet the physical limitation requirements for residential care. The applicant must be unable to earn a living and have no adequate means of support due to wounds, old age, or physical or mental disabilities. However, each residential care resident must ambulate independently or with the aid of a wheelchair, walker, or similar device and be capable of performing at the time of admission, and for the duration of his residency, all of the following with minimal assistance: (3-30-01)(_____)

- i. Making his bed daily; (3-30-01)
- ii. Maintaining his room in a neat and orderly manner at all times; (3-30-01)
- iii. Keeping all clothing clean through proper laundering; (3-30-01)
- iv. Observing cleanliness in person, dress and living habits and dressing himself; (3-30-01)
- v. Bathing or showering frequently; (3-30-01)
- vi. Shaving daily or keeping his mustache or beard neatly groomed; (3-30-01)
- vii. Proceeding to and returning from the dining room and feeding himself; (3-30-01)
- viii. Securing medical attention on an ambulatory basis and managing medications; (3-30-01)
- ix. Maintaining voluntary control over body eliminations or control by use of an appropriate prosthesis; and (3-30-01)
- x. Making rational decisions as to his desire to remain or leave the Home. (3-30-01)

c. Domiciliary Care. Each applicant must submit to a physical examination performed ~~at the VA Medical Center or by the clinical specialist assigned to a Home~~ by a licensed physician and meet the physical limitation requirements for domiciliary care. The applicant must be unable to earn a living and have no adequate means of support due to wounds, old age, or physical or mental disabilities. However, each domiciliary care resident must be able to ambulate independently and must be capable of performing at the time of admission, and for the duration of his residency, all of the following without assistance: (3-30-01)(_____)

- i. Making his bed daily; (3-30-01)
- ii. Maintaining his room in a neat and orderly manner at all times; (3-30-01)
- iii. Keeping all clothing clean through proper laundering; (3-30-01)
- iv. Observing cleanliness in person, dress and living habits and dressing himself; (3-30-01)
- v. Bathing or showering frequently; (3-30-01)

- vi. Shaving daily or keeping his mustache or beard neatly groomed; (3-30-01)
- vii. Proceeding to and returning from the dining room and feeding himself; (3-30-01)
- viii. Securing medical attention on an ambulatory basis and managing medications; (3-30-01)
- ix. Maintaining voluntary control over body eliminations or control by use of an appropriate prosthesis; and (3-30-01)
- x. Making rational and competent decisions as to his desire to remain or leave the Home. (3-30-01)

04. Placement Restriction. A Home shall not accept applicants or continue to extend care to residents for whom the facility does not have the capability or services to provide an appropriate level of care. (3-30-01)

05. Financial Statement. Each applicant must file a signed, dated statement with the Home Administrator containing a report of income from all sources and a report of all liquid assets which will be used to determine the amount of the maintenance charge which is required in accordance with Section 66907, Idaho Code, and IDAPA 21.01.01, "Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure". (3-30-01)

06. Social Security Benefits. If eligible for Social Security benefits, the applicant/resident and spouse must apply for those benefits unless waived by the Home Administrator. (3-30-01)

07. Medicare Coverage. If eligible for Medicare parts "A" and "B", the applicant/resident must elect to participate, unless participation is waived by the Home Administrator. (3-30-01)

08. Income Limitation. (3-30-01)

a. Nursing Care. None. (3-30-01)

b. Residential and Domiciliary Care. An applicant whose total monthly net income, at the time of his application for residency, exceeds the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95588 divided by twelve (12) cannot be admitted unless granted a waiver by the Home Administrator. This waiver must include a statement from a VA Medical Center physician indicating the veteran is in "need of continuing medical care". (3-30-01)

09. VA Pension - Nursing Care. Unless waived by the Home Administrator, a wartime veteran, as defined in 5 U.S.C. Section 2108, who is a nursing care applicant/resident must be eligible for, apply for, and/or be in receipt of a VA disability pension in accordance with Public Law 95588. Such waivers may be considered only when the applicant/resident has signed a statement indicating he is unable to defray the necessary expenses of the medical care for which he is applying and arrangements are made to secure medical services not provided by VA. (5-3-03)

10. Agreements For Behavior And Care Needs. The Idaho State Veterans Homes may require that applicants or residents enter into agreements concerning the applicant or resident's behavior and/or care needs while residing in the Home. The resident's failure to perform these agreements is a basis for discharge from the Home. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

300. CONDUCT OF RESIDENTS.

Each resident must comply with applicable rules in this Chapter and with any order or directive of the Home Administrator. All complaints made by the residents concerning food, quarters, ill treatment, neglect, abusive language, or other violations of any rule or standard applicable to the Home, or complaints against the operation of a Home may be made either verbally or in writing to the Home Administrator. (3-30-01)

01. No Operation Of Motor Vehicles By Nursing ~~And Residential~~ Care Residents. The operation or storage of privately owned motor vehicles by nursing ~~and residential~~ care residents is prohibited on Home property.

~~(3-30-01)~~(_____)

02. Operation Of Motor Vehicles By Domiciliary And Residential Care Residents. Each authorized domiciliary and residential care resident who drives a motor vehicle onto the grounds of a Home must adhere to the following:

~~(3-30-01)~~(_____)

a. Requirements: (3-30-01)

i. Must possess a valid driver's license; (3-30-01)

ii. Vehicle must have a current motor vehicle registration; (3-30-01)

iii. Operator must be insured against liability and property damage in accordance with Idaho law; and (3-30-01)

iv. Must park only in assigned spaces. (3-30-01)

b. Prohibitions. Nonoperable motor vehicles and motor vehicle repairs are not permitted on the grounds of a Home. (3-30-01)

03. Housekeeping. (3-30-01)

a. Housekeeping services for nursing care residents shall be provided by the Home. (3-30-01)

b. Each residential and domiciliary care resident must adhere to the following requirements (residential care residents may need minimal assistance): (3-30-01)

i. Making his bed daily; (3-30-01)

ii. Maintaining his room in a neat and orderly manner at all times; and (3-30-01)

iii. Assuring that all clothing is appropriately marked, stored and kept clean through proper laundering. (3-30-01)

c. All residents are prohibited from: (3-30-01)

i. Washing clothes or other articles which present a health or safety hazard in resident rooms or bathrooms; (3-30-01)

ii. Using electrical devices, including televisions, radios, recorders, and shavers, until they have been certified by Home maintenance staff as being safe for use; (3-30-01)

iii. Entering the kitchen, laundry, shop or mechanical spaces without permission; and (3-30-01)

iv. Interfering or tampering with the heating, refrigeration or air conditioning systems, televisions, lighting, appliances, plumbing, or mechanical equipment at the Home without authorization. (3-30-01)

04. Personal Conduct. Each resident must adhere to the following: (3-30-01)

a. Requirements: (3-30-01)

i. Observing cleanliness in person, dress and in living habits; (3-30-01)

ii. Bathing or showering frequently; (3-30-01)

- iii. Observing the smoking policies of a Home; (3-30-01)
- iv. Residential and domiciliary care residents must retire to a recreation area or utilize an individual bed light if desiring to read between 10 p.m. and 6:30 a.m. during which time all room overhead lights are turned off; (3-30-01)
- b. Prohibitions:** (3-30-01)
 - i. Creating a disturbance or using intoxicating beverages or nonprescribed controlled substances in the buildings or on the grounds (unless prescribed by a physician); (3-30-01)
 - ii. Marking or writing on the walls of a building, or damaging the grounds or any other property; (3-30-01)
 - iii. Using profanity or exhibiting vulgar behavior in the Home or in any other public place; (3-30-01)
 - iv. Becoming involved in quarrels, persistent dissension or criticism of others; (3-30-01)
 - v. Lending money to, or borrowing money from, another resident or an employee of the Home; (3-30-01)
 - vi. Smoking in an unauthorized area; (3-30-01)
 - vii. Taking food (other than fresh fruit for consumption within a reasonable time period), condiments, dishes or utensils from the dining room; (3-30-01)
 - viii. Cooking or using heating devices in residents' rooms or other unauthorized areas; (3-30-01)
 - ix. Storing flammable or combustible material including, but not limited to, gasoline, butane, solvents, and acetone on Home grounds. (3-30-01)

301. -- 349. (RESERVED).

350. PENALTY FOR RESIDENTIAL AND NURSING CARE RESIDENTS.

Upon determination that a resident has failed to comply with an order or rule of a Home or the Division, the Home Administrator must notify the resident, in writing, of pending disciplinary action which can include discharge for a period to be determined by the Home Administrator, if: ~~(3-30-01)()~~

01. Discharge An Emergency Exists. ~~A resident may be discharged from the Home for a period of time to be determined by the Home Administrator: (3-30-01)~~

~~a-~~ Upon determination by the Home Administrator that an emergency exists, a resident may be immediately discharged. ~~(3-30-01)()~~

b02. Certain Acts are Committed. ~~If~~ The Home Administrator determines that a resident has committed one (1) or more of the following acts, the resident ~~will~~ may be given notice in accordance with Subsection 982.03 and ~~after fifteen (15) days~~ discharged from the Home: ~~(3-30-01)()~~

- ~~ia.~~ Possession of a lethal weapon of any kind or possession of wine, beer, liquor, controlled substance or medication unless prescribed by the resident's primary care physician; (3-30-01)
- ~~ib.~~ Excessive or habitual intoxication; (3-30-01)
- ~~ic.~~ Disturbing the peace; (3-30-01)
- ~~id.~~ Striking or threatening another person; (3-30-01)

- ~~v~~e. Willful destruction or wrongful appropriation of state or another person's property; (3-30-01)
- ~~v~~f. Commission of a felony; (3-30-01)
- ~~v~~ii~~g~~. Abusive language or gestures or intentional assault or battery; (3-30-01)
- ~~v~~iii~~h~~. Willful disobedience or persistent violations of Home rules; (3-30-01)
- ~~i~~x~~i~~. Refusal or failure to pay established charges (see Sections 880 through 980); (3-30-01)
- ~~x~~j. Any pattern of behavior that infringes upon the rights of another person; (3-30-01)
- ~~x~~k. Unauthorized absences from the Home. (3-30-01)

~~02-~~ **Restriction.** *A resident may be restricted to the Home for a period of time to be determined by the Home Administrator.* (3-30-01)

351. PENALTIES FOR DOMICILIARY RESIDENTS.

Upon determination that a resident has failed to comply with an order or rule of a Home or the Division, the Home Administrator must notify the resident, in writing, of pending disciplinary action which can include immediate discharge for a period to be determined by the Home Administrator, if: (3-30-01)()

~~01.~~ **Discharge An Emergency Exists.** *A resident may be discharged from the Home for a period of time to be determined by the Home Administrator. Upon determination by the Home Administrator that an emergency exists, a resident may be immediately discharged.* (3-30-01)()

~~02.~~ **Certain Acts Are Committed.** *If the Home Administrator determines that a domiciliary resident has committed one (1) or more of the following acts, the resident will be given notice in accordance with Subsection 982.03 and immediately discharged from the Home.* (3-30-01)()

~~i~~a. Possession of wine, beer, liquor, controlled substance or medication unless prescribed by the resident's primary care physician, or a lethal weapon of any kind in the Home; (3-30-01)()

- ~~i~~b. Excessive intoxication; (3-30-01)
- ~~i~~c. Disturbing the peace; (3-30-01)
- ~~i~~d. Striking or threatening another person; (3-30-01)
- ~~v~~e. Willful destruction or wrongful appropriation of state or another person's property; (3-30-01)
- ~~v~~f. Commission of a felony; (3-30-01)
- ~~v~~ii~~g~~. Abusive language or gestures, assault or battery. (3-30-01)

~~03.~~ **Acts For Which Notice Of Discharge May Be Given.** *The resident ~~will~~ may be given notice of his eventual discharge in accordance with Subsection 982.03 for any of the following acts:* (3-30-01)()

- ~~i~~a. Habitual intoxication; (3-30-01)
- ~~i~~b. Willful disobedience or persistent violations of Home rules; (3-30-01)
- ~~i~~c. Refusal or failure to pay established charges (see Sections 880 through 980); (3-30-01)
- ~~i~~d. Any pattern of behavior that infringes upon the rights of another person; (3-30-01)

~~19.~~ Unauthorized absences. (3-30-01)

~~02.~~ **Restriction.** *A resident may be restricted to the Home for a period of time to be determined by the Home Administrator.* (~~3-30-01~~)()

(BREAK IN CONTINUITY OF SECTIONS)

950. FINANCIAL GROUNDS FOR REJECTION OR DISCHARGE.

The following circumstances may be considered as grounds for rejection of an application for residency or for revocation of residency and subsequent discharge. (When an application is rejected or a resident discharged, the applicant/resident will be given written notification of his intended application rejection or his discharge, in accordance with the provisions in Subsection 982.03.) (3-30-01)

01. Disposal Of Assets. If the Home Administrator determines that an applicant/resident has disposed of assets following or within ~~one~~ thirty-six (36) ~~year~~ months preceding initial application for residency, which would have the effect of reducing his maintenance charge, such action can lead to rejection of the application or discharge from a Home. (~~3-30-01~~)()

02. Failure To Pay Maintenance Charge. Refusal or failure to pay the established maintenance charge can be cause for discharge from a Home. If the resident is so discharged, or leaves a Home voluntarily, he will not be eligible for readmission to a Home until all indebtedness to the Home is paid in full, or acceptable arrangements have been made with the Home Administrator for repayment. (3-30-01)

03. Failure To Pay For Services. (3-30-01)

a. Residents who are excluded from receiving free services from a VA Medical Center may elect to purchase such services through a sharing agreement or contract between a Home and a VA Medical Center or an outside provider when such sharing agreement or contract exists. In those cases where sharing agreement or contract costs are borne by a Home, the resident must reimburse the Home for the costs of services provided. (3-30-01)

b. Failure to reimburse a Home or a service provider within ten (10) days after receipt of a bill for services provided under a sharing agreement or contract may result in a resident's discharge from the Home. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

980. MONTHLY CHARGES AND ALLOWANCES.

01. Nursing Care. Pursuant to Section 66907, Idaho Code, maximum monthly charges and allowances are established by the Division Administrator with the advice of the Commission. A schedule of charges and allowances will be available in the business office of each Home. Charges and allowances will be reviewed from time to time by the Division Administrator and the Commission. (3-30-01)

a. Changes to Charges and Allowances. Members of the public may comment on proposed changes at meetings of the Commission when changes are considered. (3-30-01)

b. Notification and Posting. When changes are made to charges or allowances, residents and/or their families or sponsors will receive written notification and changes will be posted in the business office of each Home a minimum of thirty (30) days prior to the effective date of the change. (3-30-01)

02. Residential And Domiciliary Care. Pursuant to Section 66907, Idaho Code, maximum monthly charges and allowances are established by the Division Administrator with the advice of the Commission. A schedule

of charges and allowances will be available in the business office of the ~~Boise~~ Veterans Homes. Allowances will be reviewed from time to time by the Division Administrator and the Commission. ~~(3-30-01)~~(_____)

a. Changes to Charges and Allowances. Pursuant to Subsections 915.05.b. and 915.05.c., monthly charges for residential and domiciliary care will be adjusted automatically when a change is made to the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95588 divided by twelve (12). Relative to monthly allowances, members of the public may comment on proposed changes at meetings of the Commission when changes are considered. (3-30-01)

b. Notification and Posting of Changes to Allowances. When changes are made to allowances, residents or their families or sponsors will receive written notification, and changes will be posted in the business office of the ~~Boise~~ Veterans Homes a minimum of thirty (30) days prior to the effective date of the change. ~~(3-30-01)~~(_____)

981. APPEAL PROCEDURE.

Upon notification to a resident of ~~restriction to or~~ discharge from a Home by the Home Administrator, the resident may request a hearing in accordance with the provisions in Section 982, "Provisions for Contested Cases". Any additional violation of Home rules by a resident while on notice for disciplinary action will be treated independent of any pending appeal. ~~(3-30-01)~~(_____)

982. PROVISIONS FOR CONTESTED CASES.

01. Inapplicability Of Idaho Rules Of Administrative Procedure Of The Attorney General. All contested cases shall be governed by the provisions of these rules. The Veterans Affairs Commission and Administrator of the Division of Veterans Services find that the provisions of IDAPA 04.11.01.000, et seq., Idaho Rules of Administrative Procedure of the Attorney General, are inapplicable and inappropriate for contested cases before the Veterans Affairs Commission, because of the specific and unique requirements of federal and state law regarding notices, hearing processes, procedural requirements, time lines, and other provisions requiring the Division to adopt its own procedures pursuant to Section 675206(5)(b), Idaho Code, and hereby affirmatively promulgate and adopt alternative procedures and elect not to be governed by any of the provisions of IDAPA 04.11.01.000, et seq., "Idaho Rules of Administrative Procedure of the Attorney General". (3-30-01)

02. Hearing Rights. Through compliance with these rules, residents and applicants have the following rights to a hearing: (3-30-01)

a. If a resident of a Home is notified of pending disciplinary action, including ~~restriction or~~ discharge, the resident will be afforded an opportunity for a hearing with the Veterans Affairs Commission. A resident of a Home must attempt to resolve the violations stated on the notice of action through verbal discussions with the Home Administrator or his designee prior to submission of a written request for a hearing before the Commission. ~~(3-30-01)~~(_____)

b. If an application for residency in a Home is rejected, the applicant may request a hearing before the Veterans Affairs Commission. (3-30-01)

c. If an application for emergency relief is denied, the applicant may request a hearing before the Veterans Affairs Commission. (3-30-01)

03. Notice Of Action. The Home Administrator or his designee must notify the applicant/resident of any action to be taken regarding rejection of an application or ~~restriction to or~~ discharge from a Home. ~~(3-30-01)~~(_____)

a. The notice of intended action must be in writing. (3-30-01)

b. The notice must state the following: (3-30-01)

i. The reason for the impending action and a reference to the pertinent rules under which the action is being brought or decision has been made; (3-30-01)

- ii. The effective date of the action; (3-30-01)
- iii. The applicant's/resident's right to request a hearing according to the provisions in Section 982; and (3-30-01)
- iv. The procedure for requesting a hearing before the Commission, as provided in Subsection 982.05. (3-30-01)
- c. The following notification deadlines are established for Domiciliary Care only: (3-30-01)
 - i. ~~Restriction or a~~ Discharge notices must be sent to the resident three (3) days prior to the intended effective date of the action, except under the conditions noted in Subsection 351.01.~~a-~~ (~~3-30-01~~)(____)
 - ii. Notification of findings of ineligibility for residency will be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection. (3-30-01)
- d. The following notification deadlines are established for Residential Care only: (3-30-01)
 - i. ~~Restriction or a~~ Discharge notices must be sent to the resident fifteen (15) days prior to the intended effective date of the action, except under the conditions noted in Subsection 350.01.~~a-~~ (~~3-30-01~~)(____)
 - ii. Notification of findings of ineligibility for residency will be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection.(3-30-01)
- e. The following notification deadlines are established for Nursing Care only: (3-30-01)
 - i. ~~Restriction or a~~ Discharge notices must be sent to the resident ~~fifteen (15)~~ thirty (30) days prior to the intended effective date of the action, except under the conditions noted in Subsection 350.01.~~a-~~ (~~3-30-01~~)(____)
 - ii. Notification of findings of ineligibility for residency will be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection. (3-30-01)
- 04. Notice Of Denial Of Emergency Relief.** The Veterans Services Program Supervisor or his designee must notify the applicant of the denial of his application for emergency relief. (3-30-01)
 - a. The notice of denial must be in writing. (3-30-01)
 - b. The notice must state the following: (3-30-01)
 - i. The reason for denial and a reference to the pertinent rules under which the denial was made; and (3-30-01)
 - ii. The applicant's right to request a hearing according to the provisions in these rules; and (3-30-01)
 - iii. The procedure for requesting a hearing before the Commission, as provided in Subsection 982.05. (3-30-01)
 - c. Notice of denial of emergency relief will be mailed to the applicant within three (3) working days after receipt of the completed application. (3-30-01)
- 05. Requesting A Hearing.** (3-30-01)
 - a. A request for a hearing from a resident or an applicant for residency in an Idaho State Veterans Home must be submitted through the Home Administrator to the Division Administrator for possible resolution or scheduling before the Commission. A resident's request must contain a description of what effort he has taken to satisfy the requirements of Subsection 982.02.a. Any hearing conducted in accordance with these provisions will be

held during either a regular or special meeting of the Commission. (3-30-01)

b. A request for a hearing from an applicant for emergency relief must be submitted through the Veterans Services Program Supervisor to the Division Administrator for possible resolution or scheduling before the Commission. Any hearing conducted in accordance with these provisions will be held during either a regular or special meeting of the Commission. (3-30-01)

c. A request for a hearing must be in writing and signed by the applicant/resident. (3-30-01)

d. A request for a hearing must be submitted within three (3) days of receipt of the written notice of action or denial. (3-30-01)

e. Pending a hearing, benefits will be continued or held in abeyance as follows: (3-30-01)

i. Benefits for domiciliary care residents will be continued if the hearing request is made before the effective date of action and within three (3) days of receipt of the notice. No action will be taken by the Home Administrator pending receipt of the written decision of the Commission following the hearing, except under the conditions noted in Subsection 351.01.a. (3-30-01)

ii. Benefits for residential care residents will be continued if the hearing request is made before the effective date of action and within three (3) days of receipt of the notice. No action will be taken by the Home Administrator pending receipt of the written decision of the Commission following the hearing, except under the conditions noted in Subsection 350.01.a. (3-30-01)

iii. Benefits for nursing care residents will be continued if the hearing request is made before the effective date of action and within three (3) days of receipt of the notice. No action will be taken by the Home Administrator pending receipt of the written decision of the Commission following the hearing, except under the conditions noted in Subsection 350.01.a. (3-30-01)

iv. Benefits for emergency relief applicants will not be granted until the Commission renders a written decision following the hearing. (3-30-01)

IDAPA 21 - DIVISION OF VETERANS SERVICES
21.01.04 - RULES GOVERNING THE IDAHO STATE VETERANS CEMETERY
DOCKET NO. 21-0104-0301 (FEE RULE)
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 65-202, Idaho Code.

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

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

To establish charges for interment, disinterment, and reinterment in the State Veterans Cemetery.

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

A fee of \$300 will be imposed for interment, disinterment, or reinterment of remains in the State Veterans Cemetery.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the fee source is the Department of Veteran's Affairs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OR WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Richard Jones at (208) 334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 11th day of August, 2003.

Richard W. Jones, Administrator
Idaho Division of Veterans Services
320 Collins Road
Boise, Idaho 83702
Telephone: (208) 334-3513
FAX (208) 334-2627

THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0104-0301

022. INTERMENT AND REINTERMENT.

01. Remains. Remains shall be delivered to the cemetery in a casket or, if cremated, in a recoverable container. The container for cremains designated by the applicant for interment in a location other than a grave plot shall not exceed ~~five and one-half~~ nine (~~5-1/2~~ 9) inches in width, ~~eleven~~ thirteen (~~11~~ 13) inches in height, and ~~eleven~~ nine (~~11~~ 9) inches in depth. (~~5-3-03~~)()

02. Committal Services. The cemetery shall provide a designated location for committal services.

Graveside committal services shall not be held in the cemetery. The cemetery shall not provide facilities for viewing of remains. The arrangements for and any expenses associated with committal services shall be the responsibility of the applicant. The administrator may assist the applicant in applying for military honors. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

024. FEES FOR INTERMENT, DISINTERMENT, AND REINTERMENT.

The administrator shall charge the following fees: ()

01. Interment. The administrator shall charge a fee of three hundred dollars (\$300) for opening and closing an interment site. The administrator shall accept, as full payment the amount of reimbursement by the USDVA to the division for opening and closing an interment site for a qualified veteran. ()

02. Disinterment. The administrator shall charge a fee of three hundred dollars (\$300) for opening an interment site. The expenses of removal, transportation and reinterment of remains, and the expenses of removal, transportation and reinstallation of the grave marker, if any, shall be paid by the applicant for disinterment. ()

03. Reinterment. The administrator shall charge a fee of three hundred dollars (\$300) for reinterment. The expenses of reinterment of remains and reinstallation of the grave marker, if any, shall be paid by the applicant for reinterment. ()

0245. -- 029. (RESERVED).

IDAPA 22 - BOARD OF MEDICINE

22.01.03 - RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS

DOCKET NO. 22-0103-0301 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1806 (2), Idaho Code.

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

These proposed rules change the provision for the delegation of services agreement to include a listing of the physician assistant's and graduate physician assistant's training, experience and education and define the patient services to be delegated and the responsibility of the physician assistant or graduate physician assistant and supervising physician to maintain a current delegation of services agreement. The proposed rule changes clarify the scope of practice to include only those duties and responsibilities delegated to them by the supervising physician and in accordance with the delegation of services agreement; include a provision for supervision while providing disaster or emergency care; and revise the provision for license/registration issuance, renewal, cancellation, reinstatement. The proposed rules include a provision for a Physician Assistant Committee to be created and made a part of the Idaho State Board of Medicine, pursuant to adoption of Resolution 01-093.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The fee schedule has been broadened, however, there will be no increase in fees. The rule changes provide for inactive licensure and have designated a fee less than that for an active license.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August, 2003.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive
PO Box 83720, Boise, ID 83720-0058
(208) 327-7000
Fax (208) 327-7005

THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0103-0301

000. LEGAL AUTHORITY.

Pursuant to Idaho Code Section 54-1806(2), the Idaho State Board of Medicine is authorized to promulgate rules to govern activities of persons ~~employed~~ licensed under these rules to practice as physician assistants ~~by~~ and graduate assistants under the supervision of persons licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho. (3-19-99)(____)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants". (3-19-99)

02. Scope. Pursuant to Idaho Code, Section 54-1807(2), physician assistants and graduate physician assistants must be licensed with the Board prior to commencement of activities. (3-19-99)(____)

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive, Suite 140, P.O. Box 83720, Boise, Idaho 83720-0058. (3-15-02)(____)

(BREAK IN CONTINUITY OF SECTIONS)

006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS ~~(Rule 7).~~

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, ~~Statehouse Mail~~ P.O. Box 83720, Boise, Idaho 83720-0058. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) ~~3727~~-7005. The Board's office hours for filing documents are 8 a.m. to 5 p.m. (3-15-02)(____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

041. Alternate Supervising Physician. A physician ~~licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho who has been designated by the supervising physician and authorized by the Board to supervise the physician assistant~~ registered with the Board, as set forth in IDAPA 22.01.04, "Rules of the Board of Medicine for Registration of Supervising and Directing Physicians," under an agreement as defined in these rules, who is responsible for supervising the physician assistant or graduate physician assistant in the temporary absence of the supervising physician. The alternate supervising physician shall accept full medical responsibility for the performance, practice, and activities of such licensee being supervised. An alternate supervising physician shall not supervise more than three (3) physician assistants or graduate physician assistants contemporaneously. The Board, however, may authorize an alternate supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. (3-19-99)(____)

02. Approved Program. A course of study for the education and training of physician assistants which is ~~approved~~ accredited by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs or the Accreditation Review Commission on Education for Physician Assistants (ARC-PA) or equivalent agency recognized by the Board as recommended by the Committee. (3-19-99)(____)

- ~~043.~~ **Board.** The Idaho State Board of Medicine established pursuant to Section 54-1805, Idaho Code.
(7-1-93)()
- ~~064.~~ **Delegation Of Services (DOS) Agreement.** A written document mutually agreed upon, and signed and dated by the licensed physician assistant or graduate physician assistant and supervising physician that defines the working relationship and delegation of duties, between the supervising physician and the physician assistant licensee as specified by Board rule. The delegation of services agreement, made upon a form provided by the Board, shall include a listing of the licensee's training, experience and education, and defines the patient services to be delegated. It is the responsibility of the licensee and supervising physician to maintain a current delegation of services agreement. The Board of Medicine may shall review the written delegation of services agreement, and may review job descriptions, policy statements, or other documents that define the responsibilities of the physician assistant or graduate physician assistant in the practice setting, and may require such changes as needed to achieve compliance with these rules, and to safeguard the public.
(3-19-99)()
- ~~05.~~ **Graduate Physician Assistant.** A person who is a graduate of an approved program for the education and training of physician assistants and who meets all the requirements in this chapter for Idaho licensure, but:
()
- ~~a.~~ Has not yet taken and passed the certification examination and who has been authorized by the Board, as defined in Subsection 036.01 of these rules, to render patient services under the direction of a supervising physician for a period of six (6) months; or
()
- ~~b.~~ Has passed the certification examination but who has not yet obtained a college baccalaureate degree and who has been authorized by the Board, as defined in Subsection 036.02 of these rules, to render patient services under the direction of a supervising physician for a period of not more than five (5) years.
()
- ~~06.~~ **Physician.** A physician who holds a current active license issued by the Board to practice medicine and surgery or osteopathic medicine and surgery in Idaho and is in good standing with no restrictions upon or actions taken against his license.
()
- ~~057.~~ **Physician Assistant.** A person who is a graduate of an approved program and who is qualified by general specialized education, training, experience and personal character, as defined in Section 021 of these rules, and who has been authorized licensed by the Board to render patient services under the direction of a supervising physician.
(3-19-99)()
- ~~08.~~ **Physician Assistant Trainee.** A person who is undergoing training at an approved program as a physician assistant and registered with the Board.
()
- ~~09.~~ **Supervision.** The direction and oversight of the activities of and patient services provided by a physician assistant or graduate physician assistant by a supervising physician who accepts full medical responsibility with respect thereto. The constant physical presence of the supervising or alternate supervising physician is not required as long as the supervisor and such licensee are or can be easily in contact with one another by radio, telephone, or other telecommunication device. The scope and nature of the supervision shall be outlined in a delegation of services agreement, as defined in Subsection 030.03 of these rules.
()
- ~~0310.~~ **Supervising Physician.** A person physician registered by the Board, as set forth in IDAPA 22.01.04, "Rules of the Board of Medicine for Registration of Supervising and Directing Physicians," who is licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho, and under an agreement as defined in Subsection 030.03 of these rules, who is responsible for the direction and supervision of the activities of and patient services provided by the physician assistant or graduate physician assistant. The supervising physician accepts full medical responsibility for the activities of and patient services provided by such licensee. A supervising physician shall not supervise more than a total of three (3) physician assistants or graduate physician assistants contemporaneously. The Board, however, may authorize a supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety.
(3-19-99)()
- ~~011.~~ **PHYSICIAN ASSISTANT ADVISORY COMMITTEE.**

A Physician Assistant Advisory Committee is hereby created and made a part of the Idaho State Board of Medicine, pursuant to adoption of Resolution 01-093. ()

01. Committee Appointments. The Board shall appoint the members of the Physician Assistant Advisory Committee. In making appointments to the Committee, the Board shall give consideration to recommendations made by professional organizations of physician assistants and physicians. If recommendations are not made within sixty (60) days of notification and request, the Board may make appointments of any qualified individuals. In the event of a vacancy in one (1) of the positions, professional organizations may recommend, as soon as practical, at least two (2) and not more than three (3) persons to fill that vacancy. The Board shall appoint, as soon as practical, one (1) person, who shall fill the unexpired term. If such professional organizations do not provide a recommendation, the Board shall appoint a person to the unexpired term. The Board may remove any Committee member for misconduct, incompetency, or neglect of duty after giving the member a written statement of the charges and an opportunity to be heard thereon. The Executive Director of the Idaho State Board of Medicine shall serve as the Executive Director to the Physician Assistant Advisory Committee. ()

02. Makeup Of Committee. The Committee shall consist of three (3) members appointed by the Board. Each member shall be currently licensed as a physician assistant in Idaho and has been actively practicing as a physician assistant in Idaho for three (3) year immediately preceding appointment. Members will serve a term of three (3) years and terms will be staggered. Members may serve two (2) successive terms. The Committee shall elect a chairman from its membership. The Committee shall meet as often as necessary to fulfill its responsibilities. Members will be compensated according to Section 59-509(h), Idaho Code. ()

03. Final Decisions. The Committee shall have no authority to revoke licenses or impose limitations or conditions on licenses issued under this chapter and shall be authorized only to make recommendations to the Board. The Board shall make all final decisions with respect thereto. ()

04. Board Affiliation. The Committee will work in the following areas in conjunction with and make recommendations to the Board and will perform such other duties and functions assigned to the Committee by the Board, including: ()

- a.** Evaluating the qualifications of applicants for licensure and registration; ()
- b.** Performing investigations of misconduct and making recommendations regarding discipline; ()
- c.** Maintaining a list of currently licensed physician assistants and graduate physician assistants in this state; and ()
- d.** Advising the Board on rule changes necessary to license and regulate physician assistants and graduate physician assistants in this state. ()

~~0142--~~ 019. (RESERVED).

020. APPLICATION.

01. License Applications. All applications for licensure as physician assistants and graduate physician assistants shall be made to the Board on forms supplied by the Board and include payment of the prescribed fees. (3-19-99)()

02. Reapplication. If more than two (2) years have elapsed since a licensed physician assistant or graduate physician assistant has actively engaged in practice, reapplication to the Board as a new applicant is required. The Board may require evidence of an educational update and close supervision to assure safe and qualified performance. (3-19-99)()

03. Application Expiration. An application for licensure that is not granted or license not issued within one (1) year from the date the application is received by the Board shall expire. However, the applicant may make a written request to the Board to consider his application on an individual basis. In its discretion, the Committee

may make a determination if extraordinary circumstances exist that justify extending the one (1) year time period up to an additional one (1) year. The Committee can recommend to the Board to grant the request for such extension of time. The Board shall make all final decisions with respect thereto. ()

021. REQUIREMENTS FOR LICENSURE.

01. ~~Baccalaureate Degree~~ Educational Requirement. Applicants for licensure shall have completed an approved program as defined in Subsection 010.03 and shall provide evidence of having received a college baccalaureate degree and completed an approved program as defined in Subsection 010.02 from a nationally accredited school with a curriculum approved by the United States Secretary of Education, the Council for Higher Education Accreditation, or both, or from a school accredited by another such agency approved by the Board. (3-19-99)()

02. National Certifying Examination. Satisfactory completion and passage of the certifying examination for physician assistants, administered by the National Commission of Certification of Physician Assistants or such other examinations, which may be written, oral or practical, as the Board may require. (3-19-99)

03. Personal Interview. The Board may at its discretion, require the applicant or the supervising physician or both to appear for a personal interview. (3-19-99)

04. Completion Of Form. ()

a. If the applicant is to practice in Idaho, he must submit payment of the prescribed fee and a completed ~~a~~ form provided by the Board indicating: (3-19-99)()

a.i. The applicant has completed a delegation of services agreement signed by the ~~physician assistant~~ applicant, supervising physician and alternate supervising physicians; and (3-19-99)()

b.i. The agreement is on file at ~~the Idaho practice sites~~ each practice location and the address of record of the supervising physician and at the central office of the Board; or (3-19-99)()

eb. If the applicant is not to practice in Idaho, he must submit payment of the prescribed fee and a completed ~~a~~ form provided by the Board indicating the applicant is not practicing in Idaho and prior to practicing in Idaho, the applicant will meet the requirements of Subsections 021.04.a.i. and 021.04.a.ii. (3-19-99)()

(BREAK IN CONTINUITY OF SECTIONS)

028. SCOPE OF PRACTICE.

01. ~~Physical Examination.~~ ~~A physician assistant may evaluate the physical and psychosocial health status through a comprehensive health history and physical examination. This may include the performance of pelvic examinations and pap smears; and~~ **Scope.** The scope of practice of physician assistants and graduate physician assistants shall be defined in the delegation of services and may include a broad range of diagnostic, therapeutic and health promotion and disease prevention services. ()

a. The scope of practice shall include only those duties and responsibilities delegated to the licensee by their supervising physician and in accordance with the delegation of services agreement. ()

b. The scope of practice may include prescribing, administering, and dispensing of medical devices and drugs, including local anesthetics. Before providing patient services requiring specialized training and expertise, such as administering conscious sedation and other anesthetics associated with an operating room setting, the supervising physician shall make a prior written petition to the Board and include his affidavit attesting to the physician assistant's qualifications and clinical ability to perform such patient services. ()

c. Physician assistants and graduate physician assistants are agents of their supervising physician in the performance of all practice-related activities and patient services. ()

02. ~~Screening And Evaluating Practice.~~ Initiate appropriate laboratory or diagnostic studies, or both, to screen or evaluate the patient's health status and interpret reported information in accordance with knowledge of the laboratory or diagnostic studies, provided such laboratory or diagnostic studies are related to and consistent with the ~~physician assistant's~~ licensee's scope of practice. The scope of practice shall be limited to patient services under the supervision of the supervising physician: ()

a. Within the education, training and experience of the physician assistant or graduate physician assistant: ()

b. Consistent with the expertise and regular scope of practice of the supervising physician; and ()

c. Rendered within the parameters of the laws, rules, and standards at the locations or facilities in which the physician assistant and graduate physician assistant practices. ()

03. ~~Minor Illness.~~ ~~Diagnose and manage minor illnesses or conditions.~~ (7-1-93)

04. ~~Manage Care.~~ ~~Manage the health care of the stable chronically ill patient in accordance with the medical regimen initiated by the supervising physician.~~ (7-1-93)

05. ~~Emergency Situations.~~ ~~Institute appropriate care which might be required to stabilize a patient's condition in an emergency or potentially life threatening situation until physician consultation can be obtained.~~ (7-1-93)

06. ~~Surgery.~~ ~~The acts of surgery which may be performed by a physician assistant are minor office surgical procedures such as punch biopsy, sebaceous cyst and ingrown toenail removal, cryotherapy for wart removal; assist in surgery with retraction, surgical wound exposure, and skin closure with direct personal supervision of the supervising physician; use non-ablative lasers under supervision; and the repair of lacerations, not involving nerve, tendon, or major vessel.~~ (3-15-02)

07. ~~Casting.~~ ~~Manage the routine care of non-displaced fractures and sprains.~~ (7-1-96)

08. ~~Hospital Discharge Summary.~~ ~~May complete hospital discharge summaries and the discharge summary shall be co-signed by the supervising physician.~~ (3-19-99)

029. CONTINUING EDUCATION REQUIREMENTS.

01. Continuing Competence. A physician assistant or graduate physician assistant may be required by the Board at any time to demonstrate continuing competence in the performance of any ~~of the tasks for which he has been previously approved~~ practice related activity or patient service. (3-19-99)()

02. Requirements For Renewal. Every other year, and prior to renewal of each license ~~for that year,~~ as set forth by the expiration date on the face of the certificate, physician assistants and graduate physician assistants will be required to present evidence of having received one hundred (100) hours of continuing medical education over a two-year period. The courses and credits shall be subject to approval of the Board. (3-19-99)()

030. PRACTICE STANDARDS.

01. Identification. The physician assistant, graduate physician assistant and physician assistant trainee must at all times when on duty wear a placard or plate so identifying himself ~~as a physician assistant.~~ (3-19-99)()

02. Advertise. No physician assistant, graduate physician assistant or physician assistant trainee may advertise or represent himself either directly or indirectly, as a physician. (3-19-99)()

~~**03. Unauthorized Procedures.** A physician assistant shall not write prescriptions or complete and issue prescription blanks previously signed by any physician; diagnose and manage major illnesses or conditions or manage the health care of unstable or acutely ill or injured patients unless those conditions are minor; or, act as or engage in the functions of a physician assistant when the supervising physician is absent and other physician coverage is not available. (3-19-99)~~

043. Delegation Of Services Agreement. Each licensed physician assistant and graduate physician assistant shall maintain a current copy of a Delegation of Services (DOS) Agreement between the physician assistant licensee and each of his ~~or her~~ supervising physicians. This agreement shall ~~not~~ be sent to the Board, ~~but~~ and must be maintained on file at each practice location in which the physician assistant is practicing and at the address of record of the supervising physician. The Committee will review this agreement in conjunction with and make recommendations to the Board. The Board may require such changes as needed to achieve compliance with this chapter and Title 54, Chapter 18, Idaho Code, and to safeguard the public. This agreement shall be made immediately available to upon forms provided by the Board upon request and shall include: (3-19-99)(____)

a. A Documentation of the licensee's education, training, and experience and a listing of the specific activities patient services which will be performed by the physician assistant licensee. (3-19-99)(____)

b. The specific locations and facilities in which the physician assistant licensee will function; and (3-19-99)(____)

c. The written plans and methods to be used to insure responsible direction and control of the activities ~~of and~~ and patient services rendered by the physician assistant licensee which shall provide for: (3-19-99)(____)

i. An on-site visit at least monthly; (3-19-99)

ii. Regularly scheduled conferences between the supervising physician and the physician assistant licensee; (3-19-99)(____)

iii. ~~Recording of a~~ Recording of a periodic review of a representative sample of records including, but not limited to, records made from the past six (6) months of the review and a periodic review of the patient services being provided by the physician assistant licensee. This review shall also include an evaluation of adherence to the delegation of services agreement; (3-19-99)(____)

iv. Availability of the supervising physician to the physician assistant licensee in person or by telephone and procedures for providing backup ~~for the physician assistant~~ and supervision in emergency situations; and (3-19-99)(____)

v. Procedures for addressing situations outside the scope of practice of the physician assistant licensee. (3-19-99)(____)

d. The drug categories or specific legend drugs and controlled drugs, Schedule II through V that will be prescribed provided that the legend drugs and controlled drugs shall be consistent with the regular prescriptive practice of the supervising physician. (3-15-02)

054. On-Site Review. The Board, by and through its designated agents, is authorized ~~and empowered~~ to conduct on-site reviews of the activities of physician assistants or graduate physician assistants and the locations and facilities in which the physician assistant licensees practices at such times as the Board deems necessary. (3-19-99)(____)

031. PARTICIPATION IN DISASTER AND EMERGENCY CARE.

A physician assistant or graduate physician assistant licensed in this state or licensed or authorized to practice in any other state of the United States or currently credentialed to practice by a federal employer who is responding to a need for patient services created by an emergency or a state or local disaster (not to be defined as an emergency situation which occurs in the place of one's employment) may render such patient services that they are able to provide without supervision as it is defined in this chapter, or with such supervision as is available. Any physician who supervises a physician assistant or graduate physician assistant providing patient services in response to such an emergency or

state or local disaster shall not be required to meet the requirements set forth in this chapter for a supervising physician. ()

0342. -- 035. (RESERVED).

036. GRADUATE PHYSICIAN ASSISTANT.

01. Licensure Prior To Certification Examination - Board Consideration. Any person who has graduated from an approved program and meets all Idaho requirements, including achieving a college baccalaureate degree, but has not yet taken and passed the certification examination, may be ~~licensed with~~ considered by the Board for licensure as a graduate physician assistant. ~~Such license shall automatically be canceled upon receipt of the certification examination score if the graduate physician assistant fails to pass the certifying examination for six (6) months when:~~ (3-19-99)()

a. An application for licensure as a graduate physician assistant has been submitted to the Board on forms supplied by the Board and payment of the prescribed fee. ()

b. The applicant promptly notifies the Board within ten (10) business days of receipt of the national certification examination results. ()

c. After the graduate physician assistant has passed the certification examination, the Board must receive verification of national certification directly from the certifying entity. Once the verification is received by the Board, the graduate physician assistant's license will be converted to a permanent license and he may apply for prescribing authority pursuant to Section 042 of these rules. ()

d. The applicant who has failed the certification examination one (1) time, may petition the Board for a one-time extension of his graduate physician assistant license for an additional six (6) months. ()

e. If the graduate physician assistant fails to pass the certifying examination on two (2) separate occasions, the graduate physician assistant's license shall automatically be canceled upon receipt of the second failing certification examination score. ()

f. The graduate physician assistant applicant shall agree to execute an authorization for the release of information, attached to his application as Exhibit A, authorizing the Board or its designated agents, having information relevant to the application, including but not limited to the status of the certification examination, to release such information, as necessary, to his supervising physician. ()

02. Licensure Prior to College Baccalaureate Degree - Board Consideration. *Registration* Licensure as a graduate physician assistant may also be considered ~~by the Board~~ upon application for licensure made to the Board on forms supplied by the Board and payment of the prescribed fee when: (3-19-99)()

a. All application requirements have been met as set forth in ~~Subsection 021-01,~~ except receipt of documentation of a college baccalaureate degree. A college baccalaureate degree from a nationally accredited school with a curriculum approved by the United States Secretary of Education, the Council for Higher Education Accreditation, or both, or from a school accredited by another such agency approved by the Board shall be completed within five (5) years of initial licensure in Idaho; ~~and~~ (7-1-93)()

b. A personal interview with the applicant or the supervising physician or both may be required and will be conducted by a designated member of the Board; ~~and~~ (3-19-99)()

c. A plan shall be submitted with the application and shall be approved by the Board for the completion of the college baccalaureate degree. (7-1-96)()

03. No Prescribing Authority. Physician assistants operating under a graduate physician assistant license shall not be entitled to ~~write any~~ issue any written or oral prescriptions and shall be required to have a weekly record review by their supervising physician. (3-19-99)()

037. ~~TERMINATION OF APPROVAL AND~~ DISCIPLINARY PROCEEDINGS AND NOTIFICATION OF CHANGE.

01. Discipline. Every person licensed as a physician assistant or graduate physician assistant or registered as physician assistant trainee is subject to discipline pursuant to the procedures and powers established by and set forth in Section 54-1806A, Idaho Code and the Administrative Procedures Act. (3-19-99)(____)

02. Grounds For Discipline. In addition to the grounds for discipline set forth in Section 54-1814, Idaho Code; and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," Section 101, persons licensed ~~as physician assistants or registered under these rules~~ are subject to discipline upon the following grounds ~~the physician assistant~~ if that person: (3-19-99)(____)

a. ~~The physician assistant h~~Held himself ~~or herself~~ out, or permitted another to represent him, ~~or her~~ to be a licensed physician; (3-19-99)(____)

b. ~~The physician assistant h~~Had in fact performed otherwise than at the discretion and under the supervision of a physician licensed by and registered with the Board; (3-19-99)(____)

c. ~~The physician assistant has p~~Performed a task or tasks beyond the scope of activities allowed by Section 028. (3-19-99)(____)

d. ~~The physician assistant i~~Is a habitual or excessive user of intoxicants or drugs; (3-19-99)(____)

e. ~~The physician assistant had d~~Demonstrated manifest incapacity to carry out the functions of a physician assistant, graduate physician assistant, or physician assistant trainee. (3-19-99)(____)

f. ~~The physician assistant has f~~Failed to complete or maintain a current copy of the Ddelegation of Sservices Agreement as specified by Subsection 030.043. (3-19-99)(____)

g. ~~The physician assistant has f~~Failed to notify the Board of a change or addition of a supervising or alternate supervising physician within two (2) weeks of the change as specified by Subsection 037.03. (3-19-99)(____)

h. Aided or abetted a person not licensed in this state who directly or indirectly performs activities requiring a license. (____)

i. Failed to report to the Board any known act or omission of a licensee, applicant, or any other person, which violates any provision of these rules. (____)

j. Interfered with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal action. (____)

03. Notification Of Change Or Addition Of Supervising Or Alternate Supervising Physician. A physician assistant or graduate physician assistant must notify the Board within two (2) weeks upon changing supervising physicians or alternate supervising physicians or adding an additional supervising physician ~~must notify the Board~~. Such notification shall include: (3-19-99)(____)

a. The name, business address and telephone of the new or additional supervising physician or alternate supervising physician(s); (3-19-99)(____)

b. The name, business address, and telephone number of the physician assistant or graduate physician assistant; and (3-19-99)(____)

c. Comply with the requirements of Subsection ~~021.04~~ 030.03. (3-19-99)(____)

d. All supervising physicians and alternate supervising physicians must comply with the requirements of IDAPA 22.01.04, "Rules of the Board of Medicine for Registration of Supervising and Directing Physicians". ()

038. -- 040. (RESERVED).

041. PHYSICIAN ASSISTANT TRAINEE.

01. Registration In Training. Any person undergoing training at an approved program as a physician assistant must register with the Board as a trainee, and must comply with the rules as set forth herein. All applications for registration shall be made to the Board on forms supplied by the Board and include payment of the prescribed fee. All registrations shall be dependent upon the length of an approved program and shall be issued for a period of not more than two (2) years. All registrations shall expire on the expiration date printed on the face of the certificate and shall become invalid after that date. All applications for an extension of not more than two (2) years of current registration as a physician assistant trainee shall be made to the Board on forms supplied by the Board and include payment of the prescribed fee. (3-19-99)()

02. Approved Program. Notwithstanding any other provision of these rules, a trainee may perform patient services when such services are rendered within the scope of an approved program. (7-1-93)

03. Registration Fees. The fee for registration as physician assistant trainee shall be no more than fifty dollars (\$50). The fee for a one (1) time extension of a current registration as physician assistant trainee shall be no more than fifty dollars (\$50). ()

042. PRESCRIPTION WRITING.

01. Approval And Authorization Required. A physician assistant may issue written or oral prescriptions for legend drugs and controlled drugs, Schedule II through V only in accordance with approval and authorization granted by the Board and in accordance with the current delegation of services agreement and shall be consistent with the regular prescriptive practice of the supervising physician. (3-15-02)

02. Application. A physician assistant who wishes to apply for prescription writing authority shall submit to the Board an application for such purpose ~~to~~ on forms supplied by the Board of Medicine. In addition to the information contained in the general application for physician assistant approval, the application for prescription writing authority shall include the following information: (3-19-99)()

a. Documentation of all pharmacology course content completed, the length and whether a passing grade was achieved (at least thirty (30) hours). (7-1-93)

b. A statement of the frequency with which the supervising physician will review prescriptions written or issued. (7-1-93)()

c. A signed ~~statement~~ affidavit from the supervising physician certifying that, in the opinion of the supervising physician, the physician assistant is qualified to prescribe the drugs for which the physician assistant is seeking approval and authorization. (3-19-99)()

d. The physician assistant to be authorized to prescribe Schedule II through V drugs shall be registered with the Federal Drug Enforcement Administration and the Idaho Board of Pharmacy. (3-15-02)

03. Prescription Forms. Prescription forms used by the physician assistant must be printed with the name, address, and telephone number of the physician assistant and of the supervising physician. A physician assistant shall not write prescriptions or complete or issue prescription blanks previously signed by any physician. (3-19-99)()

04. Record Keeping. The physician assistant shall maintain accurate records, accounting for all prescriptions ~~written~~ issued and medication delivered. (3-19-99)()

05. Pharmaceutical Samples. The physician assistant who has prescriptive authority may request, receive, sign for and distribute professional samples of drugs and devices in accordance with his current delegation of services agreement and consistent with the regular prescriptive practice of the supervising physician. ()

043. DELIVERY OF MEDICATION.

01. Pre-Dispensed Medication. The physician assistant may legally provide a patient with more than one (1) dose of a medication at sites or at times when a pharmacist is not available. The pre-dispensed medications shall be for an emergency period to be determined on the basis of individual circumstances, but the emergency period will extend only until a prescription can be obtained from a pharmacy. (3-19-99)

02. Consultant Pharmacist. The physician assistant shall have a consultant pharmacist responsible for providing the physician assistant with pre-dispensed medication in accordance with federal and state statutes for packaging, labeling, and storage. (3-19-99)

03. Limitation Of Items. The pre-dispensed medication shall be limited to only those categories of drug identified in the delegation of services agreement, except a physician assistant may provide other necessary emergency medication to the patient as directed by a physician. (3-19-99)

04. Exception From Emergency Period. Physician assistants in agencies, clinics or both, providing family planning, communicable disease and chronic disease services under government contract or grant may provide pre-dispensed medication for these specific services and shall be exempt from the emergency period. A physician assistants in agencies, clinics or both, in remote sites without pharmacies shall be exempt from the emergency period, providing that they must submit an application and obtain formal approval from the Board of Medicine. (3-19-99)()

044. -- 050. (RESERVED).

051. FEES - LICENSE ISSUANCE, RENEWAL, CANCELLATION AND REINSTATEMENT.

All licenses to practice as a physician assistant or graduate physician assistant shall be issued for a period of not more than five (5) years. All licenses shall expire on the expiration date printed on the face of the certificate and shall become invalid after that date unless renewed. The Board shall collect a fee for each renewal year. The failure of any person to renew his license shall not deprive such person of the right to renewal, except as provided for herein and Title 67, Chapter 52, Idaho Code. ()

01. Licensure Fee. The fee for initial licensure shall be no more than ~~one~~ two hundred twenty dollars (~~\$220~~) for a physician assistant; and ~~ten dollars (\$10) for registration as~~ graduate physician assistant ~~trainee.~~ (3-18-99)()

02. License Renewal Fee. ~~Each license to practice as a physician assistant shall be issued for a period of not less than one (1) year or more than five (5) years. Each license shall set forth its expiration date on the face of the certificate.~~ The Board shall collect a fee of no more than ~~fifty~~ one hundred dollars (~~\$5100~~) for each renewal year of a license. (3-15-02)()

03. License Cancellation. ()

a. Failure to renew a license to practice as a physician assistant and pay the renewal fee shall cause the license to be canceled. However, ~~a~~ such license can be renewed up to two (2) years following cancellation by payment of past renewal fees, plus a penalty fee of twenty-five dollars (\$25). After two (2) years, ~~it will be necessary to file an original~~ initial application for licensure with payment of the appropriate fee shall be filed with the Board. In addition, the Board may require evidence of an educational update and close supervision to assure safe and qualified performance. (3-15-02)()

b. Failure to renew a license to practice as a graduate physician assistant and pay the renewal fee shall cause the license to be canceled. However, such license can be renewed up to six (6) months following cancellation by payment of the past renewal fee, plus a penalty fee of no more than fifty dollars (\$50). After six (6) months, an original application for licensure with payment of the appropriate fee shall be filed with the Board. ()

04. Inactive License. ()

a. A person holding a current license issued by the Board to practice as a physician assistant may be issued, upon written application provided by the Board and payment of required fees to the Board, an inactive license on the condition that he will not engage in the provision of patient services as a physician assistant in this state. An initial inactive license fee of no more than one hundred fifty dollars (\$150) shall be collected by the Board. ()

b. Inactive licenses shall be issued for a period of not more than five (5) years and such licenses shall be renewed upon payment of an inactive license renewal fee of no more than one hundred dollars (\$100) for each renewal year. The inactive license certificate shall set forth its date of expiration. ()

c. An inactive license may be converted to an active license to practice as a physician assistant upon written application and payment of required conversion fees of no more than one hundred fifty dollars (\$150) to the Board. The applicant must account for the time during which an inactive license was held and document continuing competence. The Board may, in its discretion, require a personal interview to evaluate the applicant's qualifications. In addition, the Board may require evidence of an educational update and close supervision to assure safe and qualified performance. ()

(BREAK IN CONTINUITY OF SECTIONS)

053. DELEGATION OF SERVICES AGREEMENT.

Within one hundred ~~and~~ twenty (120) days of the effective date of these rules, all currently licensed physician assistants and graduate physician assistants shall have a written delegation of services agreement as specified in IDAHA 22.01.03, "Rules for the Licensure of Physician Assistants," Subsection 030.043 of these rules. (~~3-19-99~~)()

054. -- 999. (RESERVED).

IDAPA 22 - BOARD OF MEDICINE

22.01.04 - RULES OF THE BOARD OF MEDICINE FOR REGISTRATION OF SUPERVISING PHYSICIANS

DOCKET NO. 22-0104-0301 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1806 (2), Idaho Code.

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

These proposed rules include additional definitions and provide for a directing physician registered with the Board who is responsible for the athletic training services provided by the athletic trainer and oversees the practice of athletic training. The proposed rules clarify the duties and responsibilities of supervising and directing physicians with regard to overseeing the practice of physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, clinical nurse specialists, interns, externs, residents, and athletic trainers.

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

The fee schedule has been broadened to include a registration fee for directing physicians, however, there will be no increase in fees.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted, however, principle issues were addressed during negotiated rulemaking for IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," and IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho".

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August, 2003.

Nancy M. Kerr
Executive Director
Idaho State Board of Medicine
1755 Westgate Drive
PO Box 83720-0058
(208) 327-7000, Fax (208) 327-7005

THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0104-0301

IDAPA 22, TITLE 01, CHAPTER 04

**RULES OF THE BOARD OF MEDICINE FOR REGISTRATION
OF SUPERVISING AND DIRECTING PHYSICIANS**

000. LEGAL AUTHORITY.

Pursuant to Sections 54-1807(1)(2), ~~and~~ 54-1814(17), 54-3902(7), and 54-3903, Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules to govern the activities of physicians and osteopathic physicians licensed in Idaho, who supervise the practice of physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, clinical nurse specialists, interns, externs, ~~and~~ residents, and athletic trainers. (3-19-99)()

001. TITLE AND SCOPE.

01. Title. The rules shall be cited as IDAPA 22.01.04, "Rules of the Board of Medicine for Registration of Supervising and Directing Physicians". (7-1-93)()

02. Scope. These rules govern the activities of physicians and osteopathic physicians licensed in Idaho, who supervise the practice of physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, clinical nurse specialists, interns, externs, residents, and athletic trainers. ()

002. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative requirements for agencies. All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General," and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine". (3-19-99)()

003. WRITTEN INTERPRETATIONS.

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive, Suite 140, P.O. Box 83720, Boise, Idaho 83720-0058. ()

004. INCORPORATION BY REFERENCE.

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

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

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, P.O. Box 83720, Boise, Idaho 83720-0058. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 327-7005. The Board's office hours for filing documents are 8 a.m. to 5 p.m. ()

006. PUBLIC RECORD ACT COMPLIANCE.

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records ()

007. FILING OF DOCUMENTS -- NUMBER OF COPIES.

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies of all documents must be filed with the office of the Board. ()

0038. -- 009. (RESERVED).

010. DEFINITIONS.

031. Advanced Practice Professional Nurse. Any person duly licensed as a nurse practitioner, certified nurse-midwife, or clinical nurse specialist pursuant to the applicable Idaho statutes and the applicable rules promulgated by the Idaho State Board of Nursing. (3-19-99)

02. Alternate Directing Physician. A designated Idaho licensed physician, registered with the Board pursuant to this chapter and Title 54, Chapter 39, Idaho Code, who oversees the practice of athletic training and is responsible for the athletic training services provided by the athletic trainer in the temporary absence of the directing physician. An alternate directing physician shall not supervise more than three (3) such licensees contemporaneously. ()

03. Alternate Supervising Physician. An Idaho licensed physician who is registered with the Board pursuant to this chapter and who has full responsibility for the medical acts and practice of a physician assistant, graduate physician assistant, nurse practitioner, certified nurse-midwife, or clinical nurse specialist in the temporary absence of the supervising physician. An alternate supervising physician shall not supervise more than three (3) such licensees contemporaneously. ()

04. Alternate Supervising Physician For Externs, Interns, And Residents. A physician licensed to practice medicine and surgery or licensed to practice osteopathic medicine and surgery in Idaho who has been designated by the supervising physician and approved by and registered by the Board to supervise the extern, intern, or resident in the temporary absence of the supervising physician. ()

05. Athletic Trainer. A person who has met the qualifications for licensure as set forth in Title 54, Chapter 39, Idaho Code, is licensed under that chapter, and carries out the practice of athletic training under the direction of a designated Idaho licensed physician, registered with the Board. ()

046. Board. The Idaho State Board of Medicine established pursuant to Section 54-1805, Idaho Code. (7-1-93)()

07. Directing Physician. A designated Idaho licensed physician, registered with the Board pursuant to this chapter and Title 54, Chapter 39, Idaho Code, who oversees the practice of athletic training and is responsible for the athletic training services provided by the athletic trainer. This chapter does not authorize the practice of medicine or any of its branches by a person not so licensed by the Board. ()

08. Extern. Any bona fide student enrolled in an acceptable school of medicine as defined in IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," Subsection 010.03, who has not received his degree. ()

09. Graduate Physician Assistant. A person who is a graduate of an approved program for the education and training of physician assistants and who meets all the requirements in IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," for Idaho licensure but has not yet taken and passed the certification examination, and who has been authorized by the Board, as defined in IDAPA 22.01.03, Subsection 036.01, to render patient services under the direction of a supervising physician for a period of six (6) months or has passed the certification examination but who has not yet obtained a college baccalaureate degree, and who has been authorized by the Board, as defined in IDAPA 22.01.03, Subsection 036.02, to render patient services under the direction of a supervising physician for a period of not more than five (5) years. ()

10. Intern. Any person who has completed a course of study at an acceptable school of medicine as defined in IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," Subsection 010.03, and who is enrolled in a postgraduate medical training program. ()

11. Physician. A physician who holds a current active license issued by the Board to practice medicine and surgery or osteopathic medicine and surgery in Idaho and is in good standing with no restrictions upon or actions taken against his license. ()

012. Physician Assistant. Any person duly licensed with the Board as a physician assistant to render patient services under the direction of a supervising physician registered with the Board, pursuant to the applicable

Idaho statutes and the applicable rules promulgated by the Board. ()

13. Resident. Any person who has completed a course of study at an acceptable school of medicine as defined in IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," Subsection 010.03, and who is enrolled in a postgraduate medical training program. ()

14. Supervising Physician. Any ~~person~~ physician who is ~~duly licensed to practice medicine in Idaho,~~ registered with the Board pursuant to this chapter and who supervises and has responsibility for the medical acts of ~~and patient services provided by~~ a physician assistant, graduate physician assistant, nurse practitioner, certified nurse-midwife, or clinical nurse specialist. ~~"Supervising physician" also includes an alternate or substitute~~ A supervising physician shall not supervise more than a total of three (3) such licensees contemporaneously. The Board, however, may authorize a supervising physician to supervise a total of six (6) such licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. (3-19-99)()

15. Supervising Physician Of Interns, Externs, Or Residents. Any person approved by and registered with the Board who is licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho, who signs the application for registration of a extern, intern or resident, and who is responsible for the direction and supervision of their activities. ()

011. -- 0198. (RESERVED).

019. DUTIES OF DIRECTING PHYSICIANS.

01. Responsibilities. The directing physician accepts full responsibility for the acts and athletic training services provided by the athletic trainer and oversees the practice of athletic training of the athletic trainer, and for the supervision of such acts which shall include, but are not limited to: ()

a. An on-site visit at least biannually or every semester to personally observe the quality of athletic training services provided; and ()

b. Recording of a periodic review of a representative sample of the records, including, but not limited to, records made from the past six (6) months of the review to evaluate the athletic training services that were provided. ()

02. Patient Complaints. The directing physician shall report to the Board any and all complaints received related to allegations against the athletic trainer, including, but not limited to, the quality and nature of athletic training. ()

03. Scope Of Practice. The directing physician shall ensure the scope practice of the athletic trainer, as set forth in IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho," and Section 54-3903, Idaho Code, shall be limited to and consistent with the scope of practice of the directing physician and exclude any independent practice of athletic training by an athletic trainer. ()

04. Directing Responsibility. The responsibilities and duties of a directing physician may not be transferred to a business entity, professional corporation or partnership, nor may they be assigned to another physician without prior notification and Board approval. ()

05. Available Supervision. The directing physician shall oversee the activities of the athletic trainer and must always be available either in person or by telephone to supervise, direct and counsel the athletic trainer. The scope and nature of the direction of the athletic trainer shall be outlined in an athletic training service plans or protocols, as set forth in IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho," Section 013. ()

06. Disclosure. It shall be the responsibility of each directing physician to ensure that each athlete who receives athletic training services is aware of the fact that said person is not a licensed physician. This disclosure

requirement can be fulfilled by the use of name tags, correspondence, oral statements, office signs or such other procedures that under the involved circumstances adequately advise the athlete of the education and training of the person rendering athletic training services. ()

07. On-Site Review. The Board, by and through its designated agents, is authorized to conduct on-site reviews of the activities of the directing physicians at the locations and facilities in which the athletic trainer practices at such times as the Board deems necessary. ()

020. DUTIES OF SUPERVISING PHYSICIANS.

01. Responsibilities. The supervising physician ~~shall be responsible~~ accepts full responsibility for the medical acts of and patient services provided by physician assistants, graduate physician assistants, nurse practitioners, certified nurse-midwives, and clinical nurse specialists and for the supervision of such acts which shall include, but are not limited to: (3-19-99)()

a. An on-site visit at least monthly to personally observe the quality of care provided; ~~and~~ (3-19-99)()

b. ~~Recording of a~~ periodic review of a representative sample of medical records to evaluate the medical services that are provided. When applicable, this review shall also include an evaluation of adherence to the delegation of services agreement between the physician and physician assistant or graduate physician assistant; and (3-19-99)()

c. Regularly scheduled conferences between the supervising physician and such licensees. ()

02. Patient Complaints. The supervising physician shall report to ~~either~~ the Board of Medicine ~~or the Board of Nursing any and~~ all patient complaints received against the physician assistant, ~~nurse practitioner, certified nurse-midwife, or clinical nurse specialist~~ or graduate physician assistant which relate to the quality and nature of medical care or patient services rendered. The supervising physician shall report to the Board of Nursing all patient complaints received against the nurse practitioner, certified nurse-midwife, or clinical nurse specialist, that relate to the quality and nature of medical care rendered. (3-19-99)()

03. Pre-Signed Prescriptions. The supervising physician shall not utilize or authorize the physician assistant, nurse practitioner, certified nurse-midwife, or clinical nurse specialist to use any pre-signed prescriptions. (3-19-99)()

04. Supervisory Responsibility. The responsibilities and duties of a supervising physician may not be transferred to a business entity, professional corporation or partnership, nor may they be assigned to another physician without prior notification and Board approval. (7-1-93)()

05. Available Supervision. The supervising physician shall oversee the activities of the nurse practitioner, physician assistant, graduate physician assistant, certified nurse-midwife, or clinical nurse specialist, and must always be available either in person or by telephone to supervise, direct and counsel ~~the nurse practitioner, physician assistant, graduate physician assistant, certified nurse-midwife, or clinical nurse specialist~~ such licensees. The scope and nature of the supervision of the physician assistant and graduate physician assistant shall be outlined in a delegation of services agreement, as set forth in IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," Subsection 030.03. (3-19-99)()

06. Disclosure. It shall be the responsibility of each supervising physician to ensure that each patient who receives the services of a physician assistant, graduate physician assistant, nurse practitioner, certified nurse-midwife, or clinical nurse specialist is aware of the fact that said person is not a licensed physician. This disclosure requirement can be fulfilled by the use of nametags, correspondence, oral statements, office signs or such other procedures that under the involved circumstances adequately advise the patient of the education and training of the person rendering medical services. (3-19-99)()

021. ON-SITE REVIEW.

The Board, by and through its designated agents, is authorized ~~and empowered~~ to conduct on-site reviews of the

activities of the supervising physicians at the locations and facilities in which the physician assistant, graduate physician assistant, nurse practitioner, certified nurse-midwife, or clinical nurse specialist practices at such times as the Board deems necessary. (3-19-99)(____)

022. DUTIES OF SUPERVISING PHYSICIANS OF INTERNS, EXTERNS, AND RESIDENTS.

01. Responsibilities. The supervising physician is responsible for the direction and supervision of the medical acts and patient services provided by an intern, extern, or resident. The direction and supervision of such activities shall include, but are not limited to: (____)

a. An on-site visit at least monthly to personally observe the quality of care provided; (____)

b. Recording of a periodic review of a representative sample of medical records to evaluate the medical services that are provided; and (____)

c. Regularly scheduled conferences between the supervising physician and the intern, extern, or resident. (____)

02. Available Supervision. The supervising physician shall oversee the activities of the intern, extern, or resident, and must always be available either in person or by telephone to supervise, direct and counsel the intern, extern, or resident. (____)

03. Disclosure. It shall be the responsibility of each supervising physician to ensure that each patient who receives the services of an intern, extern, or resident is aware of the fact that said person is not a licensed physician. This disclosure requirement can be fulfilled by the use of nametags, correspondence, oral statements, office signs, or such other procedures that under the involved circumstances adequately advise the patient of the education and training of the person rendering medical services. (____)

04. On-Site Review. The Board, by and through its designated agents, is authorized to conduct on-site reviews of the activities of the supervising physicians at the locations and facilities in which the intern, extern, or resident practices at such times as the Board deems necessary. (____)

0223 -- 029. (RESERVED).

030. REGISTRATION BY SUPERVISING AND DIRECTING PHYSICIANS.

01. Registration And Renewal. Each supervising, directing and alternate physician must register with the Board and such registration shall be renewed annually. (7-1-93)(____)

02. Notification. The supervising and directing physician must notify the Board of any change in the status of any physician assistant, graduate physician assistant, nurse practitioner, certified nurse-midwife, ~~or~~ clinical nurse specialist, or athletic trainer for whom he is responsible, including, but not limited to, changes in location, duties, responsibilities, or supervision, or termination of employment. (3-19-99)(____)

031. DISCIPLINARY ACTION.

Every person registered as a supervising, directing, or alternate physician in this state is subject to discipline by the Board pursuant to the procedures and powers set forth in Idaho Code, Section 54-1806A for violation of these rules or upon any of the grounds set forth in Idaho Code, Section 54-1814. (7-1-93)(____)

032. -- 039. (RESERVED).

040. FEES.

The fee for all supervising physician registration will be fifty dollars (\$50) and the annual renewal fee will be twenty-five dollars (\$25); provided however, alternate ~~or substitute~~ supervising physicians shall not be required to pay an annual renewal fee. The fee for directing physician registration will be ten dollars (\$10) and the annual renewal fee will be five dollars (\$5); provided however, alternate directing physicians shall not be required to pay an annual renewal fee. (7-1-93)(____)

IDAPA 22 - BOARD OF MEDICINE

22.01.10 - RULES FOR THE REGISTRATION OF ATHLETIC TRAINERS TO PRACTICE IN IDAHO

DOCKET NO. 22-0110-0301 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Sections 54-1806 (2), 54-3902 (7) 54-3907, 54-3910, and 54-3913 (1), (2), (4) and (5)(e), Idaho Code.

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

**October 2, 2003
11 a.m. until 5 p.m.
Idaho State Board of Medicine Office
1755 Westgate Drive, Boise, Idaho**

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

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

These rules changes are required due to a revision of the Athletic Trainers Practice Act. These rule changes add or change definitions, define the scope of practice of the athletic trainer and define the responsibilities of directing physicians, clarify the requirements for initial application and renewal, provide for provisional licensure, amend the reinstatement process and fees and make other changes to update and clarify the rules.

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 including representatives from the athletic trainers' association, physical therapy association, occupational therapy association and the chiropractic physicians' association.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August, 2003.

Nancy M. Kerr
Executive Director
Idaho State Board of Medicine
1755 Westgate Drive
PO Box 83720, Boise, Idaho 83720-0058
(208) 327-7000 / Fax (208) 327-7005

THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0110-0301

22.01.10 - RULES FOR THE ~~REGISTRATION~~ LICENSURE OF ATHLETIC TRAINERS TO PRACTICE IN IDAHO

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 22.01.10, "Rules for the ~~Registration~~ Licensure of Athletic Trainers to Practice in Idaho". (7-1-93)()

02. Scope. Pursuant to this chapter and Idaho Code, Section 54-3904, athletic trainers must be licensed with the Board prior to commencement of activities related to athletic training. ()

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rule-making that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive, Suite 140, Box 83720 Boise, Idaho 83720-0058. ()

003. ADMINISTRATIVE APPEAL.

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General" and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine". ()

004. INCORPORATION BY REFERENCE.

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

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

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, Box 83720 Boise, Idaho 83720-0058. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 327-7005. The Board's office hours for filing documents are 8 a.m. to 5 p.m. ()

006. PUBLIC RECORD ACT COMPLIANCE.

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

007. FILING OF DOCUMENTS -- NUMBER OF COPIES.

All documents in rule-making or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies of all documents must be filed with the office of the Board. ()

0028. -- 009. (RESERVED).

010. DEFINITIONS.

061. Actively Engaged. A person who is employed in Idaho on a ~~salary~~ remuneration basis by an educational or health care institution, professional, ~~or amateur, athletic organization or recreational sports club,~~ or other bona fide athletic organization and ~~performs the duties of an~~ is involved in athletic training as a responsibility of his employment. (9-16-89)()

042. Association. The Idaho Athletic Trainers' Association. (9-16-89)

043. Athlete. A person who ~~is associated with or is training for an individual or a team competitive activity which is sponsored by an educational institution, amateur or professional group or other recognized~~ participates in exercises, sports, or games requiring physical strength, agility, flexibility, range of motion, speed or stamina and which exercises, sports or games are of the type generally conducted in association with an educational

institution or professional, amateur or recreational sports club or organization. (9-16-89)()

04. Athletic Injury. A physical injury, harm, hurt or common condition (such as heat disorders), incurred by an athlete, preventing or limiting participation in athletic activity, sports or recreation, which athletic trainers are educated to evaluate and treat or refer to the directing physician. ()

05. Athletic Trainer. Athletic Trainer or such other terms as recognized by the Board, means a person with the specific qualifications for registration set forth pursuant to this chapter, who, upon the direction of the team physician or consulting physician, carries out the practice of prevention, care and reconditioning of physical injuries incurred by athletes, employing the application of cold, heat, electrical stimulation, and exercises. A person who has met the qualifications for licensure as set forth in this chapter and Section 54-3906, Idaho Code, and is licensed under this chapter and Section 54-3909, Idaho Code. The athletic trainer's practice of athletic training shall be under the direction of a designated Idaho licensed physician registered with the Board or a designated Idaho licensed chiropractic physician. (9-16-89)()

06. Athletic Training. The application by a licensed athletic trainer of the principles and methods of prevention of athletic injuries; recognition, evaluation and assessment of athletic injuries and conditions; immediate care of athletic injuries including common emergency medical situations; rehabilitation and reconditioning of athletic injuries; athletic training services administration and organization; and education of athletes under the direction of and in accordance with the scope of practice of his directing physician. ()

07. Athletic Training Service Plan Or Protocol. A written document, made upon a form provided by the Board, mutually agreed upon, signed and dated by the athletic trainer and directing physician that defines the athletic training services to be provided by the athletic trainer. The Board may review athletic training service plans or protocols, job descriptions, policy statements, or other documents that define the responsibilities of the athletic trainer in the practice setting, and may require such changes as needed to achieve compliance with this chapter and Title 54, Chapter 39, Idaho Code, and to safeguard the public. The Board of Chiropractic Physicians may review those athletic training service plans or protocols or other documents that define the responsibilities of the athletic trainer for those athletic trainers whose directing physicians are chiropractic physicians. ()

028. Board. The Idaho State Board of Medicine, established pursuant to Section 54-1805, Idaho Code. (9-16-89)()

039. Board Of Athletic Trainers. The Idaho Board of Athletic Trainers, established pursuant to this chapter and Section 54-3912, Idaho Code. (9-16-89)()

10. Board Of Chiropractic Physicians. The Idaho State Board of Chiropractic Physicians, established pursuant to Section 54-706, Idaho Code. ()

11. Directing Physician. A designated person duly licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho, and registered with the Board or a designated Idaho licensed chiropractic physician, who is responsible for the athletic training services provided by the athletic trainer and oversees the practice of athletic training of the athletic trainer. This chapter does not authorize the practice of medicine or any of its branches by a person not so licensed by the Board. ()

011. BOARD OF ATHLETIC TRAINERS.

01. Board Appointments. The Board of Athletic Trainers of the Idaho State Board of Medicine shall consist of four (4) members, three (3) of whom shall be ~~registered~~ athletic trainers licensed in Idaho and actively engaged in the practice of athletic training, and one (1) of whom shall be a lay person. The Board shall appoint the members of the Board of Athletic Trainers. The Board shall give consideration to recommendations made by the Idaho Athletic Trainers' Association. If recommendations are not made within sixty (60) days of notification and request, the Board may make appointments of any qualified individual. In the event of a vacancy in one (1) of the positions, the Association may recommend, as soon as practical, at least two (2) and not more than three (3) persons to fill that vacancy. The Board shall appoint, as soon as practical, one (1) person, who shall fill the unexpired term. If the Association does not provide a recommendation within sixty (60) days of notification and request, the Board shall appoint a person to the unexpired term. The Board may remove any Board of Athletic Trainers member for

misconduct, incompetency, or neglect of duty after giving the member a written statement of the charges and an opportunity to be heard thereon. Each member will serve a term of four (4) years and terms shall be staggered. A chairperson shall be elected from its membership. The Executive Director of the Idaho State Board of Medicine shall serve as the Executive Director to the Board of Athletic Trainers. The Board of Chiropractic Physicians may designate a contact person for the Board of Athletic Trainers regarding matters relevant to those athletic trainers whose directing physicians are chiropractic physicians. (9-16-89)()

02. Board Affiliation. The Board of Athletic Trainers will work in conjunction with the Idaho State Board of Medicine and will perform the duties and functions promulgated by the Board, including: (9-16-89)

a. Evaluating the qualifications of applicants for ~~registration, administering examinations~~ licensure, and issuing and renewing ~~registrations~~ licenses. (9-16-89)()

b. Performing investigations of misconduct and making recommendations regarding discipline. (9-16-89)

c. Maintaining a list of currently ~~registered~~ licensed Athletic Trainers in this state. (9-16-89)()

d. Final Decisions. The Board of Athletic Trainers shall have no authority to impose limitations or conditions on licenses issued under this chapter and shall be authorized only to make recommendations to the Board. The Board shall make all final decisions with respect thereto. ()

e. On-Site Review. The Board, by and through its designated agents, is authorized to conduct on-site reviews of the activities of the athletic trainer at the locations and facilities in which the athletic trainer practices at such times as the Board deems necessary. ()

012. SCOPE OF PRACTICE.

01. Exclusion Of Independent Practice. The scope of practice excludes any independent practice of athletic training by an athletic trainer. The scope of practice of an athletic trainer shall conform to his established athletic training service plan or protocol and shall be overseen by his directing physician, who is responsible for the athletic training services provided by the athletic trainer. ()

02. Referral By Directing Physician. An athletic injury not incurred in association with an educational institution, professional, amateur, or recreational sports club or organization shall be referred by a directing physician, but only after such directing physician has first evaluated the athlete. ()

03. Limitations Of Scope Of Practice. The scope practice of the athletic trainer, as set forth in this chapter and Section 54-3903, Idaho Code, shall be limited to and consistent with the scope of practice of his directing physician. ()

04. Identification. The athletic trainer must at all times when on duty identify himself as an athletic trainer. ()

013. ATHLETIC TRAINING SERVICE PLAN OR PROTOCOL.

Each licensed athletic trainer providing athletic training services shall create, upon a form provided by the Board, an athletic training service plan or protocol between the athletic trainer and his directing physician. This athletic training service plan or protocol shall be reviewed and updated on an annual basis. Each licensed athletic trainer must notify the Board within thirty (30) days of any change in the status of his directing physician. This plan or protocol shall not be sent to the Board, but must be maintained on file at each location in which the athletic trainer is practicing. The Board may review athletic training service plans or protocols, job descriptions, policy statements, or other documents that define the responsibilities of the athletic trainer in the practice setting, and may require such changes as needed to achieve compliance with this chapter, Title 54, Chapter 39, Idaho Code, and to safeguard the public. This plan or protocol shall be made immediately available to the Board upon request. This plan or protocol shall be made immediately available to the Board of Chiropractic Physicians for those athletic trainers whose directing physicians are chiropractic physicians. This plan or protocol shall include: ()

01. Listing Of Services And Activities. A listing of the athletic training services to be provided and specific activities, which will be performed by the athletic trainer. ()

02. Locations And Facilities. The specific locations and facilities in which the athletic trainer will function; and ()

03. Methods To Be Used. The methods to be used to ensure responsible direction and control of the activities of the athletic trainer, which shall provide for the: ()

a. Recording of an on-site visit by the directing physician at least biannually or every semester; ()

b. Availability of the directing physician to the athletic trainer in person or by telephone and procedures for providing direction for the athletic trainer in emergency situations; and ()

c. Procedures for addressing situations outside the scope of practice of the athletic trainer. ()

014. DUTIES AND RESPONSIBILITIES OF DIRECTING PHYSICIANS.

01. Services And Supervision. The directing physician shall be responsible for the acts and athletic training services of the athletic trainer and for the supervision of the provision of athletic training. ()

02. Availability. The directing physician must always be available either in person or by telephone to supervise, direct, and counsel the athletic trainer. ()

03. Verbal Or Written Order. Prior to providing athletic training service, this direction will be provided by verbal order when the directing physician is present and by written order or by athletic training service plans or protocols, as established by Board rule, when the directing physician is not present. This direction shall include identifying acute athletic injuries or emergencies or sentinel events requiring the athletic trainer to immediately notify the directing physician. ()

04. Referral From A Physician Licensed In Another State. Upon referral from a physician licensed in another state and in good standing, the practice of athletic training, physical rehabilitation, and reconditioning shall be carried out under the written orders of the referring physician and in collaboration with the directing physician. ()

05. Disclosure Requirement. Each directing physician shall ensure that each person who receives the services of an athletic trainer is aware of the fact that said person is an athletic trainer. This disclosure requirement can be fulfilled by the use of nametags, correspondence, oral statements, office signs or such other procedures that under the involved circumstances adequately advised the person of the education and training of the person rendering athletic training services; ()

06. Directing Physician. Each directing physician shall record: ()

a. An on-site visit at least biannually or every semester to personally observe the quality of athletic training services provided; and ()

b. A review of a representative sample of the records including, but not limited to, records made from the past six (6) months of the review to evaluate the athletic training services that were provided. ()

07. Complaints. The directing physician shall report to the Board of Medicine all complaints received related to allegations against the athletic trainer including, but not limited to, the quality and nature of athletic training services. ()

015. REGISTRATION OF DIRECTING PHYSICIANS LICENSED TO PRACTICE MEDICINE AND SURGERY BY THE BOARD OF MEDICINE.

01. Registration And Renewal. Each directing physician or alternate directing physician, licensed to practice medicine and surgery by the Board, must register with the Board and such registration shall be renewed annually. ()

02. Completion Of Registration Form. A physician applicant must complete a form provided by the Board documenting: ()

a. The physician applicant has completed an athletic training service plan or protocol signed by the athletic trainer, directing physician, and alternate directing physicians; and ()

b. The athletic training service plan or protocol is on file at the Idaho practice sites. ()

03. Notification. Each directing physician must notify the Board within thirty (30) days of any change in the status of any athletic trainer for whom he is responsible, including, but not limited to, changes in location, duties, responsibilities, or supervision, or termination of employment. ()

04. Fees. The registration fee for a directing physician shall be no more than fifty dollars (\$50) and the annual renewal fee shall be no more than twenty-five dollars (\$25); provided, however, alternate or substitute directing physicians, licensed to practice medicine and surgery by the Board, shall not be required to pay an annual renewal registration or renewal fee. ()

016. DISCIPLINARY ACTION.

Every directing physician is subject to discipline by his respective Board pursuant to the procedures and powers set forth in Sections 54-1806, 54-1806A, and 54-707, Idaho Code for violation of these rules or upon any of the grounds set forth in Sections 54-1814 and 54-712, Idaho Code. ()

012. -- 019. (RESERVED).

020. GENERAL QUALIFICATIONS FOR ~~REGISTRATION~~ LICENSURE.

01. Applicant. An applicant must be of good moral character and must meet the requirements of ~~Idaho Code~~, Section 54-39056, Idaho Code, and these rules. The Board may refuse ~~registration~~ licensure if it finds the applicant has engaged in conduct prohibited by Section 54-39121, Idaho Code; provided, the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. ~~The Board or the Board of Athletic Trainers may, at its discretion, require any applicant to appear for a personal interview when necessary to identify and evaluate the applicant's credentials.~~ (9-16-89)()

02. ~~Registration~~ Licensure. Each applicant shall either ~~have received a bachelor's or advanced degree from an accredited four (4) year college or university, met the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers, and passed an certification examination required by the Board,~~ or shall be entitled to apply for ~~registration~~ provisional licensure pursuant to ~~Idaho Code~~, Section 54-3908, ~~or provisional registration or registration by endorsement~~ Idaho Code. (9-16-89)()

a. The written examination and passing score required for ~~registration~~ licensure as an Athletic Trainer, shall be ~~designated and approved by the Board~~ the certification examination administered by the National Athletic Trainers' Association Board of Certification or equivalent examination recognized by the Board as recommended by the Board of Athletic Trainers. (9-16-89)()

b. An applicant for ~~registration~~ licensure by certification examination who fails to pass the examination ~~on any occasion~~ must ~~submit a new application as in Subsection 030.01 below~~ provide written notification to the Board within thirty (30) days of notice of failure. (9-16-89)()

c. An applicant for ~~registration~~ for licensure by certification examination who has failed to pass the examination on two (2) separate occasions will be denied eligibility to re-apply; however, ~~the applicant may request the Board to consider his or her application may be considered~~ on an individual basis ~~if he or she submits proof of additional training acceptable to the Board.~~ In its discretion, the Board of Athletic Trainers may make a determination if additional clinical or coursework is required to determine the applicant's eligibility to re-apply, and

recommend to the Board such additional clinical or coursework. (9-16-89)()

03. Application Expiration. An application ~~upon which the applicant takes no further action will be held for no longer than~~ for licensure that is not granted and license not issued in one (1) year from the date the application is received by the Board shall expire; however, the applicant may make a written request to the Board to consider his application on an individual basis. In its discretion, the Board of Athletic Trainers may make a determination if extraordinary circumstances exist justifying extending the one (1) year time period up to an additional one (1) year and so recommend to the Board to grant the request for such extension of time.

(9-16-89)()

021. -- 029. (RESERVED).

030. APPLICATION FOR REGISTRATION LICENSURE.

01. ~~Registration~~ Application For Licensure By Certification Examination. Each applicant for ~~registration~~ licensure by certification examination shall submit a completed written application to the Board on forms prescribed by the Board ~~no less than thirty (30) days prior to the next examination date~~, together with the application fee. The application shall be verified and under oath and shall require the following documentation: (9-16-89)()

a. Receipt of a college baccalaureate bachelor's or advanced degree from an accredited four (4) year college or university, and the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers. (9-16-89)()

b. Successful completion of the certification examination administered by the National Athletic Trainers' Association Board of Certification or equivalent examination recognized by the Board as recommended by the Board of Athletic Trainers. ()

c. Good standing with and current certification by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, recognized by the Board as recommended by the Board of Athletic Trainers. ()

bd. The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses. (9-16-89)

ee. The disclosure of any charge, offense or disciplinary action against the applicant by any state professional regulatory agency or professional organization in a manner that bears a demonstrable relationship to the ability of the applicant to practice athletic training in accordance with the provisions of this chapter. (9-16-89)()

ff. The disclosure of the denial of registration, licensure or certification by any state, district or national regulatory body. (9-16-89)

gg. Not less than two (2) certificates of recommendation from persons ~~having, other than relatives or individuals living with the applicant, who have at least two (2) years of personal knowledge of the applicant's character, one (1) of which must be from a supervising physician~~ and ability to work as an athletic trainer. (9-16-89)()

hh. ~~Two~~ One (2) unmounted photographs of the applicant, no larger than three by four inch (3" X 4") (head and shoulders), taken not more than one (1) year prior to the date of the application. (9-16-89)()

ii. Such other information as deemed necessary for the Board to identify and evaluate the applicant's credentials. (9-16-89)

02- Registration By Endorsement. An applicant may be eligible for registration without examination if he or she is certified by the National Athletic Trainers' Association Board of Certification, providing the standards are equivalent to the standards of this state, and are current with continuing education units. (9-16-89)

a- Each applicant for registration by endorsement 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, under oath, and contain the specific information in Subsection 030.01 above.~~ (9-16-89)

~~b. Proof of certification shall be verified in a manner acceptable to the Board.~~ (9-16-89)

~~e. Reciprocal registration is not available. Applicants currently registered or licensed in other states must comply with the requirements set forth in Subsection 030.01 above, to be eligible for registration in the state of Idaho.~~ (9-16-89)

032. Application For Provisional Registration Licensure. ()

~~a. The Board, based upon the recommendation of the Board of Athletic Trainers, based upon the recommendation of the Board of Athletic Trainers, may issue provisional registration licensure to applicants who are actively participating in an internship program or curriculum of an institution approved by the Board and under the supervision of a registered athletic trainer have successfully completed a bachelor's or advanced degree from an accredited four (4) year college or university, and met the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers and who have met all the other requirements set forth by Section 030 of these rules but who have not yet passed the examination conducted by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, approved by the Board as recommended by the Board of Athletic Trainers. A provisional registration shall be valid for a term of one (1) year, but may be renewed only twice, at the discretion of the Board of Athletic Trainers.~~ (9-16-89)()

~~b. Each applicant for provisional licensure 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, under oath, and contain the specific information in Subsection 030.01 and a provisional license athletic trainer/supervisor affidavit.~~ ()

~~i. Affidavit. An affidavit signed by an Idaho licensed athletic trainer affirming and attesting to supervise and be responsible for the athletic training services of the provisionally licensed graduated athletic trainer and to review and countersign all records and documentation of services performed by the provisionally licensed graduate athletic trainer.~~ ()

~~ii. Supervision. A provisionally licensed graduate athletic trainer shall be in direct association with his directing physician and Idaho licensed athletic trainer who shall supervise and be available to render direction in person and on the premises where the athletic training services are being provided. The directing physician and the supervising athletic trainer shall be responsible for the athletic training services provided by the provisionally licensed graduate athletic trainer. The supervising athletic trainer shall review and countersign all documentation of athletic training services performed by the provisionally licensed graduated athletic. The extent of communication between the directing physician and supervising athletic trainer and the provisionally licensed graduate athletic trainer shall be determined by the competency of the provisionally licensed athletic trainer and the practice setting and the type of athletic training services being rendered.~~ ()

~~c. Scope of Practice. The scope of practice of the provisionally licensed athletic trainer, as set forth in this chapter and Section 54-3903, Idaho Code, shall be limited to and consistent with the scope of practice of his directing physician and supervising athletic trainer and conform with the established athletic training service plan or protocol.~~ ()

~~d. Expiration of Provisional License. All provisional licenses for athletic trainers shall expire upon successful completion of a bachelor's or advanced degree from an accredited four (4) year college or university, and meeting the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers and meeting all the other requirements set forth by Section 030 of these rules, including passing the examination conducted by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, approved by the Board as recommended by the Board of Athletic Trainers.~~ ()

03. Licensure For Uncertified Athletic Trainers Currently Practicing In Idaho. All athletic

trainers holding current Idaho registration on July 1, 2003, who are not certified by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, accepted by the Board, may be issued a license upon and payment of the prescribed renewal fee. After 2006, all such renewals shall also require documentation of successful completion of eighty (80) hours of Board approved continuing educational activities or units during each three (3) year reporting period on forms provided by the Board. ()

~~**04. Registration For Athletic Trainers Currently Practicing In Idaho.** Any person actively engaged as an athletic trainer on July 1, 1989, shall be issued a registration upon compliance with the following conditions:~~ (9-16-89)

- ~~**a.** Submitting application within ninety (90) days of July 1, 1989, which includes:~~ (9-16-89)
 - ~~**i.** The information set forth in Subsection 030.01;~~ (9-16-89)
 - ~~**ii.** Proof of active practice for more than five (5) years or proof of active practice and completion of fifteen (15) semester hours of course work.~~ (9-16-89)
- ~~**b.** Paying the required registration fee; and~~ (9-16-89)
- ~~**c.** Appearing for a personal interview by the Board of Athletic Trainers or a member of the Board of Athletic Trainers to review and evaluate the applicant's knowledge and experience.~~ (9-16-89)
- ~~**d.** The Board may, at its discretion, require any applicant to appear for a personal interview.~~ (9-16-89)
- ~~**e.** All applicants are required to pay a registration fee.~~ (9-16-89)

031. -- 039. (RESERVED).

040. REGISTRATION LICENSURE (ISSUANCE, EXPIRATION AND RENEWAL).

All registrations shall expire on the 30th day of June following issuance or renewal and shall become invalid after that date unless renewed licenses to practice as an athletic trainer shall be issued for a period of not less than one (1) year or more than five (5) years. All licenses shall expire on the expiration date printed on the face of the certificate and shall become invalid after that date unless renewed. The Board shall collect a fee for each renewal year of a license. The failure of any licensee to renew his license shall not deprive such person of the right to renewal, except as provided for herein and Section 54-3912, Idaho Code. The Board or the Board of Athletic Trainers may, at its discretion, require any applicant to appear for a personal interview when necessary to identify and evaluate the applicant's credentials. (9-16-89)()

01. Annual Renewal. ~~Each registration~~ All licenses shall be renewed annually before July 1st before the expiration date printed on the face of the certificate by submitting a completed request for renewal on forms provided by the Board and accompanied by payment of the renewal fee to the Board. Registrations Licenses not renewed by the expiration date shall be canceled unless disciplinary action is pending. Each renewal request shall also include documentation of: (9-16-89)()

a. If Currently Certified. Current certification by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, recognized by the Board as recommended by the Board of Athletic Trainers; or ()

b. If Not Currently Certified. Upon the effective date of these rules, proof of current cardiopulmonary resuscitation certification and, after 2006, successful completion of eighty (80) hours of Board approved continuing educational activities or units during each three (3) year reporting period on forms provided by the Board. ()

02. Reinstatement. ~~Registrations Licenses~~ Licenses canceled for non-payment of yearly renewal fees or lapsed for a period of less than three (3) consecutive years may be reinstated by filing a completed request for renewal on forms provided by the Board with the Board; and paying reinstatement fees; and providing documentation of good standing with and current certification by the National Athletic Trainers' Association Board of Certification or a

nationally recognized credentialing agency, accepted by the Board. (9-16-89)()

03. Reapplication. A person whose registration license has been canceled or has lapsed for a period of more than five three (53) years shall be required to re-apply as a new applicant by examination; pay application fees; and document good standing with and current certification by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, accepted by the Board. The applicant shall successfully demonstrate to the Board, upon recommendation of the Board of Athletic Trainers, competency in the practice of athletic training. The Board, upon recommendation of the Board of Athletic Trainers, may also require the applicant to take an examination, remedial courses, or both, as shall be recommended by the Board of Athletic Trainers. (9-16-89)()

04. Continuing Education. All licensed athletic trainers who are not certified after 2006 shall provide documentation of successful completion of eighty (80) hours of Board approved continuing educational activities or units during each three (3) year reporting period on forms provided by the Board. All licensed and currently certified athletic trainers may submit Aa summary of eighty (80) hours of Board approved continuing education activities or units during the preceding three (3) years may be submitted with the renewal application to document this effort by the athletic trainer. Appropriate continuing professional education activities include but are not limited to, the following: (9-16-89)()

- a. Reading of professional books and journals. (9-16-89)
- ba. Attending or presenting at conferences, seminars or inservice programs. (9-16-89)
- e. Supervision of clinical students. (9-16-89)
- d. Holding state, district, national office or committee chair positions in professional organizations. (9-16-89)
- eb. Formal coursework in Athletic Training related subjects. (9-16-89)
- fc. Presentation of Athletic Training related information to allied professional or community groups. (9-16-89)
- gd. Conduct of Athletic Training related research or grant supported activity. (9-16-89)
- he. Publication of an original article, review or report of clinical experience in an appropriate professional publication. (9-16-89)

041. -- 049. (RESERVED).

050. INACTIVE STATUS.

The Board, upon recommendation of the Board of Athletic Trainers, shall grant inactive status to a registrant licensee who makes application for inactive status accompanied by payment of the prescribed fee to the Board and does not practice as an Aathletic Trainer in Idaho. (9-16-89)()

051. REINSTATEMENT FROM INACTIVE STATUS TO FULL REGISTRATION FROM INACTIVE STATUS LICENSURE.

An individual desiring reinstatement from inactive status to full active registration licensure to practice as an Aathletic Trainer shall submit a completed written application to the Board together with the registration and reinstatement payment of prescribed fees. The application shall be verified and under oath. The Board upon recommendation of the Board of Athletic Trainers, may request such other information deemed necessary to identify and evaluate the applicant's proficiency, including, in its discretion, requiring a personal interview to identify and evaluate the applicant's credentials. (9-16-89)()

01. Fee. The fee for converting an inactive license to an active license shall be no more than one hundred ten dollars (\$110) and the annual renewal fee for each year not actively licensed minus inactive renewal fees previously paid. ()

02. Documentation Of Inactive Time. Before the inactive license will be converted to full active license, the applicant must provide documentation accounting for the time during which an inactive license was held. The Board may require evidence of an educational update and close supervision to assure safe and qualified performance. ()

052. DENIAL OR REFUSAL TO RENEW ~~REGISTRATION~~ LICENSURE OR SUSPENSION OR REVOCATION OF ~~REGISTRATION~~ LICENSURE.

01. Application Or Renewal Denial. A new or renewal application for licensure may be denied by the Board and shall be considered a contested case. ~~and e~~Every person ~~registered~~ licensed pursuant to Title 54, Chapter 39, Idaho Code and these rules is subject to discipline pursuant to the procedures and powers established by and set forth in ~~Idaho Code~~, Section 54-3912~~1~~, Idaho Code, the Idaho Administrative Procedure Act and ~~the IDAPA 22.01.07~~, "Rules of Practice and Procedure of the Board of Medicine". (4-2-93)()

02. Petitions For Reconsideration Of Denial. All petitions for reconsideration of a denial of a license application or reinstatement application shall be made to the Board within one (1) year from the date of the denial. ()

023. Unprofessional Conduct. The Board, upon recommendation of the Board of Athletic Trainers, may refuse to issue a ~~registration~~ license or provisional ~~permit~~ license, or to renew a ~~registration~~ license, or may suspend or revoke a ~~registration~~ license or provisional ~~permit~~ license, or may impose probationary conditions if the ~~holder of a registration or provisional permit~~ licensee or applicant for ~~registration~~ licensure or provisional ~~permit~~ license has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. All petitions for reconsideration of a denial of a license application or reinstatement application shall be made to the Board within one (1) year from the date of the denial. Such unprofessional conduct includes, but is not limited to: (4-2-93)()

a. Obtaining ~~registration~~ license by means of fraud, misrepresentation, or concealment of material facts. (4-2-93)()

b. Being guilty of unprofessional conduct, ~~negligence or incompetence in the practice of athletic training~~ as defined by the rules established by the ~~h~~Board, or violating the code of ethics which has been adopted and published by the ~~h~~Board, a copy of which is attached to these rules. (4-2-93)()

c. Being convicted of a ~~felony~~ or a crime by a court of competent jurisdiction, which would have a direct and adverse bearing on the individual's ability to practice or ~~perform care~~ provide athletic training services as an athletic trainer competently. (4-2-93)()

d. The unauthorized practice of medicine. (4-2-93)

e. Violating any provisions of ~~this~~ Title 54, ~~e~~Chapter 39, Idaho Code, or any of the rules promulgated by the ~~h~~Board under the authority of this chapter. (4-2-93)()

f. Providing ~~care~~ athletic training services as an athletic trainer which fails to meet the standard of ~~health care~~ athletic training services provided by other qualified athletic trainers in the same community or similar communities. (4-2-93)()

g. Being found mentally incompetent by a court of competent jurisdiction or unfit by the ~~h~~Board to provide ~~care~~ athletic training services as an athletic trainer. (4-2-93)()

h. ~~Using any controlled substance or alcohol to the extent that use impairs the ability to practice as an athletic trainer at an acceptable level of competency.~~ Providing athletic training services while under the influence of alcohol, controlled substances or other skill impairing substances so as to create a risk of harm to an athlete. (4-2-93)()

i. Employing, directing or supervising the ~~unregistered~~ unlicensed practice of athletic training.

(4-2-93)()

j. Practicing *in an area of care* or offering to practice athletic training as an athletic trainer for which the individual is not trained or beyond the scope of practice of athletic training as defined in this chapter and Title 54, Chapter 39, Idaho Code. (4-2-93)()

k. Misrepresenting educational or certification attainments. (4-2-93)()

l. Failure to supervise the activities of individuals who hold provisional ~~registration~~ licensure. (4-2-93)()

m. Inconsistence with or failure to limit the scope practice of athletic training to the scope of practice of the directing physician. ()

n. Failure to maintain a current copy of an athletic training service plan or protocol between the athletic trainer and his directing physician. ()

o. Failure to review and update the athletic training service plan or protocol on an annual basis. ()

p. Failure to notify the Board within thirty (30) days of any change in the status of the athletic trainer's directing physician. ()

q. Failure to make the athletic training service plan or protocol immediately available to the Board upon request. ()

r. Any independent practice of athletic training by an athletic trainer. ()

s. Advertising, representing or holding oneself out, either directly or indirectly, as a physician, chiropractic physician, physical therapist or occupational therapist unless so licensed in Idaho. ()

t. Commission of any act of sexual contact, misconduct, exploitation or intercourse with an athlete for whom the athletic trainer provides athletic training services or former athlete or related to the licensee's practice of athletic training; ()

i. Consent of the athlete shall not be a defense; ()

ii. Subsection 053.03.f. shall not apply to sexual contact between an athletic trainer and the athletic trainer's spouse or a person in a domestic relationship who is also an athlete; ()

iii. A former athlete is an athlete for whom the athletic trainer has provided athletic training services within the last twelve (12) months; ()

iv. Sexual or romantic relationship with a former athlete beyond the period of time set forth herein may also be a violation if the athletic trainer uses or exploits the trust, knowledge, emotions or influence derived from the prior professional relationship with the athlete. ()

u. Aiding or abetting a person not licensed in this state who directly or indirectly performs activities requiring a license. ()

v. Failing to report to the Board any known act or omission of a licensee, applicant, or any other person, that violates any provision of this chapter. ()

w. Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any athlete or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal action. ()

- x.** Failing to maintain confidentiality of records unless otherwise required or permitted by law. ()
- y.** Use of any advertising statements that deceive or mislead the public or that are untruthful. ()
- z.** Making statements that the licensee knows, or should have known, are false or misleading regarding skill or efficacy or value of treatment or remedy administered by the licensee in the treatment of any condition relevant to athletic training. ()

aa. Failing to maintain adequate records. For purposes of Subsection 053.03.aa., "adequate records" means legible records documenting the provision of athletic training services that contain, at a minimum, the athletic training service plan or protocol, written orders, an evaluation of objective findings, the plan of care and the treatment records. ()

bb. Promoting unnecessary devices, treatment, intervention or service for the financial gain of the athletic trainer, directing physician or of a third party. ()

053. -- 060. (RESERVED).

061. FEES.

01. ~~Registration Licensure Fee.~~ The fee for ~~registration~~ licensure shall be no more than one two hundred and twenty four dollars (\$~~240~~). (~~4-2-93~~)()

02. ~~Annual Renewal Fee.~~ The ~~annual~~ renewal fee shall be no more than eighty one hundred sixty dollars (\$~~160~~). (~~4-2-93~~)()

03. ~~Provisional Registration Licensure Fee.~~ The fee for a provisional ~~registration~~ license shall be no more than forty eight dollars (\$~~80~~). (~~9-16-89~~)()

04. ~~Annual Renewal Fee - Inactive Registration Licensure.~~ The ~~annual~~ renewal fee for inactive ~~registration~~ licensure shall be no more than eighty one hundred ten dollars (\$~~110~~). (~~4-2-93~~)()

05. ~~Reinstatement Fee.~~ The reinstatement fee of a license that has lapsed for a period of less than three (3) consecutive years or converting from an inactive status to full active licensure shall be no more than forty fifty dollars (\$~~450~~). (~~9-16-89~~)()

~~**06. ~~Examination Fee.~~** The examination fee shall equal the cost of the test plus an administration fee of no more than fifty dollars (\$50).~~ (~~9-16-89~~)

07. General Fee Information. (9-16-89)

a. Necessary fees shall accompany applications. (9-16-89)

b. Fees shall not be refundable. (9-16-89)

c. In those situations where the processing of an application requires extraordinary expenses, the Board may charge the applicant with reasonable fees to cover all or part of the extraordinary expenses. (9-16-89)

(BREAK IN CONTINUITY OF SECTIONS)

APPENDIX A

CODE OF ETHICS

The Athletic Trainer shall practice ~~medically~~ acceptable methods of treatment that meet the standard of treatment provided by other qualified athletic trainers in the same community or similar communities and shall not endeavor to extend his ~~or her~~ practice beyond his ~~or her~~ competence.

The Athletic Trainer shall continually strive to increase and improve his ~~or her~~ knowledge and skills and render to each ~~patient~~ athlete the full measure of his ~~or her~~ ability. All athletic training services shall be provided with respect for the dignity of the ~~patient~~ athlete, unrestricted by considerations of social or economic status, personal attributes, or the nature of ~~health~~ athlete's problems.

The Athletic Trainer shall hold in strict confidence all privileged information concerning the ~~patient~~ athlete unless otherwise required or permitted by law and refer all inquiries to the directing physician in charge of the ~~patient's~~ athlete's medical or chiropractic care.

The Athletic Trainer shall not accept gratuities for preferential consideration of the ~~patient~~ athlete and, ~~he or~~ shall guard against conflicts of interest.

The Athletic Trainer shall uphold the dignity and honor of the profession and abide by its ethical principles. He ~~or she~~ shall be familiar with existing state and federal laws governing the practice of athletic training and comply with those laws.

The Athletic Trainer shall cooperate with other health care professionals and participate in activities to promote community and national efforts to meet the ~~health~~ athletic training needs of the public.

IDAPA 22 - BOARD OF MEDICINE

22.01.11 - RULES FOR LICENSURE OF RESPIRATORY THERAPISTS IN IDAHO

DOCKET NO. 22-0111-0301 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1806 (2), Idaho Code.

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

The proposed rule changes are required due to a change in the Respiratory Care Practice Act, Title 54, Chapter 43, Idaho Code. These changes will add definitions, define the requirements for application for permits for polysomnographic trainees, technicians and technologists, add additional grounds for disciplinary action and establish fees for initial permits and renewal.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The fee schedule has been broadened, however, there will be no increase in fees for respiratory therapists but establishes permit fees for polysomnographic trainees, technicians and technologists. Authority for imposition of these fees is found in Section 54-4311, Idaho Code.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted and included representatives from the licensure board, respiratory therapy association, polysomnographers, and sleep study laboratories.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August, 2003.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive
PO Box 83720, Boise, ID 83720-0058
(208) 327-7000, Fax (208) 327-7005

THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0111-0301

**22.01.11 - RULES FOR LICENSURE OF RESPIRATORY THERAPISTS
AND PERMITTING OF POLYSOMNOGRAPHERS IN IDAHO**

000. LEGAL AUTHORITY.

Pursuant to Sections 54-4316 and 54-4304A, Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules governing the practice of respiratory ~~therapists~~ care and polysomnography related respiratory care. (4-28-93)()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 22.01.11, "Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho". (4-28-93)()

02. Scope. Pursuant to Sections 54-4304 and 54-4304A, Idaho Code, and this chapter, respiratory therapists must be licensed and polysomnographers issued a permit by the Board prior to commencement of practice and related activities. ()

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive, Suite 140, Box 83720 Boise, Idaho 83720-0058. ()

003. ADMINISTRATIVE APPEAL.

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General" and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine". ()

004. INCORPORATION BY REFERENCE.

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

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

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, P.O. Box 83720, Boise, Idaho 83720-0058. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 327-7005. The Board's office hours for filing documents are 8 a.m. to 5 p.m. ()

006. PUBLIC RECORD ACT COMPLIANCE.

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

007. FILING OF DOCUMENTS -- NUMBER OF COPIES.

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies of all documents must be filed with the office of the Board. ()

0028. -- 009. (RESERVED).

010. DEFINITIONS.

01. Act. The Respiratory Care Practice Act of 1991, Chapter 43, Title 54, Idaho Code. (4-28-93)

02. Applicant. A person who applies for a license, dual license/permit, permit, conditional permit, or a temporary permit pursuant to this chapter and Title 54, Chapter 43, Idaho Code. (4-28-93)()

03. Board. The Idaho State Board of Medicine, established pursuant to Section 54-1805, Idaho Code. (4-28-93)()

04. Board Of Registered Polysomnographic Technologists. A nationally recognized private testing,

examining and credentialing body for the polysomnography related respiratory care profession. ()

045. Certified Pulmonary Function Technologist (CPFT). The professional designation earned by a person who has successfully completed the entry level pulmonary function certification examination administered by the National Board for Respiratory Care, Inc., or by an equivalent board, recognized by the Board. (4-28-93)()

056. Certified Respiratory Therapist ~~Technician~~ (CRT~~F~~). The professional designation earned by a person who has successfully completed the entry level examination administered by the National Board for Respiratory Care, Inc., or by an equivalent board, recognized by the Board. (4-28-93)()

07. Comprehensive Registry Exam. The comprehensive registry examination administered by the Board of Registered Polysomnographic Technologists, or administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person to the professional designation of Registered Polysomnographic Technologist (RPSGT). ()

08. Conditional Permit. A time-restricted permit issued by the Board, upon the recommendation of the Licensure Board, as set forth in this chapter and Section 54-4304A, Idaho Code, to a registered polysomnographic technologist, polysomnographic technician or a polysomnographic trainee, on or after January 1, 2004, and issued until issuance of permits as provided in this chapter. ()

069. Entry Level Examination. The certification examination for entry level respiratory therapy practitioners administered by the National Board for Respiratory Care, Inc., or certification examination administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person to the professional designation of "Certified Respiratory Therapist ~~Technician~~" (CRT~~F~~). (4-28-93)()

10. Licensed Physician. A physician licensed to practice medicine and surgery or osteopathic medicine and surgery, by the Idaho State Board of Medicine. ()

0711. Licensure. The issuance of a license to an applicant under the provisions of this chapter and Title 54, Chapter 43, Idaho Code entitling such person to hold himself out as a respiratory care practitioner and to practice or perform respiratory care in this state. (4-28-93)()

0812. Licensure Board. The licensure board established by this chapter and Section 54-4313, Idaho Code. (4-28-93)()

0913. National Board Of Respiratory Care, Inc. ~~The~~ A nationally recognized private testing, examining and credentialing body for the respiratory care profession. (4-28-93)()

104. Performance Of Respiratory Care. Respiratory care practiced or performed in accordance with the written, telephonic or verbal prescription of a licensed physician and includes, but is not limited to, the diagnostic and therapeutic use of the following: administration of medical gases, (except for the purpose of anesthesia), aerosols and humidification; environmental control mechanisms and hyperbaric therapy, pharmacologic agents related to respiratory care protocols, mechanical or physiological ventilatory support; bronchopulmonary hygiene, cardiopulmonary resuscitation; maintenance of the natural airway; insertion and maintenance of artificial airways; specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment and research of pulmonary abnormalities, including measurements of ventilatory volumes, pressures and flows, collection, reporting and analysis of specimens of blood and blood gases, arterial punctures, insertion and maintenance of arterial lines, expired and inspired gas samples, respiratory secretions, and pulmonary function testing; and hemodynamic and other related physiologic measurements of the cardiopulmonary system, observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing and determination of whether such signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics; implementation based on observed abnormalities of appropriate reporting or referral of respiratory care or changes in treatment regimen, pursuant to a prescription by a physician or the initiation of emergency procedures. (4-28-93)

15. Permit. The issuance of a permit to an applicant under the provisions of this chapter and Section 54-4304A, Idaho Code, entitles such person to hold himself out as a registered polysomnographic technologist,

polysomnographic technician, or polysomnographic trainee and to perform polysomnography related respiratory care in this state. ()

~~16.~~ **Person.** A natural living human individual. (4-28-93)()

17. Polysomnographic Technician. A person who holds a permit as set forth in this chapter and Section 54-4304A, Idaho Code, and who performs polysomnography related respiratory care services under the supervision of an Idaho permitted registered polysomnographic technologist, licensed respiratory care practitioner or an Idaho licensed physician. ()

18. Polysomnographic Trainee. A person who holds a temporary permit as set forth in this chapter and Section 54-4304A, Idaho Code, and who performs polysomnography related respiratory care services under the direct supervision of an Idaho licensed respiratory care practitioner, or a person exempt from such licensure pursuant to this chapter and Section 54-4308, Idaho Code, an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician or an Idaho licensed physician. Direct supervision by an Idaho licensed respiratory care practitioner, or such person exempt from such licensure pursuant to this chapter and Section 54-4308, Idaho Code, or an Idaho permitted registered polysomnographic technologist or technician, or an Idaho licensed physician, means that such a person shall be on the premises where such polysomnographic related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee. ()

19. Polysomnography. The process of analysis, attended monitoring and recording of physiologic data during sleep and wakefulness to assist in the assessment and diagnosis of sleep/wake disorders and other disorders, syndromes and dysfunctions that either are sleep related, manifest during sleep or disrupt normal sleep/wake cycles and activities. ()

20. Polysomnography Related Respiratory Care Services. The limited practice of respiratory care in the provision of polysomnography services, under the supervision of an Idaho licensed physician, by a person at a sleep disorder center or laboratory who holds a permit issued by the Board, as a registered polysomnographic technologist, polysomnographic technician or a polysomnographic trainee, or who is otherwise licensed as a respiratory care practitioner or who is exempt from licensure or permitting pursuant to this chapter and Section 54-4308, Idaho Code. Polysomnography related respiratory care services include therapeutic and diagnostic use of oxygen, noninvasive ventilatory assistance of spontaneously breathing patients and cardiopulmonary resuscitation and maintenance of nasal and oral airways that do not extend into the trachea, as ordered by an Idaho licensed physician or by written procedures and protocols of the associated sleep disorder center or laboratory as approved by an Idaho licensed physician and which do not violate any rules adopted by the Board. This chapter does not in any way authorize the practice of medicine or any of its branches by any person not so licensed by the Board. Further, licensed respiratory practitioners, and those exempt from licensure pursuant to this chapter and Section 54-4308, Idaho Code, are not limited in their scope of practice of provision of respiratory care, which they may provide, including care in connection with the provision of polysomnography services. ()

~~21.~~ **Practice Of Respiratory Care.** Means, but shall not be limited to, the provision of respiratory and inhalation therapy which shall include, but not be limited to: therapeutic and diagnostic use of medical gases, humidity and aerosols including the maintenance of associated apparatus; administration of drugs and medications to the cardiorespiratory system; provision of ventilatory assistance and ventilatory control; postural drainage, percussion, breathing exercises and other respiratory rehabilitation procedures; cardiopulmonary resuscitation and maintenance of natural airways, the insertion and maintenance of artificial airways; and the transcription and implementation of a physician's written, telephonic or verbal orders pertaining to the practice of respiratory care. It also includes testing techniques employed in respiratory care to assist in diagnosis, monitoring, treatment and research. This shall be understood to include, but not be limited to, measurement of ventilatory volumes, pressures and flows, specimen collection of blood and other materials, pulmonary function testing and hemodynamic and other related physiological monitoring of the cardiopulmonary system. The practice of respiratory care is not limited to the hospital setting but shall be performed under the general supervision of a licensed physician. (4-28-93)

~~22.~~ **Respiratory Care Protocols.** Policies, procedures or protocols developed or instituted by health care facilities or institutions, through collaboration when appropriate or necessary with administrators, physicians, registered nurses, physical therapists, respiratory care practitioners and other licensed, certified or registered health

care practitioners.

(4-28-93)

23. Registered Polysomnographic Technologist (RPSGT). The professional designation earned by a person who has successfully completed the comprehensive registry examination administered by the Board of Registered Polysomnographic Technologists, or by an equivalent board, recognized by the Board, and who holds a permit as set forth in this chapter and Section 54-4304A, Idaho Code, and who works under the supervision of an Idaho licensed physician to provide polysomnography related respiratory care services. ()

~~1724.~~ **Registered Pulmonary Function Technologist (RPFT).** The professional designation earned by a person who has successfully completed the advanced pulmonary function certification examination administered by the National Board for Respiratory Care, Inc. (4-28-93)

~~1825.~~ **Registered Respiratory Therapist (RRT).** The professional designation earned by a person who has successfully completed the written registry and clinical simulation examinations administered by the National Board for Respiratory Care, Inc., or certification examinations administered by an equivalent board, recognized by the Board. (~~4-28-93~~)()

~~1326.~~ **Respiratory Care.** Allied health profession responsible for the treatment, management, diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system, under the general supervision of a licensed physician. (2-23-94)

~~1527.~~ **Respiratory Care Practitioner.** A person who has been issued a license by the board. (4-28-93)

~~1928.~~ **Respiratory Therapist.** A person who practices or provides respiratory care. (4-28-93)

~~209.~~ **Respiratory Therapy.** The practice or performance of respiratory care, including but not limited to, inhalation therapy. (4-28-93)

30. Sleep Disorder Center Or Laboratory. A facility for sleep related disorders that provides polysomnography and is under the supervision of an Idaho licensed physician or medical director licensed by the Board who is responsible for patient care provided in such center or laboratory. A sleep disorder center or laboratory that provides polysomnography related respiratory care to patients shall have an Idaho licensed respiratory care practitioner, an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician, or a person exempt from licensure or permitting pursuant to this chapter and Section 54-4308, Idaho Code, in constant attendance. ()

~~1431.~~ **Supervision Of Respiratory Care.** The practice or provision of respiratory care by individuals holding a student or consulting and training exemption, or temporary permit shall be in direct association with a respiratory care practitioner or licensed physician who shall be responsible for the activities of the person being supervised and shall review and countersign all patient documentation performed by the individual being supervised. The supervising respiratory care practitioner or licensed physician need not be physically present or on the premises at all times but must be available for telephonic consultation. The extent of communication between the supervising or consulting respiratory care practitioner or licensed physician and the individual being supervised shall be determined by the competency of the individual, the treatment setting, and the diagnostic category of the client. (~~2-23-94~~)()

32. Temporary Permit. The Board may issue a temporary permit, limited to a total period of two (2) years, including initial and renewal, to a respiratory care practitioner applicant who meets the requirements set forth in this chapter and Section 54-4307, Idaho Code. The Board may issue a temporary permit, limited to a total period of two (2) years, including initial and renewal, to a polysomnographic trainee applicant who meets the requirements set forth in this chapter and Section 54-4304A, Idaho Code. ()

~~2433.~~ **Written Registry And Clinical Simulation Examinations.** The certification examinations administered by the National Board of Respiratory Care, Inc., or certification examinations administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person the professional designation of "Registered Respiratory Therapist" (RRT). (~~4-28-93~~)()

011. BOARD OF MEDICINE AND LICENSURE BOARD.

01. Powers And Duties. The Board of Medicine shall administer, coordinate and enforce the provisions of this chapter and Title 54, Chapter 43, Idaho Code, evaluate the qualifications, and may issue subpoenas, examine witnesses, and administer oaths, and may investigate practices which are alleged to violate the provisions of this chapter. The Board is authorized to enter into such contracts with the National Board for Respiratory Care, Inc., Board of Registered Polysomnographic Technologists or an equivalent board, recognized by the Board, as may be necessary or advisable to provide for or to facilitate verification of any applicant's claim that such applicant has successfully completed the entry level examination and/or the written registry and clinical simulation examinations or comprehensive registry examination. The Licensure Board will work in conjunction with the Board and will perform the duties and functions assigned by the Board, including: ()

a. Holding meetings, conducting interviews and keeping records and minutes as are necessary to carry out its functions. ()

b. Evaluating the qualifications of all applicants, making recommendations to and consulting with the Board concerning issuing, renewing and revoking licenses and permits. ()

c. Performing investigations of misconduct and making recommendations regarding discipline to the Board. ()

d. Maintaining a list of respiratory care and polysomnography related respiratory care practitioners currently holding a license or permit in this state. ()

02. Membership. The Licensure Board shall consist of five (5) members appointed by the Board, three (3) of whom shall be certified respiratory care practitioners, one (1) of whom, in addition to being an Idaho licensed respiratory care practitioner, shall also be an Idaho permitted registered polysomnographic technologist. All members shall be residents of Idaho at the time of their appointment and for their term of service. The persons appointed to the Licensure Board who are required to be licensed or hold permits under this chapter shall have been engaged in rendering respiratory care services and polysomnography related respiratory care services, respectively, to the public, in teaching, or in research in respiratory care and polysomnography related respiratory care services, respectively, for at least five (5) years immediately preceding their appointments. Three (3) members shall at all times be holders of valid licenses for the practice of respiratory care in Idaho and one (1) member shall also be a holder of a valid Idaho permit as a registered polysomnographic technologist, except for the members of the first Licensure Board following the effective date of this chapter, all of whom shall, at the time of appointment, hold the designation of certified respiratory therapy technician or registered respiratory therapist conferred by the National Board for Respiratory Care, Inc., and all of whom meet the requirements for licensure under the provisions of this chapter. The remaining two (2) members of the Licensure Board shall be members of health professions or members of the public with an interest in the rights of the consumers of health services. Each member of the Licensure Board shall be compensated as provided in Section 59-509(h), Idaho Code. ()

03. Appointment. The two (2) members of the Licensure Board who shall be licensed respiratory care practitioners shall be selected by the Board after considering a list of three (3) qualified applicants for each such vacancy submitted by the Idaho Society of Respiratory Care or other interested associations. The member of the Licensure Board who shall be a licensed respiratory care practitioner and an Idaho permitted registered polysomnographic technologist shall be selected by the Board after considering a list of three (3) qualified applicants submitted by the Idaho Sleep Disorder Association or other interested associations. In the event of a vacancy in one (1) of the positions, the Idaho Society of Respiratory Care or other interested association may recommend, as soon as practical, at least two (2) and not more than three (3) persons to fill that vacancy. The Board shall appoint, as soon as practical, one (1) person, who shall fill the unexpired term. If recommendations are not made within sixty (60) days of notification and request, the Board may make appointments of any qualified individual. The remaining two (2) public members shall be selected by the Board, who may solicit nominations of qualified applicants submitted by the Idaho Society For Respiratory Care, the Idaho Sleep Disorder Association or other interested associations or individuals. The first vacancy on the Licensure Board which occurs following the effective date of this chapter shall be filled by the appointment of a licensed respiratory care practitioner who is also the holder of a valid Idaho permit as a registered polysomnographic technologist. The Board may remove any Licensure Board member for misconduct, incompetence, or neglect of duty after giving the member a written statement of the charges and an opportunity to be

heard thereon. The Executive Director of the Idaho State Board of Medicine shall serve as the Executive Director to the Licensure Board. ()

04. Meetings. The Licensure Board shall hold biannual meetings and elect a chairman who shall preside at meetings of the Licensure Board. In the event the chairman is not present at any Licensure Board meeting, the Licensure Board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the Licensure Board shall constitute a quorum. Other meetings may be convened at the call of the chairman or the written request of any two (2) Licensure Board members. ()

05. Terms. All appointments shall be for three (3) year terms, but no person shall be appointed to serve more than two (2) consecutive terms. Terms shall begin on the first day of the appointment or when successors are appointed. ()

012. APPLICATION TO BOTH PERMITS AND LICENSES.

The provisions of this chapter governing procedures for suspension and revocation of licenses, payment and assessment of fees and governing misrepresentation, penalties and severability and other administrative procedures shall apply equally to permits for the practice of polysomnography related respiratory care services as to licenses for the practice of respiratory care. ()

~~0143.~~ -- 030. (RESERVED).

031. GENERAL PROVISIONS FOR LICENSURE AND PERMITS.

01. Moral Character. An applicant for licensure must be of good moral character and shall meet the requirements set forth in Section 54-4306, Idaho Code. An applicant for a permit must be of good moral character and shall meet the requirements set forth in Section 54-4304A, Idaho Code. The Board may refuse licensure or to issue a permit if it finds the applicant has engaged in conduct prohibited by Section 54-4312, Idaho Code, providing the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. (2-23-94)()

~~**02. Office.** Applications can be obtained from the central office of the Board, which will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be the Idaho State Board of Medicine, P.O. Box 83720, Boise, Idaho 83720-0058. The telephone number of the Board is (208) 334-2822. A TDD or telecommunications device for the deaf is available at (208) 377-3529. The Board's facsimile (FAX) number is (208) 334-2801. (2-23-94)~~

032. No Action On Application. An application upon which the applicant takes no further action will be held for no longer than one (1) year. (4-28-93)

032. APPLICATION FOR LICENSURE AND PERMITS.

01. All Application. Each applicant for licensure or permit 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 documentation of the following information: (4-28-93)()

ea. The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses; and (2-23-94)

eb. The disclosure of any charge, investigation or disciplinary action against the applicant by any state professional regulatory agency or professional organization that bears a demonstrable relationship to the ability of the applicant to practice in accordance with the provisions of this chapter; and (2-23-94)()

ec. The disclosure of the denial of registration or licensure by any state or district regulatory body; and (2-23-94)

ed. Not less than two (2) certificates of recommendation from persons, other than relatives or individuals living with the applicant, who have personal knowledge of at least one (1) year of the applicant's

character and the applicant's ability to work as a respiratory therapist or provide polysomnography related respiratory care services; and (2-23-94)()

~~g~~e. One (1) unmounted photograph of the applicant, no larger than three by four inch (3" x 4") (head and shoulders), taken not more than one (1) year prior to the date of the application; and (2-23-94)

~~h~~f. Such other information as deemed reasonably necessary and as is lawful for the Board to identify and evaluate the applicant's credentials; and (4-28-93)()

~~i~~g. Evidence that applicant is no less than eighteen (18) years of age; (2-23-94)()

~~j~~h. The Board may, at its discretion, require the applicant to appear for a personal interview; (2-23-94)()

02. Application For Respiratory Care Practitioner. ()

a. Documentation of ~~E~~evidence that applicant has passed the entry level examination and is a Certified Respiratory Therapist ~~T~~Technician (CRT~~T~~) or has successfully completed the written registry and clinical simulation examinations and is a Registered Respiratory Therapist (RRT); or (2-23-94)()

b. Documentation that the applicant ~~i~~s licensed as a respiratory care practitioner, or the equivalent at the discretion of the ~~B~~Board, in another state, district or territory of the United States; ~~and~~ (2-23-94)()

~~02~~c. Application for Temporary Permit. The Board may issue a temporary permit to an applicant who meets the requirements set forth by in this chapter and Section 54-4307, Idaho Code. A temporary permit shall authorize the practice of respiratory care under the supervision of a respiratory care practitioner or licensed physician. (2-23-94)()

~~e~~i. A temporary permit for a respiratory care practitioner may be converted to a permanent license by providing to the Board, verification of appropriate certification as a Certified Respiratory Therapist ~~T~~Technician (CRT~~T~~) or Registered Respiratory Therapist (RRT). (2-23-94)()

~~b~~ii. A temporary permit shall be effective for one (1) year from the date of issuance. (4-28-93)

~~e~~iii. A temporary permit may be renewed one (1) time for a period of one (1) year, upon application to the Board. (4-28-93)

~~i~~v. Application for a temporary permit shall be made to the Board on a form prescribed by the Board, together with the application fee. ()

03. Application For Inactive License. A person holding a current license issued by the Board to practice as a respiratory care practitioner may be issued, upon written application provided by the Board and payment of required fees to the Board, an inactive license on the condition that he will not engage in the provision of respiratory care services as a respiratory care practitioner in this state. ()

a. Issuance and Renewal. Inactive licenses shall be issued for a period of not more than five (5) years and such licenses shall be renewed upon payment of an inactive license renewal fee of no more than fifty dollars (\$50) for each renewal year. Such inactive licenses shall expire on the expiration date printed on the face of the certificate unless renewed. ()

b. Inactive to Active License. An inactive license may be converted to an active license to practice as a respiratory care practitioner upon written application and payment of active licensure fees for each inactive year minus paid inactive fees plus a conversion fee of no more than fifty dollars (\$50) to the Board. The applicant must account for the time during which an inactive license was held and document continuing competence. The Board may, in its discretion, require a personal interview to evaluate the applicant's qualifications. In addition, the Board may require evidence of an educational update and close supervision to assure safe and qualified performance. ()

04. Application For Respiratory Care And Polysomnography Related Respiratory Care Practitioner. ()

a. The Board may issue a dual license/permit to an applicant who meets the requirements set forth in this chapter and Sections 54-4306 and 54-4304A(2) and (3), Idaho Code. A dual license/permit shall authorize the holder to perform respiratory care and polysomnography related respiratory care in this state. ()

b. Application for a dual license/permit shall be made to the Board on a form prescribed by the Board, together with the application fee. ()

c. Such dual license/permit shall expire on the expiration date printed on the face of the certificate unless renewed. ()

05. Application For Polysomnography Related Respiratory Care Practitioner. ()

a. Only persons who are licensed as respiratory care practitioners or who are exempt from licensure pursuant to the chapter and Section 54-4308, Idaho Code, or who hold a permit issued by the Board as registered polysomnographic technologists, polysomnographic technicians or polysomnographic trainees may provide polysomnography related respiratory care services. ()

b. Qualifications for permit. An applicant for a permit to provide polysomnography related respiratory care services as a registered polysomnographic technologist or polysomnographic technician or for a temporary permit as a polysomnographic trainee under the provisions of Section 032 who is not otherwise licensed to provide respiratory care services or exempt from the requirements of this chapter pursuant to Section 54-4308, Idaho Code, must provide documentation of: ()

i. Being a high school graduate or have passed a general educational development (GED) examination and earned a GED certificate; and ()

ii. Being currently certified in cardiopulmonary resuscitation (CPR). ()

c. Application for Registered Polysomnographic Technologist. An applicant must provide documentation of successful completion of the comprehensive registry examination as a registered polysomnographic technologist administered by the Board of Registered Polysomnographic Technologists or an equivalent examination, approved by the Board as recommended by the Licensure Board. ()

d. Application For Polysomnographic Technician. An applicant must provide written documentation and a signed affidavit affirming and attesting to one (1) of the following qualifications: ()

i. Successful completion of a polysomnography program of not less than one (1) year duration, associated with a state licensed or a nationally accredited educational facility, as approved by the Board, as recommended by the Licensure Board; or ()

ii. Successful completion of a minimum of seven hundred twenty (720) hours of experience as a polysomnographic trainee with documented proficiency in polysomnography related respiratory care services, as approved by the Board, as recommended by the Licensure Board. ()

e. Application for Polysomnographic Trainee. An applicant must provide a signed affidavit from an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician, an Idaho licensed respiratory care practitioner, or an Idaho licensed physician affirming and attesting he shall provide for the direct supervision of performance of basic polysomnography related respiratory care services by a polysomnographic trainee applicant. Direct supervision means that such a person shall be on the premises where such polysomnography related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee applicant. Such Affiant shall be responsible for the activities of the supervised polysomnographic trainee and shall document his review of all patient documentation performed by the supervised polysomnographic trainee. If at any time during the term of the polysomnographic trainee's permit, the Affiant

providing for the direct supervision changes, the polysomnographic trainee shall provide a signed affidavit from his new Affiant providing for the direct supervision. Affiant shall provide written documentation the applicant has at least one (1) of the following qualifications: ()

i. At least seven hundred twenty (720) hours of experience as a paid employee or contractor in a health care related field. For the purposes of this Section, experience as a paid employee or contractor in a health care related field shall include any work providing direct clinical care to patients or having worked in a clinical care setting in which the applicant had direct interaction with patients, and an opportunity to observe the provision of clinical care to patients; ()

ii. Current enrollment in a polysomnography program associated with a state licensed or a nationally accredited education facility; or ()

iii. Successful completion of twenty-four (24) semester credit hours (or a quarter (1/4) hour system equivalent of the same) of postsecondary education at a state licensed or nationally accredited facility. ()

f. Permits. All permits shall be issued after applicants have met the requirements of this chapter and Section 54-4304A, Idaho Code and submitted a completed application and payment of a fee in an amount to be fixed by the Board for a period of not less than one (1) year nor more than five (5) years, the exact period to be fixed by the Board. Such permits shall expire on the expiration date printed on the face of the certificate unless renewed. The failure of any person to renew a renewable permit shall not deprive such person of the right to renewal, except as provided for herein and Section 54-4312, Idaho Code. The Board shall collect a fee in an amount to be fixed by the Board for the initial issuance and each renewal year. ()

i. Permits for registered polysomnographic technologists, including renewals, shall be issued for a period of not less than one (1) year nor more than five (5) years. Such permits shall be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee. ()

ii. Permits for polysomnographic technicians, including renewals, shall be issued for a period of one (1) year, and shall be renewed for successive one (1) year periods, not to exceed three (3) renewals for a total period of four (4) years. Such permits shall be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee. ()

iii. Temporary permits for polysomnographic trainees shall be issued for a period of not more than one (1) year, the exact period to be fixed by the Board. Such permits may be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee, for a period of one (1) year, with renewal limited to one (1) such renewal, provided however, such permits for polysomnographic trainees shall be limited to a total period of two (2) years. ()

iv. Reinstatement after failure to renew. Permits canceled for nonpayment of renewal fees may be reinstated by filing a completed request for renewal with the Board and paying a reinstatement fee, and back renewal fees. ()

v. Reapplication after failure to renew. A registered polysomnographic technologist, whose permit has been canceled for failure to renew for a period of more than two (2) years, shall be required to make application to the Board as a new applicant for a permit. A polysomnographic technician, whose permit has been canceled for failure to renew for a period of more than one (1) year, shall be required to make application to the Board as a new applicant for a permit. Temporary permits for polysomnographic trainees whose permits have been canceled for failure to renew for a period of more than six (6) months shall be required to make application to the Board as new applicants for permits. ()

vi. Continuing education. Each individual applicant for renewal of an active permit shall, on or before the expiration date of the permit, submit satisfactory proof to the Licensure Board of successful completion of not less than twelve (12) hours of approved continuing education pertaining to the provision of polysomnographic-related respiratory care per year in addition to any other requirements for renewal as adopted by the Board. The Board, as recommended by the Licensure Board, may substitute all or a portion of the coursework required in Section 032 when an applicant for renewal shows evidence of passing an approved challenge exam or of completing equivalent

education as determined by the Board, as recommended by the Licensure Board, to be in full compliance with the education requirements of this chapter. ()

g. Conditional Permits. Any individual who desires to provide polysomnography related respiratory care services as described in Section 54-4304A, Idaho Code, and this chapter and who meets the requirements of Subsection 032.03, as well as the necessary requirements in Subsections 032.05.g.i. through 032.05.g.iv., may make application for a conditional permit. Conditional permits shall be issued on or after January 1, 2004, as outlined in Section 54-4304A(8), Idaho Code, and shall be issued until the Board has adopted rules as may be required for the issuance of regular permits as provided in this chapter and has had an opportunity to process applications for such regular permits. ()

033. LICENSURE EXEMPTION FOR RESPIRATORY CARE PRACTITIONERS.

The Board may grant licensure exemption to ~~a~~ respiratory care practitioner applicant who meets the requirements set forth by Section 54-4308, Idaho Code. Individuals requesting exempt status must provide to the Board, satisfactory proof of the existence of facts entitling the person to the exemption. Conditions for which individuals may be granted exemptions include the following: ~~(2-23-94)~~()

01. Pulmonary Function Technologists. Certified or registered pulmonary function technologists who carry out only those professional duties and function for which they have been specifically trained. (2-23-94)

02. Respiratory Therapy Students. Individuals actively attending a full-time supervised course of study in an approved educational program leading to a degree or certificate in respiratory care. This exemption shall cease to exist if the individual fails to attend the approved course of study for a period of time in excess of one-hundred twenty (120) consecutive calendar days and immediately upon receipt of the degree or certificate for which such person pursued the course of study. The practice or provision of respiratory care by such individuals must be supervised by a respiratory care practitioner or licensed physician. (2-23-94)

03. Consulting And Training. For purposes of continuing education, consulting, or training for a period not to exceed thirty (30) days in a calendar year, provided that the individual meets the requirements in Section 54-4308(1)(e), Idaho Code. The practice or provision of respiratory care by such individuals must be supervised by a respiratory care practitioner or licensed physician. (2-23-94)

034. LICENSE EXPIRATION AND RENEWAL.

All licenses shall ~~expire on the 30th day of June following issuance or renewal~~ be issued for a period of not less than one (1) year nor more than five (5) years, the exact period to be fixed by the Board and shall become invalid after that date on the expiration date printed on the face of the certificate of the license unless renewed. The failure of any person to renew his renewable license shall not deprive such person of the right to renewal, except as provided for herein and Section 54-4312, Idaho Code. The Board shall collect a fee for each renewal year of a license. ~~(4-28-93)~~()

01. Annual Renewal. Each license shall be renewed ~~annually before July 1st~~ by submitting a completed request for renewal form accompanied by payment of the renewal fee to the Board. Licenses not renewed by the expiration date shall be canceled. ~~(4-28-93)~~()

02. Reinstatement. Licenses canceled for nonpayment of ~~yearly~~ renewal fees may be reinstated by filing a completed request for renewal with the Board and paying a reinstatement fee, and back renewal fees. ~~(2-23-94)~~()

03. Reapplication. A person whose license has been canceled for a period of more than five (5) years, shall be required to make application to the Board as a new applicant for licensure. (2-23-94)

04. Continuing Education. Prior to renewal each applicant for renewal shall submit evidence of successfully completing no less than twelve (12) clock hours of continuing education acceptable to the Board. Continuing education for licensure renewal must be germane to the practice or performance of respiratory care. Appropriate continuing professional education activities include but are not limited to, the following: (2-23-94)

a. Attending or presenting at conferences, seminars or inservice programs. (2-23-94)

- b. Formal course work in Respiratory Therapy related subjects. (2-23-94)

035. DENIAL OR REFUSAL TO RENEW LICENSE OR PERMIT OR SUSPENSION OR REVOCATION OF LICENSE OR PERMIT.

01. Discipline. A new or renewal application may be denied, and every person licensed or issued a permit pursuant to Title 54, Chapter 43, Idaho Code and these rules is subject to discipline, pursuant to the procedures and powers established by and set forth in Section 54-4312, Idaho Code; the Administrative Procedures Act, and IDAPA 22.01.07, "Rules of Practice and Procedure in Contested Cases of the Board of Medicine". ~~(2-23-94)~~(____)

02. Impose Sanctions. The Board, upon recommendation of the Licensing Board, may refuse to issue a license or ~~temporary~~ permit, or to renew a license, or permit, or may suspend or revoke a license or permit, or may impose probationary conditions if the holder of a license or ~~temporary~~ permit or applicant for license or ~~temporary~~ permit has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct includes, but is not limited to: ~~(2-23-94)~~(____)

a. Obtaining any license or ~~temporary~~ permit by means of fraud, misrepresentation or concealment of material facts; ~~(4-28-93)~~(____)

b. Being guilty of unprofessional conduct as defined by the rules of the Board, or violating the code of ethics adopted and published by the Board, a copy of which is attached to these rules; (2-23-94)

c. Being convicted of a crime which would have a direct and adverse bearing on the individual's ability to practice or perform respiratory care or polysomnography related respiratory care competently; ~~(4-28-93)~~(____)

d. The unauthorized practice of medicine; (4-28-93)

e. Violating any provisions of this chapter or any of the rules promulgated by the Board under the authority of this chapter; (4-28-93)

f. Being found mentally incompetent by a court of competent jurisdiction or unfit by the Board to provide respiratory care or polysomnography related respiratory care; ~~(4-28-93)~~(____)

g. Providing respiratory care or polysomnography related respiratory care which fails to meet the standard of health care provided by other qualified respiratory therapists or respiratory therapy technicians or registered polysomnographic technologists, polysomnographic technicians or polysomnographic trainees in the same community or similar communities; ~~(2-23-94)~~(____)

h. Using any controlled substance or alcohol to the extent that use impairs the ability to practice respiratory care or polysomnography related respiratory care at an acceptable level of competency; ~~(2-23-94)~~(____)

i. Employing, directing or supervising the unlicensed practice of respiratory care or those not holding a permit to provide polysomnography related respiratory care; ~~(2-23-94)~~(____)

j. Practicing in an area of respiratory care or polysomnography related respiratory care for which the individual is not trained; ~~(2-23-94)~~(____)

k. Failure to supervise the activities of individuals who hold exemptions, conditional or temporary permits; ~~(2-23-94)~~(____)

l. Delegation to an unqualified person of any services which require the skill, knowledge, and judgment of a respiratory care or polysomnography related respiratory care practitioner; ~~(2-23-94)~~(____)

m. In the case of practice as an individual entitled to exemption, conditional or temporary permit, the practice respiratory care or polysomnography related respiratory care other than under the supervision of a respiratory

care or appropriate polysomnography related respiratory care practitioner or licensed physician; ~~(2-23-94)~~()

n. Misrepresenting educational or experience attainments. ~~(2-23-94)~~()

o. Commission of any act of sexual contact, misconduct, exploitation or intercourse with a patient or former patient or related to the licensee's or permittee's provision of respiratory care or polysomnography related respiratory care; ()

i. Consent of the patient shall not be a defense; ()

ii. Subsection 035.02.o. shall not apply to sexual contact between a respiratory care or polysomnography related respiratory care practitioner and the spouse or a person in a domestic relationship who is also a patient; ()

iii. A former patient includes a person for whom the respiratory care or polysomnography related respiratory care practitioner has provided respiratory care or polysomnography related respiratory care within the last twelve (12) months; ()

iv. Sexual or romantic relationship with a former patient beyond the period of time set forth herein may also be a violation if the respiratory care or polysomnography related respiratory care practitioner uses or exploits the trust, knowledge, emotions or influence derived from the prior professional relationship with the patient; ()

p. Aiding or abetting a person not licensed, registered or permitted in this state who directly or indirectly performs activities requiring a license, registration or permit; ()

q. Failing to report to the Board any known act or omission of a licensee, permittee, applicant, or any other person, that violates any provision of this chapter; ()

r. Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal action; or ()

s. Failing to maintain patient confidentiality unless otherwise required or permitted by law. ()

036. -- 045. (RESERVED).

046. FEES.

Actual fees shall be set to reflect real costs of Board administration. Fees authorized under this chapter shall be used solely to carry out the purposes of this chapter including the provisions of Section 54-4317, Idaho Code. Each applicant shall be responsible for the payment of any fee charged by the National Board for Respiratory Care, Inc., Board of Registered Polysomnographic Technologists or an equivalent board, recognized by the Board.

~~(4-28-93)~~()

01. Licensure And Permit Fees For Respiratory Care Practitioners. ()

01a. Initial Licensure Fee. The fee for initial licensure, which may be prorated pursuant to Section 54-4309, Idaho Code, shall be no more than ninety dollars (\$90). ~~(4-28-93)~~()

01b. Reinstatement Fee. The reinstatement fee for a lapsed license shall be the ~~annual~~ renewal for each year not licensed plus a fee of thirty-five dollars (\$35). ~~(2-23-94)~~()

c. Inactive Fee - Reactivate Fee. The fee for converting an active license to an inactive license shall be no more than fifty dollars (\$50). An inactive license may be converted to an active license to practice as a respiratory care practitioner upon written application and payment of active licensure fees for each inactive year minus paid inactive fees plus a conversion fee of no more than fifty dollars (\$50) to the Board. ()

- ~~04~~d. Annual Renewal Fee. The ~~annual~~ renewal fee shall be no more than seventy dollars (\$70). (4-28-93)()
- ~~03~~e. Temporary Permit Fee. The fee for a temporary permit shall be no more than ninety dollars (\$90). (2-23-94)
- 02. Permit Fees For Polysomnography Related Respiratory Care Practitioners.** ()
- a.** Initial Permit Fee. The fee for an initial permit for a registered polysomnographic technologist or a polysomnographic technician shall be no more than ninety dollars (\$90). The fee for an initial permit for a polysomnographic trainee shall be no more than forty-five dollars (\$45). ()
- b.** Reinstatement Fee. The reinstatement fee for a lapsed permit for a registered polysomnographic technologists or a polysomnographic technician shall be the renewal fee for each year not holding an active permit plus a fee of thirty-five dollars (\$35). ()
- c.** Renewal Fee. The renewal fee for an active permit for a registered polysomnographic technologist and polysomnographic technician shall be no more than seventy dollars (\$70). The renewal fee for an active permit for a polysomnographic trainee shall be no more than thirty-five dollars (\$35). ()
- d.** Temporary Permit Fee. The fee for a temporary permit for a registered polysomnographic technologist and polysomnographic technician shall be no more than ninety dollars (\$90). The fee for a temporary permit for a polysomnographic trainee shall be no more than forty-five dollars (\$45). ()
- e.** Conditional Permit Fee. The fee for a conditional permit for a registered polysomnographic technologist and polysomnographic technician shall be no more than ninety dollars (\$90). The fee for a conditional permit for a polysomnographic trainee shall be no more than forty-five dollars (\$45). Conditional permits will issue on or after January 1, 2004, and will issue until issuance of regular permits as provided in this chapter. ()
- 03. Dual Licensure/Permit Fees For Practitioners Of Respiratory And Polysomnography Related Respiratory Care.** ()
- a.** Initial Licensure/Permit Fee. The fee for initial issuance of a dual license/permit, which may be prorated pursuant to Section 54-4309, Idaho Code, shall be no more than ninety dollars (\$90). A person holding a current license or permit, if qualified, may apply for and obtain a dual license/permit without paying an additional fee. ()
- b.** Reinstatement Fee. The reinstatement fee for a dual license/permit that has lapsed shall be the renewal for each year not dually licensed/permitted plus a fee of thirty-five dollars (\$35). ()
- c.** Renewal Fee. The renewal fee shall be no more than seventy dollars (\$70). Renewal shall be required upon the expiration of either the permit or the license, whichever expires first if the two (2) initially shall not have been obtained at the same time. ()
- 054. General Fee Information.** (4-28-93)
- a.** Necessary fees shall accompany applications. (4-28-93)
- b.** Fees shall not be refundable. (4-28-93)
- c.** In those situations where the processing of an application requires extraordinary expenses, the Board may charge the applicant with reasonable fees to cover all or part of the extraordinary expenses. (4-28-93)

(BREAK IN CONTINUITY OF SECTIONS)

100. CODE OF ETHICS.

01. Method Of Treatment. The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall practice medically acceptable methods of treatment and shall not endeavor to extend his practice beyond his competence and the authority vested in him by the physician. (2-23-94)(____)

02. Commitment To Self-Improvement. The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall continually strive to increase and improve his knowledge and skills and render to each patient the full measure of his ability. All service shall be provided with respect for the dignity of the patient, unrestricted by considerations of social or economic status, personal attributes, or the nature of health problems. (2-23-94)(____)

03. Confidentiality. The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall hold in strict confidence all privileged information concerning the patient ~~and refer all inquiries to the physician in charge of the patient's medical care~~ except as disclosure or use of information as permitted or required by law. (2-23-94)(____)

04. Gratuities. The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall not accept gratuities for preferential consideration of the patient; ~~he or she~~ and shall guard against conflicts of interest. (2-23-94)(____)

05. Professionalism. The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall uphold the dignity and honor of the profession and abide by its ethical principles. ~~He or she~~ and should be familiar with existing state and federal laws governing the practice of respiratory care and polysomnography related respiratory care and comply with those laws. (2-23-94)(____)

06. Cooperation And Participation. The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall cooperate with other health care professionals and participate in activities to promote community and national efforts to meet the health needs of the public. (2-23-94)(____)

101. -- 999. (RESERVED).

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.01.01 - RULES OF THE STATE BOARD OF ARCHITECTURAL EXAMINERS

DOCKET NO. 24-0101-0301

NOTICE OF RULEMAKING - PROPOSED RULE

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

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

Adds continuing education requirements for renewal of architects licenses.

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

There are no fees or charges imposed or increased as a result of these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the licensees have been notified of this pending requirement with no controversy.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 20th day of August 2003.

Rayola Jacobsen
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208)334-3233
(208)334-3945 (FAX)

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

411. -- ~~449~~. (RESERVED).

450. CONTINUING EDUCATION (Rule 450).

In order to protect the public health and safety and promote the public welfare, the Board has adopted the following

rules for continuing education. ()

01. Continuing Education Requirement. Each Idaho licensed architect must successfully complete a minimum of eight (8) hours of continuing education in architectural health, safety and welfare annually for license renewal. ()

a. Each licensee shall submit to the Board a license renewal application form, together with the required fees, certifying by signed affidavit that compliance with the annual CE requirements have been met during the previous twelve (12) months. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. ()

b. A licensee shall be considered to have satisfied their CE requirements for the first renewal of their initial license. Licensees who have failed to meet the annual continuing education requirement may petition the Board for additional time to complete their continuing education requirements. ()

c. Prior to reinstatement of a license lapsed, canceled or otherwise non-renewed for less than five (5) years, the applicant shall provide proof of attendance consisting of eight (8) hours of continuing education for each year the license was lapsed. A license lapsed, canceled or otherwise not renewed for more than five (5) years may be reinstated in accordance with Section 67-2614, Idaho Code. ()

d. A licensee may carryover a maximum of eight (8) hours of continuing education to meet the next year's continuing education requirement. ()

e. One (1) continuing education hour shall be equal to one (1) learning unit, as determined by the American Institute of Architects, or one (1) clock hour of education, as determined by the Board. ()

02. Architectural Health, Safety And Welfare Requirement. To qualify for continuing education, a course must involve architectural health, safety and welfare, which generally relates to the structural integrity or unimpairedness of a building or building sites and includes the following subject areas: ()

a. Architectural planning and pre-design, accessibility, acoustics, building design, code of ethics, codes, acts, laws and rules governing the practice of architecture, construction administration, construction laws, construction functions, materials, methods and systems, environmental issues, energy efficiency, asbestos, lead based paint, toxic emissions, environmental analysis and environmental issues of building materials and systems, fire, building fire codes, flames spread, smoke contribution, explosives, fire safety systems, fire detection alarm standards, insurance issues, interior design, material use, functions and features, materials systems, roofing, waterproofing, wall systems, mechanical, plumbing and electrical system concepts, materials and methods, security of buildings, natural hazards related to building design, earthquakes, high wind and floods, preservation, renovation, restoration and adaptive reuse and sustainable design, site and soil analysis, site design, specification writing, structural issues, survey methods and techniques, and such other subjects as determined by the Board. ()

03. Approved Credit. Continuing education courses must be in the subject of architectural health, safety and welfare and be presented by: ()

a. Providers approved by the National Architectural Accreditation Board (NAAB) schools of architecture; or ()

b. Providers approved by the National Council of Architect Registration Board (NCARB); or ()

c. Providers approved by the American Institute of Architects (AIA); or ()

d. Providers as otherwise approved by the Board. All requests for approval or pre-approval of continuing education credits must be made to the Board in writing and must be accompanied by a statement that includes the name of the instructor or instructors, his or her qualifications, the date, time and location of the course, the specific agenda for the course, the number of continuing education hours requested, and a statement of how the course is believed to be in the nature of architectural health, safety and welfare. ()

04. Verification Of Attendance. It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. This verification shall be maintained by the licensee for a period of three (3) years and provided to the Board upon request of the Board or its agent. ()

05. Failure To Fulfill The Continuing Education Requirements. The license will not be renewed for those licensees who fail to certify or otherwise provide acceptable documentation of meeting the CE requirements. Licensees who make a false attestation regarding compliance with the CE requirements shall be subject to disciplinary action by the Board. ()

06. Exemptions. A licensed architect shall be deemed to have complied with the CE requirements if the licensee attests in the required affidavit that for not less than ten (10) months of the preceding one (1) year period of licensure, the architect has met one (1) of the following criteria: ()

a. Has served honorably on active duty in the military service (exceeding ninety (90) consecutive days). ()

b. Is a resident of another jurisdiction recognized by the Board having a continuing professional education requirement for registration as an architect and has complied with all requirements of that state or district for practice therein. ()

c. Is a government employee working as an architect and assigned to duty outside the United States. ()

d. Special Exemption. The Board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The architect must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. ()

451. -- 499. (RESERVED).

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY

DOCKET NO. 24-0401-0301

NOTICE OF RULEMAKING - PROPOSED RULE

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

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

Deletes part of the rule requiring that mannequin hands for nail technology exam may not have artificial nails and corrects Idaho Code references.

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

There are no fees or charges imposed or increased as a result of these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there were no controversial changes made.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August, 2003.

Rayola Jacobsen
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0401-0301

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

01. Mannequin Hands For Manicure. Mannequin hands are mandatory for all portions of the nail

technology examination and must be treated in all respects, the same as a live model. ~~They may not have artificial nails.~~ (3-8-02)(____)

(BREAK IN CONTINUITY OF SECTIONS)

550. RULES FOR COSMETOLOGY SCHOOLS APPROVED TO TEACH ELECTROLOGY (Rule 550).
Section 54-802 ~~(n)~~8 provides for the teaching of electrology in cosmetology schools. (7-1-99)(____)

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

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

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

- a. Work stations equal to seventy-five percent (75%) of total enrollment. (7-1-97)
- b. Two (2) brands of machines (one (1) with three (3) method capability) Galvanic, Thermolysis, and Blend. (7-1-97)
- c. Two (2) treatment tables and adjustable technician chairs. (7-1-97)
- d. Two (2) swing arm lamps with magnifying lens. (7-1-97)
- e. Two (2) magnifying glasses. (7-1-97)
- f. Tweezers. (7-1-97)
- g. One (1) basin with approved water source. (7-1-97)
- h. Necessary sanitation equipment for implements. (7-1-97)
- i. Closed storage cabinet. (7-1-97)

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

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

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

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

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

551. -- 559. (RESERVED).

560. RULES FOR COSMETOLOGY SCHOOLS TEACHING ESTHETICS (Rule 560).

Section 54-802(~~p~~)~~8~~, Idaho Code, provides for the teaching of esthetics in cosmetology schools. (~~7-1-97~~)()

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

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

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

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

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

ii. Cosmetics. (3-30-01)

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

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

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

561. -- 569. (RESERVED).

570. RULES FOR COSMETOLOGY SCHOOLS TEACHING NAIL TECHNOLOGY (Rule 570).

Section 54-802(~~d~~)~~8~~, Idaho Code, provides for the teaching of nail technology in cosmetology schools. (~~7-1-97~~)()

01. Board Approval. The board may approve a school to teach nail technology who makes application on forms provided by the board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by

the board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach nail technology. (7-1-97)

02. Records Required. (7-1-97)

a. Records required of schools teaching nail technology shall be maintained in accordance with the records required for schools of cosmetology. (3-30-01)

b. Students may not render any clinical services to patrons until the student has completed at least forty (40) hours of instruction. All work done on patrons must be completed by students and supervised by instructors. (7-1-97)

03. Record Of Training. A record of operations completed by each student shall be maintained of the following: (3-30-01)

a. Form nails; (3-30-01)

b. Finished tips; (3-30-01)

c. Wraps and mends; and (3-30-01)

d. Basic manicures and pedicures. (3-30-01)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.06.01 - RULES GOVERNING THE BOARD OF HEARING AID DEALERS AND FITTERS

DOCKET NO. 24-0601-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-2914, Idaho Code.

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

Adds required sections; clarifies application fees and license fees currently being assessed; clarifies continuing education requirements; and amends sound field testing requirement.

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

There are no fees or charges imposed or increased as a result of these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes made are not controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Rayola Jacobsen at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August, 2003.

Rayola Jacobsen
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0601-0301

~~002: (RESERVED)~~

0032. WRITTEN INTERPRETATIONS (Rule 32).

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

003. ADMINISTRATIVE APPEALS (Rule 3).

Administrative Appeals shall be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (____)

004. INCORPORATION BY REFERENCE (Rule 4).

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

005. ADDRESS OF IDAHO BOARD OF HEARING AID DEALERS AND FITTERS (Rule 5).

The office of the Board of Hearing Aid Dealers and Fitters is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is had@ibol.state.id.us. The Board's official web site is at www2.state.id.us/ibol/had. (____)

006. PUBLIC RECORDS (Rule 6).

The records associated with the Board of Hearing Aid Dealers and Fitters are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (____)

0047. -- 009. (RESERVED).

010. DEFINITIONS (Rule 10).

01. Board. The Board of Hearing Aid Dealers and Fitters as prescribed in Section 54-2901, Idaho Code. (7-1-93)

02. Bureau. The Bureau of Occupational Licenses as prescribed in Sections 54-2914 and 67-2602, Idaho Code. (____)

(BREAK IN CONTINUITY OF SECTIONS)

150. FEES (Rule 150).

01. ~~Application~~ Original License Fee. ~~Application~~ The original license fee is two hundred fifty dollars (\$250) to be accompanied by the completed application. (Also includes examination when required.) (7-1-93)(____)

02. Examination Fee. Examination ~~fee~~ is two hundred fifty dollars (\$250). (7-1-93)(____)

03. Reexamination Fee. Reexamination ~~fee~~ is two hundred fifty dollars (\$250). (7-1-93)(____)

04. Temporary Permit. Temporary ~~permit~~ ~~fee~~ is two hundred fifty dollars (\$250). (7-1-93)(____)

05. Temporary Permit Reissue Fee. Temporary ~~permit~~ ~~reissue~~ ~~fee~~ is two hundred fifty dollars (\$250). (7-1-93)(____)

06. Annual Renewal Fee. Annual ~~renewal~~ ~~fee~~ is ~~two hundred fifty dollars (\$250) for fiscal years 1994 and 1995;~~ one hundred fifty dollars (\$150) beginning with fiscal year 1996 and on. (7-1-93)(____)

07. Reciprocity Fee. Reciprocity ~~fee~~ is two hundred fifty dollars (\$250). (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

250. ORIGINAL LICENSE EXPIRATION (Rule 250).

01. Original Licenses Issued Subject To The May Exam. All original licenses issued subject to the May examination shall expire ~~June 30th of~~ on the anniversary of the licensee's birth date in the year following the year of issue. (7-1-93)()

02. Licenses Issued Subject To Any Other Exam. Licenses issued subject to any other examination shall expire the following June 30th. **Term of License.** All license renewals shall be for a period of twelve (12) months in accordance with Section 67-2614, Idaho Code. (7-1-93)()

03. Original License Issued Other Than By Regularly Scheduled Exam. In the event an original license is issued other than subject to the regularly scheduled examinations the license shall expire the following June 30th. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

300. CONTINUING EDUCATION REQUIREMENTS (Rule 300).

01. Number Of Hours Required. Eight contact (8 CEU's) hours of Continuing Education is required annually for license renewal. Verification of minimum of eight (8) hours of continuing education during the twelve (12) months prior to license renewal shall be sent with the annual license renewal fee. (7-1-93)

02. Classes/Workshops Accepted. Only classes and/or workshops approved for continuing education credits by National Institute for Hearing Instruments Studies (NIHIS) or American Speech-Language-Hearing Association (ASHA) will be accepted. (7-1-93)

03. Effective Date. This rule shall go into effect July 1, 1989, with verification of continuing education required for renewal in 1990 and each subsequent year. **Documentation.** Licensees shall maintain documentation verifying CE attendance and curriculum for a period of three (3) years. This documentation will be subject to audit by the board. (7-1-93)()

04. Initial Compliance. Licensees shall not be required to meet the continuing education requirement during the first year in which they become licensed. ()

05. Equivalence. One (1) continuing education hour shall equal one (1) clock hour. ()

(BREAK IN CONTINUITY OF SECTIONS)

450. TESTING (Rule 450).

01. Purpose Of Rule. The purpose of this rule is to define, "tests utilizing appropriate procedures," as used in Section 54-2912(b)(5), Idaho Code. This rule is intended to be consistent with and to compliment FDA Rule 801.420 as it refers to hearing aid evaluations. This rule to be effective on and after July 1, 1979. (7-1-93)

02. Pre-Fitting Testing. All prospective hearing aid consumers must be given calibrated pure tone air and bone tests with masking when applicable. Speech tests must be given by appropriate equipment calibrated to

current H.T.L. reference levels.

(7-1-93)

03. Sound Field Testing. Before the prospective consumer purchases a hearing aid or within six (6) weeks afterward, the ~~consumer must be tested by a~~ licensed hearing aid dealer and fitter ~~in both the aided and unaided condition~~ must conduct the testing necessary to document that the fitted instrument meets industry standards and provides benefit to the consumer. ~~The purpose of the test is to document the benefit to the consumer.~~ This testing ~~may~~ shall be accomplished using appropriate sound field testing ~~so as~~ to ensure repeatability. ~~Suggested stimuli for sound field testing include speech, pulsed pure tone, warble tone, narrow band noise, damp wave trains, and ninety (90) degree modulated noise.~~ Verification of benefit may be accomplished using any one (1) of the following tests:

~~(7-1-93)~~()

- a.** Soundfield testing for speech discrimination in both the aided and unaided conditions; ()
- b.** Soundfield testing using warble tones or narrowband noise to evaluate functional gain; or ()
- c.** “Real ear” probe microphone measurements. ()

04. Records. A copy of all test data shall be kept on file by the hearing aid dealer and fitter for two (2) years after sale. (7-1-93)

05. Exemptions. The testing requirements contained in Subsections 450.02 and 450.03 of this rule shall not apply to those consumers who are not capable of responding to acceptable audiological pure tone tests. Examples of these types of consumers are: (7-1-93)

- a.** A child of tender years; (7-1-93)
- b.** The developmentally disabled; and (7-1-93)
- c.** The legally incompetent by a court order. (7-1-93)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.07.01 - RULES OF THE BOARD OF LANDSCAPE ARCHITECTS
DOCKET NO. 24-0701-03013
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-3003, Idaho Code.

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

Adds required sections; amends education section; amends practical experience section; clarifies application process; makes provision for landscape architect-in-training; clarifies examination section; replaces certificate fee with license fee; includes rules of professional responsibility; and amends meeting dates.

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

There are no fees or charges imposed or increased as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes made are not controversial.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Rayola Jacobsen at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August, 2003.

Rayola Jacobsen.
Owhyee Plaza
1109 Main Street, Suite 220
Boise, ID 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0701-0301

~~002. (RESERVED).~~

0032. WRITTEN INTERPRETATIONS (Rule 32).

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

003. ADMINISTRATIVE APPEALS (Rule 3).

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

004. INCORPORATION BY REFERENCE (Rule 4).

The document titled the American Society of Landscape Architects (ASLA) Code of Professional Ethics, as amended September 1999, referenced in Subsection 425, is herein incorporated by reference. ()

005. ADDRESS OF IDAHO BOARD OF LANDSCAPE ARCHITECTS (Rule 5).

The office of the Board of Landscape Architects is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is lar@ibol.state.id.us. The Board's official web site is at www2.state.id.us/ibol/lar. ()

006. PUBLIC RECORDS (Rule 6).

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

0047. -- 009. (RESERVED).

010. DEFINITIONS (Rule 10).

01. Board. The Idaho State Board of Landscape Architects, as prescribed in Section 54-3001(c), Idaho Code. (7-1-93)

02. Bureau. The Bureau of Occupational Licenses as prescribed in Sections 54-3003 and 67-2602, Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

101. APPROVED EDUCATION ~~REQUIREMENTS~~ (Rule 101).

~~The education requirements will be the~~ An approved colleges or schools of landscape architecture shall have a landscape architecture program accredited by the American Society of Landscape Architects, University of Idaho, and other schools or colleges or shall substantially meet the accrediting standards of the ASLA as may be approved determined by the Board. (7-1-93)()

102. PRACTICAL EXPERIENCE IN LIEU OF EDUCATION (Rule 102).

~~Upon examination of the applicant by the Board, the Board will have the option to require additional evidence of education and/or actual practical experience. This may be in the form of plans, photographs, etc. Work submitted to the Board shall demonstrate that the applicant is qualified under the definition of a Landscape Architect in the Act for Registration, Licensing and Regulation of Landscape Architects. An applicant shall document at least eight (8) years of actual practical experience in landscape architecture in lieu of graduation from an approved college or school of landscape architecture. Such experience shall establish the applicant's education in those subjects and areas contained in the curriculum of an approved college or school of landscape architecture. No less than fifty percent (50%) of such practical experience shall be under the supervision of a licensed landscape architect.~~ (7-1-93)()

103. -- 199. (RESERVED).

200. APPLICATION ~~FILING DATE~~ (Rule 200).

Applications for examination must be filed with the Bureau of Occupational Licenses by April first (1st) for the June examination, or October first (1st) for the December examination. Each applicant for licensure shall submit a complete application together with the required fees to the Board. An application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau. An application shall not be reviewed by the Board until all required information is furnished and the required fees paid. (11-25-94)()

201. APPLICATION FORM (Rule 201).

Each applicant is required to complete and return an application form whether applying for reciprocity or examination. (7-1-93)

01. Reference Requirements. Applicants are required to furnish the Board four (4) references (two (2) must be currently licensed Idaho Landscape Architects). All references must be from competent individuals who are well acquainted with the applicant's character and professional ability. (7-1-93)()

02. Materials Submitted To Board. All required applications, statements, fees and other *matters required to be furnished or paid by these rules* documentation must be submitted to the Board in care of the Bureau of Occupational Licenses, and shall include: (7-1-93)()

a. A passport photograph taken within thirty (30) days of the date of application; ()

b. Documentation of being at least eighteen (18) years of age at the time of application; and ()

c. Either certification of graduation from an approved college or school of landscape architecture; or ()

d. Documentation of all actual landscape architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. ()

03. Deadlines. To be considered by the Board, completed applications must be received by the Bureau at least thirty (30) days prior to the first day of the month in which the Board will meet. Applications for examination must be filed with the Bureau of Occupational Licenses by April 1 for the June examination, or October 1 for the December examination. ()

202. -- 2949. (RESERVED).

250. LANDSCAPE ARCHITECT-IN-TRAINING (Rule 250).

An individual may represent themselves as a landscape architect-in-training only under the following conditions: ()

01. Qualifications. Any person who is at least eighteen (18) years of age and has graduated from an approved college or school of landscape architecture, or who documents at least eight (8) years of actual practical experience in landscape architecture approved by the board. ()

02. Supervision. Each landscape architect-in-training shall be employed by and work under the direct supervision of an Idaho licensed landscape architect. ()

03. Prohibitions. A landscape architect-in-training shall not sign or seal any plan, specification, or other document, and shall not engage in the practice of landscape architecture except under the direct supervision of an Idaho licensed landscape architect. ()

04. Registration. Each landscape architect-in-training shall register with the Board on forms provided by the Bureau of Occupational Licenses that shall include the names and addresses of their employer, and supervisor. ()

251. -- 299. (RESERVED).

300. EXAMINATIONS (Rule 300).

The examination shall be that published by the Council of Landscape Architectural Registration Boards. Examinations will be in the months of June and December. (3-18-99)(____)

01. Minimum Passing Score. The minimum passing score for each section of the examination shall be seventy-five percent (75%). (7-1-93)

02. Failing A Section Of Exam. An applicant failing any section of the examination will be required to retake only that section failed. (7-1-93)

03. Required Forms. ~~Application and reference forms are required for original applications.~~ Each applicant approved for examination must provide notice of intent to sit for examination on a form approved by the board. Notice of intent to sit for examination must be filed with the Bureau of Occupational Licenses by April 1 for the June examination, or October 1 for the December examination. (7-1-93)(____)

04. Reexamination. Applicants applying for reexamination must file an application of intent to sit for examination by April 1 for the June examination, or October 1 for the December examination. The fees for reexamination shall be the same as those for examination and must accompany the application of intent to sit. (____)

301. RETAKES (Rule 301) (RESERVED).

~~Applicants must file a statement of intent to appear for retake by April 1 for the June examination, or October 1 for the December examination. The fee for retake must accompany statement of intent.~~ (11-25-94)

302. RECIPROCITY/LIMITED EXAMINATION ENDORSEMENT (Rule 302).

The board may ~~certify for~~ approve the registration and licensure of an applicant who ~~has achieved~~ holds a current ~~licensing~~ license in another state ~~by~~ and who has successfully ~~passing~~ passed the Landscape Architect Registration Examination as required by Section 300 or holds a current Council of Landscape Architectural Registration Boards certificate. (3-18-99)(____)

303. -- 399. (RESERVED).

400. FEES (Rule 400).

Fees are not refundable, therefore, applications should not be filed unless the applicant can meet all requirements. (7-1-93)

01. Application Fee. Application Fee (Original-Reapplication-~~Reciprocity~~Endorsement) One hundred dollars (\$100). (12-27-93)(____)

02. Examination Fees. Examination fees will be as established by the council of landscape architectural registration boards. (7-24-94)(____)

03. Original ~~Certificate~~ License And Annual License Fee. Original ~~certificate~~ license and annual license fee - One hundred dollars (\$100). (12-27-93)(____)

04. Reinstatement Fee. Reinstatement fee - Twenty-five dollars (\$25). (7-1-93)

~~05. Application Fee. All applicants for licensure must submit a one hundred dollar (\$100) application fee.~~ (12-27-93)

~~06. Submission Of Original Certificate Fee. The original certificate fee one hundred dollars (\$100) must be submitted upon acceptance by the Board for licensure.~~ (7-1-93)

075. Processing Fee. Applicants for ~~licensing~~ by examination must submit a twenty-five dollar (\$25) processing fee, together with the examination fees and the application fee. (12-27-93)(____)

401. -- 44924. (RESERVED).

425. RULES OF PROFESSIONAL RESPONSIBILITY (Rule 425).

01. Rules Of Professional Responsibility. The ASLA Code of Professional Ethics as amended September 1999 are hereby adopted as the Rules of Professional Responsibility for all Idaho licensed landscape architects. ()

02. Violation Of The Rules of Professional Responsibility. The Board will take action against a licensee under Section 54-3004(5), Idaho Code, who is found in violation of the Rules of Professional Responsibility. ()

426. -- 449. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

500. MEETINGS (Rule 500).

Board meetings will be held ~~on the third Friday of the months of January (optional), in April, July~~ and October of each year and at such other times as the Board deems necessary. ~~(7-1-93)~~()

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS

DOCKET NO. 24-0801-0301 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 15, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1106 and 54-1107, Idaho Code.

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

Current law was amended July 1, 2003 to include provisions for Crematories and Funeral Directors for protection of the public. These rules will define the qualifications and revise the rules to come into compliance with current Idaho Code.

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

To clarify qualification for funeral directors and have rules provide for qualifications and standards of crematories. Temporary rules are justified to protect the public health, safety, and welfare and to confer a benefit.

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 and the fee is described herein:

There is a fee added for Crematory establishment of \$200 as currently allowed in 24.08.02, "Rules of The Idaho State Board of Morticians Governing Crematories," which is being incorporated into 24.08.01, "Rules of the State Board of Morticians".

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there were no controversial changes made.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August, 2003.

Rayola Jacobsen
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0801-0301

300. ~~MORTICIAN APPLICATIONS AND EXAMINATION REQUIREMENTS~~ (Rule 300).

In order to be admitted to the *mortician* examination, the applicant must ~~have~~ submit an application on a form approved by the Board with the required fees documenting proof of having completed the training period as prescribed by law and these rules, and meet the specific requirements for license as set forth in Section 54-1109 of the Idaho Code as follows: ~~(7-1-93)~~(8-15-03)T

01. Age. Applicant must have attained the age of twenty-one (21) years by the time of examination. (7-1-93)

02. Moral Character. Must be of good moral character. (7-1-93)

03. Educational Requirements. Must have completed and received credit for at least sixty (60) semester hours or ninety (90) quarter hours instruction in a duly accredited college or university and has obtained at least a C grade average for all courses of instruction; provided, however, at least three-fourths (3/4) of all such credits must be for courses in fields of liberal arts, business or science directly relating to the knowledge required to successfully compete in the field of mortuary science. In questionable cases the decision of the board shall be final. These requirements shall be in addition to and not considered a part of the ~~graduation from~~ successful completion of an accredited embalming school for those pursuing licensure as a mortician. ~~(7-1-93)~~(8-15-03)T

a. Applicants pursuing licensure as a mortician must also document successful completion of an embalming college accredited by the American Board of Funeral Service Education, Inc. or an embalming college approved by the Board. (8-15-03)T

b. Applicants pursuing licensure as a funeral director must also document completion of at least fifteen (15) semester credit hours from a mortuary college accredited by the American Board of Funeral Service Education, Inc., or document such credits as may otherwise be approved by the Board. An approved course of study shall include business law, psychology, sociology, funeral service counseling, funeral service management and other classes that relate to conducting funeral business. (8-15-03)T

04. Photo. ~~A photo as specified in Section 200 above.~~ (7-1-93)

05. Embalming College. ~~Have completed embalming college as required. The Idaho Board of Morticians will accept graduates only from schools accredited by the American Board of Funeral Service Education.~~ (7-1-93)

064. Completion Of One Year As A ~~Mortician~~ Resident Trainee. Must have served one (1) year as required by statute as a *mortician* resident trainee and receive certification from ~~his~~ a sponsoring mortician in Idaho. ~~(7-1-93)~~(8-15-03)T

a. Trainees pursuing licensure as a mortician must document having assisted in embalming at least twenty-five (25) dead human bodies under the supervision of a sponsoring mortician. (8-15-03)T

b. Applicants pursuing licensure as a funeral director must document having assisted in making at least twenty-five (25) funeral arrangements and in conducting twenty-five (25) funerals under the supervision of a sponsoring mortician. (8-15-03)T

05. Examination. Each applicant for mortician or funeral director licensure must successfully pass the entire examination approved by the Board. (8-15-03)T

07. Payment Of Prescribed Application And Examination Fees. ~~Payment of prescribed application and examination fees.~~ (7-1-93)

301. ~~SUBJECTS ON EXAM (Rule 301).~~

~~Appear for examination the following subjects or have passed the National Board Examination:~~ (7-1-93)

~~01. **Psychology.** Psychology.~~ (7-1-93)

~~02. **Anatomy.** Anatomy.~~ (7-1-93)

~~03. **Chemistry.** Chemistry.~~ (7-1-93)

~~04. **Physiology.** Physiology.~~ (7-1-93)

~~05. **Sanitary Science.** Consists of the following:~~ (7-1-93)

~~a. **Bacteriology.**~~ (7-1-93)

~~b. **Pathology.**~~ (7-1-93)

~~06. **The Care, Disinfection, Preservation, Transportation Of, The Burial Or Other Final Disposition Of Human Remains.**~~ (7-1-93)

~~a. **Embalming.**~~ (7-1-93)

~~b. **Restorative Art.**~~ (7-1-93)

~~c. **Mortuary Administration.**~~ (7-1-93)

~~d. **Funeral Directing.**~~ (7-1-93)

~~07. **Laws Of The State Of Idaho.** The laws of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains.~~ (7-1-93)

~~08. **Rules Of The Department Of Public Health And/Or Public Welfare.** The rules of the Department of Public Health and/or Public Welfare relating to infectious diseases and quarantine.~~ (7-1-93)

~~09. **Demonstrate Proficiency As An Embalmer.** Demonstrate proficiency as an embalmer by operation on a cadaver.~~ (7-1-93)

301. -- 324. (RESERVED).

325. APPROVED EXAMINATION (Rule 325).

Applicants for licensure shall successfully pass the examinations set forth below. (8-15-03)T

01. Mortician Examination. The Mortician examination shall consist of: (8-15-03)T

a. All sections of the International Conference of Funeral Service Examining Board's National Board Examination; and (8-15-03)T

b. The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and (8-15-03)T

c. The examination of the rules of the Department of Health and Welfare relating to infectious diseases and quarantine. (8-15-03)T

02. Funeral Director. The funeral director examination shall consist of: (8-15-03)T

a. The Arts section of the International Conference of Funeral Service Examination Board's National

Board Examination; and (8-15-03)T

b. The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and (8-15-03)T

c. The examination of the rules of the Idaho Department of Health and Welfare relating to infectious diseases and quarantine. (8-15-03)T

~~302~~ **03. Grading (~~Rule 302~~).** The required average grade to pass the examination is seventy-five percent (75%). Provided further, that where the applicant has a mark score of less than seventy percent (70%) in one (1) or more subjects, such applicant shall not be passed, notwithstanding that his average mark may be higher than seventy-five percent (75%), however, should the applicant apply for reexamination he may, by board approval, be required to retake only that portion of the examination which he failed in previous examination. (~~7-1-93~~)(8-15-03)T

~~303~~26. -- 349. (RESERVED).

350. ENDORSEMENT (Rule 350).
Refer to Section 54-1109(3) and (4), Idaho Code, ~~Subsections B and C.~~ (~~7-1-93~~)(8-15-03)T

351. -- 399. (RESERVED).

400. EXPIRATION OF LICENSE (Rule 400).
All licenses shall ~~become delinquent on June 30 of~~ expire each year and will be cancelled ~~on July 1 of the same year~~ if not renewed by payment of the required fee before the birthdate of the license holder. There will be no grace period. (~~7-1-93~~)(8-15-03)T

(BREAK IN CONTINUITY OF SECTIONS)

451. APPLICATION FOR LICENSE TO OPERATE A CREMATORY (Rule 451).

01. Contents Of Application. Each applicant for a license to operate a crematory in Idaho shall supply to the Idaho Board of Morticians the following information: (8-15-03)T

a. Name and address of corporation or firm; and (8-15-03)T

b. Number of retorts; and (8-15-03)T

c. Signature of applicant; and (8-15-03)T

d. Date of signature. (8-15-03)T

02. Forms Issued By The Board. The required "Application for License to Operate a Crematory" will be issued in blank and be made available to applicants by the Board. (8-15-03)T

03. Equipment Listing, Drawing Approval And Air Quality Standards. As a part of the initial application for licensure, the applicant must submit the following to the Board: (8-15-03)T

a. Detailed information regarding the retort specifically documenting that the retort and accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code; (8-15-03)T

b. One (1) set of blueprints for the proposed new construction or remodeling where the retort is to be located. The blueprints must be approved by the local building department as being in compliance with applicable building codes and ordinances; and (8-15-03)T

c. A copy of the permit issued by the Department of Environmental Quality indicating compliance with air quality standards. (8-15-03)T

452. CREMATORY MINIMUM STANDARDS (Rule 452).

01. Reasonable Sanitation And Safety Required. In the interest of the protection of the public welfare, no license will be issued on an application to operate a crematory unless it is apparent that the crematory can, and will be operated in a reasonably sanitary and safe manner, free from substantial annoyance to the public. (8-15-03)T

02. Reduction Of Cremated Remains. No crematory will be licensed or operated unless it is capable of reducing human remains to cremains containing not more than five percent (5%) of the weight of the body immediately after death. (8-15-03)T

03. Delay Before Cremation. No dead human body, regardless of cause of death, is to be cremated, nor is actual cremation of such a body to be commenced, unless the county coroner in the county in which the death occurred gives his written authorization to cremate the body. (8-15-03)T

04. Embalming. If a dead human body is to be held longer than twenty-four (24) hours prior to cremation, the body must be either embalmed or refrigerated at thirty-six degrees Fahrenheit (36F) or less until cremated. No body can be held longer than fourteen (14) days after death prior to cremation unless there is a written request from the next-of-kin for holding the body. (8-15-03)T

05. Casket Not Necessary. It is not necessary for the body to be in a casket for cremation to take place. (8-15-03)T

a. This is not to be construed to mean that the crematory must cremate without a casket; and (8-15-03)T

b. It will not prevent the operators from developing their own internal requirements for aesthetic or sanitary reasons. (8-15-03)T

453. RECEIPT FOR BODIES TO BE CREMATED (Rule 453).

The following must be performed by the operator of a crematory upon receipt of a human body for cremation: (8-15-03)T

01. Provide A Receipt. A receipt must be delivered to the licensed mortician or funeral director, his agent, or another person who delivers such body to the crematory. (8-15-03)T

02. Contents Of Receipt. The receipt must show: (8-15-03)T

a. The name of the decedent whose body was received; and (8-15-03)T

b. The date on which that body was received; and (8-15-03)T

c. The place where that body was received; and (8-15-03)T

d. The name and address of the funeral establishment from whom that body was received; and (8-15-03)T

e. The name and address of the person, or the names and addresses of the persons, if more than one (1), who actually delivers the body. (8-15-03)T

454. RECORDS OF CREMATION OF BODIES (Rule 454).

01. Content Of Record. Each crematory must maintain a record of each cremation of human remains, all in the form of that crematory log as adopted by the board, disclosing: (8-15-03)T

- a.** The name of the decedent whose body was cremated; and (8-15-03)T
- b.** The name and address of the person, or names and addresses of the persons if more than one (1), authorizing the cremation of that body as received by the crematory or its representative; and (8-15-03)T
- c.** The date upon which that body was received by the crematory; and (8-15-03)T
- d.** The place where that body was received; and (8-15-03)T
- e.** A statement as to whether or not the body was embalmed; and (8-15-03)T
- f.** The date of the cremation of that body; and (8-15-03)T
- g.** The subsequent disposal of the cremated remains of that body by the crematory. (8-15-03)T

02. **Responsibility For Record.** Such record must be made as soon as reasonably possible after the cremation and must be dated and signed by the owner and operator of the crematory and by the licensed mortician who supervised or was otherwise directly responsible for the cremation. (8-15-03)T

03. **Inspection By The Board.** Such records must be maintained at the crematory and open for inspection at any reasonable time by the Board or its designated representatives. (8-15-03)T

455. **CONFIDENTIALITY OF RECORDS (Rule 455).**

Any disclosure of information obtained by the Board in connection with licensure activities and records of funerals or cremations must comply with Idaho Public Records Act 9-337 et seq., Idaho Code. (8-15-03)T

~~454~~. -- 499. (RESERVED).

500. **FEES (Rule 500).**

- 01.** **Funeral Director.** Funeral Director - Eighty-five dollars (\$85). (3-13-02)
- 02.** **Funeral Establishment.** Funeral Establishment – One hundred twenty-five dollars (\$125) (original license/annual renewal). (3-13-02)
- 03.** **Crematory Establishment.** Crematory Establishment - Two hundred dollars (\$200) (original license/annual renewal). (8-15-03)T
- 034.** **Mortician.** Mortician - Eighty-five dollars (\$85) (original license/annual renewal). (3-13-02)
- 045.** **Mortician Resident Trainee.** Mortician Resident Trainee - Fifty dollars (\$50) (original license/annual renewal). (3-13-02)
- 056.** **Application Fee.** Application Fee – One hundred dollars (\$100). (3-13-02)
- 067.** **Certificate Of Authority.** Certificate of Authority - Fifty dollars (\$50) (original certificate/annual renewal). (3-13-02)
- 078.** **Application For Reinstatement.** Application for reinstatement within five (5) years - Twenty-five dollars (\$25) reinstatement fee and annual renewal fees for back years (Reference Section 67-2614, Idaho Code). (7-1-93)
- 089.** **Maintenance Of Pre-Need Trust Accounts Fee.** Pursuant to Section 54-1134 D., Idaho Code, a fee not to exceed ten percent (10%) of the annual earned interest income may be charged for maintenance of pre-need trust accounts. (7-1-93)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.08.02 - RULES OF THE IDAHO STATE BOARD OF MORTICIANS GOVERNING CREMATORIES

DOCKET NO. 24-0802-0301 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1107, Idaho Code.

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

Effective July 1, 2003, Title 27, Chapter 3, Idaho Code, Crematory law was repealed and included in Title 54, Chapter 11, Idaho Code. Therefore, this chapter of rules is being repealed.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees or charges imposed or increased as a result of these rules.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 4th day of September, 2003.

Rayola Jacobsen
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

IDAPA 24.08.02 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.10.01 - RULES OF THE STATE BOARD OF OPTOMETRY

DOCKET NO. 24-1001-0301

NOTICE OF RULEMAKING - PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 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 clarify required examination and acceptable requirements, and clarify the continuing education requirements and the record keeping required for CE.

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

There are no fees or charges imposed or increased as a result of these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes made are not controversial.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August, 2003.

Rayola Jacobsen, Bureau Chief
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1001-0301

275. ENDORSEMENT (Rule 275).

01. Endorsement. Any person who presents to the Board of Optometry a certified copy of a certificate or license of registration which he holds in good standing in another state or a foreign country, which state or foreign

country has similar requirements for licensing or registration as is provided for new applicants in Idaho (including therapeutic privileges), may apply to the Board for the issuance of a license to practice optometry in the state of Idaho. (4-5-00)

02. Conditions To Be Granted A License. The right to be granted a license to practice optometry in Idaho is also subject to the following conditions set out below: (7-1-93)

a. The submission of a completed application meeting the requirements of Subsection 175.01 including the applicable fee. (4-5-00)

b. That the license or certificate of registration of the applicant shall not have been suspended or revoked by any state or country or subject to any pending or unresolved licensure action in any state or country. That the applicant must not have committed any act which would constitute a violation of the Optometry Act or Board Rules. (4-5-00)

c. That for those licensed in another state after January 1, 1986 the applicant has successfully passed the "Treatment and Management of Ocular Disease Examination" administered by the Association of Regulatory Boards of Optometry and completed and returned the state of Idaho law examination. For those licensed in another state before January 1, 1986 the applicant must document to the Board for approval, the education, training, and examination for therapeutic privileges in the other state and return the state of Idaho law examination. ~~(4-5-00)~~ ()

d. That the applicant has been engaged in the practice of optometry continuously for not less than the last five (5) years. (4-5-00)

276. -- 299. (RESERVED).

300. CONTINUING EDUCATION IN OPTOMETRY (Rule 300).

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

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

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

04. Waiver Of Requirements. The Board of Optometry shall waive the continuing education requirement for the first license renewal after initial licensure. The Board of Optometry may, upon application, waive the requirements of this rule in cases involving illness, unusual circumstances interfering with the optometrist's ability to practice or inability to conform to the rules due to military duty. (3-15-02)

05. Renewal Application Form. Each licensed Idaho optometrist will be furnished a license renewal application form by the State Board of Optometry on which each optometrist shall ~~list the name of the courses, the~~

~~location, date and hours of attendance, and shall submit the form prior to or with the renewal application for license filed each year. The secretary shall review each application form and maintain it for three (3) years attest on their annual license renewal application that they have satisfied the continuing education requirements. False attestation of satisfaction of the continuing education requirements on a renewal application shall subject the licensee to disciplinary action.~~ (7-1-93)()

06. Audit. The Board may conduct audits to confirm that the continuing education requirements have been met. In the event a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the license will not be renewed. ()

07. Documentation Of Attendance. It shall be necessary for each licensed Idaho optometrist to provide documentation verifying attendance or completion of continuing education by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution substantiating any hours attended by the licensee. This documentation must be maintained by the licensee and provided upon request by the Board or its agent. ()

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.12.01 - RULES OF THE STATE BOARD OF PSYCHOLOGIST EXAMINERS
DOCKET NO. 24-1201-0301
NOTICE OF RULEMAKING - PROPOSED RULE

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

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

Changes date on article incorporated by reference; corrects e-mail address; clarifies application procedure; amends exam section to comply with national testing; amends service extender section to clarify documentation required; and amends educational curriculum requirements.

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

There are no fees or charges imposed or increased as a result of these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there were no controversial changes made.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August 2003.

Rayola Jacobsen
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1201-0301

004. INCORPORATION BY REFERENCE (Rule 4).

The document titled "Ethical Principles of Psychologists and Code of Conduct", published by the American Psychological Association and dated ~~December 1, 1992~~ June 1, 2003, as referenced in Section 350, is herein

incorporated by reference and is available from the Board's office and on the Board web site. (3-15-02)()

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

The office of the Board of Psychologist Examiners is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ~~ibol~~ psy@ibol.state.id.us. The Board's official web site is at www2.state.id.us/ibol/psy. (3-15-02)()

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Completed Application. An application shall be completed by all applicants for licensure upon a form prescribed by the State Board of Psychologist Examiners. No application shall be accepted or considered by the Board prior to the date the required doctoral degree was conferred upon the applicant. (7-1-93)()

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

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

04. Post Graduate Experience. One (1) of the two (2) years of post-graduate experience as required by Section 2307(b), Idaho Code, (not the internship) may be pre-doctoral. The second year must be post-doctoral work under appropriate supervision and must be verified by the appropriate supervisor. (3-15-02)

05. Official Documentation. Official documentation of meeting the requirements of Chapter 23, Title 54, Idaho Code and IDAPA 24.12.01, must be received by the Board directly from the entity or person responsible for providing such official documentation. Applicants are responsible for requesting the required documentation from the appropriate entities and persons. (3-15-02)

06. Applications On File. Applications on file with the Board for a period in excess of five (5) years from the date of receipt by the Bureau shall be terminated unless good cause is demonstrated to the Board. ()

(BREAK IN CONTINUITY OF SECTIONS)

200. EXAMINATIONS (Rule 200).

01. Written Exam Required. The board will require a written examination of applicants. The written examination will be the National Examination for Professional Practice In Psychology, ~~and a score of seventy percent (70%) will be considered passing (EPPP).~~ (3-15-02)()

02. Passing Score. The board has determined that a passing score on the EPPP shall be a raw score of one hundred forty (140) or, for examinations after April 1, 2001, a scaled score of five hundred (500) for licensure. ()

023. Time And Place Of Exam. The examination will be conducted at a time and place specified by the board. (7-1-93)

034. Failure Of Exam. The first time the examination is failed the applicant may take it again the next time it is given upon application and payment of fees. If the examination has been failed twice, the individual must

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

(7-1-93)

045. Waiver Of Exam. Upon application, the examination may be waived to ~~a member~~ an applicant who is a diplomate in good standing of the American Board of Professional Psychology. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

450. GUIDELINES FOR USE OF SERVICE EXTENDERS TO LICENSED PSYCHOLOGISTS (Rule 450).

The board recognizes that licensed psychologists may choose to extend their services by using service extenders. The board provides general rules to cover all service extenders as well as specific rules to cover service extenders with different levels of training and experience.

(7-1-93)

01. General Provisions For Licensed Psychologists Extending Their Services Through Others.

(7-1-93)

a. The licensed psychologist exercising administrative control for a service extender shall:

(7-1-93)

i. Have the authority to cause termination of compensation for the service extender.

(7-1-93)

ii. Have the authority to cause the suspension or removal of the service extender from his position as a service provider.

(7-1-93)

b. The licensed psychologist exercising professional direction for a service extender shall:

(7-1-93)

i. Within thirty (30) days after employing the service extender, formulate and provide to the board a written supervisory plan for each service extender. The plan shall include provisions for supervisory sessions and chart review. If the psychologist requires tapes to be made of psychological services delivered by the service extender, then the plan shall also specify review and destruction of these tapes. The plan shall also specify the hours per calendar week that the licensed psychologist will be at the same physical location as the person extending the services of the licensed psychologist. The plan shall be accompanied by a completed application form and an application fee of fifty dollars (\$50).

(7-1-93)

ii. Establish and maintain a level of supervisory contact sufficient to be readily accountable in the event that professional, ethical, or legal issues are raised. There will be a minimum of one (1) hour of face-to-face supervisory contact by a licensed psychologist with the service extender for each one (1) to twenty (20) hours of services provided by the service extender during any calendar week. At least one half (1/2) of this face-to-face supervisory contact will be conducted individually, and up to one half (1/2) of this face-to-face supervisory contact may be provided using a group format. A written record of this supervisory contact, including the type of activities conducted by the service extender, shall be maintained by the licensed psychologist. Except under unusual circumstances, the supervisory contact will occur either during the week the services are extended or during the week following. In no case will services be extended more than two (2) weeks without supervisory contact between the service extender and a licensed psychologist.

(7-1-93)

iii. Provide the service extender a copy of the current Ethical Standards of the American Psychological Association, and obtain a written agreement from the service extender of his intention to abide by them.

(7-1-93)

02. Qualifications For Service Extenders.

(7-1-93)

a. Category I: A service extender will be placed in Category I if:

(7-1-93)

i. The licensed psychologist wishing to employ the service extender verifies in writing to the satisfaction of the board that the service extender holds a license issued by the state of Idaho to practice a specific profession, and that the issuance of that license requires the licensee hold a master's degree or its equivalent as determined by the board; or (7-1-93)

ii. The service extender meets the criteria for Category II specified below and the licensed psychologist wishing to employ the service extender verifies in writing to the satisfaction of the board that the service extender has satisfactorily functioned as a service extender to one (1) or more licensed psychologist for at least twenty (20) hours per calendar week over a period totaling two hundred sixty (260) weeks. (7-1-93)

b. Category II: A service extender will be placed in Category II if the licensed psychologist wishing to employ the service extender verifies in writing to the satisfaction of the board that the service extender holds a master's degree from a program in psychology, counseling, or human development as determined by the board. (7-1-93)

03. Conditions For Use Of Service Extenders. (7-1-93)

a. All persons used to extend the services of a licensed psychologist shall be under the direct and continuing administrative control and professional direction of a licensed psychologist. These service extenders may not use any title incorporating the word "psychologist" or any of its variants or derivatives, e.g. "psychological," "psychotherapist," etc. (7-1-93)

b. Work assignments shall be commensurate with the skills of the service extender and procedures shall be planned in consultation with the licensed psychologist under all circumstances. (7-1-93)

c. Public announcement of fees and services, as well as contact with lay or professional public shall be offered only in the name of the licensed psychologist whose services are being extended. However, persons licensed to practice professions other than psychology may make note of their status in such announcements or contacts. (7-1-93)

d. Setting and collecting of fees shall remain the sole domain of the licensed psychologist; excepting that when a service extender is used to provide services of the licensed psychologist, third party payers shall be informed of this occurrence in writing at the time of billing. Unless otherwise provided in these rules and regulations, licensed psychologists may neither claim or imply to service recipients or to third party payers an ability to extend their services through any person who has not been approved as a service extender to that psychologist as specified in this section. (7-1-93)

e. All service recipients shall sign a written notice of the service extender's status as a service extender for the licensed psychologist. A copy of the signed written notice will be maintained on file with the licensed psychologist. (7-1-93)

f. Within the first three (3) contacts, the licensed psychologist shall have face-to-face contact with each service recipient. (7-1-93)

g. A licensed psychologist shall be available to both the service extender and the service recipient for emergency consultation. (7-1-93)

h. Service Extenders shall be housed in the same service delivery site as the licensed psychologist whose services they extend. Whatever other activities they may be qualified to perform, service extenders shall limit themselves to acting as service extenders of the licensed psychologist when providing direct services so long as they are physically located in the offices of the licensed psychologist. (7-1-93)

i. A service extender in Category I may deliver as much as, but not more than fifty percent (50%) of their service while the licensed psychologist is not physically present at the service delivery site. A service extender in Category II may deliver as much as, but not more than twenty-five percent (25%) of their service while the licensed psychologist is not physically present at the service delivery site. Service Extenders providing as many as, but no more than, three (3) hours of service extension per calendar week shall be exempted from these provisions.

Without notification to the board, short term exemption from this rule for atypical circumstances, such as irregular travel by the licensed psychologist, may occur for periods as long as, but no longer than three (3) calendar weeks. Longer exemptions may be granted at the discretion of the board on written request by the licensed psychologist to the board. (7-1-93)

j. The licensed psychologist shall employ no more than three (3) service extenders. (3-18-99)

k. When a licensed psychologist terminates employment of a service extender, the licensed psychologist will notify the board in writing within thirty (30) days. (7-1-93)

l. At the time of license renewal the licensed psychologist shall submit for each service extender a fee of fifty dollars (\$50) together with certification to the board that they possess: (7-1-93)()

i. A ~~copy of the~~ written record of supervisory contact for the previous twelve (12) months ~~with the names of service recipients removed;~~ and (7-1-93)()

ii. The percentage of time during the previous twelve (12) months that the service extender extended services while the licensed psychologist was at the service delivery site; and (7-1-93)()

iii. An updated plan for the supervision of each of his service extenders. ~~The updated plan shall be accompanied by a fee of fifty dollars (\$50).~~ (7-1-93)()

m. Documentation of supervisory contact, hours of supervision, hours of extender services, and plan of supervision shall be maintained by the supervisor for not less than three (3) years for each service extender and submitted to the board upon request. ()

451. -- 499. (RESERVED).

500. EDUCATIONAL AND CREDENTIALING REQUIREMENTS FOR LICENSURE (Rule 500).

Applicants who receive a doctoral degree from a program accredited by the American Psychological Association are considered to have met all criteria outlined in Section 500. (5-3-03)

01. Training In Professional Psychology. Training in professional psychology is doctoral training offered in an institution of higher education accredited by: (7-1-93)

a. Middle States Association of Colleges and Schools. (7-1-93)

b. The New England Association of Schools and Colleges. (7-1-93)

c. The North Central Association of Colleges and Schools. (7-1-93)

d. The Northwest Association of Schools and Colleges. (7-1-93)

e. The Southern Association of Colleges and Schools. (7-1-93)

f. The Western Association of Schools and Colleges. (7-1-93)

02. Training Program. The training program must stand as a recognizable, coherent organizational entity within the institution. Programs that are accredited by the American Psychological Association or that meet the criteria for such accreditation are recognized as meeting the definition of a professional psychology program. (5-3-03)

03. Authority And Primary Responsibility. There must be a clear authority and primary responsibility for the core and specialty areas. (7-1-93)

04. Content Of Program. The program must be an integrated, organized sequence of study. (7-1-93)

05. There Must Be An Identifiable Training Faculty And A Psychologist Responsible For The Program. There must be an identifiable training faculty on site of sufficient size and breadth to carry out the training responsibilities. A faculty psychologist must be responsible for the program. (5-3-03)

06. Program Must Have An Identifiable Body. The program must have an identifiable body of students who are matriculated in that program for a degree. (7-1-93)

07. What The Program Must Include. The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology. Pre-doctoral internships must be completed at member sites of the Association of Psychology Postdoctoral and Internship Centers, or sites demonstrating an equivalent program. (5-3-03)

08. Curriculum. The curriculum shall encompass a minimum of three (3) academic years of full time graduate study at least one (1) year of which is spent in full-time physical residence at the degree granting educational institution. In addition to instruction in ~~scientific and professional ethics and standards, research design and methodology, statistics, and psychometrics~~ professional areas of competence, which include assessment and diagnosis, intervention, consultation, and supervision, the core program shall require each student to demonstrate competence in ~~each of the following~~ specific substantive content areas. ~~This typically will be met by including a minimum of three (3) or more graduate semester hours (five (5) or more graduate quarter hours) in each of these four (4) substantive content areas~~ Minimal competence is demonstrated by passing a three (3) credit semester graduate course (or a five (5) credit quarter graduate course) in each of the substantive areas listed below: (7-1-93)()

a. Biological Bases of Behavior: Physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology. (7-1-93)

b. Cognitive-Affective Bases of Behavior: Learning, ~~thinking~~ cognition, motivation, emotion. (7-1-93)()

c. Social Bases of Behavior: Social psychology, group processes, organizational and systems theory. (7-1-93)

d. Individual Differences: Personality theory, human development, abnormal psychology. (7-1-93)

e. Scientific and Professional Standards and Ethics. ()

f. Research Design and Methodology. ()

g. Techniques of Data Analysis: statistics, multivariate statistics, factor analysis, multiple regression, non-parametric statistics. ()

h. Psychological Measurement: psychometric principles, test theory, personality assessment, cognitive assessment. ()

i. History and Systems of Psychology. ()

j. Multiculturalism and Individual Diversity. ()

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.14.01 - RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS

DOCKET NO. 24-1401-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-3204, Idaho Code.

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

Adds definition for psychotherapy, clarifies practice of social work at each level, clarifies examination procedure and endorsement requirements, amends continuing education in cases involving illness, clarifies continuing education ethics requirement, and allows continuing education from social services agencies.

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

There are no fees or charges imposed or increased as a result of these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes made were with assistance of interested parties.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August 2003.

Rayola Jacobsen
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1401-0301

010. DEFINITIONS (Rule 10).

01. Board. The State Board of Social Work Examiners as prescribed in Section 54-3202, Idaho Code.

(7-1-93)

02. Bureau. The Bureau means the Bureau of Occupational Licenses, as prescribed in Sections 54-3204 and 67-2602, Idaho Code. (3-13-02)

03. Psychotherapy. Treatment methods using a specialized, formal interaction between a Clinical Social Worker and an individual, couple, family, or group in which a therapeutic relationship is established, maintained, or sustained to understand unconscious processes, intrapersonal, interpersonal, and psychosocial dynamics, and the diagnosis and treatment of mental, emotional, and behavioral disorders, conditions, and addictions. ()

(BREAK IN CONTINUITY OF SECTIONS)

201. PRACTICE OF SOCIAL WORK.

01. Baccalaureate Social Work. The application of social work theory, knowledge, methods, and ethics to restore or enhance social or psychosocial functioning of individuals, couples, families, groups, organizations, and communities. Baccalaureate social work is a generalist practice that includes assessment, planning, intervention, evaluation, case management, information and referral, supportive counseling, supervision, and consultation with clients. Baccalaureate social work also includes advocacy, education, community organization, and the development, implementation and administration of policies, programs, and activities. ~~Bachelor level social workers are prohibited from performing clinical social work.~~ (5-3-03)()

02. Master's Social Work. The application of social work theory, knowledge, methods and ethics, and the professional use of self to restore or enhance social, psychosocial or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. Master's social work requires the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, supportive counseling, supervision and consultation with clients, advocacy, teaching, research, community organization, and the development, implementation, and administration of policies, programs, and activities. Master level social workers who do not hold clinical licensure may provide ~~clinical social work~~ psychotherapy only under the supervision of a licensed clinical social worker, psychologist, or psychiatrist and in accordance with an approved supervision plan. (refer to supervision plan)- (5-3-03)()

03. Clinical Social Work. The practice of clinical social work is a specialty within the practice of master's social work and requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions and addictions. Clinical social work is based on knowledge and theory of psychosocial development, behavior, psychopathology, motivation, interpersonal relationships, environmental stress, social systems, and cultural diversity, with particular attention to person-in-environment. It shares with all social work practice the goal of enhancement and maintenance of psychosocial functioning of individuals, families, and small groups. Clinical social work encompasses interventions directed to interpersonal interactions, intrapsychic dynamics, and life-support and management issues. It includes, but is not limited to, individual, couples, family and group psychotherapy, and includes independent and private practice. (5-3-03)()

04. Clinical Practice Exemption. A social worker licensed at the masters level prior to August 5, 2002 engaged in clinical social work and employed directly by a physician, psychologist or other social worker, or by a public or private agency, institution, hospital, nursing home, rehabilitation center, or any similar facility may meet the supervised experience requirement for clinical licensure upon submission of documentation prior to January 1, 2005 showing a minimum of one hundred (100) face-to-face hours of employer provided supervision. ()

045. Independent Practice Of Social Work. As defined in Section 54-3207, Idaho Code, is that practice in which an individual who, wholly or in part, practices social work autonomously, with responsibility for that practice. No social worker, regardless of the level of licensure, shall engage in independent practice until such time as the social worker shall have worked in a supervised setting and received a minimum of three thousand (3000)

hours in a supervised setting in no less than two (2) years. Anyone holding a current Idaho Social Work license who was licensed in Idaho prior to August 5, 2002 shall be exempt from the requirement to submit a plan of supervision and may apply for the Independent Practice certification. Such applicant shall, prior to January 1, 2005, submit documentation establishing that a minimum of three thousand (3000) hours of supervised practice, including one hundred (100) face-to-face hours, was obtained: ~~(5-3-03)~~()

a. In a supervised setting and provided by a qualified and experienced professional working in the same area of practice; ()

b. That supervision occurred on a regular and on-going basis; and ()

c. That the supervisor(s) held a social work license in good standing. ()

056. Private Practice of Social Work. As defined in Section 54-3207, Idaho Code, is that independent practice in which an individual sets up and maintains responsibility for the contractual conditions of payment with clients, agencies, or institutions. (5-3-03)

067. Employment Of A Social Worker. A social worker employed directly by a physician, psychologist or other social worker, or by a public or private agency, institution, hospital, nursing home, rehabilitation center, or any similar facility, is not to be considered within the definition of an independent practitioner. Furthermore, a social worker who contracts with an agency or institution that assumes full responsibility for and supervises the services provided to clients is not considered to be a private practitioner. (5-3-03)

078. Supervision. Consultative-teaching supervision that is directed toward enhancement and improvement of the individual's social work values, knowledge, methods, and techniques. Supervision shall be face-to-face and provided by a qualified and experienced professional working in the same area of practice. Supervision for licensure as an independent social worker must occur on a regular and on-going basis and consist of a minimum of one hundred hours (100) hours. Ratio of supervisor/supervisee shall not exceed two (2) social workers to one (1) supervisor per hour of supervision. Supervisors must hold a degree in social work and a current license in good standing, except as noted in Subsection 201.078.c. ~~(5-3-03)~~()

a. Supervision of baccalaureate social workers pursuing licensure as independent practitioners must be provided by a licensed social worker who is approved to provide independent practice at the baccalaureate, masters, or clinical level. (5-3-03)

b. Supervision of masters social workers pursuing licensure as independent practitioners must be provided by a licensed social worker approved to provide independent practice at the masters or clinical level. (5-3-03)

c. Supervision of social workers pursuing licensure as clinical level independent practitioners must be provided by a licensed clinical social worker, a licensed clinical psychologist, or a person licensed to practice medicine and surgery who practices in the area of psychiatry. (5-3-03)

d. Supervision reports shall be submitted from each supervisor directly to the Board within thirty (30) days following each six (6) month period. Failure of the supervisor to submit the required reports in a timely manner may result in the supervisor being restricted by the Board from providing further supervision. ~~(5-3-03)~~()

089. Supervised Practice Required. To be eligible for licensure as an independent practitioner a candidate must: (5-3-03)

a. Meet the requirements set forth in Subsection 201.078; ~~(5-3-03)~~()

b. Develop a plan for supervision that must be approved by the Board prior to commencement of supervision. Prior to a change in supervisors, the supervisee must notify the Board and the change must be approved by the Board prior to the commencement of supervision by the new supervisor; and (5-3-03)

- c. Not have more than two (2) supervisors at any given time. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

350. EXAMINATIONS AND BOARD MEETINGS (Rule 350).

Examinations will be conducted by the board for qualified applicants for social work licensing and board meetings will be held to conduct other business. Applications for examination may be reviewed and approved by a designated Board member upon determination that the applicant has submitted a complete application and all required documentation to be considered for examination. Approval to sit for examination does not obligate the Board to issue a license if it is later determined that the applicant does not meet the requirements for licensure. (~~7-1-93~~)(____)

01. Board Meetings. Board meetings will be held at least three (3) times each year at such times and places as the board deems necessary. (5-3-03)

02. Exam Utilized. The Board utilizes the uniform, nationally standardized examination of the Association of Social Work Boards (ASWB). (5-3-03)

a. Bachelor level candidates shall be required to successfully pass the basic examination. (5-3-03)

b. Masters level candidates shall be required to successfully pass the intermediate examination. (5-3-03)

c. Clinical level candidates shall be required to successfully pass the clinical examination. (5-3-03)

03. Dates Of Exams. Examination at all levels of social work licensing will be conducted on dates established for national administration. (7-1-93)

04. Graduation Date To Qualify For Exam. Candidates for examination who can satisfy the board that they will be graduating at the end of the spring, summer or fall terms of any given year, may qualify for examination at the established testing period immediately preceding the date of graduation. (5-24-95)

05. Exemption From Exam. An applicant who has been tested for licensure utilizing an acceptable examination will be exempt from the Idaho examination if the applicant received a converted score of seventy (70) based upon a criterion reference examination. (7-1-93)

06. Endorsement. The Board may grant a license to any person who submits a completed application on a form approved by the Board together with the required fees and who: (5-3-03)

a. Holds a current active social work license, ~~in the profession~~ at the level for which a license is being sought, issued by the authorized regulatory entity in another state or country, the certification of which must be received directly by the Board from the issuing agency; and (~~5-3-03~~)(____)

b. Has not been disciplined within the last five (5) years, had a license revoked, suspended, restricted, or otherwise sanctioned by any regulatory entity and has never voluntarily surrendered a license; and (5-3-03)

c. Is of good moral character and has not been convicted, found guilty, or received a withheld judgment or suspended sentence for any felony; and (5-3-03)

d. Has successfully passed an examination, as referenced in Subsection 350.02, or an examination provided by the Professional Examination Service (PES) at the clinical social worker and social worker level or the Education Testing Service (ETS) examination; and (5-3-03)

e. Has certified under oath to abide by the laws and rules governing the practice of social work in Idaho and the code of professional conduct. (5-3-03)

~~07. **Application Deadline.** Applications must be received in the Bureau of Occupational Licenses at least ten (10) days prior to the next board meeting. Candidates whose applications are received after this date will be scheduled for the subsequent board meeting. (5-3-03)~~

351. CONTINUING EDUCATION (Rule 351).

01. Continuing Education Requirements. (7-1-95)

a. Continuing education is required for renewal at all levels of social work licensure in Idaho. The board may, upon application, waive the requirements of this rule in cases involving illness or unusual circumstances interfering with the licensee's ability to practice or inability to conform to the rules. (5-3-03)()

b. The completion of a minimum of twenty (20) continuing education (CE) hours annually is required to renew each licensure level. (5-3-03)

c. Compliance with the continuing education (CE) requirements for licensees shall be reported annually. A continuing education course taken in any renewal year, but not claimed for CE credit in that year, may be utilized for credit in the following renewal year. (5-3-03)

d. Each licensed social worker shall complete and return to the Bureau a Board approved continuing education report form as part of the annual renewal of licenses. (5-3-03)

e. Licensees will maintain documentation verifying CE attendance and curriculum for a period of four (4) years. This documentation will be subject to audit by the board. (5-3-03)

f. Licensees shall not be required to comply with this requirement during the first year in which they become licensed under the social work act. (5-3-03)

g. One (1) continuing education hour shall equal one (1) clock hour. (7-1-95)

h. Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of fifteen (15) CE hours for each semester hour or ten (10) CE hours for each quarter hour of school credit awarded. (7-1-95)

i. No more than ten (10) continuing education hours may be obtained from category II. (7-1-95)

j. As part of the required hours of continuing education, all licensees must complete at least ~~four~~ one (~~4~~) hours of training every ~~four~~ (~~4~~) years in professional ethics. (7-1-95)()

k. Applications for reinstatement of a cancelled license shall include documented proof of meeting the continuing education requirements for the previous twelve (12) months. The ~~four~~ (~~4~~) ~~year cycle~~ requirement for professional ethics training shall continue during any period of cancellation. (5-3-03)()

02. Categories Of Continuing Education. (7-1-95)

a. Category I. Category I includes formally organized learning events, ideally involving face-to-face interaction with a teacher for the purpose of accomplishing specific learning objectives. Courses, workshops, conferences, practice oriented seminars, staff development and training activities coordinated and/or taught by approved and recognized educators also are included in this category. Because of our geographic location and sparse population, closed circuit T.V., video tapes, and correspondence courses may be substituted for face-to-face contact if coordinated by an approved instructor. Videotaped presentations require a discussion period to follow that reviews the learning objectives of the taped program. (7-1-95)

b. Category II. Category II consists of a variety of self-directed professional study activities and growth experiences. Examples include making an initial presentations on professional issues or programs, teaching a course for the first time, presenting a lecture, or conducting a workshop for the first time, editing or writing professional books or articles, and conducting professional research. (7-1-95)()

c. The subject matter of all approved continuing education shall be germane to the practice of social work as defined in Section 54-3202, Idaho Code, and may include the specialties of Marriage and Family Therapy, Psychiatry, Psychiatric Nursing, Psychology, or Pastoral Counseling. (5-3-03)

03. Continuing Education Sources. (7-1-95)

a. Continuing education course providers shall include: (5-3-03)

i. Professional Associations. Continuing education hours may be obtained by participating in activities sponsored by or approved by professional associations including but not limited to the Idaho Chapter of the National Association of Social Workers, Idaho Society for Clinical Social Workers. The professional association shall certify the number of clock hours of educational content in each sponsored or approved activity. (5-3-03)

ii. Educational Institutions. Continuing education hours may be obtained by completing coursework not below your level of licensing or by participating in continuing education programs sponsored by or approved by educational institutions accredited by a regional body recognized by the Council on Post Secondary Accreditation. The educational institution shall certify the number of clock hours of educational content in each sponsored or approved program. (7-1-95)

iii. Government Agencies, Schools and Hospitals. Continuing education hours may be obtained by participating in in-service training, courses or workshops sponsored by federal, state, or local government agencies, public school systems and licensed hospitals. The provider shall certify the number of clock hours of educational content in each approved activity. (7-1-95)

iv. Private Social Service Agencies and Other Entities. Continuing education hours may be obtained by participating in continuing education programs sponsored by agencies or entities who regularly provide social work services. The provider shall certify the number of clock hours of educational content in each approved activity. ()

b. All continuing education hours must be relevant to the profession of social work at the individual's particular level of social work licensure. The presenter's level of education must be at the licensee's level or above. Continuing education for clinical licensees must be clinical in nature except that five (5) hours each year may be non-clinical but shall be germane to the practice of social work. Final approval of acceptable programs rests with the Board. (~~5-3-03~~)()

04. Documentation. (7-1-95)

a. Each licensee shall maintain documentation verifying CE attendance and curriculum for a period of four (4) years from the date of completion. This documentation will be subject to audit by the Board. (5-3-03)

b. Licensees shall attest, on their annual license renewal application, that they have satisfied the continuing education requirements. False attestation of satisfaction of the continuing education requirements on a renewal application shall subject the licensee to disciplinary action, including revocation. (5-3-03)

c. Category I documents must be in the form of a certificate of attendance, a statement signed by the provider verifying participation in the activity, or an official transcript. (5-3-03)

d. In the event a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the license will not be renewed. (7-1-95)

e. Documented proof of meeting the continuing education requirement shall be in the form of a certificate or letter from the sponsoring entity that includes the title of the activity, the subject material covered, the dates and number of hours credited, and the presenter's full name and professional credentials. (5-3-03)

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. 24-1501-0301

NOTICE OF RULEMAKING - PROPOSED RULE

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

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

Makes provision for supervision guidelines and definitions for both counselors and marriage and family therapists; deletes grandfather provision as the grandfather period has passed; requires ethics as part of continuing education.

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

There are no fees or charges imposed or increased as a result of these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there were no controversial changes made.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August 2003.

Rayola Jacobsen
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1501-0301

004. INCORPORATION BY REFERENCE (Rule 4).

01. ACA Code Of Ethics. “ACA Code of Ethics and Standards of Practice,” as published by the American Counseling Association (ACA), dated 1999 and referenced in Subsections 241.02, 350, and 450.01, is herein incorporated by reference and is available from the Board’s office and on the Board web site. (3-13-02)

02. AAMFT Code Of Ethics. The document titled “AAMFT Code of Ethics”, as published by the American Association for Marriage and Family Therapy (AAMFT), dated July 1, 2001 and referenced in Subsections 350, and 450.01, is herein incorporated by reference and is available from the Board’s office and on the Board web site. (3-13-02)

03. ACES Guidelines. The document titled “ACES” that provides supervision guidelines for supervisors, as published by the Association for Counselor Education and Supervision (ACES), dated March 1993 referenced in Subsection 200.03.a., is herein incorporated by reference and is available from the Board’s office and on the Board web site. (4-2-03)

04. Guidelines. The document titled “Approved Supervision Designation Handbook” that provides supervision guidelines for supervisors, as published by the American Association for Marriage and Family Therapy (AAMFT), dated October 2002 referenced in Subsection 240.03.a., is herein incorporated by reference and is available from the Board’s office and on the Board web site. ()

(BREAK IN CONTINUITY OF SECTIONS)

238. MARRIAGE AND FAMILY THERAPISTS (Rule 238).

The following requirements must be met for marriage and family therapist licensure: (3-13-02)

01. Graduate Degree. Possess a graduate degree as outlined in Section 54-3405C(1), Idaho Code. (3-13-02)

02. Practicum. Must meet the requirements as outlined in Section 54-3405C(2), Idaho Code. (3-13-02)

03. Supervised Marriage And Family Therapy Experience. Must meet the three thousand (3,000) hour requirement as outlined in Section 54-3405C(3), Idaho Code. Effective July 1, 2004, a Marriage and Family Therapist must be registered with the Board to provide post graduate supervision. (4-2-03)

a. A minimum of two thousand (2,000) postgraduate direct client contact hours, in no less than a two (2) year time period shall include; (3-13-02)

i. A minimum one thousand (1,000) direct client contact hours with couples and families; and (3-13-02)

ii. Two hundred (200) hours of supervision. (3-13-02)

b. Supervision must be obtained from a registered marriage and family therapist supervisor or a licensed clinical professional counselor, licensed psychologist, licensed clinical social worker, or licensed psychiatrist who documents: ()

i. A minimum of five (5) years of experience providing marriage and family therapy; and ()

ii. Fifteen (15) contact hours of education in supervisor training; and ()

iii. Has not been the subject of any disciplinary action for five (5) years immediately prior to providing supervision. ()

bc. No more than one hundred (100) hours of group supervision shall be allowed. Group supervision

shall be defined as no more than six (6) supervisees per each supervisor; and (3-13-02)

ed. Individual supervision is defined as up to two (2) supervisees per supervisor; and (3-13-02)

de. Supervision must employ the use of audio technologies or video technologies or co-therapy, or live supervision; and (3-13-02)

ef. In accordance with the adopted Codes of Ethics prohibiting dual relationships, a supervisor shall not act as an applicant's personal Professional Counselor/Therapist. (3-13-02)

fg. The Board shall consider the recommendation of the supervisor(s) when determining the acceptability of the applicant's supervised experience. (4-2-03)

04. Examination. (3-13-02)

a. The Board requires successful passage of the National Marital and Family Therapy Examination as approved by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB). (3-13-02)

b. The examination will be conducted at a time and place specified by the Board. (3-13-02)

c. Successful passage of the examination is defined by the Board as achievement of the passing score set by the AMFTRB. Reexamination shall consist of the entire examination. (3-13-02)

~~239. GRANDFATHER PROVISION FOR MARRIAGE AND FAMILY THERAPY LICENSURE (Rule 239).~~
Until June 30, 2003 any person who meets the qualifications outlined in Section 54-3405C(6), Idaho Code, shall provide the following and upon approval by the Board be issued a marriage and family therapy license: (3-13-02)

~~**01. Application.** A complete application including the applicable fees; and (3-13-02)~~

~~**02. Documentation.** Certified documentation of; (3-13-02)~~

~~**a.** Current clinical membership in the AAMFT or the National Academy for Certified Family Therapists (NACFT) or membership or certification in another professional organization with requirements substantially similar to AAMFT or NACFT; or (3-13-02)~~

~~**b.** A graduate degree in a mental health related field from an accredited college of university; and (3-13-02)~~

~~**c.** A minimum of three thousand (3,000) hours of post graduate direct client contact experience in marriage and family therapy. (3-13-02)~~

239. MARRIAGE AND FAMILY THERAPIST SUPERVISOR REQUIREMENTS (Rule 239).
Effective July 1, 2004, licensed marriage and family therapists in Idaho shall be registered with the board to provide supervision for those individuals pursuing licensure in the state of Idaho as a marriage and family therapist. ()

01. Requirements For Registration. ()

a. Possess two (2) years experience as a licensed marriage and family therapist and document at least two thousand (2,000) hours of direct client contact with couples and families. ()

b. Document fifteen (15) contact hours of education in supervisor training as approved by the Board. ()

c. Have not been subject to discipline for five (5) years prior to registration. ()

02. Registration. A marriage and family therapist shall fully complete the application form as established by the board and submit the designated fee as adopted by board rule. ()

03. Supervision. ()

a. A registered marriage and family therapist shall provide supervision in conformance with the guidelines for supervisors adopted by the American Association for Marriage and Family Therapists. ()

b. A registered marriage and family therapist shall not supervise more than six (6) individuals. ()

240. -- 244. (RESERVED).**245. REGISTERED INTERNS (Rule 245).**

An individual pursuing Idaho licensure as a Professional Counselor may register with the Board as an Intern. An individual pursuing Idaho licensure as a Marriage and Family Therapist shall register with the Board as an Intern in compliance with section 54-3402, Idaho Code. (4-2-03)

01. Requirements For Registration. (4-2-03)

a. Possess a graduate degree in counseling, marriage and family therapy, or a closely related field from an accredited university or college. (4-2-03)

b. Be actively pursuing postgraduate supervised experience. (4-2-03)

c. Designate a ~~Licensed Professional Counselor or Licensed Marriage and Family Therapist~~ supervisor who is registered as a supervisor or who is otherwise approved to provide marriage and family therapy supervision as defined in Section 54-3405C, Idaho Code, and who shall be responsible to provide supervision. (4-2-03)()

02. Registration. An individual applying for registration as a Counselor Intern or Marriage and Family Therapist Intern shall fully complete the application form as established by the Board and submit the designated fee as adopted by Board rule. (4-2-03)

03. Practice. (4-2-03)

a. A Registered Intern may only practice counseling or marriage and family therapy under the direct supervision of a Counselor Supervisor or Marriage and Family Therapist Supervisor who shall be responsible to ensure that a Registered Intern is competent to practice such counseling or marriage and family therapy as may be provided. (4-2-03)

b. Only a Registered Intern may use the title Counselor Intern or Marriage and Family Therapist Intern. (4-2-03)

c. An individual shall not practice as an intern for more than four (4) years from the original date of registration. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)**400. RENEWAL OF LICENSE (Rule 400).**

Each person licensed under this act must renew said license ~~prior to July 1 of~~ each year or the license will be cancelled. Cancelled licenses may be reinstated in accordance with the requirements of Section 67-2614, Idaho Code. (3-13-02)()

401. -- 424. (RESERVED).**425. CONTINUING EDUCATION (Rule 425).**

Every person holding an Idaho license as a Pastoral Counselor or a Marriage and Family Therapist must annually complete twenty (20) contact hours of continuing education prior to license renewal. (4-2-03)

01. Contact Hours. The contact hours of continuing education shall be obtained in areas of study germane to the practice for which the license is issued as approved by the Board. One (1) contact hour for each renewal period shall be in ethics. (~~4-2-03~~)()

02. Documentation Of Attendance. It shall be necessary for the applicant to provide documentation verifying attendance by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution substantiating any hours attended by the applicant. This documentation must be maintained by the applicant and provided to the Board upon request by the Board or its agent. (4-2-03)

03. Excess Hours. Continuing education hours accumulated during the twelve (12) months immediately preceding the license expiration date may be applied toward meeting the continuing education requirement for the next license renewal. No more than five (5) hours in excess of the required twenty (20) hours shall be carried forward. Excess hours may be used only during the next renewal period and may not be carried forward more than one (1) time. (4-2-03)

04. Compliance Audit. The Board may conduct random continuing education audits of those persons required to obtain continuing education in order to renew a license and require that proof acceptable to the Board of meeting the continuing education requirement be submitted to the Bureau. Failure to provide proof of meeting the continuing education upon request of the Board shall be grounds for disciplinary action in accordance with section 54-3407, Idaho Code. (4-2-03)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.17.01 - RULES OF THE STATE BOARD OF ACUPUNCTURE

DOCKET NO. 24-1701-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-4705, Idaho Code.

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

Corrects Board address and changes the effective date for continuing education requirements for renewal.

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

There are no fees or charges imposed or increased as a result of these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there were no controversial changes made.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August 2003.

Rayola Jacobsen
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1701-0301

005. ADDRESS OF THE IDAHO STATE BOARD OF ACUPUNCTURE (Rule 5).

The office of the Board of Acupuncture is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main St., Suite 220, Boise, ID 83702. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is ~~ibol~~ acu@ibol.state.id.us. The Board's official web site is at www2.state.id.us/ibol/acu. ~~(5-3-03)~~()

(BREAK IN CONTINUITY OF SECTIONS)

302. RENEWAL REQUIREMENT (Rule 302).

- 01. Active Status.** Each renewal application must be accompanied by: (3-10-00)
- a.** The established fee; and (3-10-00)
- b.** Beginning July 1, 2004, ~~C~~certification of having attended and completed a minimum of fifteen (15) hours of acupuncture study or oriental medical theory and techniques within the previous twelve (12) months, as approved by the Idaho Board of Acupuncture. (~~5-3-03~~)()
- c.** Compliance with the continuing education (CE) requirements for licensees shall be reported annually. A CE course taken in any renewal year, but not claimed for CE credit in that year, may be utilized for credit in the following renewal year. (5-3-03)
- 02. Inactive Status.** A currently licensed or certified practitioner may request in writing to have their license placed on inactive status and pay the inactive status fee. Such request must be made prior to the expiration date of the license, otherwise the license shall be deemed cancelled for failure to renew. (5-3-03)
- 03. Definition Of Inactive Status.** "Inactive" status means an Idaho Acupuncture license that may be made active by paying the renewal fee. Until payment of said fee, such individual may not practice acupuncture in the state of Idaho. (5-3-03)
- 04. Waiving Continuing Education Requirements.** All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing in Idaho. Inactive license renewal notices and licenses will be marked "Inactive". A licensee desiring active status must show acceptable fulfillment of continuing educational requirements for the current year and submit a fee equivalent to the difference between the inactive and active renewal fee. The continuing educational requirement and the fees will not be prorated for a partial year. (5-3-03)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD

DOCKET NO. 24-1801-0301

NOTICE OF RULEMAKING - PROPOSED RULE

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

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

Updates incorporation by reference rule to reflect current publication date; deletes certificate and history record fees; clarifies continuing education requirements.

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

There are no fees or charges imposed or increased as a result of these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there were no controversial changes made.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August 2003.

Rayola Jacobsen
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1801-0301

004. INCORPORATION BY REFERENCE (Rule 4).

The document titled "Uniform Standards of Professional Appraisal Practice (USPAP)", 2002~~3~~ Edition published by the Appraisal Foundation and effective January 1, 2002~~3~~ as referenced in Subsection 700, is herein incorporated by reference and is available for review at the Board's office and may be purchased from the Appraisal Foundation.

~~(5-3-03)~~()

(BREAK IN CONTINUITY OF SECTIONS)

200. FEES (Rule 200).

Fees are established in accord with Section 54-4113, Idaho Code as follows: (7-1-93)

01. Application. Application fee for Certification/Registration/License - two hundred fifty dollars (3-13-02)
(\$250).

02. Original Certification/License. Original Certification/License - one hundred twenty-five dollars (3-30-01)
(\$125*).

03. Certification/License Renewal. Certification/License renewal - two hundred fifty dollars (\$250*). (3-30-01)

04. Reinstatement. Reinstatement fees are as provided in Section 67-2614, Idaho Code - twenty-five (7-1-93)
dollars (\$25).

~~05. Duplicate Certificate/License. Duplicate Certificate/License - twenty five dollars (\$25). (7-1-93)~~

~~06. History Record. History record - twenty five dollars (\$25). (7-1-93)~~

075. Application For Reciprocity. Application for reciprocity - two hundred fifty dollars (\$250*). (3-30-01)

086. Original Certification/License Via Reciprocity. Original Certification/License via reciprocity - (3-30-01)
one hundred twenty-five dollars (\$125*).

097. Temporary Permit. Temporary permit - one hundred dollars (\$100). (7-1-93)

108. Trainee Registration Fee. Trainee registration fee - fifty dollars (\$50). (3-13-02)

~~109. Examination And Reexamination Fees.~~ Examination and Reexamination fees will be calculated based on the actual cost of the examination. Successful applicants will be notified of the fees at the time they are scheduled for examination. (7-1-97)

120. Fees Are Non-Refundable. Fees are non-refundable. (7-1-93)

131. Fees Followed By "*" Means. Proposed fees for these categories marked with an asterisk include an estimated twenty five-dollars (\$25) to be submitted by the state to federal government. Title XI, Section 1109 requires each state to submit a roster listing of state certified/licensed appraisers to the Appraiser Subcommittee "no less than annually". The state is also required to collect from such individuals who perform appraisals in federally related transactions an annual registry fee of "not more than twenty five dollars (\$25)", such fees to be transmitted by the state to the federal government on an annual basis. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

401. CONTINUING EDUCATION (Rule 401).

All certified/licensed appraisers must comply with the following continuing education requirements: (7-1-97)

01. Purpose Of Continuing Education. The purpose of continuing education is to ensure that the

appraiser participates in a program that maintains and increases his skill, knowledge and competency in real estate appraising. (7-1-97)

02. Hours Required. The equivalent of fifteen (15) classroom hours of instruction in courses or seminars ~~for during~~ each year ~~during the three (3) years during the period preceding the renewal prior to renewal~~ is required. ~~(For example, a three (3) year certification term would require forty five (45) hours. These hours may be obtained any time during the three (3) year term.~~ (7-1-97)()

a. A classroom hour is defined as fifty (50) minutes out of each sixty (60) minute segment. (7-1-93)

b. Credit toward the classroom hour requirement may be granted only where the length of the educational offering is at least two (2) hours. (7-1-97)

c. Credit for the classroom hour requirement may be obtained by accredited courses which have been approved by the appraisal members of The Appraisal Foundation and by courses approved by Real Estate Appraiser Boards of states with reciprocity with Idaho. All other courses must have approval of the Board, which shall require documentation including the instructors and their qualifications, course content, length of course, and its location. Courses shall be approved for a period of four (4) years. (3-13-02)

d. Continuing education hours accumulated during the twelve (12) months immediately preceding the license expiration date that are in excess of the required hours per year may be applied toward meeting the continuing education requirement for the next successive license renewals. No more than thirty (30) continuing education hours in excess of the required fifteen (15) hours shall be carried forward. Excess hours must be used toward meeting the continuing education requirements for the next immediately successive renewal periods only. ()

~~de.~~ Once every ~~five~~ two (2) years an Idaho State Certified/Licensed Real Estate Appraiser will be required to attend ~~fifteen an approved seven (15/7) hours of a~~ USPAP update course ~~and receive a passing grade on a course examination~~ or the equivalent. An approved fifteen (15) hour USPAP course shall be considered as an equivalent course, however, no excess USPAP hours may be carried forward to meet the two (2) year USPAP update requirement. (3-13-02)()

03. Credit For Appraisal Educational Processes And Programs. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. (7-1-97)

04. Requirement When A Certificate/License Is Cancelled. For each year (less than five (5)) in which a license is lapsed, ~~cancelled~~ canceled, or otherwise non-renewed, fifteen (15) hours of continuing education must be obtained prior to reinstatement. In addition, for each two (2) years (less than five (5)) in which a license is lapsed, canceled, or otherwise non-renewed, a seven (7) hour USPAP update course must be obtained prior to reinstatement. (3-18-99)()

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.19.01 - RULES OF THE BOARD OF EXAMINERS OF RESIDENTIAL
CARE FACILITY ADMINISTRATORS

DOCKET NO. 24-1901-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 17, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-4205, Idaho Code.

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

Incorporates by reference the ACHCA Code of Ethics; adds facility language to conform with Idaho Code; strikes temporary permit as law does not allow for extensions or emergency permits; adds violation of Code of Ethics as discipline.

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:

Current law allows for adoption of code of ethics; rules bring terminology and language current with Idaho Code, and to be in compliance with deadlines in amendments to governing law or federal programs.

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

There are no fees or charges imposed or increased as a result of these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there were no controversial changes made.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August 2003.

Rayola Jacobsen
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233 / (208) 334-3945 (FAX)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1901-0301

004. INCORPORATION BY REFERENCE (Rule 4).

These rules do not incorporate by reference any document other than those sections of Idaho Code so referenced. The document titled "ACHCA Code of Ethics", published by the American College of Health Care Administrators (ACHCA) as referenced in Section 650, is herein incorporated by reference and is available from the Board's office and on the Board web site. (3-15-02)(7-17-03)T

(BREAK IN CONTINUITY OF SECTIONS)

401. CONTINUING EDUCATION (Rule 401).

01. Courses Approved. Courses of study in ~~health and~~ residential care facility administration sponsored or provided by accredited universities or colleges; ~~and health or residential care~~ seminars relevant to residential care facility administration sponsored or approved by national, state agencies, or associations will be acceptable to meet the continuing education requirement. Seminars or other courses of study ~~or seminars in residential care facility administration~~ may be approved by the Board. (4-2-03)(7-17-03)T

02. Minimum Hours Required. Applicants for annual recertification/renewal shall be required to have a minimum of twelve (12) hours of continuing education courses within the preceding twelve (12) month period. First Aid and/or Cardio-Pulmonary Resuscitation courses shall not be considered for continuing education credit. (7-1-93)

03. Educational Hour - Defined. An hour of education will mean sixty (60) minutes. (7-1-93)

~~**402. TEMPORARY PERMITS - LIMITATIONS (Rule 402).**~~

~~**01. Requirements For Issuance.** A temporary permit may be issued for six (6) months upon application and payment of fees. Temporary permits may be renewed one (1) time without further qualification. A second renewal will be issued, only where an applicant has taken and passed one (1) part of the two part examination. No more than two (2) renewals will be issued for any reason.~~ (7-1-96)

~~**02. Emergency Permit.** An emergency permit will be issued only in the event that the facility experiences an unexpected vacancy.~~ (7-1-98)

~~**403. -- 499. (RESERVED).**~~

(BREAK IN CONTINUITY OF SECTIONS)

650. DISCIPLINE (Rule 650).

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed residential care facility administrator for each violation of Section 54-4213(1), Idaho Code. (3-18-99)

02. Costs And Fees. The Board may order a licensed residential care facility administrator to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-4213(1), Idaho Code. (3-18-99)

03. Code Of Ethics. The Board has adopted (ACHCA) Code of Ethics. Violations of the code of ethics shall be considered grounds for disciplinary action. (7-17-03)T

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-0302 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 36-2107(b) and (d), Idaho Code.

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

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

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

The changes in Rule 009 delete out-of-date provisions which are redundant with the Idaho Code and do not need to be in rule form. The changes in Rule 015 provide for expedited or emergency application fees, resubmittal, exceptional or special processing of application fees and for a credit for online electronic filing of applications as permitted by the 2003 legislative session.

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

The fee for expedited or emergency applications for which there is a request to have the application pulled forward before other applications and have it processed and a license issued within seven (7) days of receipt of the application shall be \$150 for an outfitter license; \$75 for a designated agent license; and \$50 for a guide license. The fee for resubmittal, exceptional or special processing of an application which is incomplete or for other reasons for which the Board is otherwise unable to process the application shall be \$100 for an outfitter license; \$75 for a designated license; \$50 for a guide license; and \$5 for allocation fee recovery. There will be a credit for online and electronic filing of applications of \$20 for an outfitter license; \$7 for a designated agent license; and \$5.25 for a guide license.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted prior to submission, however the public will have the opportunity to comment on the rules as provided hereunder and may request a hearing as provided by 67-5222, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Jake Howard, Executive Director at (208) 327-7380, or FAX 327-7382.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Jake Howard
Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172
Boise, Idaho 83706
(208) 327-7380
FAX (208) 327-7382

THE FOLLOWING IS THE TEXT OF DOCKET NO. 25-0101-0302

009. ~~AMENDMENT FEE (RESERVED).~~

~~An amendment fee shall be charged for every amendment to an outfitter or guide license in accordance with Section 36-2108(d)(3), Idaho Code: (10-15-88)~~

- ~~01. **Outfitter License - Major Amendment.** Seventy five dollars (\$75). (10-15-88)~~
- ~~02. **Outfitter License - Incidental Amendment.** Ten dollars (\$10). (10-15-88)~~
- ~~03. **Guide License - All Amendments.** Ten dollars (\$10). (10-15-88)~~

(BREAK IN CONTINUITY OF SECTIONS)

015. ANNUAL DATE, MULTIPLE YEARS, FEES, AND PAYMENT.

- 01. Annual Dates.** (7-1-03)T
 - a.** All outfitter and designated license applications must be completed and received by the Board by January 31 of each year. (7-1-03)T
 - b.** All outfitter applications and designated agent applications received by the Board after January 31 that are not complete will be subject to special processing fees. (7-1-03)T
 - c.** The last day of the license year for all licenses is March 31 of each year. (7-1-03)T
 - d.** Guide license applications may be submitted at any time during the year. (7-1-03)T
- 02. Outfitter And Designated Agent Late Fee.** When a completed renewal application is filed with the Board after the last day of the license year, the following penalty shall apply: (7-1-03)T
 - a.** A completed application received by the Board the last day of the license year - no late fee shall apply. (3-10-03)
 - b.** A completed application received by the Board after the last day of the license year - a fifty dollar (\$50) late fee shall be paid before the license is issued. (3-10-03)
- 03. License Lapsed And Relinquished.** A completed outfitter application received by the Board after ninety (90) days after the last day of the license year will not be accepted for licensure. The license will have lapsed and therefore is void and vacated. If a completed application is not received by the Board by ninety (90) days after the last day of the license year, the license is relinquished. (3-10-03)
- 04. Refund Of Unused One Time Application Fees.** All unused portions of one (1) time new outfitter, new designated agent, or new guide application fees shall be returned to the applicant. (3-19-99)
- 05. Multiple Year Licenses.** (7-1-03)T
 - a.** Beginning in license year 2004, outfitter and designated agent licenses may be issued for a one (1) year or three (3) year period. All new applicants must be licensed for two (2) years before the applicant may apply for a three (3) year license. (7-1-03)T

b. License fees shall be prorated based on the number of years for which the applicant is licensed. The multiyear license fee may be transferred to the bona fide purchaser of an outfitter business. Bona fide purchasers of an outfitter business will be credited for annual license fees for prorated years remaining with a business at the time of the purchase. (7-1-03)T

c. The multiple year fee must be paid at the time of renewal and prior to the beginning of the license period. This does not relieve a licensed outfitter from submitting annual reports and use reports, and annual bonding and insurance requirements. (7-1-03)T

d. There shall be no reimbursement of fees should the license become revoked or relinquished. (7-1-03)T

e. Outfitters must submit renewal applications no later than January 31 prior to the subsequent license period. (7-1-03)T

06. Payment. Prior to the issuance of a license, an applicant must submit the appropriate fee in the form of a certified check, cashier's check, money order, outfitter's company check or use of outfitter and designated agent credit cards. (7-1-03)T

07. Expedited Or Emergency Application Fees. The fee for expedited or emergency applications for which there is a request to have the application pulled forward before other applications and have it processed and a license issued within seven (7) days of receipt of the application shall be: ()

a. One hundred fifty dollars (\$150) for an outfitter license; ()

b. Seventy-five dollars (\$75) for a designated agent license; and ()

c. Fifty dollars (\$50) for a guide license. ()

08. Resubmittal, Exceptional Or Special Processing Of Application. The fee for resubmittal, exceptional or special processing of an application that is incomplete, or for other reasons for which the Board is otherwise unable to process the application shall be: ()

a. One hundred dollars (\$100) for an outfitter license; ()

b. Seventy-five dollars (\$75) for a designated license; ()

c. Fifty dollars (\$50) for a guide license; and ()

d. Five dollars (\$5) for allocation fee recovery. ()

09. Electronic Filing Of Applications. There shall be a credit for online and electronic filing of applications of: ()

a. Twenty dollars (\$20) for an outfitter license; ()

b. Seven dollars (\$7) for a designated agent license; and ()

c. Five dollars and twenty-five cents (\$5.25) for a guide license. ()

IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-0301 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 5, 2003.

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 rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-4223(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 27, 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:

Section 004 has been added to comply with the Department of Administration's required IDAPA sections regarding Incorporation by Reference;

Section 005 has been added to comply with the Department of Administration's required IDAPA sections regarding Office Hours, Mailing Address and Street Address;

Section 006 has been amended to comply with the Department of Administration's required IDAPA sections regarding Public Records Act Compliance;

Subsection 010.13 – Modifies the definition of Motorized Vehicle Entry Fee (MVEF);

Subsection 010.18 – Provides a definition for camper unit;

Subsection 200.01 – Amends the description of occupancy of a campsite;

Subsection 225.03 – Clarifies campsite and park facility access permitted with payment of camping fees;

Subsection 225.06 – Clarifies the definition of a fee collection surcharge;

Subsection 250.01 – Clarifies the definition of a deluxe campsite;

Subsection 250.02 – Clarifies the definition and assessment of reservation service fees;

Subsection 250.03 – Establishes a maximum increase of \$2 and Board approved increase of \$1 in the MVEF;

Subsection 250.05 – Establishes an increase of \$1.00 per person per night in group facility overnight fees;

Subsection 250.06 – Establishes a maximum increase of \$2.00 and Board approved increase of \$1.00 for vessel launching fees;

Subsection 250.10 – Establishes a new Nordic ski grooming program fee for parks that provide premium Nordic ski trail grooming programs;

Subsection 300.04 – Corrects a typographical error.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: In order to avoid immediate public safety and resource management dangers or potential park closures, implementation of these temporary rules will help protect the public health, safety, and welfare, and will confer a benefit.

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 and the fee is described herein: See Descriptive Summary above. The IDPR authority for imposing fees is found in Sec. 67-4223(g), Idaho Code. The temporary fee rules took effect on August 5, 2003. Those portions of the pending rules that increase fees shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, the temporary rule making process precluded the ability to conduct negotiated rulemaking. The imminent danger of park closures due to funding shortfalls necessitated the temporary rulemaking process.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dean Sangrey, 208-334-4180, ext. 250.

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 November 10, 2003.

DATED this 19th day of August, 2003.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 26-0120-0301

~~004. — 005. (RESERVED).~~

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. (8-5-03)T

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

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (8-5-03)T

02. Mailing Address. The mailing address for the central office is Idaho Department of Parks and Recreation, PO Box 83720, Boise, ID 83720-0065. (8-5-03)T

03. Street Address. The office of the Idaho Department of Parks and Recreation is located at 5657 Warm Springs Ave., Boise, ID 83716. (8-5-03)T

006. CITATION PUBLIC RECORDS ACT COMPLIANCE.

~~The official citation of this chapter is IDAPA 26.01.20.000 et seq. For example, the citation for this section is IDAPA 26.01.20.006. Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code.~~ (1-1-94)(8-5-03)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

As used in this chapter: (1-1-94)

01. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the Governor. (3-13-97)

02. Camper Unit. A family unit or a party of no more than eight (8) persons occupying one (1) camper/vehicle combination or one (1) vehicle with a maximum of two (2) tents. (8-5-03)T

- 023.** **Camping Day.** The period between 2 p.m. of one (1) calendar day and 1 p.m. of the following calendar day. (7-1-99)
- 034.** **Campsite.** Site designated for overnight camping, including camping cabins, yurts, and tepees. (3-7-03)
- 045.** **Day Use.** Use of any non-camping lands and or facilities between the hours of 7 a.m. and 10 p.m. unless otherwise posted. (3-7-03)
- 056.** **Department.** The Idaho Department of Parks and Recreation. (1-1-94)
- 067.** **Designated Beach.** Waterfront areas designated by the Park Manager or designee for water based recreation activities. The length and width of each designated beach shall be visibly signed. (3-7-03)
- 078.** **Designated Roads And Trails.** Facilities recognizable by reasonable formal development, signing, or posted rules. (3-7-03)
- 089.** **Director.** The director and chief administrator of the department, or the designee of the director. (1-1-94)
- 0910.** **Dock And Boating Facility.** Floats, piers and mooring buoys owned or operated by the department. (3-13-97)
- 101.** **Extra Vehicle.** An additional motorized vehicle (not in tow at time of entry) without built in sleeping accommodations registered to a camp site. (3-13-97)
- 112.** **Group Use.** Twenty-five (25) or more people, or any group needing special considerations or deviations from normal department rules or activities. (1-1-94)
- 123.** **Motorized Vehicle.** Every vehicle that is self propelled except for vehicles moved solely by human power and motorized wheelchairs as defined in Section 49-123(g), Idaho Code. (3-7-03)
- 134.** **Motorized Vehicle Entry Fee (MVEF).** A fee charged for a motorized vehicle to enter a designated area ~~for a non-camping visit.~~ (~~3-13-97~~)(8-5-03)T
- 145.** **Park Or Program Manager.** The person, designated by the director, responsible for administering and supervising particular lands, facilities, and staff that are under the jurisdiction of the department. (3-7-03)
- 156.** **Primary Season.** The time of the year when the majority of use occurs at a park facility. (3-7-03)
- 167.** **Vessel.** Every description of watercraft, including a seaplane on the water, used or capable of being used as a means of transportation on water, but not including float houses, diver's aids operated and designed primarily to propel a diver below the surface of the water, and nonmotorized devices not designed or modified to be used as a means of transportation on the water such as inflatable air mattresses, single inner tubes, and beach and water toys as defined in section 67-7003(22), Idaho Code. (3-7-03)
- 178.** **Vessel Length.** The distance measured at the centerline at the highest point above the waterline from the fore-part of the outer hull at the bow to the aft-part of the outer hull at the stern, excepting any bowsprits, railings or extraneous or additional equipment. (3-13-97)

(BREAK IN CONTINUITY OF SECTIONS)

200. CAMPING.

01. Occupancy. Camping shall be permitted only in designated campsites with ~~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~~ a maximum of one (1) camping unit per campsite, unless the site has been designed to accommodate or has been approved by the park manager or designee for a second unit. ~~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)(8-5-03)T

02. Length Of Stay. Except as provided herein, no person, party or organization may be permitted to camp on any lands administered by the department for more than fifteen (15) days in any thirty (30) day period. Shorter or longer periods may be designated for any individual area by the Park Manager or designee. (3-7-03)

03. Registration Required. All camping fees must be paid and registration information completed prior to occupying a campsite. Saving campsites is prohibited. (3-7-03)

04. Condition Of Campsite. Campers shall keep their campsite and other use areas clean. (3-7-03)

05. Liquid Waste Disposal. All gray water and sewage wastes shall be held in self-contained units or collected in water-tight receptacles in compliance with state adopted standards and dumped in sanitary facilities provided for the disposal of such wastes. (3-30-01)

06. Motorized Equipment. No generators or other motorized equipment emitting sound and exhaust are permitted to be operated during quiet hours. (7-1-93)

07. Campsite Parking. All boats, motorcycles, trailers, rigs and motorized vehicles shall fit entirely within the campsite parking spur provided with the assigned campsite. All equipment which does not fit entirely within the designated campsite parking area shall be parked outside the campground in an area designated by the Park Manager or designee. If no outside parking is available, the Park Manager or designee may require the party to register on a second campsite, if available. (3-7-03)

08. Equipment. All camping equipment and personal belongings of a camper shall be maintained within the assigned campsite perimeter. (3-13-97)

09. Check Out. Campers are required to check out and leave a clean campsite by 1 p.m. of the day following the paid night of camping. (7-1-99)

10. Visitors. Individuals visiting campers shall park in designated areas, except with permission of the Park Manager or designee. Visitors shall conform to established day use hours and motor vehicle entry fee requirements. (3-7-03)

11. Responsible Party. The individual purchasing a campsite is responsible for assuring compliance with the rules within this chapter. (1-1-94)

12. Camping Prohibited. No camping is permitted outside designated campsites unless specifically authorized. (3-13-97)

(BREAK IN CONTINUITY OF SECTIONS)

225. FEES AND SERVICES.

01. Authority. (3-13-97)

a. The board shall adopt fees for the use of lands, facilities, and equipment. Visitors shall pay all applicable fees. (3-7-03)

b. Park Managers or designees may set fees for goods available for resale and services provided by staff that enhance the users experience unique to the individual park. Fees for lands, facilities and equipment unique to an individual park will be posted at that site. (3-7-03)

02. General Provisions. All fees in this chapter are maximum fees unless otherwise stated. Actual fees charged shall be established by Board Policy. (3-7-03)

03. Camping. Camping fees include the right to use designated campsites and facilities, ~~and day use facilities~~ for the period camp fees are paid. Utilities and facilities may be restricted by weather or other factors. ~~(3-7-03)~~(8-5-03)T

04. Group Use. (7-1-93)

a. Groups of twenty-five (25) persons or more, or any group needing special considerations or deviations from these rules shall have a permit. Permits may be issued after arrangements have been made for proper sanitation, population density limitations, safety of persons and property, and regulation of traffic. (1-1-94)

b. Permits for groups of up to two hundred fifty (250) people may be approved by the park manager with thirty (30) days advance notice. Permits for groups of two hundred fifty (250) to one thousand (1,000) may be approved by the director with forty-five (45) days advance notice. Groups over one thousand (1,000) may be approved by the board with sixty (60) days advance notice. The director may approve groups over one thousand (1,000) with thirty (30) days advance notice, if they are repeat users. (1-1-94)

c. The motorized vehicle entry fee may be charged to groups entering a designated area for a noncamping visit. (3-13-97)

05. Fees And Deposits. Fees and deposits may be required for certain uses or the reservation of certain facilities. (3-13-97)

06. Fee Collection Surcharge. A five dollar (\$5) surcharge may be added to all established fees when the ~~registered owner~~ operator of a motorized vehicle or camping unit fails to pay required fees prior to entering a park area or occupying a campsite. If the surcharge is assessed, and the operator of the vehicle or responsible party is not present, all required fees in addition to the five dollar (\$5) surcharge will be assessed against the registered owner of the motorized vehicle or camping unit. ~~(3-7-03)~~(8-5-03)T

07. Admission Fees. A maximum per person fee of ten dollars (\$10) may be charged for internal park facilities which provide an educational opportunity or require special accommodations. (3-10-00)

08. Cooperative Fee Programs. The department may collect and disperse fees in cooperation with fee programs of other state and federal agencies. (3-10-00)

226. -- 249. (RESERVED).

250. FEE SCHEDULE.

01. Campsites.

| CAMPSITE FEE TABLE | |
|---|--------------------|
| Primitive Campsite (may include: table, grill, camp-spur, vault toilet, no water.) | \$7/day |
| Basic Campsite (may include: table, grill, camp-spur, central water, vault toilets.) | \$9/day |
| Developed Campsite (may include: table, grill, camp-spur, central water, flush toilets.) | \$12/day |
| Deluxe Campsite (a developed campsite that is designed to accommodate higher occu- pancy limits of up to twelve (12) persons <u>two (2) camper units</u>) | \$22/day |
| Electric hookups at site | additional \$4/day |

| CAMPSITE FEE TABLE | |
|--|--------------------|
| Sewer hookups at site | additional \$2/day |
| Use of campground showers by noncampers | \$3/person |
| <i>Camping fee includes MVEF (see Subsection 250.03 of this chapter).</i> | |
| Limited Income Discount - Idaho residents showing proof of limited income (Medicaid card or other evidence approved by the board) may receive a camping fee discount of: | \$4/day |
| Resident Disabled Idaho Veterans - Campsite fees are waived for resident Idaho veterans showing proof of a one hundred percent (100%) permanent and total service related disability | |
| Extra Vehicle Charge | \$5/day |
| Camping Cabin, Yurt, or Tepee | \$72/night |
| Each additional person above the sleeping capacity of camping cabin, yurt or tepee | \$12 night |

(3-7-03)(8-5-03)T

02. Reservation Service Fees. 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) or the first night's fee, whichever is less, 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.

(3-7-03)(8-5-03)T

03. Motorized Vehicle Entry Fee (MVEF).

| MOTORIZED VEHICLE ENTRY FEE (MVEF) TABLE. | |
|---|--------------------|
| Daily charge per motorized vehicle. <u>The daily MVEF expires at 10 p.m. on date of purchase unless the party is registered to camp, in which case, the daily MVEF will expire at 1 p.m. the following day.</u> | \$ 35 |
| Daily charge per commercial motor coach (no annual pass available) | \$20 25 |
| Statewide Annual State Park Passport per motorized vehicle | \$35 |
| Disabled Idaho Resident Veterans - The MVEF is waived for resident Idaho veterans showing proof of a one hundred percent (100%) permanent and total service related disability | |
| Second Vehicle Annual Passport. | \$ 5 |

(3-7-03)(8-5-03)T

04. Special Charges. The cost to the agency for returned checks will be passed on to the issuer of the insufficient funds check. (3-7-03)

05. Group Facility Fees. (3-13-97)

a. A reservation service charge of twenty-five dollars (\$25) shall be charged for each reservation of a designated group facility. Additional charges may be imposed by the Park Manager or designee depending upon the cost of providing services. (3-7-03)

b. Groups using overnight facilities shall be charged ~~two~~ three dollars (\$~~2~~3) per person per night camping fees. ~~(3-13-97)~~(8-5-03)T

c. Unless other arrangements are made with the Park Manager or designee, all group facility use fees and any applicable deposits are required to be prepaid to confirm a group use facility reservation. 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, 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. (3-7-03)

d. Cleaning/damage deposits may be required for certain facilities. Where cleaning/damage deposits are required, they shall be paid prior to check-in. Cleaning/damage deposits shall be fully refunded if the facilities are left in the same condition in which they were accepted. (3-7-03)

e. Commercial group use fees may be negotiated by the park manager or designee but shall never fall below the cost of providing services. (3-7-03)

06. Boating Facilities.

| BOATING FACILITIES FEE TABLE | |
|--|--------------------------------|
| Vessel launching (per vessel/per day) <i>(Annual park passport; <u>and</u> daily MVEF; or payment of camping fees applies toward vessel launching fees)</i> | \$ 3 <u>5</u> / day |
| Overnight moorage --any length of vessel. <i>(Applicable to persons who have paid for a park campsite and are not camping on the vessel)</i> | \$5/night |
| Overnight moorage --persons camping on vessel | |
| Any length vessel | \$8/night |
| Any length vessel moored at buoy | \$5/night |

~~(3-7-03)~~(8-5-03)T

07. Modification Of Fees. Additional fees or deposits may be required for certain uses or for the reservation of certain facilities. The department reserves the right to waive or reduce fees and charges for department sponsored promotions. (7-1-93)

08. Sales Tax. Applicable sales tax may be added to all sales excluding daily motor vehicle entrance fees. (3-10-00)

09. Length Of Stay. Fifteen (15) days in any thirty (30) day period. (7-1-93)

10. Nordic Ski Grooming Program Fee. A fee of four dollars (\$4) per person per day and thirty-five dollars (\$35) per family per season will be required at Board-approved premium Nordic ski grooming program locations. These programs may include: maintained parking areas, warming facilities, winter accessible restroom facilities, regularly groomed ski trails, extensive signing, trail mapping and ski patrol services. (8-5-03)T

IDAPA 27 - IDAHO BOARD OF PHARMACY
27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY
DOCKET NO. 27-0101-0205
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1717, 37-2725, and 37-2718, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 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 rulemaking recognizes revised controlled substance prescription forms authorized by House Bill No. 331 in the 2001 legislative session, as well as Senate Bill No. 1417 in the 2002 legislative session. The proposed rule changes outline the requirements for controlled substance prescription blank forms, as well as discipline to be assessed by the Board of Pharmacy in the event practitioners fail to follow the requirements of statute and rule with respect to controlled substance prescription blanks.

In October 2002, the Board Pharmacy adopted this rule as a temporary rule with an effective date of August 21, 2002. The temporary rule was published in the Idaho Administrative Bulletin, Volume 02-10, October 2, 2002, pages 601 and 604. With this publication the Department is initiating proposed rulemaking.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this proposed rule is unchanged from the temporary rule (published in the October 2, 2002 Administrative Bulletin) that was prepared with extensive negotiations between the affected parties.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact R.K. "Mick" Markuson, Director, at (208) 334-2356.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August 2003.

R.K. "Mick" Markuson
Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, Idaho 83720-0067
Telephone: (208) 334-2356
Facsimile: (208) 334-3536

Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

This docket has been previously published as a Temporary Rule.
The temporary effective date is August 21, 2002.

The original text of the Temporary Rule was published in the Idaho
Administrative Bulletin, Volume 02-10, October 2, 2002, pages 601 through 604.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0205

433. DEFINITIONS - (H -- Z).

01. Hospital. The term "hospital" means an institution for the care and treatment of the sick and injured, approved by the Department of Health as proper to be entrusted with the custody of controlled substances and the professional use of controlled substances under the direction of a practitioner. (7-1-93)

02. Individual Practitioner. The term "individual practitioner" means a physician, dentist, veterinarian, or other individual licensed, registered, or otherwise permitted, by the state in which he practices, to dispense a controlled substance in the course of professional practice, but does not include a pharmacist, a pharmacy, or an institutional practitioner. (7-1-93)

03. Institutional Practitioner. The term "institutional practitioner" means a hospital or other person (other than an individual) licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which it practices, to dispense a controlled substance in the course of professional practice, but does not include a pharmacy. (7-1-93)

04. Laboratory. The term "laboratory" means a laboratory approved by the Idaho Board of Pharmacy as proper to be entrusted with the custody of controlled substances and the use of controlled substances for scientific and medical purposes and for purposes of instruction and administered by a person licensed by the state of Idaho to possess such substances. (7-1-93)

05. Name. The term "name" means the official name, common or usual name, chemical name, or brand name of a substance. (7-1-93)

06. Official Idaho Register. The term "Official Idaho Register" is defined as the official register issued by the Board of Pharmacy and contains the required information to record the sales or disposition of Schedule V substances, which book shall be in duplicate bearing the notice to the public on the reverse side of the original sheet which is permanently bound in the book and shall be retained for a period of two (2) years after the last dated entry. (7-1-93)

07. Owner. The term "owner" as defined in this act, with reference to a vehicle, means any person having any right, title or interest in it. (7-1-93)

08. Pharmacist. The term "pharmacist" means any pharmacist licensed by a State to dispense controlled substances, and shall include any other person (e.g., pharmacist-intern) authorized by a State to dispense controlled substances under the supervision of a pharmacist licensed by such State. (7-1-93)

09. Pharmacy. The term "pharmacy" means every store or other place of business where prescriptions are compounded, dispensed or sold by a pharmacist and prescriptions for controlled substances are received or processed in accordance with the federal law and the pharmacy laws and rules of this state. (7-1-93)

10. Prescription. The term "prescription" as used in this act, means a prescription for a controlled

substance in Schedules III, IV, V, such prescription is an oral order given individually for the person for whom prescribed, directly from the prescriber or by the prescriber's employee or agent to the pharmacist or indirectly by means of an order written in ink, indelible pencil, typewritten, or a computer generated hard copy, signed by the prescriber, and shall contain the address of the prescriber, his federal registry number, the name and address of the patient, the name and quantity of the drug prescribed, directions for use, and shall be dated as of the date on which it is written. Written prescriptions may be prepared by the secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to federal and state laws, regulations and rules. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by these rules. ~~Pre-printed blanks supplied by manufacturers are not permitted.~~ Persons receiving controlled substances shall be positively identified. (8-4-94)()

11. Register, Registration. The terms "register" and "registration" refer only to registration required and permitted by Section 37-2717, Idaho Code. (7-1-93)

12. Registrant. The term "registrant" means any person who is registered. (7-1-93)

13. Readily Retrievable. The term "readily retrievable" means that certain records are kept by automatic data processing systems or other electronic or mechanized record keeping systems in such a manner that they can be separated out from all other records in a reasonable time and/or records are kept on which certain items are asterisked, redlined, or in some other manner visually identifiable apart from other items appearing on the records. (7-1-93)

14. Sale. The term "sale" as used in this act, includes barter, exchange, or gift, or offer thereof, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee. (7-1-93)

15. Transport. The term "transport" as used in this act, with reference to controlled substances, includes "conceal", "convey", and "carry". (7-1-93)

16. Vehicle. The term "vehicle" as used in this act, any vehicle or equipment used for the transportation of persons or things. (7-1-93)

17. Physician, Veterinarian, Dentist, Podiatrist, Osteopath, Optometrist, Pharmacist. As used in this act, these terms or any similar designation, means persons who hold valid, unrevoked licenses to practice their respective professions in this state, issued by their respective examining boards in this state. (12-7-94)

18. Physician. The term "physician" includes only persons licensed under Chapter 18 of Title 54, Idaho Code. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

470. REQUIREMENTS FOR PRESCRIPTION FORM -- DISCIPLINE OF PRACTITIONERS.

01. Prescription Form. Any prescription for a Controlled Substance, including any prescription blank used for a Controlled Substance prescription, shall conform to the requirements of Section 37-2725, Idaho Code. ()

02. Discipline Of Practitioners. A practitioner who issues a prescription for a Controlled Substance which does not comply with the requirements of Section 37-2725, Idaho Code, shall be subject to discipline by the Board as follows: ()

a. Definition of "offense" – For purposes of this Subsection 470.02, the term "offense" shall mean clear evidence of a pattern of prescription writing by a practitioner in violation of the requirements of Section 37-2725, Idaho Code. ()

b. First offense - a letter, with a representative copy or copies of prescriptions giving rise to the letter.

shall be sent certified mail with a return receipt requested to the practitioner at the practitioner's registration address describing the offense and the basis for required action, with a copy of the letter and prescription sent to the practitioner's respective licensing board. The practitioner shall thereafter have thirty (30) days from the date of mailing to come into compliance with the requirements of Section 37-2725, Idaho Code. If, after such thirty (30) day period, the practitioner fails to comply with the requirements of Section 37-2725, Idaho Code, the practitioner's licensing board shall be notified of such failure and given an opportunity to take appropriate action within thirty (30) days of receiving notice from the Board of Pharmacy and shall immediately notify the Board of Pharmacy when such action is taken. If the Board of Pharmacy is not notified of an action taken by the licensing board within such thirty (30) day period, the Board of Pharmacy shall take disciplinary action under Subsection 470.02.c. ()

c. Second offense - suspension of the practitioner's controlled substance registration for a period of one (1) week pursuant to Section 37-2718, Idaho Code, along with an administrative fine pursuant to Section 37-2719, Idaho Code, equal to the costs of prosecution and administrative costs of bringing the suspension action including, but not limited to, attorney's fees and costs and costs of hearing transcripts. The practitioner shall be mailed notice of the offense and notice that the Board will commence the action for suspension of registration, such notice to be sent certified mail with a return receipt requested to the practitioner at the practitioner's registration address. Practitioners who wish to avoid the suspension action may do so by sending to the Board a written explanation for the offense along with a written plan of action setting forth how the practitioner will avoid offenses in the future and a payment of one hundred dollars (\$100) within thirty (30) days of mailing of notice of the offense. The practitioner shall have thirty (30) days from the date of mailing of the notice of offense to come into compliance with the requirements of Section 37-2725, Idaho Code. If, after such thirty (30) day period, the practitioner fails to comply with the requirements of Section 37-2725, Idaho Code, the Board of Pharmacy shall take disciplinary action under Subsection 470.02.d. ()

d. Third offense - suspension of the practitioner's Controlled Substance registration for a period of thirty (30) days pursuant to Section 37-2718, Idaho Code, along with an administrative fine pursuant to Section 37-2719, Idaho Code, equal to the costs of prosecution and administrative costs of bringing the action including, but not limited to, attorney's fees and costs and costs of hearing transcripts. The practitioner shall be mailed notice of the offense and notice that the Board will commence the action for suspension or registration, such notice to be sent certified mail with a return receipt requested to the practitioner at the practitioner's registration address. Practitioners who wish to avoid the suspension action may do so by sending to the Board a written explanation for the offense along with a written plan of action setting forth how the practitioner will avoid offenses in the future and a payment of five hundred dollars (\$500) within thirty (30) days of mailing of notice of the offense. The practitioner shall thereafter have thirty (30) days from the date of mailing of the notice of offense to come into compliance with the requirements of Section 37-2725, Idaho Code. If, after such thirty (30) day period, the practitioner fails to comply with the requirements of Section 37-2725, Idaho, the Board of Pharmacy shall take disciplinary action under Subsection 470.02.e. ()

e. Fourth offense - suspension or revocation of the practitioner's Controlled Substance registration pursuant to Section 37-2718, Idaho Code, for such period as the Board, in its discretion, may determine based on the circumstances, along with an administrative fine pursuant to Section 37-2719, Idaho Code, equal to the costs of prosecution and administrative costs of bringing the action including, but not limited to, attorney's fees and costs and costs of hearing transcripts. The practitioner shall be mailed notice of the offense and notice that the Board will commence the action for suspension of registration, such notice to be sent certified mail with a return receipt requested to the practitioner at the practitioner's registration address. ()

f. Offenses subject to discipline under this Subsection 470.02 shall accumulate for each subsequent offense that occurs within six (6) months of the date the practitioner is sent notice of the prior offense. An offense occurring more than six (6) months after the date the practitioner receives notice of any immediately prior offense shall be deemed a first offense. ()

g. Prescribing or dispensing Controlled Substances by a practitioner whose registration has been suspended or revoked hereunder shall be deemed a separate offense of the Board rule and applicable statute and shall be subject to separate action by the Board. ()

4701. -- 490. (RESERVED).

IDAPA 27 - BOARD OF PHARMACY
27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY
DOCKET NO. 27-0101-0303
NOTICE OF RULEMAKING - PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1706, 54-1717, and 54-1719(1) and (3), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 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 change allows return and use of unopened and unused drugs and makes a technical correction. This change responds to House Concurrent Resolution No. 17 directing the Board of Pharmacy and the Department of Health and Welfare to develop necessary statutory and rule changes to allow the return and use of unopened and unused drugs.

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

NEGOTIATED RULEMAKING: Informal negotiated rulemaking was conducted.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact R.K. "Mick" Markuson, Director, at (208) 334-2356.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August 2003.

R.K. "Mick" Markuson, Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720, Boise, Idaho 83720-0067
Telephone: (208) 334-2356
Facsimile: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0303

156. PHARMACIES.

01. Change Of Ownership Or Location. In case of change of ownership or location of a pharmacy, the original registration becomes void and must be returned with a new pharmacy application. (7-1-93)

02. Annual Report Of Pharmacy Employer. Annually, on the date of renewal of registration, the pharmacy employer must notify the Board of the registered pharmacist-manager of the pharmacy and each registered employee-pharmacist and each extern/intern training in the pharmacy, on the place provided on the application. Any change in pharmacist or extern/intern employment must be reported to the Board within five (5) days. (7-1-93)

03. Responsible Pharmacist Manager. A non-registered proprietor of a pharmacy shall place in charge of such pharmacy a pharmacist licensed in the state of Idaho who shall be known as "responsible pharmacist manager" and the non-registered proprietor shall immediately report to the state Board of Pharmacy the name of the pharmacist manager. (7-1-93)

04. Responsibility Of Pharmacist Manager. Responsible pharmacist managers of pharmacies owned by non-registered proprietors are responsible for the management of such stores so far as they are affected by the pharmacy laws. Every part of the establishment coming under the regulation of the pharmacy laws shall be under the full and complete control of such responsible pharmacist manager. (7-1-93)

05. Return Of Drugs Or Other Items. In the interest of public health, drugs, medicines, sickroom supplies, devices and items of personal hygiene shall not be accepted for return by any pharmacist or pharmacy after such drugs, medicines, sickroom supplies, devices and items of personal hygiene have been taken from the premises where sold, distributed or dispensed, except that ~~unopened "Unit Dose" packaged~~ medications for in-patients of residential or assisted living facilities, licensed skilled nursing care facilities, and hospitals may be returned to the dispensing pharmacy for credit provided the following medications are liquid medications that have been supplied in manufacturer sealed containers and remain unopened, or the medications are in unopened "Unit Dose" packaging. In addition, the conditions set forth in Subsection 156.05.b. ~~below are~~ must be satisfied: (4-5-00)()

a. Unit Dose is defined as medications packaged in individually sealed doses with tamper-evident packaging (e.g., single unit of use, blister packaging, unused ~~indictable~~ injectible vials and ampules). (4-5-00)()

b. The following conditions must be satisfied ~~for returns of Unit Dose packaged medications for credit:~~ (4-5-00)()

i. The medications must be returned with tamper-evident packaging intact and with no evidence of tampering. (4-5-00)()

ii. In the professional judgment of the pharmacist, the medications meet all federal and state standards for product integrity. (4-5-00)

iii. Policies and procedures are followed for the appropriate storage and handling of medications at the facility and for the transfer, receipt, and security of medications returned to the dispensing pharmacy. (4-5-00)

iv. A system is in place to track restocking and reuse to allow medications to be recalled if required. (4-5-00)

v. No controlled substance may be returned except those delivered by Unit Dose on a daily delivery system. (4-5-00)

vi. If the drug is repackaged by the pharmacy, each repackage container must be labeled in accordance with the following (for purpose of this rule, any change from the original manufacturer's packaging prior to delivery of the medication to the hospital or the facility shall be considered repackaging): ()

(1) Name and strength of the medication; ()

(2) A suitable expiration date which shall not be later than the expiration date on the original manufacturer's container, or one (1) year from the date the drug is repackaged (If a medication that was repackaged and delivered to the hospital or facility is thereafter returned to the pharmacy and subsequently repackaged again, the expiration date hereunder shall not be later than the expiration date used when the medication was initially repackaged.); ()

(3) The date the medication was repackaged; ()

(4) The manufacturer's lot number, expiration date, and identity; and ()

(5) The identity of the pharmacist responsible for the repackaging. ()

c. If the information required under Subparagraphs 156.05.b.vi.(4) and 156.05.b.vi.(5) is maintained in the internal records of the pharmacy, those requirements may be omitted from the labeling. The labeling requirements of Subparagraph 156.05.b.vi. shall apply in addition to the labeling requirements under Section 159. ()

d. Medications that have been outside the custody and control of the hospital or facility for any reason, are not eligible for return. In order to be considered as having been in the custody and control of the hospital or facility, the medications must have been delivered by the dispensing pharmacy directly to the hospital or facility or to an agent thereof who is authorized and qualified to accept delivery, and the medications must then be held by the hospital or facility in an area suitable for storing medications and not accessible to any patients. Once a medication has passed from the hospital or facility storage area to the patient or to the patient's designee for any reason, the medication is no longer eligible for return. ()

e. Medications otherwise eligible for return under this rule by virtue of their packaging but that have become ineligible for return for any reason must be marked as follows: ()

i. Such medications that are released for self-administration by the patient, or for administration outside the hospital or facility premises or that are otherwise released to be taken outside the custody and control of the hospital or facility, shall first be clearly marked and identified "Not Eligible For Return" provided however, the foregoing requirement for marking shall not apply to the daily dose of medication released to a patient on the day such dose is to be administered provided the hospital or facility does not allow any such medication to be returned to the same medication storage area as medications eligible for return. ()

ii. Such medications that are received by the hospital or facility from the patient or the patient's representative, and not directly from the dispensing pharmacy, and that are to be stored in the same storage area as medications which are eligible for return, shall first be clearly marked and identified "Not Eligible For Return". ()

iii. In the event medications otherwise eligible for return under this rule by virtue of their packaging are discovered to be ineligible for return because they have been outside the custody and control of the hospital or facility, or for any other reason, such medications shall be clearly marked and identified "Not Eligible For Return" immediately upon discovery if they are to remain stored in the same storage area as medications that are eligible for return. ()

f. Each pharmacy and the pharmacist-in-charge shall be responsible for consulting with each hospital or facility from which the pharmacy will accept returns under Section 156 to ensure that the hospital or facility has an employee or employees who are trained and knowledgeable in the proper storage, use, and administration of medications at the hospital or facility, and to ensure that the hospital or facility has in place and enforces written protocols that will ensure compliance with the conditions necessary to allow returns. The pharmacist-in-charge must review and approve the protocols. The pharmacy must keep a copy of the protocols, as well as the written approval thereof, on file in the pharmacy and produce the same for Board inspectors upon request. ()

g. Each pharmacy and the pharmacist-in-charge that will be accepting returns under Section 156 shall establish written protocols for the pharmacy that will ensure compliance with Section 156 for all returns. The pharmacist-in-charge must review and approve the protocols. The pharmacy must keep a copy of the protocols, as well as the written approval thereof, on file in the pharmacy and produce the same for Board inspectors upon request. ()

06. Damaged Drugs. To sell, offer for sale, barter or give away any drugs damaged by fire or water or by any other means that might affect the potency of the drug is prohibited without first obtaining the written approval

of the Board. (7-1-93)

07. Dangerous Drugs. Legend, controlled substances, or other limited sale items must be stored in accordance with United States Pharmacopoeia/National Formulary requirements in the prescription area (where prescriptions are compounded, dispensed or filled) and in a manner as to limit access to licensed pharmacists or authorized personnel of that area only. Failure to comply with this requirement shall be prima facie evidence of unprofessional conduct. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

257. DRUGS FROM OUTSIDE SOURCES.

01. Outside Pharmacies. Whenever drugs or pharmaceutical services are obtained from outside of the institutional facility arrangements shall be made to insure that such outside pharmacist provides his services with sufficient professionalism, quality and availability to adequately protect the safety of the patients and to properly serve the needs of the facility. Such arrangements shall be made in writing and shall, at a minimum, specify that: (7-1-93)

a. The outside pharmacist is to act in the capacity of a part-time Director and therefore, subject to these rules. (7-1-93)

b. The pharmacist shall provide on-call service at all times. (7-1-93)

c. Adequate storage facilities for drugs will be provided. (7-1-93)

d. All prescription drugs in oral solid dosage form supplied to a licensed skilled nursing care facility, whether from an outside source or in-house pharmacy, shall be limited to no more than an eight day supply except where USP indicates the drug shall be dispensed in the original container. Up to a thirty-four (34) day supply will be allowed if provided in "Unit Dose", as defined in Idaho Board of Pharmacy Rule Subsection 156.05. ~~Return of these drugs will only be allowed if they are supplied in "Unit Dose".~~ (4-5-00)(____)

e. All drugs in liquid form will be supplied in amounts not to exceed sixteen (16) ounces or an amount not to exceed a thirty-four (34) day supply. ~~Returns will only be allowed for liquid medications that have been supplied and remain in unopened, manufacturer sealed containers.~~ (7-1-97)(____)

f. All drugs housed in long term care facilities will be labeled according to Idaho Board of Pharmacy Rule 159. (8-4-94)

g. Automatic refilling of medications is prohibited, except where unit dose is used in a daily delivery system. Any continuation of medications must be reordered by the licensed skilled nursing care facility pursuant to a current physician's order. (7-01-94)

h. All drugs supplied shall be labeled so as to insure that recalls can be effected and that proper control and supervision of such drugs may be exercised. (7-1-93)

02. Patient's Own Drugs. (7-1-93)

a. Whenever patients bring drugs into an institutional facility such drugs shall not be administered unless they can be precisely identified; administration shall be pursuant to a physician's order only. (7-1-93)

b. If such drugs are not to be administered, then the Director shall, according to procedures specified by him in writing, have them turned in to the pharmacy which shall package and seal them and return them to an adult member of the patient's immediate family or store and return them to the patient upon discharge. (7-1-93)

IDAPA 27 - BOARD OF PHARMACY
27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY
DOCKET NO. 27-0101-0304
NOTICE OF RULEMAKING - PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1706, 54-1717, and 54-1719(1) and (4), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 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 rule change expands the list of acceptable pharmacy references which are part of the required library in each pharmacy. This change is necessary to implement an expanded list of acceptable pharmacy references now recognized by the Board of Pharmacy.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact R.K. "Mick" Markuson, Director, at (208) 334-2356.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

R.K. "Mick" Markuson, Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720, Boise, Idaho 83720-0067
Telephone: (208) 334-2356
Facsimile: (208) 334-3536

THE FOLLOWING IS THE TEXT OF DOCKET NO. 27-0101-0304

152. REFERENCE LIBRARY.

~~01-~~ Required Books. The latest edition and supplement(s) of the following: Idaho Pharmacy Law and Rules; ~~A current pharmacy patient counseling reference; Facts and Comparisons;~~ one (1) of the following current pharmacy references – Facts and Comparisons, Clinical Pharmacology, Micromedex; and one (1) other current pharmacy reference of your choice (book or computer diskette). ~~(8-4-94)()~~

IDAPA 30 - IDAHO STATE LIBRARY

30.01.01 - RULES OF THE IDAHO STATE LIBRARY GOVERNING THE USE OF STATE LIBRARY MATERIALS AND SERVICES

DOCKET NO. 30-0101-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-2503, Idaho Code.

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

These rule changes clarify and update rules relating to library materials and services and incorporate by reference the federal eligibility criteria for the use of the talking book library services by disabled borrowers. These rules are necessary to clarify and update rules relating to library materials and services.

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

No fee or charge is being imposed or increased by this rulemaking.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact Charlotte Fowles at (208) 334-2150.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 20th day of August, 2003.

Charles A. Bolles
State Librarian
Idaho State Library
325 W. State St.
P. O. Box 83720
Boise, Idaho 83702
Telephone: (208) 334-2150
Facsimile: (208) 334-4016

THE FOLLOWING IS THE TEXT OF DOCKET NO. 30-0101-0301

004. INCORPORATION BY REFERENCE.

IDAPA 30.01.01, "Rules of the Idaho State Library Governing the Use of State Library Materials and Services," incorporates by reference the eligibility rules for disabled borrowers as published in 36 CFR 701.10, as amended October 2, 1981. Copies of these eligibility rules are available for inspection at the Idaho State Library. ()

005. BOARD OFFICE -- LOCATION, HOURS, MAILING ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER.

The address of the Idaho State Library, and its mailing address, is 325 W. State Street, Boise, Idaho 83702-6072. Office hours are from 8:00 a.m. until 5:00 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho The Library's telephone number is (208) 334-2150 and the facsimile number is (208) 334-4016. ()

0046. PUBLIC RECORDS ACT COMPLIANCE.

Documents related to this chapter are specifically exempted from public disclosure under All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act, Section 9-340(9), Idaho Code (Title 9, Chapter 3, Idaho Code). (7-1-96)()

0057. -- 010. (RESERVED).

011. LOAN OF ITEMS TO INDIVIDUALS.

01. Eligibility Of Borrowers. Any Idaho resident may borrow State Library items under the conditions and restrictions set forth in these rules. Items from the State Library collection may be checked out ~~at~~ from the library or may be borrowed through the interlibrary loan service of the individual's local library. Items and services of the Talking Book Library are controlled according to Subsection 011.07. (7-1-96)()

02. Patron Registration. An Idaho resident may ~~apply for a use~~ State Library ~~card~~ materials by ~~filling out~~ completing a registration form and ~~showing~~ providing valid identification verifying Idaho residency. Registration for a ~~minor~~ (resident under age eighteen (18)) must include the signature of a parent or guardian and verification of the parent's or guardian's Idaho residency. ~~The library card will be used whenever borrowing items from the State Library.~~ (7-1-96)()

03. Overdue Item. An item is ~~considered~~ overdue if it ~~has is~~ not ~~been~~ returned by the ~~day after the~~ due date. An overdue notice requesting return of the item is sent to the borrower. If the overdue item is not returned within four (4) weeks after the due date, a bill for the replacement costs is sent to the borrower. (7-1-96)()

04. Lost Item. If a borrowed item is lost, the borrower is billed for the replacement costs. (7-1-96)

05. Damaged Item. An item is ~~considered~~ damaged if its physical condition or usefulness to other borrowers is impaired. If the damage requires removal of the item from the collection, the borrower is billed for the replacement costs. If the item requires repair before it can be used, the borrower may be billed for the repair costs, depending on extent of damages. (7-1-96)()

06. Borrowing Privileges. A borrower ~~is not allowed to~~ cannot borrow an additional item if he has not returned an overdue item or has an outstanding bill for an overdue, lost, or damaged item. Borrowing privileges are reinstated when the item is returned in good condition or the bill is paid in full. Repeated failure to comply with these rules may result in permanent ~~revocation~~ loss of borrowing privileges. (7-1-96)()

07. Talking Book Library Services. (7-1-96)

a. ~~Large print books, recorded books and magazines,~~ Materials and specialized playback equipment are loaned to eligible, registered borrowers without charge. ~~To be eligible for the service, a person must be unable to read standard print under~~ The criteria for eligibility is established by the National Library Service of the Library of Congress, as published in ~~the Code of Federal Regulations, Title 36, Section 701.10~~ 36 CFR 701.10, as amended October 2, 1981, which has been incorporated by reference in Section 004. (7-1-96)()

b. A borrower accepts the responsibility for using ~~items~~ materials and equipment with reasonable care and returning them to the State Library according to established policies and guidelines. ~~Abuse may include: purposeful damage of equipment or a library item; repeated disregard of instructions for equipment care; disregard of requests to return equipment or an item to the State Library.~~ (7-1-96)(____)

c. If the State Library finds evidence of abuse of ~~an item~~ materials, equipment, or service, the staff discusses the situation with the borrower and provides written confirmation to the borrower. If abuse continues after suitable warning, service may be suspended ~~for up to six (6) months~~. The borrower may apply for reinstatement of service after the end of the suspension period. (7-1-96)(____)

~~08. Film And Video Equipment.~~ (7-1-96)

~~**a.** Film and video playback equipment is available to view a videotape or film at the State Library or to view a videotape or film borrowed from the State Library collection. The circulation period for this equipment is a maximum of three (3) days.~~ (7-1-96)

~~**b.** The borrower assumes full responsibility for the equipment and agrees to pay for any and all damage to the equipment incurred while the equipment is in the borrower's possession.~~ (7-1-96)

012. INTERLIBRARY LOAN SERVICES.

01. Loans To Other Libraries. The State Library loans items from its collection to any library submitting ~~a standard~~ an interlibrary loan request. The borrowing library must return the item to the State Library in the same manner as it was sent to the borrowing library, including insurance if required. A borrowing library losing or damaging State Library material is assessed replacement or repair costs as stated in Subsections 011.04 and 011.05. (7-1-96)(____)

02. Loans To ~~Government Officers Or Employees~~ Idaho Residents. The State Library initiates interlibrary loan requests for ~~employees and officers of the state of Idaho and United States Government employees working in~~ Idaho residents only in its collection areas. A State Library borrower losing or damaging material borrowed ~~for him~~ from another library is responsible for any costs billed by the lending ~~agency~~ library. (7-1-96)(____)

IDAPA 31 - PUBLIC UTILITIES COMMISSION

31.01.01 - RULES OF PROCEDURE OF THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-0101-0301 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given of the Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Sections 61-601 and 61-617A(4), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, no later than October 15, 2003.

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

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

The Commission is proposing several changes to its Rules of Procedure. First, the Commission proposes a new Rule 125 regarding public workshops when a utility files an application to increase any rate. The purpose of the workshop is for the Staff to dispense information and to receive written or oral comments from the public prior to the Staff filing testimony or comments in the case. Second, the Commission proposes to amend its Rule 43 to incorporate Idaho Bar Commission Rule 222 regarding the limited admission of out-of-state attorneys representing parties before the Commission in quasi-judicial proceedings.

Third, the Commission is encouraging public utilities to file their tariff schedules electronically. Rule 132 establishes procedures for utilities to electronically file their tariffs. Fourth, Rule 135 codifies existing procedures the Commission utilizes to review telecommunications interconnection agreements filed by telecommunication companies. Finally, the Commission is proposing several other amendments to its rules to improve readability, eliminate ambiguities, to correct citations and cross-references, and to make other housekeeping changes.

FEE SUMMARY: Rule 043 proposes to adopt by incorporation Idaho Bar Commission Rule 222. Bar Rule 222(j) was promulgated by the Idaho State Bar and adopted by the Idaho Supreme Court. Bar Rule 222(j) establishes a \$200 fee for out-of-state attorneys applying for limited admission to represent parties appearing in major cases before the Idaho Public Utilities Commission. The fee is authorized by the order of the Idaho Supreme Court and Sections 3-401, 3-408 and 3-413, Idaho Code.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted because of the non-substantive nature of many of the changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General at (208) 334-0312.

Anyone may submit written comments regarding these proposed rules. All written comments concerning the proposed rules must be delivered to the Commission Secretary at the address identified below or must be postmarked on or before October 22, 2003.

Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED at Boise, Idaho this 11th day of August, 2003.

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

Street address for express delivery:
472 W Washington
Boise, ID 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-0101-0301

012. OFFICE -- OFFICE HOURS -- FAX NUMBER -- MAILING, ELECTRONIC AND STREET ADDRESSES (Rule 12).

The principal office of the Commission is in Boise, Idaho. This office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The Commission's telephone number is (208) 334-0300. The ~~Commission's text telephone (TDD) number for the hearing or speech impaired is (208) 334-3151~~ may reach the Commission through the Idaho Telecommunications Relay Service by dialing 711. (4-5-00)()

01. Fax Number, Mailing And Street Addresses. The Commission's FAX number is (208) 334-3762. The Commission's mailing address is: Idaho Public Utilities Commission, PO Box 83720, Boise, Idaho 83720-0074. The street address of the Commission is: 472 West Washington, Boise, Idaho 83702-5983. All documents filed in all proceedings must be filed with the Commission at one (1) of these addresses. (4-5-00)

02. Electronic Address. The Commission's electronic address for its Internet homepage is www.puc.state.id.us. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

016. SERVICE BY COMMISSION (Rule 16).

The Commission Secretary serves all notices, orders, summonses, and complaints issued by the Commission or by the Secretary. (7-1-93)

01. Service Of Orders And Notices. All notices and orders served by the Commission may be served by United States mail. Notices and orders may also be served by electronic mail ~~at the request of persons to be served in cases designated by the Commission.~~ Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is either deposited in the United States mail or transmitted electronically. All orders and notices shall be affixed with the Commission Secretary's official service date on the first page. The Commission Secretary will serve all orders and notices in a proceeding on the representatives of each party designated pursuant to Rule 41 for that proceeding and upon other persons designated by these rules or by the Commission or any Commissioner. (4-5-00)()

02. Service Of Summonses And Complaints. The Commission Secretary will serve complaints against utilities upon the person designated for that purpose by the utility. All utilities must maintain on file with the Commission Secretary a designation of such a person. Summonses and complaints directed to regulated utilities or other persons shall be served by registered or certified mail. Writs of summons or subpoena and warrants of attachments directed to all other persons must be served by a person authorized to serve process by statute or by the Idaho Rules of Civil Procedure. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

019. INCORPORATED BY REFERENCE -- IDAHO BAR COMMISSION RULE (Rule 19).

Rule 43 incorporates by reference Idaho Bar Commission Rule 222 (Limited Admission/Pro Hac Vice). Bar Rule 222 is promulgated by the Idaho State Bar and adopted by order of the Idaho Supreme Court. Bar Rule 222 may be obtained from the Idaho State Bar, PO Box 895, Boise, ID 83701, or online at www2.state.id.us/isb/ under the "Rules" icon. Bar Rule 222 is also available for inspection and copying at the Idaho State Law Library or at the offices of the Idaho Public Utilities Commission. ()

~~019.~~ 020. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

037. COMMISSION STAFF (Rule 37).

The Commission Staff, without intervention, may appear at any hearing and has all rights of participation as a party to the proceeding. If counsel is desired, a ~~Deputy~~ ~~Attorney~~ General for the Commission represents the Staff.

(7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

041. INITIAL PLEADING BY PARTY -- LISTING OF REPRESENTATIVES (Rule 41).

01. Designation Of Representative Required. The initial pleading of each party to a proceeding (be it an application, petition, complaint, motion, or answer) must name the party's representative(s) for service and state ~~the~~ each representative's(~~s~~) mailing and electronic (if available) address(~~s~~) for purposes of receipt of all official documents. ~~Parties desiring to be served by electronic mail shall indicate their preference in their initial pleadings.~~ Service of documents on the named representative(s) by mail or by electronic mail is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as a party's representative, the person signing the pleading will be considered the party's representative. (4-5-00)()

02. Number Of Representatives. No more than two (2) persons may be designated as a party's representatives for purposes of service or receipt of official documents unless otherwise authorized by order. The Commission may condition such an order upon reasonable terms concerning payment of copying costs and mailing costs to additional representatives. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

043. REPRESENTATION OF PARTIES AT ~~HEARING~~ PROCEEDINGS (Rule 43).

Recognizing that proceedings before the Commission are sometimes administrative in nature or quasi-judicial in nature, Appearances and representation of parties at hearing ~~must~~ shall be as follows: (7-1-93)()

01. Natural Person. A natural person must represent himself or herself or be represented by a duly authorized employee, or an attorney, ~~family member or next friend.~~ (7-1-93)()

02. Partnership. A partnership must be represented by a partner, duly authorized employee, or an attorney. (7-1-93)

03. Corporation. A corporation must be represented by an officer, duly authorized employee, or an

attorney.

(7-1-93)

04. Other Entity. A municipal corporation, state, federal, tribal, or local government agency, or entity, incorporated association, or non-profit organization must be represented by an officer, a duly authorized employee or an attorney. (7-1-93)

05. Attorney Representation. Only an active member of the Idaho State Bar may represent a party as an attorney except as provided by Idaho Bar Commission Rule 222 (Limited Admission/Pro Hac Vice). The Commission adopts by incorporation Bar Rule 222 as modified below. ()

a. Given the administrative nature of many proceedings, limited admission by out-of-state attorneys will not be necessary in conjunction with administrative filings such as tariff schedules, tariff advices, price lists, certificates to provide local exchange service, and interconnection agreements. Out-of-state attorneys shall request limited admission in quasi-judicial cases such as formal complaints, motions, petitions, and applications that request modified procedure or an evidentiary hearing. ()

b. An attorney applying for limited admission to appear before the Commission in a representative capacity shall file a written motion with the Commission Secretary and serve a copy on all parties. The motion shall be substantially in the form set out in Bar Rule 222(1) with references to the Commission instead of the court. ()

c. A copy of the written motion shall be submitted to the Idaho State Bar accompanied by the fee prescribed by Bar Rule 222(j). ()

044. SERVICE ON REPRESENTATIVES OF PARTIES AND OTHER PERSONS (Rule 44).

From the time a party files its initial pleading in a proceeding, that party must serve and all other parties must serve all future documents listed in Rule 751 upon all other parties' representatives designated pursuant to Rule 41, unless otherwise directed by order or notice or by the presiding officer on the record. The Commission may order parties to serve past documents filed in the case upon those representatives. The Commission may order parties to serve past or future documents filed in the case upon persons not parties to the proceedings before the Commission.

(7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

052. APPLICATIONS -- DEFINED -- FORM AND CONTENTS (Rule 52).

All pleadings requesting a right, certificate, permit, or authority from the Commission or the award of intervenor funding are called "applications". Applications must: (4-5-00)

01. State Facts. Fully state the facts upon which they are based, (7-1-93)

02. Refer To Provisions. Refer to the particular provisions of statute, rule, order, or other controlling law upon which they are based, and (7-1-93)

03. Pray For The ~~Order, Authorization, Or Certificate~~ Action Sought. Request the action desired. ()

04. Public Information. Unless otherwise exempted from disclosure by statute, information in applications is public information not exempt from disclosure under Section 9-340C(9), Idaho Code. (4-5-00)()

(BREAK IN CONTINUITY OF SECTIONS)

061. FILING DOCUMENTS WITH THE COMMISSION -- NUMBER OF COPIES -- FACSIMILE TRANSMISSION (FAX) (Rule 61).

The following numbers of documents must be filed with the Commission Secretary: (7-1-93)

- 01. Printed Filings.** When filing printed material. (4-5-00)
 - a.** In utilities cases (other than ~~security issuances~~ those cases specified below): ~~(4-5-00)~~()
 - i. Pleadings (applications, petitions, complaints, motions, answers and consent agreements)--an original and seven (7) copies. (7-1-93)
 - ii. Briefs, proposed orders, statements of position, and exceptions under Rule 312--eight (8) copies. (4-5-00)
 - iii. Prepared testimony and exhibits--nine (9) copies (one (1) copy designated as reporter's copy) plus computer disk as required by Rule 231.05. (7-1-93)
 - iv. Discovery-related documents (notice of deposition, production requests, written interrogatories, requests for admission, answers to discovery, explanations in lieu of discovery under Rule 225 and objections to discovery)--three (3) copies except as requested pursuant to Rule 229. (7-1-93)
 - b.** Security issuance cases: (4-5-00)
 - i. Pleadings--an original and four (4) copies. (7-1-93)
 - ii. Other documents except for discovery-related documents--five (5) copies. (7-1-93)
 - iii. Discovery-related documents--three (3) copies. (7-1-93)
 - c.** Telecommunication interconnection agreements: ()
 - i. Pleadings--an original. ()
 - ii. All other documents--two (2) copies. ()
- 02. FAX Filings.** Pleadings (including supporting affidavits, memoranda, etc.) not exceeding ten (10) pages in length, notice of taking depositions, notices of withdrawal of party or of withdrawal of representative, stipulations, and documents requiring urgent or immediate action by the Commission may be filed with the Commission Secretary by facsimile transmission (FAX). Whenever any such document is filed by FAX, originals must be delivered to the Commission by overnight mail on the next working day. The use of FAX is prohibited to file prepared testimony and exhibits, requests for or answers to discovery (other than notices of taking deposition), or any other documents except as authorized by this paragraph. (7-1-93)
- 03. Reducing The Number Or Changing The Form Of Copies.** The Commission Secretary is authorized to reduce the number of required copies or allow electronic copies to be filed in lieu of a printed original or copies. ()

062. FORM OF DOCUMENTS (Rule 62).

- 01. Information To Be Listed.** All documents listed in Rule 61 submitted by a party and intended to be part of the record must: (7-1-93)
 - a.** Be submitted on white eight and one-half inch by eleven inch (8 1/2" by 11") paper copied on one (1) side only; (7-1-93)
 - b.** State the case caption, case number and title of the document; (7-1-93)

- c. Include on the upper left corner of the first page: ()
- i. ~~¶~~The name(s); ()
- ii. ~~¶~~Mailing, ~~and~~ street and e-mail address(es); and ()
- iii. ~~¶~~Telephone and FAX number(s) of the person(s) filing the document or the person(s) to whom questions about the document can be directed; and ~~(7-1-93)~~()
- d. Have at least one-inch (1") left and top margins. (7-1-93)

02. Example. These documents complying with this rule will be in the following form:

Name of Representative (State Bar No. if applicable)
Mailing Address of Representative
Street Address of Representative (if different)
Telephone Number of Representative
FAX Number of Representative (if there is one)
E-mail address (if available)
Attorney/Representative (for Name of Party)

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSIONS

(Title of Proceeding)

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)

)

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CASE NO. ABC-X-XX-XX

TITLE OF DOCUMENT

~~(7-1-93)~~()

03. Identification Of Parties. Every document filed under this rule must identify the party filing it in its title. The party must be identified by both the party's designation as a party (e.g., intervenor) and the party's name. For example, the Intervenor ABC Company would title its motion to strike as "Motion to Strike of Intervenor ABC Company". A short title of the document must appear at the bottom left corner of each page of the document. For example, the short title of the motion above could be: "ABC's Motion to Strike." (7-1-93)

063. SERVICE ON PARTIES AND OTHER PERSONS (Rule 63).

All documents referred to in Rule 61 must be served upon the representatives of every party of record concurrently with filing with the Commission Secretary. When a document has been filed with the Commission Secretary by FAX, it must be served upon all other parties with FAX facilities by FAX and upon the remaining parties by overnight mail, hand delivery, or the next best available service if these services are not available. The Commission may direct that service be accomplished by electronic mail. The Commission may direct that some or all of these documents be served on interested or affected persons who are not parties. The Commission Secretary's notice of parties (and revisions to it) will list all persons whom the parties must serve and their representatives as of the date of the notice or its revision. ~~(7-1-93)~~()

(BREAK IN CONTINUITY OF SECTIONS)

067. INFORMATION EXEMPT FROM PUBLIC REVIEW - DEFINITIONS - FORM - PROCEDURES (Rule 67).

- 01. Definitions.** (4-5-00)

a. “Trade secrets” filed with the Commission are exempt from public inspection, examination, and copying pursuant to Section 9-340D, Idaho Code. Trade secrets means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that: (4-5-00)

i. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and (4-5-00)

ii. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.(4-5-00)

b. “Confidential information” means information, documents, or records filed with the Commission that are specifically exempt from public inspection, examination and copying pursuant to Sections 9-340A through 9-340F, Idaho Code. (4-5-00)

02. Form. In addition to the requirements of Rule 62 (except Subsection 062.01.a.), information that is alleged to be trade secrets, confidential or otherwise exempt from public disclosure shall be served upon the Commission and other parties who have entered into a protective agreement pursuant to Subsection 067.04 in either printed or electronic format. (4-5-00)

a. If in printed form, the page(s) containing the trade secret or confidential information shall be reproduced on any colored paper other than white. Each page shall be marked as “TRADE SECRETS” or “CONFIDENTIAL”. (4-5-00)

b. If in electronic form, the trade secret or confidential information shall be reproduced separately on a DOS formatted three and one-half (3.5”) inch, (one point forty-four (1.44) megabyte diskette) or other storage format approved by the Commission; and not included with other material electronically filed. Each diskette or other storage device containing trade secret or confidential information shall be clearly identified with the case caption, case number, title of document and marked as “TRADE SECRETS” or “CONFIDENTIAL”. ~~(4-5-00)~~(____)

03. Procedure. Whenever a party believes that information contained in pleadings or other documents are trade secrets, confidential or otherwise exempt from public disclosure, the attorney of such party designated by Rule 41 must state in writing that the information is protected by law from public inspection, examination or copying, citing the specific grounds and legal authority for that assertion. Documents containing trade secrets or confidential information shall be separated from documents not containing trade secrets or confidential information. Trade secrets or confidential information contained in documents will be removed and replaced with a page marked: “This page allegedly contains trade secrets or confidential material and is separately filed.” All materials for which no assertion of protection from public inspection, examination and copying is made will be placed in files available for public inspection. Trade secrets, confidential information and other records exempt from public inspection shall be separately stored in a secured location with limited access and safeguarded from unauthorized disclosure. (4-5-00)

04. Protective Agreements. In proceedings before the Commission involving trade secrets or other confidential information, parties may enter into protective agreements to facilitate and safeguard the exchange of necessary information. Protective agreements may include procedures for copying, exchanging, serving, safeguarding, or challenging the characterization of trade secrets or confidential information. The Commission shall not be a party and will not be bound by the terms of a protective agreement. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

111. FORM AND CONTENTS -- NEW UTILITY (Rule 111).

Applicants for the issuance of a certificate of convenience and necessity for a new utility under Section 61-526, Idaho Code, or Commission order, must submit the data required by this rule (where relevant) with their applications. (4-5-00)

- 01. Name, Address And Form Of Business.** (7-1-93)
- a.** If the applicant is a sole proprietor: (7-1-93)
- i.** The name, business address, and electronic address (if available) of the applicant; and (4-5-00)
- ii.** The business name (including “doing business as” (dba)) of the sole proprietorship. ~~(7-1-93)~~(____)
- b.** If the applicant is a partnership: (7-1-93)
- i.** A list of the names, business addresses, and electronic addresses (if available) of all the partners; (4-5-00)
- and
- ii.** The business name (including dba) of the partnership. ~~(7-1-93)~~(____)
- c.** If the applicant is a corporation: (7-1-93)
- i.** A short statement of the character of public service in which it may engage; (7-1-93)
- ii.** The name of the corporation (including dba) and the state in which it is incorporated; ~~(7-1-93)~~(____)
- iii.** Its principal business address, its principal business address within Idaho, and electronic address (if available); (4-5-00)
- iv.** A certified copy of its articles of incorporation; and (7-1-93)
- v.** If not incorporated in Idaho, a certificate of good standing issued by the Secretary of State of Idaho and the name and address of its agent for service in Idaho. ~~(7-1-93)~~(____)
- 02. Written Explanation Why Service Is Proposed.** A statement or prepared testimony and exhibits explaining why the proposed utility service is or will be in the public convenience and necessity. (7-1-93)
- 03. Proposed Operations.** A full description of the proposed location, route or routes of the utility service, including a description of the manner of construction, and the names of all public utilities, corporations, or persons with whom the proposed new utility is likely to compete. (7-1-93)
- 04. Maps.** A map of suitable scale showing the location of the utility service and its relation to other public utilities in the area that offer or provide similar utility service. (7-1-93)
- 05. Financing Of Construction.** A statement of the manner in which the applicant proposes to finance new utility service construction, the time when the applicant proposes to begin construction and the time when the applicant proposes to begin service. (7-1-93)
- 06. Cost Of Service.** Estimates of the cost of extending to and the annual cost of serving the territory for which the certificate is sought, of the number of service connections already made or to be made, of the annual revenue from them or expected annual revenue from them, and of anticipated rates and charges. (7-1-93)
- 07. Financial Statement.** A financial statement of the applicant. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

125. PUBLIC WORKSHOPS ON APPLICATIONS TO INCREASE RATES (Rule 125).

- 01. Public Workshop.** When a public utility files an application to increase any rate, fare, toll, rental or

charge regarding any classification or service, the Commission will determine if the staff should conduct a public workshop. The purpose of any workshop is for the staff to dispense information concerning the utility's application and to receive written or oral comments from the public prior to the staff filing testimony or comments in the case. ()

02. Notice And Location Of Workshop. Notice of the public workshop shall be disseminated a minimum of seven (7) days prior to the workshop to newspapers of general circulation and radio and television stations in the affected area. The Commission shall determine the location for the workshop within the area served by the public utility. The notice shall also be posted on the Commission's website. ()

03. Exemptions. The requirements of Subsection 125.01 shall not apply to applications regarding uniform statewide surcharges under Sections 56-904, 62-610 and 62-610F, Idaho Code, or to utility tariff advices. ()

1256. -- 130. (RESERVED).

**RULES 131 THROUGH 140 - TARIFF SCHEDULES ~~OF UTILITIES~~
-- INTERCONNECTION AGREEMENTS**

(BREAK IN CONTINUITY OF SECTIONS)

132. NUMBER OF TARIFF COPIES FILED (Rule 132).

The Commission encourages public utilities ~~must~~ to file ~~an original and three (3) copies of~~ their tariff schedules via electronic mail. ()

01. Electronic Tariffs. For electronically filed tariffs, each utility shall submit its tariff schedules prepared in Adobe Acrobat in portable document format (PDF) as an attachment to an e-mail message sent to the Commission Secretary at: secretary@puc.state.id.us. Electronic tariff schedules may also be submitted as PDF documents on appropriately formatted three and one-half (3.5) inch diskette, zip disk, or CD-ROM. ()

02. Printed Tariffs. To file printed tariffs, each utility shall file an original and two (2) copies of their tariff schedules with the Commission Secretary. ()

03. Approval. The Commission will stamp its approval in the space provided on each copy of an approved tariff, placing the original in its files and returning one (1) copy to the public utility. ~~(7-1-93)~~()

133. TARIFFS SUBMITTED PURSUANT TO ORDER (Rule 133).

01. Order May Require Submission Of Tariffs. When the Commission directs or authorizes by order that certain tariffs be filed, the order may require the tariff submissions to the Commission to be accompanied by appropriate explanatory documents, summaries, workpapers, or similar material. When the Commission authorizes a utility to file new tariffs pursuant to order in a general rate case, the Commission may require the utility to file a complete set of tariffs containing both pages with changed rates and charges and those without. (7-1-93)

02. Staff Review Of Tariffs Filed Pursuant To Order. When a utility files tariffs with the Commission pursuant to an order of the Commission in a proceeding in which other persons are party, the responsibility for reviewing the tariff submission to determine whether it complies with the Commission's order is upon the Commission Staff, which shall promptly report to the Commission whether the tariffs do comply. The review of tariffs filed pursuant to order is an ex parte, ministerial responsibility of the Commission Staff. Tariffs may be approved ~~by~~ in the minutes of the Commission's decision meetings or by minute entry after Staff review without further order. After approval, the utility must promptly serve the tariffs on all parties. ~~(7-1-93)~~()

03. Motions With Regard To Tariffs Submitted Pursuant To Order. If the Commission has approved tariffs, parties or persons contending that approved tariffs are inconsistent with the Commission's orders may file appropriate motions asking that approval be reviewed. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

135. INTERCONNECTION AGREEMENTS (Rule 135).

01. Uncontested Agreements. A utility may file an application for the Commission to approve voluntarily negotiated, adopted or amended interconnection agreements pursuant to Section 252 of the federal Telecommunications Act of 1996. The Commission acts on adopted or negotiated interconnection agreements and uncontested amendments to previously approved agreements with the assistance of an ex parte recommendation of the Commission Staff. ()

02. Contested Agreements. Petitions to arbitrate, mediate or otherwise resolve interconnection disputes between or among telecommunication carriers shall be processed under Rule 53. ()

1356. -- 140. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

161. CASES IN WHICH INTERVENORS MAY APPLY FOR FUNDING (Rule 161).

In any case involving regulated electric, gas, water or telephone utilities with gross Idaho intrastate annual revenues exceeding ~~one~~ three million five hundred thousand dollars (\$~~13~~,500,000), intervenors may apply for intervenor funding. (~~7-1-93~~)()

(BREAK IN CONTINUITY OF SECTIONS)

165. AWARDS (Rule 165).

01. Order Awarding Intervenor Funding. The Commission may by order award intervenor funding pursuant to Section 61-617A, Idaho Code. The total award for all intervening parties combined shall not exceed ~~twenty-five~~ forty thousand dollars (\$~~2540~~,000) in any proceeding. The Commission must find that: (~~7-1-93~~)()

- a. The intervenor's presentation materially contributed to the Commission's decision, (7-1-93)
- b. The costs of intervention awarded are reasonable in amount, (7-1-93)
- c. The costs of intervention were a significant hardship for the intervenors, (7-1-93)
- d. The recommendations of the intervenor differed materially from the testimony and exhibits of the Commission Staff, and (7-1-93)
- e. The intervenor addressed issues of concern to the general body of users or consumers. (7-1-93)

02. Payment Of Awards. Awards of intervenor funding must be paid within twenty-eight (28) days of the order of the Commission awarding intervenor funding, unless the order of the Commission is stayed. (7-1-93)

03. Recovery Of Awards Of Intervenor Funding. Awards of intervenor funding paid by electric, gas, water or telephone utilities will be an allowable business expense in the pending rate case or, if the proceeding is not a rate case, in the utility's next rate case. Awards of intervenor funding shall be chargeable to the class of customers represented by the intervenors. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

215. ~~FACTS DISCLOSED~~ CONFERENCE PROCEEDINGS PRIVILEGED (Rule 215).

Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in prehearing conferences are privileged and are not part of the record. Except by agreement, facts disclosed cannot be used against participating parties, before the Commission or elsewhere, unless proved by independent evidence. Offers made and other aspects of negotiations or settlement other than a final agreement itself are privileged. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

228. ANSWERS TO PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND TO REQUESTS FOR ADMISSION (Rule 228).

01. When Answers Not Filed. Answers to production requests or written interrogatories and to requests for admission need not be filed and served in the following circumstances: (7-1-93)

a. Voluminous answers may be filed in a depository designated and agreed to by the parties or designated by the Commission, and an explanation notifying the parties of the availability of the answers at the depository must be filed and served in their stead. (7-1-93)

b. Answers involving data compiled by computer may be transmitted in computer-readable form (e.g., by ~~magnetic tape~~ disk or other mutually agreed means) to the party requesting them and to all other parties requesting them in similar computer-readable forms and an explanation notifying the parties of their distribution must be filed and served in their stead. (7-1-93)(____)

02. Filing Of Answers. Except as provided in Rule 228.01, answers to production requests or written interrogatories and to requests for admission must restate in full each question asked, then state in full the party's response to the question and the persons who will be able to answer questions about or sponsor the answer at hearing. Answers to production requests or interrogatories need not be separately answered under oath by each person preparing the party's response to the question or each witness who will be able to answer questions about or sponsor the answer, but instead can be generally subscribed by the party's representative. The restatement of the question and its accompanying answer must begin on a new page whenever the preceding answer refers to other documents or whenever the preceding question in the particular production request or written interrogatory is not answered in full in that document. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

286. TRANSCRIPTS (Rule 286).

01. Form Of Transcripts--Cover Sheet. Transcripts must be prepared on white eight and one-half by eleven inch (8 1/2" x 11") paper. The cover page of each volume of transcript must show the title of the proceeding, the case number, the presiding officer, the time and place of hearing, and other information as shown in the following example:

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

(TITLE OF PROCEEDING))
CASE NO. XXX-X-XX-XX)
)
)
(COMMISSIONER Able Baker, Presiding)

(HEARING OFFICER Charlie Dog, Presiding)

(Date, e.g., January 21, 1983)

(Hearing Room, e.g., Commission Hearing Room)

(Address, e.g., 472 West Washington, Boise, Idaho) (7-1-93)

02. Volumes Of Transcript--Indices To Volumes. Each day of hearing must be transcribed in a volume or volumes separate from other days of hearing. Each volume of transcript must begin with a list of the parties who appeared that day and their representatives at hearing that day. This list must be followed with a list of all witnesses whose testimony is reported in that volume, showing the pages at which each witness's testimony begins, what party (if any) called the witness, the pages upon which each other party's examination begins, the pages upon which each Commissioner's or hearing examiner's examination begins, and the pages upon which redirect examination or any party's, Commissioner's or hearing examiner's re-examination begins. These lists must be followed with a list showing all exhibits identified in that volume of transcript (including exhibits accompanying prepared testimony), the pages upon which they are first identified, and, if any exhibits are denied admission, the pages upon which the exhibits are denied admission. (7-1-93)

03. Matters Included In Transcript. The transcript must contain all discussions on the record while the hearing is in order. Unless otherwise directed by the Commission, the presiding officer, or the Commission Secretary, prepared testimony must be included in the transcript without change or retyping. Witness's corrections to prepared testimony should be made by distributing replacement pages to the reporter and describing those corrections on the record and/or distributing an errata sheet; unless otherwise directed, no corrections other than replacement pages will be made in the prepared testimony before it is incorporated in the transcript, except the reporter may make minor corrections by interlineation in the prepared testimony. Witnesses may have seven (7) days after hearing to distribute replacement pages to all parties and to the reporter, unless the Commission, the presiding officer or the Commission Secretary otherwise directs. (7-1-93)

04. Marginal Notes. The testimony of all witnesses reported in the transcript must be designated in the lower right margin by the witness's surname and the party sponsoring the witness's testimony. Witnesses not sponsored by any party must be designated "Public". The type of testimony must be shown following the witness's surname as "Di" (direct or redirect), "X" (examination by any party not sponsoring the witness), or "Com" (examination by a Commissioner or hearing examiner). Examples of the designations required by this Rule follow:

| | |
|--------------------------------|---|
| Accountant, Di; ABC Company | Accountant, Com; Ratepayer, X ABC Company Public |
|--------------------------------|---|

Discussions on the record that are not testimony or examination may be labeled "argument," "decision," "colloquy," etc., to describe what is reported. (7-1-93)

05. Volume Size--Number Of Pages. Transcript volumes should not exceed three hundred (300) pages unless the transcript can be completed in three hundred fifty (350) pages or less. Transcript volumes and pages of all proceedings on the record, including prehearing conferences, hearings, arguments, and any other proceedings on the record, must be numbered consecutively. For example, if a prehearing conference on the record preceded a hearing, the transcript volume and page numbers of the hearing would be numbered consecutively with that of the prehearing conference. (7-1-93)()

06. Number Of Copies - Binding. The reporter shall prepare an original and one (1) copy of the transcript for the Commission. The original of each transcript shall be filed with the Commission Secretary unbound but each volume shall be separated (if applicable). Copies of the transcript shall be fastened at the left margin in spiral or plastic-type binding, so as to open as flat as possible. ()

07. Purchase Of Transcript. Any party or other person may request and pay for a copy of a transcript or portions of the transcript from the reporter. ()

IDAPA 31 - PUBLIC UTILITIES COMMISSION

31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-1101-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given of the Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Sections 61-515, Idaho Code.

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

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

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

The Commission's Safety and Accident Reporting Rules currently adopt by reference several national safety codes. In Rule 202, the Commission proposes to adopt the 2003 edition of the International Fuel Gas Code (IFGC). The Commission proposes to replace the previously adopted 1999 edition of the National Fuel Gas Code with the 2003 edition of the IFGC. The IFGC is intended to be consistent and inclusive with the latest edition of the National Fuel Gas Code (2002). Sections 39-4109 and 39-4116, Idaho Code, permit local governments to adopt various International Codes published by the International Code Council. Most if not all communities that have adopted a fuel gas code have adopted the IFGC.

In Rule 203, the Commission proposes to adopt those portions of the 2003 International Mechanical Code (IMC) that explicitly refer to gas or gas-burning appliances. The IMC is published by the International Code Council. Portions of the IMC will replace the previously adopted 2000 edition of the Uniform Mechanical Code. Nearly all communities that have adopted a mechanical code have adopted the IMC.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, negotiated rulemaking was not conducted because these proposed rules adopt national safety codes dealing with the provision of natural gas services.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312 or Michael Fuss, PUC Staff Engineer, at (208) 334-0366.

Anyone may submit written comments regarding these proposed rules. All written comments concerning the proposed rules must be delivered to the Commission Secretary at the address identified below or must be postmarked on or before October 22, 2003. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED at Boise, Idaho this 11th day of August, 2003.

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

Street address for express delivery:
472 W Washington
Boise, ID 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-1101-0301

202. INTERNATIONAL FUEL GAS CODE (IFGA) (Rule 202).

01. Adoption By Reference. The Commission adopts by reference the ~~NFPA 54 ANSI Z223.1 National International Fuel Gas Code, 1999 2003 Edition and the errata 99-1 dated April 23, 2003. The 1999 Edition of the National Fuel Gas Code is designated as ANSI Z223.1-1999 by the American National Standards Institute, Inc. (ANSI), and as NFPA 54-1999 by the National Fire Protection Association (NFPA).~~ The National International Fuel Gas Code is jointly published by the ~~American Gas Association, Codes and Standards, 400 N. Capitol Street, NW, Washington, D.C. 20001, and the National Fire Protection Association, 1 Batterymarch Park, PO Box 9101, Quincy, Massachusetts 02269-9101, and International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041.~~ The Code is available from ~~them~~ the Code Council and may be ordered online at www.iccsafe.org. Telephone orders may be placed by calling toll-free ~~1-800-344-3555~~ 284-4406. ()

02. Utility Compliance. All gas corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the National International Fuel Gas Code and to connect for service and light only those installations that: (3-30-01)()

- a. Have been inspected and approved by authorized agencies; or (4-1-98)
- b. When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the International Fuel Gas Code as a condition of receiving service or continuing to receive service. (4-1-98)()

203. UNIFORM INTERNATIONAL MECHANICAL CODE (UIMC) (Rule 203).

01. Adoption By Reference. The Commission adopts by reference those portions of the Uniform 2003 International Mechanical Code 2000 Edition and the undated first errata explicitly referring to gas or gas-burning appliances; ~~provided, however, that unvented room heaters not meeting the requirements of Section 807(e) of the Uniform Mechanical Code may be connected for service if they comply with Sections 6.24 and 7.2 of the National Fuel Gas Code.~~ The Uniform International Mechanical Code 2000 Edition is published by the International Association of Plumbing and Mechanical Officials Code Council, ~~20001 South Walnut Drive, Walnut, California 91789-2825~~ 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041 and may be ordered by calling toll-free 800-284-4406 or online at www.iccsafe.org. ()

02. Utility Compliance. Gas corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the Uniform International Mechanical Code and to connect for service and light only those installations that: (3-30-01)()

- a. Have been inspected and approved by authorized agencies; or (4-1-98)
- b. When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the Uniform International Mechanical Code; ~~provided, however, that unvented room heaters not meeting the requirements of Section 807(e) of the Uniform Mechanical Code may be connected for service if they comply with Sections 6.24 and 7.2 of the National Fuel Gas Code~~ as a condition of receiving service or continuing to receive service. (4-1-98)()

IDAPA 31 - IDAHO 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. 31-2101-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given of the Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Sections 61-507 and 61-515, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, political subdivision, or an agency, no later than October 15, 2003.

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

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

The Commission is proposing several changes to its Utility Customer Relations Rules that address customer billing, deposits and termination of service. First, several revisions address minors who apply for service, situations where a resident or occupant is receiving service temporarily after a customer requests termination of service, and electronic payments drawn on accounts with insufficient funds. Second, revisions to Rules 104 and 301 would allow utilities to provide written or oral notice when the utility requires a deposit or intends to deny service. Third, the Commission proposes to delete the requirements that utilities provide customers a letter of good credit after discontinuing service (Rule 205) and that medical certificates furnished by customers contain information about the nature of the illness or medical emergency (Rule 308). Fourth, the Commission proposes to clarify Rule 107 that addresses when deposits must be returned to existing customers. Finally, the Commission proposes to amend several rules to improve readability and clarity, eliminate ambiguities, correct citations and cross-references, and make other housekeeping changes.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.0811, informal negotiated rulemaking was conducted at a series of workshops attended by representatives of gas and electric utilities affected by the proposed changes.

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

DEADLINE FOR WRITTEN COMMENTS: Anyone may submit written comments regarding these proposed rules. All written comments concerning the proposed rules must be delivered to the Commission Secretary at the address identified below or must be postmarked on or before October 22, 2003. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED at Boise, Idaho this 20th day of August, 2003.

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

Street address for express delivery:
472 W Washington
Boise, ID 83702-5983

THE FOLLOWING IS THE TEXT OF DOCKET NO. 31-2101-0301

005. DEFINITIONS (Rule 5).

The following definitions are used in this title and chapter: (7-1-93)

01. Applicant. Unless restricted by definition within a rule or group of rules to a particular class of service, "applicant" means any potential customer who applies for service from a utility ~~and either has no previous service from that utility or has not had service with that utility within the most recent sixty (60) days.~~ Utilities may require an adult or minor competent to contract to join a minor not competent to contract as an applicant. (7-1-93)()

02. Customer. Unless restricted by definition within a rule or group of rules to a particular class of customer, "customer" means any person who: (7-1-93)

~~a. Has applied for;~~ (7-1-93)

~~b. Has been accepted; by the utility, and~~ (7-1-93)

~~c. Is currently;~~ (7-1-93)()

~~ia. Receiving service from a utility; or~~ (7-1-93)

~~b. Has received service within the past ten (10) calendar days prior to termination by the utility; or~~ ()

~~ii. Assuming~~ Has assumed responsibility for payment of service provided to another or others. If the person receiving service is not the same person as the person assuming responsibility for payment of service, the latter is the customer for purposes of obtaining or terminating service, ~~cancelling service,~~ receiving refunds, ~~etc~~ or making changes to the account. ~~Additionally, a person who moves within a utility's service territory and requests that service be terminated at the customer's previous location and that service be initiated at a new location within sixty (60) days is considered an existing customer and not an applicant.~~ (7-1-93)()

~~03. Good Credit.~~ "Good credit" means payment by a customer for the most recent twelve (12) consecutive month period of all undisputed bills due the utility before the utility's dispatch of personnel to the customer's premises as allowed by the rules to leave a twenty four (24) hour notice or to terminate service. (7-1-93)

043. Utility. Unless restricted by definition within a rule or group of rules, "utility" means any public utility providing gas, electric or water service subject by law to the Commission's jurisdiction, whether previously certified or not. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

104. ~~WRITTEN EXPLANATION FOR DENIAL OF SERVICE OR~~ REQUIREMENT OF DEPOSIT (Rule 104).

If the utility ~~denies service or~~ requires a cash deposit as a condition of providing service, then it ~~must shall~~ immediately provide an ~~written~~ explanation to the applicant or customer stating the precise reasons why ~~it denies service or requires~~ a deposit is required. The applicant or customer ~~must shall~~ be given an opportunity to rebut those reasons. In the event of a dispute, the applicant or customer shall be advised that an informal or formal complaint may be filed with the Commission. (3-30-01)()

(BREAK IN CONTINUITY OF SECTIONS)

107. RETURN OF DEPOSIT (Rule 107).

01. Former Customers. Upon termination of service, the deposit, (with accrued interest,) shall be credited to the final bill. The balance of the deposit remaining, if any, shall be returned promptly to the customer. (7-1-93)(____)

02. Existing Customers. If the customer has paid all undisputed bills and has no more than one (1) late payment during the past twelve (12) consecutive months of service, the utility shall promptly return the deposit, (with accrued interest,) ~~must~~ by either ~~be credited to~~ crediting the customer's current account or ~~be issuing a refunded promptly by the utility when:~~ (3-30-01)(____)

~~a. The residential customer establishes and maintains good credit; or~~ (7-1-93)

~~b. The small commercial customer maintains good credit and is not delinquent more than once in the previous twelve (12) months.~~ (7-1-93)

03. Retention During Dispute. The utility may retain the deposit pending the resolution of a dispute over termination of service. If the deposit is later returned to the customer, the utility shall pay interest at the annual rates established in Rule 106 for the entire period over which the deposit was held. (7-1-93)

04. Early Return Of Deposit. A utility may refund a deposit plus accrued interest in whole or in part at any time before the time prescribed in this rule. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

109. RECEIPT FOR DEPOSIT -- RECORDS OF DEPOSIT (Rule 109).

01. Receipts. Each customer paying a deposit or the initial installment on a deposit ~~must~~ shall then be given a receipt containing or otherwise be provided with the following information: (7-1-93)(____)

a. Name of customer and service address for which deposit is held; (7-1-93)

b. Date of payment(s); (7-1-93)

c. Amount of payment(s); and (7-1-93)

d. Statement of the terms and conditions governing the return of deposits. An ordinary receipt may be given for subsequent deposit installments. (7-1-93)

02. Retention Of Records. Each utility shall maintain records that will enable a customer entitled to a return of a deposit to obtain a refund even though the customer may be unable to produce the original receipt(s) for the deposit. The utility shall maintain a detailed record of all deposits received from customers, showing the name of each customer, the location of the premises occupied by the customer when the deposit is made and each successive location occupied by the customer while the deposit is retained, and the date(s) and amount(s) of the deposits or installments. The utility shall retain records of deposits that have been refunded to customers for a period of three (3) years after the date of refund. The utility shall retain ~~these~~ records of unclaimed deposits for a period of seven (7) years as required by ~~the Unclaimed Property Act, Sections 14-501 et seq., Idaho Code, and in particular~~ Section 14-531, Idaho Code ~~(ten years)~~. (7-1-93)(____)

03. Transfer Of Records. Upon the sale or transfer of any utility or any of its operating units, the seller shall certify to the Commission that it has a list showing the names of all customers whose service is transferred and who have a deposit on file, the date the deposit was made, and the amount of the deposit. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

205. ~~CUSTOMERS WITH GOOD CREDIT -- FINAL BILLS (Rule 205) (RESERVED).~~

~~When a customer with good credit voluntarily terminates service with the utility, the final bill shall contain or be accompanied by a statement that the customer had good credit with the utility. When an applicant for service presents such a statement to a utility, whether from a utility regulated by this Commission or otherwise, the statement constitutes evidence of good credit in the application for utility service. However, presentation of such a statement will not require the utility to consider the applicant to have good credit solely on the basis of that statement. (7-1-93)~~

206. ~~TRANSFER OF RESPONSIBILITY FOR PAYMENT OF BILLS -- RESIDENTIAL CUSTOMERS (Rule 206).~~

01. Customer Defined. For purposes of this rule, "customer" means a customer whose name appears on the utility's regular bill for residential service or who signed a written application for service or other document informing the customer that he or she was assuming an obligation for payment for service. (7-1-93)

02. Customer's Responsibility. A customer shall not be held responsible for payment of an amount owed by any person who resides at the customer's premises or is a member of the customer's household, but whose name does not appear on the current bill or application for service, unless: (7-1-93)

a. The customer signs a written agreement to pay or otherwise expressly accepts responsibility for payment of the other person's bill; or (7-1-93)()

b. The customer has a legal obligation to pay the other person's bill. (7-1-93)

03. ~~Customer Notice Of Transfer Of Bill To Another Customer.~~ ~~No~~ The utility shall ~~transfer any amount owed by a customer or former customer to another customer's account without~~ provide written notice: ~~of its intent to add to the customer's bill for current service an amount owed for:~~ (7-1-93)()

a. ~~Another person's bill; or~~ ()

b. ~~Service rendered at a former service location, provided that the lapse in service exceeds sixty (60) calendar days.~~ ()

04. Contents Of Notice. The notice must include ~~the following information concerning the bill amount the utility is proposing to transfer:~~ (7-1-93)()

a. The name of the customer of record who owes the bill amount; (7-1-93)

b. The service location involved; (7-1-93)

c. The time over which the ~~transferred~~ bill amount was accumulated; (7-1-93)()

d. The amount owed; (7-1-93)

e. The reason(s) for ~~transferring~~ adding the bill amount to the customer's ~~account~~ bill statement; (7-1-93)()

f. A statement that payment arrangements may be made on the amount owed; (7-1-93)

g. A statement that the customer has the right to contest the ~~transfer~~ utility's proposed action with the utility or the Commission; and (7-1-93)()

h. The response deadline after which the bill amount will be ~~transferred~~ added to the customer's bill statement. (7-1-93)()

045. Opportunity To Respond. The customer shall be given a minimum of seven (7) calendar days from the date of the proposed action to respond to the utility's notice. (7-1-93)()

05. ~~Transfer Of Bills For Customers Who Move. The utility shall not be required to notify a customer of its intent to transfer an amount owed if that customer remains the customer named on the bill and moves to another location within the utility's service territory, provided that the lapse in service does not exceed sixty (60) days for electric and water utilities, or one (1) heating season for gas utilities.~~ (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

301. ~~REQUIREMENTS EXPLANATION FOR AND CONTENTS OF NOTICE OF DENIAL OF SERVICE TO APPLICANT (Rule 301).~~

01. Explanation To Applicant. If the utility intends to deny service to an applicant under Rule 302, the utility ~~must give~~ shall provide an explanation to the applicant ~~written notice of~~ stating the reasons for the utility's refusal to serve. ~~The notice shall state:~~ (7-1-93)

01. ~~Reasons. The reasons for denial of service;~~ (7-1-93)

02. ~~Actions Of Applicant. Actions ~~f~~The applicant may take shall be advised of what action(s) must be taken to receive service; ~~and.~~~~ (7-1-93)

03. ~~Complaint May Be Filed. In the event of a dispute, the applicant shall be advised ~~T~~that an informal or formal complaint concerning denial of service may be filed with the Commission.~~ (7-1-93)()

02. Written Notice. If service is currently being provided to the premises occupied by an applicant, the utility shall provide written notice of its refusal to serve pursuant to Rule 312. ()

302. GROUND FOR DENIAL OR TERMINATION OF SERVICE WITH PRIOR NOTICE (Rule 302).
A utility may deny or terminate service to a customer or applicant without the customer's or applicant's permission, but only after adequate notice has been given in accordance with these rules, for one (1) or more of the following reasons: (7-1-93)

01. Failure To Pay. With respect to undisputed past due bills ~~T~~the customer or applicant; ~~did not pay undisputed delinquent bills or~~ ()

a. Failed to pay; ()

b. ~~Paid a delinquent bill with any with a dishonored check not honored by the bank; or~~ (7-1-93)()

c. Made an electronic payment drawn on an account with insufficient funds. ()

02. Failure To Make Security Deposit. The customer or applicant failed to make a security deposit or make an installment payment on a deposit where it is required. (3-30-01)

03. Failure To Abide By Terms Of Payment Arrangement. The customer or applicant failed to abide by the terms of a payment arrangement. (3-30-01)

04. Identity Misrepresentation. The customer or applicant misrepresented the customer's or applicant's identity for the purpose of obtaining utility service. (7-1-93)

05. Denial Of Access To Meter. The customer or applicant denied or willfully prevented the utility's access to the meter. (7-1-93)

06. Willful Waste Of Service. The utility determines as prescribed by relevant State or other applicable standards that the customer is willfully wasting service through improper equipment or otherwise. (7-1-93)

07. ~~Misuse Of Service.~~ ~~The customer or applicant is using service for which the customer or applicant did not apply.~~ Service To Minors. The applicant or customer is a minor not competent to contract as described in Sections 29-101 and 32-101, Idaho Code. (7-1-93)(____)

08. Previous Account Balance Owing. Nothing in this rule requires the utility to connect service for a customer or applicant who owes money on an existing account or from a previous account ~~when that customer moves to a new residence that does not have service.~~ (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

304. REQUIREMENTS FOR NOTICE TO CUSTOMERS BEFORE TERMINATION OF SERVICE (Rule 304).

01. Seven-Day Initial Notice. If the utility intends to terminate service to a customer under Rule 302, the utility shall send to the customer written notice of termination mailed at least seven (7) calendar days before the proposed date of termination. This written notice ~~must~~ shall contain the information required by Rule 305. (3-30-01)(____)

02. ~~Twenty-Four Hour Final Notice.~~ Final Notice. The utility may mail a final written notice to the customer at least three (3) calendar days, excluding weekends and holidays, before the proposed date of termination. Regardless of whether the utility elects to mail a written notice, ~~At~~ at least twenty-four (24) hours before ~~actual~~ the proposed date of termination, the utility ~~must~~ shall diligently attempt to contact the customer affected, either in person or by telephone, to advise the customer of the proposed action and steps to take to avoid or delay termination. This ~~oral~~ final notice ~~must~~ shall contain the same information required by Rule 305. (3-30-01)(____)

03. Additional Notice. If service is not terminated within twenty-one (21) calendar days after the proposed termination date as specified in a written notice the utility ~~must~~ shall again provide notice under Subsections 304.01 and 304.02 if it still intends to terminate service. (3-30-01)(____)

04. Failure to Pay—~~Payment With Dishonored Check.~~ No additional notice of termination is required if, upon receipt of a termination notice, the customer: (3-30-01)(____)

- a. ~~The customer m~~Makes a payment arrangement and subsequently fails to keep that arrangement; ~~or~~ (3-30-01)(____)
- b. ~~The customer t~~Tenders payment with a dishonored check; or (3-30-01)(____)
- c. ~~The customer, at a utility's collection visit to terminate service, tenders payment with a dishonored check~~ Makes an electronic payment drawn on an account with insufficient funds. (3-30-01)(____)

(BREAK IN CONTINUITY OF SECTIONS)

308. SERIOUS ILLNESS OR MEDICAL EMERGENCY (Rule 308).

01. Medical Certificate -- Postponement Of Termination Of Service. A utility shall postpone termination of utility service to a residential customer for thirty (30) calendar days from the date of ~~the~~ receipt of a written certificate signed by a licensed physician or public health official with medical training ~~that states~~. The certificate must contain the following information: (7-1-93)()

a. ~~A statement that~~ The customer, a member of the customer's family, or other permanent resident of the premises where service is rendered is seriously ill or has a medical emergency or will become seriously ill or have a medical emergency because of termination of service, and that (7-1-93)

~~b.~~ ~~Termination of utility service would adversely affect~~ the health of that customer, member of the customer's family, or resident of the household. (7-1-93)()

~~02. Contents Of Medical Certificate. This certificate must be in writing and show clearly~~

b. ~~The name of the person whose serious illness or medical emergency would be adversely affected by termination~~ and the relationship to the customer, and ()

c. ~~the nature of the serious illness or medical emergency, and~~ The name, title, and signature of the person giving notice of or certifying the serious illness or medical emergency. (7-1-93)()

032. Restoration Of Service. If service has already been terminated when the medical certificate is received, service shall be restored as soon as possible, but no later than twenty-four (24) hours after receipt. The customer ~~must~~ shall receive service for thirty (30) calendar days from the utility's receipt of the certificate. (7-1-93)()

~~04. Payment Arrangements. Before the expiration of the medical postponement, the customer must make payment arrangements with the utility in accordance with Rule 313.~~ (7-1-93)

053. Second Postponement. The utility may postpone termination of service upon receipt of a second certificate stating that the serious illness or medical emergency still exists. (7-1-93)

064. Verification Of Medical Certificate. The utility may verify the authenticity of the certificate and may refuse to delay termination of service if it is determined that the certificate is a forgery or is otherwise fraudulent. (7-1-93)

05. Obligation To Pay. Nothing in this rule relieves the customer of the obligation to pay any undisputed bill. ()

(BREAK IN CONTINUITY OF SECTIONS)

312. DENIAL OR TERMINATION OF SERVICE TO MASTER-METERED ACCOUNTS AND RESIDENTS OR OCCUPANTS WHO ARE NOT CUSTOMERS (Rule 312).

01. Notice To Occupants Or Residents Not Customers. Except as provided in Rules 303.01 and 303.02, no utility shall deny or terminate service without providing written notice to the residents or occupants of: (7-1-93)()

a. A building or mobile home court where service is master-metered; ~~or~~ (7-1-93)()

b. A residence where the customer billed for service is not a resident or occupant of the premises being served; or (7-1-93)()

c. Premises where service is being provided on an interim basis to a resident or occupant following a customer's request to terminate service. ()

02. ~~Seven Day Delivery And Contents Of Notice To Occupants Or Residents.~~ The utility must notify the residents or occupants of its intent to deny or terminate service at least ~~seven~~ two (2) calendar days, excluding weekends and holidays, before the proposed date of termination. The notice should be delivered to the premises or, in the case of multi-occupant buildings or mobile home parks, posted in common areas or a conspicuous location. The notice shall state: (7-1-93)(____)

a. The date of the notice; (7-1-93)

b. The proposed denial or termination date; (7-1-93)(____)

c. The amount due for the most recent billing period reason for denial or termination; ~~and~~ (7-1-93)(____)

d. ~~That~~ What action(s) the resident(s) or occupant(s) can negotiate directly with the utility to purchase future service at that location must take in order to obtain or retain service in the resident's(s') or occupant's(s') own name(s); and (7-1-93)(____)

e. That an informal or formal complaint concerning denial or termination of service may be filed with this Commission. (____)

(BREAK IN CONTINUITY OF SECTIONS)

603. REQUIREMENTS FOR AND CONTENTS OF NOTICE BEFORE TERMINATION OF SERVICE (Rule 603).

01. ~~Seven Day Initial~~ Notice. If the utility intends to terminate service under Rule ~~6-1~~ 601, the utility shall send to the customer written notice of termination mailed at least seven (7) calendar days prior to the proposed date of termination. (7-1-93)(____)

02. ~~Contents Of A~~ Notice. The written notice of termination shall state: (7-1-93)(____)

a. The reason(s), citing these rules, why service will be terminated, and the proposed date of termination; (7-1-93)(____)

b. Actions the customer may take to avoid termination; (7-1-93)

c. That an informal or formal complaint concerning the termination may be filed with this Commission; and (7-1-93)

d. That service will not be terminated prior to the resolution of such a filed complaint (if the resolution is in favor of the utility, the Commission shall set the date of termination). (7-1-93)

03. ~~Twenty-Four Hour Final~~ Notice. The utility may mail a final written notice to customers at least three (3) calendar days, excluding weekends and holidays, before the proposed date of termination. Regardless of whether the utility elects to mail a written notice. At least twenty-four (24) hours prior to actual termination, the utility shall diligently attempt to contact the customer affected, either in person or by telephone, to apprise the customer of the proposed action. This ~~oral~~ final notice shall contain the same information required above for written notice. Each utility shall maintain clear, written records of ~~these~~ oral notices, showing dates and the utility employee giving the notices. (7-1-93)(____)

IDAPA 34 - SECRETARY OF STATE

34.02.02 - RULES GOVERNING COMPLAINT PROCESS UNDER THE HELP AMERICA VOTE ACT

DOCKET NO. 34-0202-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that the Secretary of State has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 34-216, Idaho Code and 42 U.S. Section 15512.

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

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

Federal law, 42 U.S.C. Section 15512, requires each state to have a complaint process in place as a precondition for receiving funds under the Help America Vote Act (HAVA), 42 U. S. C. Section 15481, et seq. The complaint process permits anyone believing that a violation of HAVA has occurred to file a written, notarized, and sworn complaint setting forth the perceived violation. Complaints may be consolidated and a hearing may be held if requested. A determination should be made within 90 days, and the State will provide a remedy if there is a violation. Alternative Dispute Resolution procedures will be used if the 90-day deadline is not met.

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

The rules confer a benefit, are necessary in order to comply with HAVA, and have a role in protecting the public welfare.

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

No fees are imposed or increased under these rules.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the rule, the lack of identifiable representatives of affected interests and the necessity for a temporary rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Fred C. Goodenough at (208) 332-2862.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 20th day of August, 2003.

Fred C. Goodenough
Deputy Secretary of State
Commercial Division
700 West Jefferson St.
P.O. Box 83720
Boise, Idaho 83720

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0202-0301

IDAPA 34
TITLE 02
CHAPTER 02

34.02.02 - RULES GOVERNING COMPLAINT PROCESS
UNDER THE HELP AMERICA VOTE ACT

000. LEGAL AUTHORITY.

This chapter is promulgated pursuant to Section 34-216, Idaho Code, and 42 U.S.C. Section 15512. Federal law requires the Secretary of State to establish an administrative complaint procedure to remedy grievances under the Help America Vote Act, 42 U.S.C. Section 15481, et seq. (10-1-03)T

001. TITLE AND SCOPE.

01. Title. The rules in this chapter shall be known as IDAPA 34.02.02, "Rules Governing Complaint Process Under the Help America Vote Act," and may be cited as IDAPA 34.02.02. (10-1-03)T

02. Scope. This chapter provides a uniform, nondiscriminatory procedure for the resolution of any complaint alleging a violation of any provision of Title III of the Help America Vote Act of 2002, 42 United States Code Sections 15481, et seq., including a violation that has occurred, is occurring, or is about to occur. The procedure set out in this chapter does not apply to an election recount under Sections 34-2301 et seq., Idaho Code, or to an election contest under Sections 34-2001 et seq., and 34-2101 et seq, Idaho Code. A Complainant who wishes to challenge the validity of any primary, general or special election, or to determine the validity of any ballot or vote must seek relief as otherwise provided by law. (10-1-03)T

002. WRITTEN INTERPRETATIONS.

Written Interpretations of this chapter are available by mail from the Idaho Secretary of State. (10-1-03)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals are not available within the Secretary of State's Office. (10-1-03)T

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into this Chapter. (10-1-03)T

005. CONTACT INFORMATION.

Office of Secretary of State, 8 a.m. - 5 p.m. Monday through Friday, 700 W. Jefferson, Rm. 203, Boise, Idaho. The mailing address is P.O. Box 83720, Boise, ID 83720-0080. The Election Division telephone number is (208) 334-2852 and the facsimile machine is (208) 334-2282. (10-1-03)T

006. PUBLIC RECORDS ACT COMPLIANCE.

This chapter and its contents are subject to the Idaho Public Records Law. (10-1-03)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

In this chapter, the following terms have the meanings indicated. (10-1-03)T

01. Complainant. Means the person who files a complaint with the Secretary of State under this rule;

(10-1-03)T

02. Respondent. Means any State or County election official whose actions are asserted, in a complaint under this subtitle, to be in violation of Title III; (10-1-03)T

03. Title III. Means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code Sections 15481-15485. (10-1-03)T

011. WHO MAY FILE.
Any person who believes that there is a violation of any provision of Title III may file a complaint. (10-1-03)T

012. FORM OF COMPLAINT.

01. Writing And Notarization. A complaint shall be in writing and notarized, signed and sworn under oath by the Complainant. The complaint must identify the Complainant by name and mailing address. The complaint must identify the section of Title III for which a violation is alleged. The complaint must set out a clear and concise description of the claimed violation that is sufficiently detailed to apprise both the Respondent and the hearing officer or arbitrator of the claimed violation. The complaint procedure is limited to allegations of violations of Title III in a federal election. (10-1-03)T

02. Prescribed Or Other Form. The Complainant may use: (10-1-03)T

a. The form prescribed by the Idaho Secretary of State, which is available from the Idaho Secretary of State Election Division, or which may be downloaded from the Idaho Secretary of State Election Division's website found at www.idsos.state.id.us/elect/eleindex.htm; or (10-1-03)T

b. Any other form satisfying the requirements of Subsection 012.02.a. of this rule. (10-1-03)T

013. PLACE AND TIME FOR FILING, COPY FOR RESPONDENT.

01. Place For Filing. A complaint shall be filed with the Election Division, along with adequate proof of mailing or delivery of a copy of the complaint to each Respondent. (10-1-03)T

02. Time For Filing. A complaint may be filed no later than ninety (90) days after the final certification of the federal election and at issue. A complaint may be filed anytime prior to an election. (10-1-03)T

03. Copy For Respondent. The Complainant shall mail or deliver a copy of the complaint to each Respondent. (10-1-03)T

04. Rejection Of Complaint. The Election Division shall examine each complaint, and may reject it for filing if: (10-1-03)T

a. It is not signed and notarized under oath; (10-1-03)T

b. It does not identify the Complainant or include an adequate mailing address; (10-1-03)T

c. Does not, on its face, allege a violation of Title III with regard to a federal election; or (10-1-03)T

d. More than ninety (90) days have elapsed since the final certification of the federal election at issue. (10-1-03)T

014. PROCESSING OF COMPLAINT.

01. Consolidation. The Secretary of State may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact. (10-1-03)T

02. Preparing The Complaint For Determination. The Secretary of State shall take all necessary

steps to prepare the complaint for determination under these rules. In the course of preparing the complaint for determination, the Secretary of State shall allow a party to proceed with the assistance of an English language interpreter if the Complainant is unable to proceed without assistance of an interpreter. It is the responsibility of the party who needs an interpreter to secure the services of the interpreter. The Secretary of State, in coordination with the parties, shall establish a schedule under which the Complainant and Respondent may file written submissions concerning the complaint, and under which the complaint shall be finally determined. (10-1-03)T

03. Record. (10-1-03)T

a. The Secretary of State shall compile and maintain an official record in connection with each complaint under this rule; (10-1-03)T

b. The official record shall contain: (10-1-03)T

i. A copy of the complaint including any amendments made with the permission of the Secretary of State; (10-1-03)T

ii. A copy of any written submission by the Complainant; (10-1-03)T

iii. A copy of any written response by any Respondent or other interested person; (10-1-03)T

iv. A written report of any investigation conducted by employees of the Secretary of State or Office of Attorney General who shall not be directly involved in the actions or events complained of, and shall not directly supervise or be directly supervised by any Respondent; (10-1-03)T

v. Copies of all notices and correspondence to or from the Secretary of State in connection with the complaint; (10-1-03)T

vi. Originals or copies of any tangible evidence produced at any hearing conducted under Section 015; (10-1-03)T

vii. The original tape recording produced at any hearing conducted under Subsection 015.07 of these rules, and a copy of any transcript obtained by any board or other party; and (10-1-03)T

viii. A copy of any final determination made under Sections 016 or 017. (10-1-03)T

015. HEARING.

01. Hearing On The Record. At the request of the Complainant, the Secretary of State shall conduct a hearing on the record. (10-1-03)T

02. Time Frame For Hearing. The hearing shall be conducted no sooner than ten (10) days and no later than thirty (30) days after the Secretary of State receives the complaint. The Secretary of State shall give at least ten (10) business days' advance notice of the date, time, and place of the hearing: (10-1-03)T

a. By mail, to the Complainant, each named Respondent, and any other interested person who has asked in writing to be advised of the hearing; (10-1-03)T

b, On the Election Division web site; and (10-1-03)T

c. By posting in a prominent place, available to the general public, at the offices of the Election Division; (10-1-03)T

03. Hearing Officer. The Secretary of State or his designee shall act as hearing officer. (10-1-03)T

04. Who May Appear. The Complainant, any Respondent, or any other interested member of the public may appear at the hearing and testify or present tangible evidence in connection with the complaint. Each

witness shall be sworn. The hearing officer may limit the testimony, if necessary, to ensure that all interested participants are able to present their views. The hearing officer may recess the hearing and reconvene at a later date, time, and place announced publicly at the hearing. (10-1-03)T

05. Representation By An Attorney Not Necessary. A Complainant, Respondent, or other person who testifies or presents evidence at the hearing may, but need not be, represented by an attorney. (10-1-03)T

06. Written Presentation. If a person has already testified or presented evidence at the hearing and wishes to contradict testimony or evidence subsequently presented, that person is not entitled to be heard again, but may make a written presentation to the hearing officer. (10-1-03)T

07. Tape Recording Of Proceedings. The proceedings shall be tape-recorded by and at the expense of the Election Division. The recording shall not be transcribed as a matter of course, but the Election Division, or any party may obtain a transcript at its own expense. If a party obtains a transcript, the party shall file a copy as part of the record, and any other interested person may examine the record copy. (10-1-03)T

08. Filing Of Written Brief Or Memorandum. Any party to the proceedings may file a written brief or memorandum within five (5) business days after the conclusion of the hearing. No responsive or reply memoranda will be accepted except with the specific authorization of the hearing officer. (10-1-03)T

016. FINAL DETERMINATION.

01. If No Hearing Is Held. If there has been no hearing under Section 015, the Secretary of State or his designee shall review the record and determine whether, under a preponderance of the evidence standard, a violation of Title III has been established. (10-1-03)T

02. Determination Of Violation. At the conclusion of any hearing under Section 015, the hearing officer shall determine, under a preponderance of the evidence standard, whether a violation of Title III has been established. (10-1-03)T

03. Form of Determination. (10-1-03)T

a. If the Secretary of State or his designee, whether acting as hearing officer or otherwise, determines that a violation has occurred, the Secretary of State shall provide the appropriate remedy. The remedy shall be directed to the improvement of processes or procedures governed by Title III. The remedy so provided may include an order to any Respondent, commanding the Respondent to take specified action, or prohibiting the Respondent from taking specified action, with respect to a past or future election; however, the remedy may not include an award of money damages or attorney's fees. The remedy may not include the denial of certification or the invalidation of any primary, general or special election, or a determination of the validity of any ballot or vote. Remedies addressing the certification of an election, the validity of an election, or of any ballot or vote may be obtained only as otherwise provided by law; (10-1-03)T

b. If the complaint is not timely or not in proper form, or if the Secretary of State or his designee, whether acting as hearing officer or otherwise, determines that a violation has not occurred, or that there is not sufficient evidence to establish a violation, the Secretary of State shall dismiss the complaint; (10-1-03)T

04. Explanation In Written Decision. The Secretary of State or his designee shall explain in a written decision the reasons for the determination and for any remedy selected. (10-1-03)T

05. Issuance Of Final Decision. Except as specified in Section 017, the final determination of the Secretary of State shall be issued within ninety (90) days after the complaint was filed, unless the Complainant consents in writing to an extension. The final determination shall be mailed to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final determination. It shall also be published on the Division's website and made available on request to any interested person. If the Secretary of State cannot make a final determination within ninety (90) days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be referred for final resolution under Section 017. The record complied under Section 014 of this rule shall be made available for use under Section 017. (10-1-03)T

017. ALTERNATE DISPUTE RESOLUTION.

If, for any reason, the Secretary of State or his designee does not render a final determination within ninety (90) days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be resolved under this Section 017. (10-1-03)T

01. Time Frames For Choosing And Arbitrator. On or before the fifth business day after a final determination by the Secretary of State was due, the Secretary of State shall designate in writing to the Complainant a list of names of arbitrators who may resolve the complaint. Within three (3) business days after the Complainant receives this designation, the Complainant and the Secretary of State shall arrange to choose an arbitrator from this list by striking names from the list until an arbitrator acceptable to both parties is chosen. Within three (3) business days after the parties strike names, the Secretary of State shall contact the arbitrator chosen and arrange for the hearing by the arbitrator. (10-1-03)T

02. Information The Arbitrator May Review. The arbitrator may review the record compiled in connection with the complaint, including the tape recording or any transcript of a hearing and any briefs or memoranda, but shall not receive additional testimony or evidence. In exceptional cases, the arbitrator may request that the parties present additional briefs or memoranda. (10-1-03)T

03. Resolution Of Complaint. The arbitrator shall determine the appropriate resolution of the complaint as set out in these rules. (10-1-03)T

04. Issuance Of Written Resolution. The arbitrator must issue a written resolution within sixty (60) days after the final determination of the Secretary of State was due under Section 016. This sixty (60) day period may not be extended. The final resolution of the arbitrator shall be transmitted to the Secretary of State and shall be the final resolution of the complaint. The final resolution shall be mailed to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final resolution. It shall be published on the Election Division website and made available on request to any interested person. (10-1-03)T

018. -- 999. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION

35.01.01 - INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105 and 63-3039, Idaho Code.

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

Rule 045: Amend Income Tax Rule 045 to correct information regarding the taxation of compensation earned by water carrier employees that are covered by Title 46, Section 11108, United State Code.

Rule 075: Amend Income Tax Rule 075 to add tables for the income tax brackets and rates by year including the amounts for taxable year 2003 and to add the exception to the graduated rates for the tax due on an electing small business trust's stock in an S corporation.

Rules 076, 077, 079: Delete Rule 076, 077, and 079 since the rates and brackets will be moved and put in tables in Rule 075.

Rule 078: Amend Income Tax Rule 078 to delete the rates and brackets which will be moved and put in tables in Rule 075 and instead add information to provide taxpayers with guidance on how to file for electing small business trusts.

Rule 105: Amend Income Tax Rule 105 to require an addition if the Idaho depreciation is less than the amount allowed for federal.

Rule 108: Amend Income Tax Rule 108 with regard to the adjustments to taxable income for withdrawals from an Idaho college savings program to clarify that the amounts added back are net of any amounts included in federal taxable income and to add the adjustment for school teacher supplies if deducted in computing federal adjusted gross income. Change the reference from Section 63-3022(n) to 63-3022(o), Idaho Code.

Rule 120: Amend Income Tax Rule 120 to require a subtraction if the Idaho depreciation is more than the amount allowed for federal. Provide for similar adjustments with regard to the difference between the Idaho and federal capital gains and losses that occur due to the depreciation differences. The changes are retroactive to January 1, 2001.

Rule 193: Amend Income Tax Rule 193 so that it also applies to the deduction for long-term care insurance. Modify the examples by putting the information in tables.

Rule 253: Amend Income Tax Rule 253 with regard to the adjustments to taxable income for withdrawals from an Idaho college savings program to clarify that the amounts added back are net of any amounts included in federal taxable income. To require an addition if the Idaho depreciation is less than the amount allowed for federal.

Rule 254: Amend Income Tax Rule 254 to require a subtraction if the Idaho depreciation is more than the amount allowed for federal. Provide for similar adjustments with regard to the difference between the Idaho and federal capital gains and losses that occur due to the depreciation differences.

Rule 740: Delete Rule 740. The natural resource conservation credit was enacted during 1997 in SB 1186. It contained a provision that the act would be null, void and of no force and effect on and after January 1, 2003, which date was not extended by the 2003 legislature.

Rule 741: Delete Rule 741. The natural resource conservation credit was enacted during 1997 in SB 1186. It contained a provision that the act would be null, void and of no force and effect on and after January 1, 2003, which date was not extended by the 2003 legislature.

Rule 746: Amend Income Tax Rule 746 to distinguish the different calculations of the limitation for the credit for qualified new employees.

Rule 790: Amend Income Tax Rule 790 to conform the transfer limitations discussed in the rule to the legislative changes.

Rule 791: Amend Income Tax Rule 791 to impose on the intermediary the same notification requirements of an intended transfer that are imposed on a transferor.

Rule 793: Amend Rule 793 to add an example of the carryover period allowed when a credit is transferred to an intermediary who subsequently transfers the credit.

Rule 799: Amend Rule 799 to remove the natural resource conservation credit from the list of nonrefundable credits.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Janice Boyd, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Janice Boyd, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0101-0301

- 045. NONRESIDENT (Rule 045).** (3-20-97)
Section 63-3014, Idaho Code.
- 01. Traveling Salesmen.** (3-20-97)
- a.** A nonresident salesman who works in Idaho is subject to Idaho taxation regardless of the location of his post of duty or starting point. (3-20-97)

b. If an individual is paid on a mileage basis, the gross income from sources within Idaho includes that portion of the total compensation for personal services that the number of miles traveled in Idaho bears to the total number of miles traveled within and without Idaho. If the compensation is based on some other measure, such as hours, the total compensation for personal services must be apportioned between Idaho and other states and foreign countries in a manner that allocates to Idaho the portion of total compensation reasonably attributable to personal services performed in Idaho. See Rule 270 of these rules. (3-30-01)

02. Motor Carrier Employees Covered By Title 49, Section 14503, United States Code. Compensation paid to an interstate motor carrier employee who has regularly assigned duties in more than one state is subject to income tax only in the employee's state of residence. A motor carrier employee is defined in Title 49, Section 31132(2), United States Code, and includes: (7-1-99)

a. An operator, including an independent contractor, of a commercial motor vehicle; (3-20-97)

b. A mechanic; (3-20-97)

c. A freight handler; and (3-20-97)

d. An individual, other than an employer, who in the course of his employment directly affects commercial motor vehicle safety. Employees of the United States, a state, or a local government are not included. Employer, as used in this rule, means a person engaged in business affecting interstate commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate it. See Title 49, Section 31132(3), United States Code. (3-20-97)

03. Water Carrier Employees Covered By Title 46, Section 11108, United States Code. Compensation paid to a water carrier employee is *not exempt from state taxation by Title 49, Section 14503, United States Code*; subject to income tax only in the employee's state of residence if such employee: (7-1-99)()

a. Is engaged on a vessel to perform assigned duties in more than one (1) state as a pilot licensed under Title 46, Section 7101, or licensed or authorized under the laws of a state; or ()

b. Performs regularly assigned duties while engaged as a master, officer, or crewman on a vessel operating on the navigable waters of more than one (1) state. ()

04. Air Carrier Employees Covered By Title 49, Section 40116(f), United States Code. Compensation paid to an air carrier employee who has regularly assigned duties on aircraft in more than one state is subject to the income tax laws of only: (7-1-99)

a. The employee's state of residence, and (3-20-97)

b. The state in which the employee earns more than fifty percent (50%) of the pay from the air carrier. (3-20-97)

05. Rail Carrier Employees Covered By Title 49, Section 11502, United States Code. Compensation paid to an interstate rail carrier employee who performs regularly assigned duties on a railroad in more than one (1) state is subject to income tax only in the employee's state of residence. (7-1-99)

046. -- 074. (RESERVED).

075. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS ~~—IN GENERAL~~ (Rule 075). Section 63-3024, Idaho Code. (5-3-03)()

01. In General. The tax rates applied to the Idaho taxable income of an individual, trust or estate, beginning with calendar year 1987, are identified in ~~Rules 076 through 090 of these rules~~ Subsection 075.03. For taxable years beginning after December 31, 1999, the Idaho income tax brackets are adjusted for inflation. For taxable years beginning on or after January 1, 2003, the maximum tax rate as listed for that taxable year in Subsection 075.03 shall apply in computing the tax attributable to the S corporation stock held by an electing small business

trust. See Rule 078 of these rules.

(~~5-3-03~~)()

02. Tax Computation.

(5-3-03)

a. The tax rates and income tax brackets listed in ~~Rules 076 through 090 of these rules~~ Subsection 075.03 are those for a single individual or married individuals filing separate returns. (~~5-3-03~~)()

b. The tax imposed on individuals filing a joint return, filing as a surviving spouse, or filing as a head of household shall be twice the tax that would be imposed on one-half (1/2) of the total Idaho taxable income of a single individual. (5-3-03)

c. For example, if a married couple filing a joint return reports Idaho taxable income of thirty thousand dollars (\$30,000), the tax would be computed as if they had taxable income of fifteen thousand dollars (\$15,000). The tax amount would then be multiplied by two (2). (5-3-03)

03. Tables Identifying The Idaho Tax Rates And Income Tax Brackets.

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a. For taxable years beginning in 1987 through 1999:

| IF IDAHO TAXABLE INCOME IS | | IDAHO TAX | |
|----------------------------|---------------|------------|-------------------------------------|
| At least | But less than | Is | Plus |
| \$0.00 | \$1,000.00 | \$0.00 | 2% of taxable income |
| \$1,000.00 | \$2,000.00 | \$20.00 | 4% of the amount over \$1,000.00 |
| \$2,000.00 | \$3,000.00 | \$60.00 | 4.5% of the amount over \$2,000.00 |
| \$3,000.00 | \$4,000.00 | \$105.00 | 5.5% of the amount over \$3,000.00 |
| \$4,000.00 | \$5,000.00 | \$160.00 | 6.5% of the amount over \$4,000.00 |
| \$5,000.00 | \$7,500.00 | \$225.00 | 7.5% of the amount over \$5,000.00 |
| \$7,500.00 | \$20,000.00 | \$412.50 | 7.8% of the amount over \$7,500.00 |
| \$20,000.00 or more | | \$1,387.50 | 8.2% of the amount over \$20,000.00 |

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b. For taxable years beginning in 2000:

| IF IDAHO TAXABLE INCOME IS | | IDAHO TAX | |
|----------------------------|---------------|------------|-------------------------------------|
| At least | But less than | Is | Plus |
| \$0.00 | \$1,022.00 | \$0.00 | 1.9% of taxable income |
| \$1,022.00 | \$2,044.00 | \$19.42 | 3.9% of the amount over \$1,022.00 |
| \$2,044.00 | \$3,066.00 | \$59.28 | 4.4% of the amount over \$2,044.00 |
| \$3,066.00 | \$4,088.00 | \$104.25 | 5.4% of the amount over \$3,066.00 |
| \$4,088.00 | \$5,110.00 | \$159.44 | 6.4% of the amount over \$4,088.00 |
| \$5,110.00 | \$7,666.00 | \$224.85 | 7.4% of the amount over \$5,110.00 |
| \$7,666.00 | \$20,442.00 | \$413.99 | 7.7% of the amount over \$7,666.00 |
| \$20,442.00 or more | | \$1,397.74 | 8.1% of the amount over \$20,442.00 |

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c. For taxable years beginning in 2001:

| IF IDAHO TAXABLE INCOME IS | | IDAHO TAX | |
|----------------------------|---------------|------------|-------------------------------------|
| At least | But less than | Is | Plus |
| \$0.00 | \$1,056.00 | \$0.00 | 1.6% of taxable income |
| \$1,056.00 | \$2,113.00 | \$16.90 | 3.6% of the amount over \$1,056.00 |
| \$2,113.00 | \$3,169.00 | \$54.93 | 4.1% of the amount over \$2,113.00 |
| \$3,169.00 | \$4,226.00 | \$98.25 | 5.1% of the amount over \$3,169.00 |
| \$4,226.00 | \$5,282.00 | \$152.13 | 6.1% of the amount over \$4,226.00 |
| \$5,282.00 | \$7,923.00 | \$216.57 | 7.1% of the amount over \$5,282.00 |
| \$7,923.00 | \$21,129.00 | \$404.09 | 7.4% of the amount over \$7,923.00 |
| \$21,129.00 or more | | \$1,381.30 | 7.8% of the amount over \$21,129.00 |

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d. For taxable years beginning in 2002:

| IF IDAHO TAXABLE INCOME IS | | IDAHO TAX | |
|----------------------------|---------------|------------|-------------------------------------|
| At least | But less than | Is | Plus |
| \$0.00 | \$1,087.00 | \$0.00 | 1.6% of taxable income |
| \$1,087.00 | \$2,173.00 | \$17.38 | 3.6% of the amount over \$1,087.00 |
| \$2,173.00 | \$3,260.00 | \$56.50 | 4.1% of the amount over \$2,173.00 |
| \$3,260.00 | \$4,346.00 | \$101.04 | 5.1% of the amount over \$3,260.00 |
| \$4,346.00 | \$5,433.00 | \$156.46 | 6.1% of the amount over \$4,346.00 |
| \$5,433.00 | \$8,149.00 | \$222.73 | 7.1% of the amount over \$5,433.00 |
| \$8,149.00 | \$21,730.00 | \$415.59 | 7.4% of the amount over \$8,149.00 |
| \$21,730.00 or more | | \$1,420.60 | 7.8% of the amount over \$21,730.00 |

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e. For taxable years beginning in 2003:

| IF IDAHO TAXABLE INCOME IS | | IDAHO TAX | |
|----------------------------|---------------|-----------|------------------------------------|
| At least | But less than | Is | Plus |
| \$0.00 | \$1,104.00 | \$0 | 1.6% of taxable income |
| \$1,104.00 | \$2,207.00 | \$17.66 | 3.6% of the amount over \$1,104.00 |
| \$2,207.00 | \$3,311.00 | \$57.39 | 4.1% of the amount over \$2,207.00 |
| \$3,311.00 | \$4,415.00 | \$102.64 | 5.1% of the amount over \$3,311.00 |

| IF IDAHO TAXABLE INCOME IS | | IDAHO TAX | |
|----------------------------|-------------|------------|-------------------------------------|
| \$4,415.00 | \$5,518.00 | \$158.93 | 6.1% of the amount over \$4,415.00 |
| \$5,518.00 | \$8,278.00 | \$226.25 | 7.1% of the amount over \$5,518.00 |
| \$8,278.00 | \$22,074.00 | \$422.16 | 7.4% of the amount over \$8,278.00 |
| \$22,074.00 or more | | \$1,443.06 | 7.8% of the amount over \$22,074.00 |

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~~076. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS -- TAXABLE YEARS BEGINNING IN 1987 THROUGH 1999 (RULE 076).~~

~~Section 63-3024, Idaho Code.~~

~~(5-3-03)~~

~~01. Taxable Income Less Than One Thousand Dollars (\$1,000). The tax is two percent (2%) of the taxable income.~~

~~(5-3-03)~~

~~02. Taxable Income At Least One Thousand Dollars (\$1,000) But Less Than Two Thousand Dollars (\$2,000). The tax is twenty dollars (\$20), plus four percent (4%) of the amount over one thousand dollars (\$1,000).~~

~~(5-3-03)~~

~~03. Taxable Income At Least Two Thousand Dollars (\$2,000) But Less Than Three Thousand Dollars (\$3,000). The tax is sixty dollars (\$60), plus four and one half percent (4.5%) of the amount over two thousand dollars (\$2,000).~~

~~(5-3-03)~~

~~04. Taxable Income At Least Three Thousand Dollars (\$3,000) But Less Than Four Thousand Dollars (\$4,000). The tax is one hundred five dollars (\$105), plus five and one half percent (5.5%) of the amount over three thousand dollars (\$3,000).~~

~~(5-3-03)~~

~~05. Taxable Income At Least Four Thousand Dollars (\$4,000) But Less Than Five Thousand Dollars (\$5,000). The tax is one hundred sixty dollars (\$160), plus six and one half percent (6.5%) of the amount over four thousand dollars (\$4,000).~~

~~(5-3-03)~~

~~06. Taxable Income At Least Five Thousand Dollars (\$5,000) But Less Than Seven Thousand Five Hundred Dollars (\$7,500). The tax is two hundred twenty five dollars (\$225), plus seven and one half percent (7.5%) of the amount over five thousand dollars (\$5,000).~~

~~(5-3-03)~~

~~07. Taxable Income At Least Seven Thousand Five Hundred Dollars (\$7,500) But Less Than Twenty Thousand Dollars (\$20,000). The tax is four hundred twelve dollars and fifty cents (\$412.50), plus seven and eight tenths percent (7.8%) of the amount over seven thousand five hundred dollars (\$7,500).~~

~~(5-3-03)~~

~~08. Taxable Income Of Twenty Thousand Dollars (\$20,000) Or More. The tax is one thousand three hundred eighty seven dollars and fifty cents (\$1,387.50), plus eight and two tenths percent (8.2%) of the amount over twenty thousand dollars (\$20,000).~~

~~(5-3-03)~~

~~077. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS -- TAXABLE YEARS BEGINNING IN 2000 (Rule 077).~~

~~Section 63-3024, Idaho Code.~~

~~(5-3-03)~~

~~01. Taxable Income Less Than One Thousand Twenty Two Dollars (\$1,022). The tax is one and nine tenths percent (1.9%) of the taxable income.~~

~~(5-3-03)~~

~~02. Taxable Income At Least One Thousand Twenty Two Dollars (\$1,022) But Less Than Two Thousand Forty Four Dollars (\$2,044). The tax is nineteen dollars and forty two cents (\$19.42), plus three and nine tenths percent (3.9%) of the amount over one thousand twenty two dollars (\$1,022).~~

~~(5-3-03)~~

~~03. Taxable Income At Least Two Thousand Forty Four Dollars (\$2,044) But Less Than Three Thousand Sixty Six Dollars (\$3,066). The tax is fifty nine dollars and twenty eight cents (\$59.28), plus four and four tenths percent (4.4%) of the amount over two thousand forty four dollars (\$2,044). (5-3-03)~~

~~04. Taxable Income At Least Three Thousand Sixty Six Dollars (\$3,066) But Less Than Four Thousand Eighty Eight Dollars (\$4,088). The tax is one hundred four dollars and twenty five cents (\$104.25), plus five and four tenths percent (5.4%) of the amount over three thousand sixty six dollars (\$3,066). (5-3-03)~~

~~05. Taxable Income At Least Four Thousand Eighty Eight Dollars (\$4,088) But Less Than Five Thousand One Hundred Ten Dollars (\$5,110). The tax is one hundred fifty nine dollars and forty four cents (\$159.44), plus six and four tenths percent (6.4%) of the amount over four thousand eighty eight dollars (\$4,088). (5-3-03)~~

~~06. Taxable Income At Least Five Thousand One Hundred Ten Dollars (\$5,110) But Less Than Seven Thousand Six Hundred Sixty Six Dollars (\$7,666). The tax is two hundred twenty four dollars and eighty five cents (\$224.85), plus seven and four tenths percent (7.4%) of the amount over five thousand one hundred ten dollars (\$5,110). (5-3-03)~~

~~07. Taxable Income At Least Seven Thousand Six Hundred Sixty Six Dollars (\$7,666) But Less Than Twenty Thousand Four Hundred Forty Two Dollars (\$20,442). The tax is four hundred thirteen dollars and ninety nine cents (\$413.99), plus seven and seven tenths percent (7.7%) of the amount over seven thousand six hundred sixty six dollars (\$7,666). (5-3-03)~~

~~08. Taxable Income Of Twenty Thousand Four Hundred Forty Two Dollars (\$20,442) Or More. The tax is one thousand three hundred ninety seven dollars and seventy four cents (\$1,397.74), plus eight and one tenth percent (8.1%) of the amount over twenty thousand four hundred forty two dollars (\$20,442). (5-3-03)~~

~~076. -- 077. (RESERVED).~~

~~078. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS -- TAXABLE YEARS BEGINNING IN 2001 ELECTING SMALL BUSINESS TRUSTS (Rule 078). Section 63-3024, Idaho Code. (5-3-03)()~~

~~01. Taxable Income Less Than One Thousand Fifty Six Dollars (\$1,056). The tax is one and six tenths percent (1.6%) of the taxable income. In General. The special rules for taxation of electing small business trusts as provided in Section 641, Internal Revenue Code, shall apply for purposes of computing the Idaho income tax. These rules include the following: (5-3-03)()~~

~~a. The portion of an electing small business trust that consists of stock in one (1) or more S corporations shall be treated as a separate trust. ()~~

~~b. The tax on the separate trust shall be determined with the following modifications from the usual rules for taxing trusts: ()~~

~~i. The only items of income, loss, deduction, or credit to be taken into account are the items required to be taken into account as an S corporation shareholder under Section 1366, Internal Revenue Code, and any gain or loss from the disposition of stock in an S corporation. ()~~

~~ii. As provided in federal Treasury Regulations, administrative expenses shall be taken into account to the extent allocable to the items described in Subparagraph 078.01.b.i. ()~~

~~iii. A deduction or credit shall be allowed only for an amount described in this paragraph. No item described in this paragraph shall be apportioned to any beneficiary. ()~~

~~c. A capital loss deduction provided by Section 1211(b), Internal Revenue Code, shall be allowed only to the extent of capital gains. ()~~

~~02. Taxable Income At Least One Thousand Fifty Six Dollars (\$1,056) But Less Than Two Thousand One Hundred Thirteen Dollars (\$2,113). The tax is sixteen dollars and ninety cents (\$16.90), plus three and six-tenths percent (3.6%) of the amount over one thousand fifty six dollars (\$1,056). Tax Rate Applied. The tax rates applied to the Idaho taxable income of a trust are identified in Rule 075 of these rules. For taxable years beginning on or after January 1, 2003, the maximum tax rate as listed for that taxable year in Subsection 075.03 shall apply in computing the tax attributable to the S corporation stock held by an electing small business trust.~~

~~(5-3-03)()~~

~~03. Taxable Income At Least Two Thousand One Hundred Thirteen Dollars (\$2,113) But Less Than Three Thousand One Hundred Sixty Nine Dollars (\$3,169). The tax is fifty four dollars and ninety three cents (\$54.93), plus four and one tenth percent (4.1%) of the amount over two thousand one hundred thirteen dollars (\$2,113).~~

~~(5-3-03)~~

~~04. Taxable Income At Least Three Thousand One Hundred Sixty Nine Dollars (\$3,169) But Less Than Four Thousand Two Hundred Twenty Six Dollars (\$4,226). The tax is ninety eight dollars and twenty five cents (\$98.25), plus five and one tenth percent (5.1%) of the amount over three thousand one hundred sixty nine dollars (\$3,169).~~

~~(5-3-03)~~

~~05. Taxable Income At Least Four Thousand Two Hundred Twenty Six Dollars (\$4,226) But Less Than Five Thousand Two Hundred Eighty Two Dollars (\$5,282). The tax is one hundred fifty two dollars and thirteen cents (\$152.13), plus six and one tenth percent (6.1%) of the amount over four thousand two hundred twenty six dollars (\$4,226).~~

~~(5-3-03)~~

~~06. Taxable Income At Least Five Thousand Two Hundred Eighty Two Dollars (\$5,282) But Less Than Seven Thousand Nine Hundred Twenty Three Dollars (\$7,923). The tax is two hundred sixteen dollars and fifty seven cents (\$216.57), plus seven and one tenth percent (7.1%) of the amount over five thousand two hundred eighty two dollars (\$5,282).~~

~~(5-3-03)~~

~~07. Taxable Income At Least Seven Thousand Nine Hundred Twenty Three Dollars (\$7,923) But Less Than Twenty One Thousand One Hundred Twenty Nine Dollars (\$21,129). The tax is four hundred four dollars and nine cents (\$404.09), plus seven and four tenths percent (7.4%) of the amount over seven thousand nine hundred twenty three dollars (\$7,923).~~

~~(5-3-03)~~

~~08. Taxable Income Of Twenty One Thousand One Hundred Twenty Nine Dollars (\$21,129) Or More. The tax is one thousand three hundred eighty one dollars and thirty cents (\$1,381.30), plus seven and eight tenths percent (7.8%) of the amount over twenty one thousand one hundred twenty nine dollars (\$21,129).~~

~~(5-3-03)~~

~~079. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS — TAXABLE YEARS BEGINNING IN 2002 (Rule 079) (RESERVED).~~

~~Section 63-3024, Idaho Code.~~

~~(5-3-03)~~

~~01. Taxable Income Less Than One Thousand Eighty Seven Dollars (\$1,087). The tax is one and six tenths percent (1.6%) of the taxable income.~~

~~(5-3-03)~~

~~02. Taxable Income At Least One Thousand Eighty Seven Dollars (\$1,087) But Less Than Two Thousand One Hundred Seventy Three Dollars (\$2,173). The tax is seventeen dollars and thirty eight cents (\$17.38), plus three and six tenths percent (3.6%) of the amount over one thousand eighty seven dollars (\$1,087).~~

~~(5-3-03)~~

~~03. Taxable Income At Least Two Thousand One Hundred Seventy Three Dollars (\$2,173) But Less Than Three Thousand Two Hundred Sixty Dollars (\$3,260). The tax is fifty six dollars and fifty cents (\$56.50), plus four and one tenth percent (4.1%) of the amount over two thousand one hundred seventy three dollars (\$2,173).~~

~~(5-3-03)~~

~~04. Taxable Income At Least Three Thousand Two Hundred Sixty Dollars (\$3,260) But Less Than Four Thousand Three Hundred Forty Six Dollars (\$4,346). The tax is one hundred one dollars and four cents (\$101.04), plus five and one tenth percent (5.1%) of the amount over three thousand two hundred sixty dollars~~

~~(\$3,260).~~

~~(5-3-03)~~

~~05. Taxable Income At Least Four Thousand Three Hundred Forty Six Dollars (\$4,346) But Less Than Five Thousand Four Hundred Thirty Three Dollars (\$5,433). The tax is one hundred fifty six dollars and sixty six cents (\$156.46), plus six and one tenth percent (6.1%) of the amount over four thousand three hundred forty six dollars (\$4,346). (5-3-03)~~

~~06. Taxable Income At Least Five Thousand Four Hundred Thirty Three Dollars (\$5,433) But Less Than Eight Thousand One Hundred Forty Nine Dollars (\$8,149). The tax is two hundred twenty two dollars and seventy three cents (\$222.73), plus seven and one tenth percent (7.1%) of the amount over five thousand four hundred thirty three dollars (\$5,433). (5-3-03)~~

~~07. Taxable Income At Least Eight Thousand One Hundred Forty Nine Dollars (\$8,149) But Less Than Twenty One Thousand Seven Hundred Thirty Dollars (\$21,730). The tax is four hundred fifteen dollars and fifty nine cents (\$415.59), plus seven and four tenths percent (7.4%) of the amount over eight thousand one hundred forty nine dollars (\$8,149). (5-3-03)~~

~~08. Taxable Income Of Twenty One Thousand Seven Hundred Thirty Dollars (\$21,730) Or More. The tax is one thousand four hundred twenty dollars and sixty cents (\$1,420.60), plus seven and eight tenths percent (7.8%) of the amount over twenty one thousand seven hundred thirty dollars (\$21,730). (5-3-03)~~

(BREAK IN CONTINUITY OF SECTIONS)

105. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED OF ALL TAXPAYERS (Rule 105).

Section 63-3022, Idaho Code.

(3-20-97)

01. State And Local Income Taxes. As provided in Section 63-3022(a), Idaho Code, add state and local income taxes deducted in computing taxable income. This includes taxes paid to states other than Idaho and their political subdivisions, and amounts paid by an S corporation on capital gains, built-in gains, and excess net passive income. (3-15-02)

02. Net Operating Loss Deduction. As provided in Section 63-3022(b), Idaho Code, add any net operating loss deduction included in taxable income. (7-1-99)

03. Capital Loss Carryover Deduction. As provided in Section 63-3022(i), Idaho Code: (3-30-01)

a. A corporation shall add a capital loss deducted in computing taxable income if the capital loss occurred during a taxable year when the corporation did not transact business in Idaho, unless the corporation was part of a unitary group with at least one (1) member of the group taxable by Idaho for that taxable year. (7-1-99)

b. An individual shall add a capital loss deducted in computing taxable income if the capital loss was incurred in an activity not taxable by Idaho at the time it was incurred. (5-3-03)

04. Interest And Dividend Income Exempt From Federal Taxation. As provided in Section 63-3022M, Idaho Code, add certain interest and dividend income that is exempt from federal income tax. For example, add interest income from state and local bonds that is exempt from federal income tax pursuant to Section 103, Internal Revenue Code. (7-1-99)

a. Interest from bonds issued by the state of Idaho or its political subdivisions is exempt from Idaho income tax and, therefore, is not required to be added to taxable income. (3-20-97)

b. If a taxpayer has both Idaho and non-Idaho state and municipal interest income, expenses not allowed pursuant to Sections 265 and 291, Internal Revenue Code, shall be prorated between the Idaho and non-Idaho

interest income as provided in Subsections 105.04.b.i. and 105.04.b.ii. The addition to taxable income required for non-Idaho state and municipal interest income shall be offset by the expenses prorated to that interest income. The allowable offset may not exceed the reportable amount of interest income. An unused offset may not be carried back or carried over. A schedule showing the interest and related offsets shall be attached to the return. (4-5-00)

i. Expenses prorated to Idaho state and municipal interest income shall be based on the ratio of Idaho state and municipal interest income to total state and municipal interest income. (7-1-98)

ii. Expenses prorated to non-Idaho state and municipal interest income shall be based on the ratio of non-Idaho state and municipal interest income to total state and municipal interest income. (7-1-98)

05. Interest Expense Attributable To Tax-Exempt Interest Income. As provided by Section 63-3022M, Idaho Code, a taxpayer shall add interest expense on indebtedness incurred to purchase or carry certain obligations that produce tax-exempt interest income. Because this addition serves to offset the tax-exempt interest income, it is often referred to as an interest expense offset related to tax-exempt interest income. See Rule 115 of these rules for the computation of the interest expense offset related to tax-exempt interest. (7-1-99)

06. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes shall be computed without regard to the special first-year depreciation allowance. Add the amount of depreciation computed for federal income tax purposes that exceeds the amount of depreciation computed for Idaho income tax purposes. ()

(BREAK IN CONTINUITY OF SECTIONS)

108. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF INDIVIDUALS (Rule 108).
Section 63-3022, Idaho Code. (3-20-97)

01. Lump Sum Distributions. As provided in Section 63-3022(k), Idaho Code, add the taxable amount of a lump sum distribution excluded from taxable income. (3-30-01)

02. Withdrawals From An Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, add the amount of a withdrawal from an Idaho medical savings account if the withdrawal was not made for the purpose of paying eligible medical expenses. See Rule 190 of these rules. (7-1-98)

03. Withdrawals From An Idaho College Savings Program. As provided in Section 63-3022(#0), Idaho Code, an account owner shall add the amount of any nonqualified withdrawal from an Idaho college savings program, less the amount included in the account owner's gross income. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. (~~3-15-02~~)()

04. Certain Expenses Of Eligible Educators. As provided in Section 63-3022O, Idaho Code, an eligible educator as defined in Section 62, Internal Revenue Code, shall add the amount of out-of-pocket classroom expenses deducted as allowed by Section 62, Internal Revenue Code, in computing adjusted gross income. ()

(BREAK IN CONTINUITY OF SECTIONS)

120. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE TO ALL TAXPAYERS (Rule 120).
Section 63-3022, Idaho Code. (3-20-97)

01. State And Local Income Tax Refunds. Subtract from taxable income state and local income tax refunds included in taxable income, unless the refunds have already been subtracted pursuant to Section 63-3022(a), Idaho Code. (3-15-02)

02. Idaho Net Operating Loss. As provided in Section 63-3022(c), Idaho Code, subtract the Idaho net operating loss deduction described in Section 63-3021, Idaho Code, and Rules 200 through 210 of these rules. An S corporation or a partnership that incurs a loss is not entitled to claim a net operating loss deduction. The loss is passed through to the shareholders and partners who may deduct the loss. (7-1-99)

03. Income Not Taxable By Idaho. As provided in Section 63-3022(f), Idaho Code, subtract the amount of income that is exempt from Idaho income tax, if included in taxable income. Income exempt from taxation by Idaho includes the following: (7-1-99)

a. Interest income from obligations issued by the United States Government. Gain recognized from the sale of United States Government obligations is not exempt from Idaho tax and, therefore, may not be subtracted from taxable income. For the interest expense offset, see Rule 115 of these rules. (7-1-99)

b. Idaho lottery prizes exempt by Section 67-7439, Idaho Code. For prizes awarded on lottery tickets purchased in Idaho after January 1, 1998, a subtraction is allowed for each lottery prize that is less than six hundred dollars (\$600). If a prize equals or exceeds six hundred dollars (\$600), no subtraction is allowed. The full amount of the prize is included in income. (4-5-00)

04. Donated Technological Equipment. As provided by Section 63-3022J, Idaho Code, and Rule 180 of these rules, subtract the fair market value of technological equipment donated to qualifying institutions. (4-5-00)

05. Long-Term Care Insurance. As provided in Section 63-3022Q, Idaho Code, a deduction from taxable income is allowed for fifty percent (50%) of the premiums paid during the taxable year for qualifying long-term care insurance for the benefit of the taxpayer, a dependent of the taxpayer or an employee of the taxpayer to the extent the premiums have not otherwise been deducted or accounted for by the taxpayer for Idaho income tax purposes. (5-3-03)

06. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes shall be computed without regard to the special first-year depreciation allowance. ()

a. Depreciation. Subtract the amount of depreciation computed for Idaho income tax purposes that exceeds the amount of depreciation computed for federal income tax purposes. ()

b. Gains and losses. During the recovery period, the adjusted basis of depreciable property computed for federal income tax purposes will be less than the adjusted basis for Idaho income tax purposes as a result of claiming the special first-year depreciation allowance. If a loss qualifies as a capital loss for federal income tax purposes, the federal capital loss limitations and carryback and carryover provisions shall apply in computing the Idaho capital loss allowed. ()

i. If a sale or exchange of property results in a gain for both federal and Idaho income tax purposes, subtract the difference between the federal and Idaho gains computed prior to any applicable Idaho capital gains deduction. ()

ii. If a sale or exchange of property results in a gain for federal income tax purposes and an ordinary loss for Idaho income tax purposes, subtract the federal gain and the Idaho loss. For example, if a taxpayer has a federal gain of five thousand dollars (\$5,000) and an Idaho loss of four thousand dollars (\$4,000), the amount subtracted would be nine thousand dollars (\$9,000). ()

iii. If a sale or exchange of property results in an ordinary loss for both federal and Idaho income tax purposes, subtract the difference between the federal and Idaho losses. For example, if a taxpayer has a federal loss of three hundred dollars (\$300) and an Idaho loss of five hundred dollars (\$500), the amount subtracted would be two

hundred dollars (\$200). ()

iv. If a sale or exchange of property results in a capital loss for both federal and Idaho income tax purposes, apply the capital loss limitations and subtract the difference between the federal and Idaho deductible capital losses. For example, if a taxpayer has a federal capital loss of six thousand dollars (\$6,000) and an Idaho capital loss of eight thousand dollars (\$8,000), both the federal and Idaho capital losses are limited to a deductible capital loss of three thousand dollars (\$3,000). In this case, no subtraction is required for the year of the sale. In the next year, assume the taxpayer had a capital gain for both federal and Idaho purposes of two thousand dollars (\$2,000). The capital loss carryovers added to the capital gain results in a federal deductible capital loss of one thousand dollars (\$1,000) and an Idaho deductible capital loss of three thousand dollars (\$3,000). The taxpayer would subtract the difference between the federal and Idaho deductible losses or two thousand dollars (\$2,000) in computing Idaho taxable income. ()

(BREAK IN CONTINUITY OF SECTIONS)

193. HEALTH INSURANCE COSTS AND LONG-TERM CARE INSURANCE (Rule 193).

Sections 63-3022P and 63-3022Q, Idaho Code.

(5-3-03)()

01. In General. The amounts paid by an individual taxpayer for health insurance ~~costs~~ and fifty percent (50%) of the premiums paid for long-term care insurance that are not otherwise deducted or accounted for ~~is~~ are allowed as ~~a~~ deductions from taxable income. (5-3-03)()

02. Costs Deducted Or Accounted For. ~~A~~ Deductions ~~is~~ are not allowed for health insurance costs and premiums paid for long-term care insurance that are otherwise deducted or accounted for. Examples of health insurance costs and premiums paid for long-term care insurance that are otherwise deducted or accounted for are costs: (5-3-03)()

a. Paid out of an Idaho medical savings account; (5-3-03)

b. Paid through a cafeteria plan or other salary-reduction arrangement when these costs are paid out of pretax income; (5-3-03)

c. Deducted as business expenses. (5-3-03)

03. Social Security Medicare Part A. (5-3-03)

a. The payroll tax paid for Medicare A is not considered a medical expense under Section 213, Internal Revenue Code and, therefore, does not qualify for the Idaho deduction for health insurance costs. This applies to individuals who are covered by Social Security or are government employees who paid Medicare tax. (5-3-03)

b. The amount of premiums a taxpayer pays to voluntarily enroll in Medicare A is deductible under Section 213, Internal Revenue Code, and qualifies for the Idaho deduction for health insurance costs. This applies to individuals who are not covered under Social Security or who were not government employees who paid Medicare tax. (5-3-03)

04. Social Security Medicare Part B. Amounts paid for Medicare B, which is a supplemental medical insurance, qualify for the deduction allowed under Section 213, Internal Revenue Code, and qualify for the Idaho deduction for health insurance costs. (5-3-03)

05. Medical Payments Coverage And Personal Injury Protection Of Automobile Insurance. The portion of automobile insurance that covers medical payments coverage or personal injury protection does not qualify for the Idaho deduction for health insurance costs because the insurance coverage is not restricted to the taxpayer, the taxpayer's spouse, or the dependents of the taxpayer. This insurance provides protection to the driver and passengers

of the policyholder's car or other injured parties.

(5-3-03)

06. ~~Costs Claimed as Itemized Deductions~~ Examples Of Limitations When Costs Are Otherwise Deducted Or Accounted For. If a taxpayer elects to itemize deductions for Idaho purposes and his medical expenses exceed the seven and one-half percent (7.5%) adjusted gross income limitation, ~~health insurance costs claimed as an itemized deduction qualify for the Idaho deduction only to the extent that~~ the amount that is deducted as an itemized deduction shall first apply to health insurance costs, next to long-term care insurance, and last to other medical expenses. If the premiums exceed the amount deducted as an itemized deduction, the Idaho deductions for health insurance costs and long-term care insurance may be allowed if the premiums were not otherwise deducted or accounted for. If the taxpayer does not elect to itemize deductions for Idaho purposes, or if the taxpayer is unable to deduct medical expenses as an itemized deduction due to the seven and one-half percent (7.5%) adjusted gross income limitation, the full amount of health insurance costs and fifty percent (50%) of the premiums paid for long-term care insurance, not otherwise deducted or accounted for, ~~qualifies~~ qualify for the Idaho deduction. Amounts used for calculating the limitations shall not be less than zero (0). (5-3-03)()

a. ~~An individual paid ten thousand dollars (\$10,000) for health insurance costs and six thousand dollars (\$6,000) for additional medical expenses. The taxpayer claimed the total medical expenses as an itemized deduction. The federal seven and one-half percent (7.5%) adjusted gross income limitation was five thousand dollars (\$5,000). After the federal limitation, the taxpayer received a medical expense deduction of eleven thousand dollars (\$11,000). (Sixteen thousand dollars (\$16,000) total medical expenses less the limitation of five thousand dollars (\$5,000)). The taxpayer may not claim the Idaho deduction for the health insurance costs since the eleven thousand dollar (\$11,000) federal medical expense deduction is more than the ten thousand dollar (\$10,000) health insurance costs.~~ Example with seven and one-half percent (7.5%) of federal adjusted gross income equal to zero (0): (5-3-03)()

| HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS | |
|--|----------|
| 1. Health insurance expenses claimed on federal Schedule A | \$10,000 |
| 2. Long-term insurance expenses claimed on federal Schedule A | 4,000 |
| 3. Other medical expenses claimed on federal Schedule A | 2,000 |
| 4. Total medical expenses claimed on federal Schedule A | \$16,000 |
| 5. 7.5% of federal adjusted gross income | 0 |
| 6. Medical expense deduction allowed on federal Schedule A (line 4 less line 5) | \$16,000 |
| HEALTH INSURANCE | |
| 7. Total amount paid for health insurance | \$10,100 |
| 8. Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6) | 10,000 |
| 9. Health insurance expenses deducted elsewhere on the federal return | 100 |
| 10. Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9) | \$0 |
| LONG-TERM CARE INSURANCE | |
| 11. Total amount paid for long-term care insurance | \$4,050 |
| 12. Medical expense deduction not allocated to health insurance (line 6 less line 1) | 6,000 |
| 13. Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12) | 4,000 |
| 14. Long-term care insurance deducted elsewhere on the federal return | 50 |
| 15. Long-term care insurance not otherwise deducted (line 11 less lines 13 and 14) | \$0 |
| 16. 50% of amount paid for long-term care insurance | 2,025 |

| HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS | |
|---|-----|
| 17. Long-term care insurance deduction allowed for Idaho (lesser of line 15 or 16) | \$0 |

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b. An individual paid ten thousand dollars (\$10,000) for health insurance costs and six thousand dollars (\$6,000) for additional medical expenses. The taxpayer claimed the total medical expenses as an itemized deduction. The federal seven and one-half percent (7.5%) adjusted gross income limitation is fourteen thousand dollars (\$14,000). After the federal limitation, the taxpayer received a medical expense deduction of two thousand dollars (\$2,000). (Sixteen thousand dollars (\$16,000) total medical expenses less the limitation of fourteen thousand dollars (\$14,000)). The taxpayer may claim eight thousand dollars (\$8,000) as the Idaho deduction for health insurance costs, since the two thousand dollar (\$2,000) federal medical expense deduction was less than the ten thousand dollar (\$10,000) health insurance costs. Example with seven and one-half percent (7.5%) of federal adjusted gross income equal to three thousand dollars (\$3,000): (5-3-03)()

| HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS | |
|--|----------|
| 1. Health insurance expenses claimed on federal Schedule A | \$10,000 |
| 2. Long-term insurance expenses claimed on federal Schedule A | 4,000 |
| 3. Other medical expenses claimed on federal Schedule A | 2,000 |
| 4. Total medical expenses claimed on federal Schedule A | \$16,000 |
| 5. 7.5% of federal adjusted gross income | 3,000 |
| 6. Medical expense deduction allowed on federal Schedule A (line 4 less line 5) | \$13,000 |
| HEALTH INSURANCE | |
| 7. Total amount paid for health insurance | \$10,100 |
| 8. Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6) | 10,000 |
| 9. Health insurance expenses deducted elsewhere on the federal return | 100 |
| 10. Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9) | \$0 |
| LONG-TERM CARE INSURANCE | |
| 11. Total amount paid for long-term care insurance | \$4,050 |
| 12. Medical expense deduction not allocated to health insurance (line 6 less line 1) | 3,000 |
| 13. Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12) | 3,000 |
| 14. Long-term care insurance deducted elsewhere on the federal return | 50 |
| 15. Long-term care insurance not otherwise deducted (line 11 less lines 13 and 14) | \$1,000 |
| 16. 50% of amount paid for long-term care insurance | 2,025 |
| 17. Long-term care insurance deduction allowed for Idaho (lesser of line 15 or 16) | \$1,000 |

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c. An individual paid ten thousand dollars (\$10,000) for health insurance costs and six thousand dollars (\$6,000) for additional medical expenses. The taxpayer claimed the total medical expenses as an itemized deduction. The federal seven and one-half percent (7.5%) adjusted gross income limitation was twenty thousand dollars (\$20,000). After the federal limitation, the taxpayer received no medical expense deduction. The taxpayer may claim ten thousand dollars (\$10,000) as the Idaho deduction for health insurance costs, since no medical

~~expense deduction was allowed.~~ Example with seven and one-half percent (7.5%) of federal adjusted gross income equal to six thousand dollars (\$6,000): (5-3-03)()

| HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS | |
|--|----------|
| 1. Health insurance expenses claimed on federal Schedule A | \$10,000 |
| 2. Long-term insurance expenses claimed on federal Schedule A | 4,000 |
| 3. Other medical expenses claimed on federal Schedule A | 2,000 |
| 4. Total medical expenses claimed on federal Schedule A | \$16,000 |
| 5. 7.5% of federal adjusted gross income | 6,000 |
| 6. Medical expense deduction allowed on federal Schedule A (line 4 less line 5) | \$10,000 |
| HEALTH INSURANCE | |
| 7. Total amount paid for health insurance | \$10,100 |
| 8. Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6) | 10,000 |
| 9. Health insurance expenses deducted elsewhere on the federal return | 100 |
| 10. Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9) | \$0 |
| LONG-TERM CARE INSURANCE | |
| 11. Total amount paid for long-term care insurance | \$4,050 |
| 12. Medical expense deduction not allocated to health insurance (line 6 less line 1) | 0 |
| 13. Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12) | 0 |
| 14. Long-term care insurance deducted elsewhere on the federal return | 50 |
| 15. Long-term care insurance not otherwise deducted (line 11 less lines 13 and 14) | \$4,000 |
| 16. 50% of amount paid for long-term care insurance | 2,025 |
| 17. Long-term care insurance deduction allowed for Idaho (lesser of line 15 or 16) | \$2,025 |

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d. ~~An individual paid ten thousand dollars (\$10,000) for health insurance costs and six thousand dollars (\$6,000) for additional medical expenses. For federal income tax purposes, the taxpayer claimed the total medical expenses as an itemized deduction. The taxpayer did not itemize deductions for Idaho income tax purposes, instead he claimed the Idaho standard deduction. The taxpayer may claim ten thousand dollars (\$10,000) as the Idaho deduction for health insurance costs, since he did not claim itemized deductions for Idaho income tax purposes.~~ Example with seven and one-half percent (7.5%) of federal adjusted gross income equal to fourteen thousand dollars (\$14,000): (5-3-03)()

| HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS | |
|--|----------|
| 1. Health insurance expenses claimed on federal Schedule A | \$10,000 |
| 2. Long-term insurance expenses claimed on federal Schedule A | 4,000 |
| 3. Other medical expenses claimed on federal Schedule A | 2,000 |
| 4. Total medical expenses claimed on federal Schedule A | \$16,000 |
| 5. 7.5% of federal adjusted gross income | 14,000 |

| HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS | |
|--|----------|
| 6. Medical expense deduction allowed on federal Schedule A (line 4 less line 5) | \$2,000 |
| HEALTH INSURANCE | |
| 7. Total amount paid for health insurance | \$10,100 |
| 8. Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6) | 2,000 |
| 9. Health insurance expenses deducted elsewhere on the federal return | 100 |
| 10. Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9) | \$8,000 |
| LONG-TERM CARE INSURANCE | |
| 11. Total amount paid for long-term care insurance | \$4,050 |
| 12. Medical expense deduction not allocated to health insurance (line 6 less line 1) | 0 |
| 13. Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12) | 0 |
| 14. Long-term care insurance deducted elsewhere on the federal return | 50 |
| 15. Long-term care insurance not otherwise deducted (line 11 less lines 13 and 14) | \$4,000 |
| 16. 50% of amount paid for long-term care insurance | 2,025 |
| 17. Long-term care insurance deduction allowed for Idaho (lesser of line 15 or 16) | \$2,025 |

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(BREAK IN CONTINUITY OF SECTIONS)

253. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- ADDITIONS REQUIRED IN COMPUTING IDAHO ADJUSTED INCOME.

Section 63-3026A(6), Idaho Code. (3-20-97)

01. Interest And Dividends Not Taxable Pursuant To The Internal Revenue Code. (3-20-97)

a. Part-Year Residents. Add interest and dividend income not taxable pursuant to the Internal Revenue Code that was received while residing in or domiciled in Idaho. However, do not include interest received from obligations of the state of Idaho or any political subdivision of Idaho. This interest is exempt from Idaho income tax. (7-1-98)

b. Nonresidents. Add interest and dividend income reportable from a pass-through entity that was transacting business in Idaho to the extent the income was apportioned or allocated as Idaho income. See Rule 263 of these rules for multistate apportionment rules. (7-1-98)

02. Net Operating Loss Deduction. Add any net operating loss deduction included in Idaho gross income. (3-20-97)

03. Capital Loss. Add capital losses included in Idaho gross income if the loss was incurred while not residing in and not domiciled in Idaho, or if the loss relates to an activity not taxable by Idaho at the time the loss was incurred. (3-20-97)

04. Lump Sum Distributions. Add the taxable amount of a lump sum distribution, deducted from gross income pursuant to Section 402(d), Internal Revenue Code, received while residing in or domiciled in Idaho.

This includes both the ordinary income portion and the amount eligible for the capital gain election. (3-20-97)

05. Idaho Medical Savings Account. Add the amount withdrawn from an Idaho medical savings account to the extent the withdrawal is treated as income by Idaho law. (7-1-98)

06. Idaho College Savings Program. Add the amount of a nonqualified withdrawal from an Idaho college savings program ~~to the extent the withdrawal is treated as income by Idaho law, less the amount included in the account owner's Idaho gross income.~~ Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. ~~(3-15-02)()~~

07. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes shall be computed without regard to the special first-year depreciation allowance. Add the amount of depreciation computed for federal income tax purposes that exceeds the amount of depreciation computed for Idaho income tax purposes. ()

08. Certain Expenses Of Eligible Educators. Add the amount of out-of-pocket classroom expenses deducted pursuant to Section 62, Internal Revenue Code, in computing adjusted gross income. ()

254. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- SUBTRACTIONS ALLOWED IN COMPUTING IDAHO ADJUSTED INCOME (Rule 254).
Section 63-3026A(6), Idaho Code. (3-20-97)

01. Net Operating Loss Carryover. Subtract the net operating loss carryover allowed by Section 63-3022(c), Idaho Code, to the extent the loss was incurred while residing in or domiciled in Idaho or to the extent the loss was from activity taking place in Idaho. A net operating loss incurred from an activity not taxable by Idaho may not be subtracted. (5-3-03)

02. State And Local Income Tax Refunds. Subtract state and local income tax refunds included in Idaho total income. (3-15-02)

03. Income Not Taxable By Idaho. Subtract income that is exempt from Idaho income taxation by a law of the state of Idaho or of the United States, if that income is included in Idaho total income and has not been previously subtracted. Income not taxable by Idaho includes: (3-15-02)

a. Interest income from obligations issued by the United States Government. Gain recognized from the sale of United States Government obligations is not exempt from Idaho tax and, therefore, may not be subtracted from taxable income. For the interest expense offset, see Rule 115 of these rules. (7-1-99)

b. Idaho lottery prizes exempt by Section 67-7439, Idaho Code. For prizes awarded on lottery tickets purchased in Idaho after January 1, 1998, a subtraction is allowed for each lottery prize that is less than six hundred dollars (\$600). If a prize equals or exceeds six hundred dollars (\$600), no subtraction is allowed. The full amount of the prize is included in income. (4-5-00)

c. Certain income earned by American Indians. An enrolled member of a federally recognized Indian tribe who lives on a federally recognized Indian reservation is not taxable on income derived within the reservation. See Rule 033 of these rules. (5-3-03)

d. Certain income earned by transportation employees covered by Title 49, Sections 11502, 14503 or 40116, United States Code. See Rule 045 of these rules. (7-1-99)

04. Military Pay. Subtract qualified military pay included in Idaho total income earned for military service performed outside Idaho. Qualified military pay means all compensation paid by the United States for services performed while on active duty as a full-time member of the United States Armed Forces which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more. A nonresident does not include his military pay in Idaho total income and, therefore, makes no adjustment. See Rule

032 of these rules for information regarding the residency status of members of the United States Armed Forces. (3-15-02)

05. Social Security And Railroad Retirement Benefits. Subtract social security benefits and benefits paid by the Railroad Retirement Board that are taxable pursuant to the Internal Revenue Code, to the extent the benefits are included in Idaho total income. See Subsections 121.04.a. and 121.04.b. of these rules. (3-15-02)

06. Household And Dependent Care Expenses. Subtract the allowable portion of household and dependent care expenses that meets the requirements of Section 63-3022D, Idaho Code, if incurred to enable the taxpayer to be gainfully employed in Idaho. To determine the allowable portion of household and dependent care expenses, calculate a percentage by dividing Idaho earned income by total earned income. Multiply the qualified expenses by the percentage. Earned income is defined in Section 32(c)(2), Internal Revenue Code. (3-20-97)

07. Insulation And Alternative Energy Device Expenses. Subtract expenses related to the installation of insulation or alternative energy devices that meet the requirements of Section 63-3022B or 63-3022C, Idaho Code. (3-20-97)

08. Deduction For Dependents Sixty-Five Or Older Or With Developmental Disabilities. Subtract one thousand dollars (\$1,000) for each person who meets the requirements of Section 63-3022E, Idaho Code. The deduction may be claimed for no more than three (3) qualifying dependents. If a dependent has not lived in the maintained household for the entire taxable year, the allowable deduction is eighty-three dollars (\$83) for each month the dependent resided in the maintained household during the taxable year. For purposes of this rule, a fraction of a month exceeding fifteen (15) days is treated as a full month. (3-20-97)

09. Adoption Expenses. Subtract the allowable portion of adoption expenses that meets the requirements of Section 63-3022I, Idaho Code. To determine the allowable portion, calculate a percentage by dividing Idaho total income by total income. Multiply the deduction allowable pursuant to Section 63-3022I, Idaho Code, by the percentage. (3-15-02)

10. Capital Gains Deduction. Subtract the Idaho capital gains deduction allowed by Section 63-3022H, Idaho Code. (3-20-97)

11. Idaho Medical Savings Account. (7-1-98)

a. Subtract contributions to an Idaho medical savings account that meet the requirements of Section 63-3022K, Idaho Code. (7-1-98)

b. Subtract interest earned on an Idaho medical savings account to the extent included in Idaho total income. (3-15-02)

12. Technological Equipment Donation. Subtract donations of technological equipment allowed by Section 63-3022J, Idaho Code. See Rule 180 of these rules. (3-20-97)

13. Worker's Compensation Insurance. As allowed by Section 63-3022(m), Idaho Code, a self-employed individual may subtract the premiums paid for worker's compensation for coverage in Idaho to the extent not previously subtracted in computing Idaho taxable income. (3-30-01)

14. Idaho College Savings Program. Subtract the contributions to a college savings program that meet the requirements of Section 63-3022(n), Idaho Code. (3-15-02)

15. Retirement Benefits. As provided in Section 63-3022A, Idaho Code, and Rule 130 of these rules, a deduction from taxable income is allowed for certain retirement benefits. To determine the allowable portion of the deduction for certain retirement benefits, calculate a percentage by dividing the qualified retirement benefits included in Idaho gross income by the qualified retirement benefits included in federal gross income. Multiply the deduction allowable pursuant to Section 63-3022A, Idaho Code, and Rule 130 of these rules, by the percentage. (3-30-01)

16. Health Insurance Costs. Subtract the allowable portion of the amounts paid by the taxpayer during the taxable year for insurance that constitutes medical care as defined in Section 63-3022P, Idaho Code, for the taxpayer, spouse or dependents of the taxpayer not otherwise deducted or accounted for by the taxpayer for Idaho income tax purposes. To determine the allowable portion of the amounts paid for medical care insurance, calculate a percentage by dividing Idaho total income by total income. Multiply the deduction allowable pursuant to Section 63-3022P, Idaho Code, by the percentage. See Rule 193 of these rules. (5-3-03)

17. Long-Term Care Insurance. As provided in Section 63-3022Q, Idaho Code, a deduction from taxable income is allowed for the allowable portion of premiums paid during the taxable year for qualifying long-term care insurance for the benefit of the taxpayer, a dependent of the taxpayer or an employee of the taxpayer that have not otherwise been deducted or accounted for by the taxpayer for Idaho income tax purposes. To determine the allowable portion, calculate a percentage by dividing Idaho total income by total income. Multiply the deduction allowable pursuant to Section 63-3022Q, Idaho Code, by the percentage. (5-3-03)

18. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes shall be computed without regard to the special first-year depreciation allowance. ()

a. Depreciation. Subtract the amount of depreciation computed for Idaho income tax purposes that exceeds the amount of depreciation computed for federal income tax purposes. ()

b. Gains and losses. During the recovery period, the adjusted basis of depreciable property computed for federal income tax purposes will be less than the adjusted basis for Idaho income tax purposes as a result of claiming the special first-year depreciation allowance. If a loss qualifies as a capital loss for federal income tax purposes, the federal capital loss limitations and carryback and carryover provisions shall apply in computing the Idaho capital loss allowed. ()

i. If a sale or exchange of property results in a gain for both federal and Idaho income tax purposes, subtract the difference between the federal and Idaho gains computed prior to any applicable Idaho capital gains deduction. ()

ii. If a sale or exchange of property results in a gain for federal income tax purposes and an ordinary loss for Idaho income tax purposes, subtract the federal gain and the Idaho loss. For example, if a taxpayer has a federal gain of five thousand dollars (\$5,000) and an Idaho loss of four thousand dollars (\$4,000), the amount subtracted would be nine thousand dollars (\$9,000). ()

iii. If a sale or exchange of property results in an ordinary loss for both federal and Idaho income tax purposes, subtract the difference between the federal and Idaho losses. For example, if a taxpayer has a federal loss of three hundred dollars (\$300) and an Idaho loss of five hundred dollars (\$500), the amount subtracted would be two hundred dollars (\$200). ()

iv. If a sale or exchange of property results in a capital loss for both federal and Idaho income tax purposes, apply the capital loss limitations and subtract the difference between the federal and Idaho deductible capital losses. For example, if a taxpayer has a federal capital loss of six thousand dollars (\$6,000) and an Idaho capital loss of eight thousand dollars (\$8,000), both the federal and Idaho capital losses are limited to a deductible capital loss of three thousand dollars (\$3,000). In this case, no subtraction is required for the year of the sale. In the next year, assume the taxpayer had a capital gain for both federal and Idaho purposes of two thousand dollars (\$2,000). The capital loss carryovers added to the capital gain results in a federal deductible capital loss of one thousand dollars (\$1,000) and an Idaho deductible capital loss of three thousand dollars (\$3,000). The taxpayer would subtract the difference between the federal and Idaho deductible losses or two thousand dollars (\$2,000) in computing Idaho taxable income. ()

(BREAK IN CONTINUITY OF SECTIONS)

~~731. — 739. (RESERVED).~~

~~740. NATURAL RESOURCE CONSERVATION CREDIT — IN GENERAL (Rule 740).~~
~~Section 63-3024B, Idaho Code. (7-1-98)~~

~~01. Definitions. As used in this rule and Rule 741 of these rules: (7-1-98)~~

~~α. Best Management Practices (BMPs). Best management practices include the following practices for the type of land indicated: (7-1-98)~~

~~i. Agricultural Lands. A component practice or combination of component practices determined to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals. (7-1-98)~~

~~ii. Forest Lands. A practice or combination of practices determined to be the most effective and practicable means of preventing or reducing the amount of nonpoint pollution generated by forest practices. This is determined by the State Board of Land Commissioners in consultation with the Department of Lands and the Forest Practices Act Advisory Committee. Best management practices for forest lands include management practices listed in IDAPA 20.02.01, which relates to the Idaho Forest Practices Act. (7-1-98)~~

~~iii. Mining Lands. Practices found in “Best Management Practices for Mining In Idaho,” published November 16, 1992, by the Idaho Department of Lands, Bureau of Minerals, 1215 West State Street, Boise, Idaho, 83720. (7-1-98)~~

~~b. Total Maximum Daily Load (TMDL). A plan for attaining state water quality standards where traditional technology based approaches or other legally required controls have proved inadequate. (7-1-98)~~

~~i. Traditional technology based approaches include effluent limitation and discharge permits. (7-1-98)~~

~~ii. Other legally required controls include enforceable best management practices. (7-1-98)~~

~~02. Eligible Taxpayers. To be eligible for the income tax credit authorized by Section 63-3024B, Idaho Code, a land owner must incur expenses during the taxable year to address one (1) or more of the following: (7-1-98)~~

~~a. A TMDL process or equivalent process on a Clean Water Act 303(d) listed stream segment; (7-1-98)~~

~~b. A threatened or endangered species as listed under the Endangered Species Act of 1973, a candidate species for listing under the Endangered Species Act, or a species recognized as a sensitive species by the appropriate agency; or (7-1-98)~~

~~c. A fencing plan that will improve streams or riparian areas or both. (7-1-98)~~

~~741. NATURAL RESOURCE CONSERVATION CREDIT — QUALIFYING EXPENDITURES (Rule 741).~~
~~Section 63-3024B, Idaho Code. (7-1-98)~~

~~01. In General. If a land owner is eligible for the credit pursuant to Section 63-3024B, Idaho Code, and Subsection 740.02 of these rules, expenditures incurred with respect to the following actions qualify for consideration for the credit: (7-1-98)~~

~~α. Conservation actions included in a plan approved by the United States Fish and Wildlife Service or other appropriate federal or state agency. Conservation actions include any practices contained in the plan that are~~

~~deemed necessary for the protection and improvement of habitat for a species listed as endangered or threatened, a species considered candidate species for listing as endangered or threatened, or a species recognized as a sensitive species by appropriate agencies. (7-1-98)~~

~~**b.** Best management practices included in a plan, approved by an appropriate designated agency as defined in Title 39, Chapter 36, Idaho Code. The objectives of the conservation plan must be directed towards one (1) or more of the following: (7-1-98)~~

~~**i.** Meeting a TMDL or equivalent process as set forth in Title 39, Chapter 36, Idaho Code; (7-1-98)~~

~~**ii.** Improving riparian areas; (7-1-98)~~

~~**iii.** Protecting or improving aquatic habitat; or (7-1-98)~~

~~**iv.** Protecting or enhancing designated beneficial uses. (7-1-98)~~

~~**e.** Riparian fencing plans developed for riparian improvement and approved by the appropriate Soil Conservation District. Facilitating practices such as water developments, hardened crossing, or others deemed necessary and appropriate for the success of the fencing plan are also qualifying expenditures. (7-1-98)~~

~~**d.** Measures approved by appropriate federal or state agencies to remove fish barriers to allow fish migration upstream and downstream or to install devices that prevent fish from entering diversions that decrease the survivability of fish entering those diversions. (7-1-98)~~

~~**02.** **Labor Costs Of Land Owners.** Qualifying expenditures may not include an amount for the labor of the land owner. (7-1-98)~~

~~**03.** **Governmental Financial Assistance.** If the land owner receives financial assistance through a cost share from federal, state, or other governmental units, the amount of qualifying expenditures shall be reduced by the financial assistance received. (7-1-98)~~

~~**04.** **Applying For The Credit.** To be considered for the credit, each eligible taxpayer with qualifying expenditures must complete an application. Once completed, the application must be received by the designated agency by the due date set by the agency. Information included on or attached to the application must indicate the following: (7-1-98)~~

~~**a.** A description of the action taken by the taxpayer that qualifies for the credit. The description must clearly indicate that the taxpayer's action qualifies as one (1) of the three (3) required actions listed in Subsection 740.02 of these rules. (7-1-98)~~

~~**b.** A schedule of qualifying expenditures. The schedule must include the amount of the expenditure, the payee, the date the expenditure was made, and the amount of any financial assistance or cost share received for the project, if applicable. A copy of all receipts verifying the amount of each expenditure listed must be attached. (7-1-98)~~

~~**05.** **Customary And Reasonable Amounts.** To qualify for consideration, all expenditures must be customary and reasonable for the application of conservation measures. (7-1-98)~~

~~**06.** **Designated Agency.** For purposes of Section 63-3024B, Idaho Code, and Rules 740 and 741 of these rules, designated agency means: (7-1-98)~~

~~**a.** The Department of Lands for timber harvest activities, for oil and gas exploration and development, and for mining activities; (7-1-98)~~

~~**b.** The Soil Conservation Commission for grazing activities and for agricultural activities; (7-1-98)~~

~~**e.** The Transportation Department for public road construction; (7-1-98)~~

- ~~d.~~ *The Department of Agriculture for aquaculture; and* (7-1-98)
~~e.~~ *The Department Environmental Quality for all other activities.* (7-1-98)

74231. -- 744. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

746. CREDIT FOR QUALIFYING NEW EMPLOYEES -- CALCULATIONS USED TO DETERMINE THE CREDIT AND CREDIT CARRYOVER (Rule 746).

Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning in 2000 and after 2001.

(5-3-03)

01. In General. ~~The number of new employees is used to compute the credit earned~~ A taxpayer is allowed a credit of five hundred dollars (\$500) per new employee in the taxable year. To compute the credit for qualifying new employees, the taxpayer shall first calculate the number of employees in the revenue-producing enterprise. (3-30-01)()

02. Calculating Number Of Employees. (3-30-01)

a. Number of Employees Clarified. Only employees who meet the qualifications set forth in Section 63-3029E(1)(a), Idaho Code, are included when computing the number of employees for a taxable year. Such requirements include the following: (3-30-01)()

i. The employee must have been subject to Idaho income tax withholding. ()

ii. The employee must have been employed by the taxpayer in a revenue-producing enterprise creating value-added natural resource products. ()

iii. The employee must have been employed by the taxpayer on a regular full-time basis or on a part-time basis if customarily performing such duties at least twenty (20) hours per week. Leased employees do not qualify as employees of the lessee. ()

iv. The employee must have been performing such duties for the taxpayer for a minimum of nine (9) months during the taxable year. An individual employed in a seasonal or new business that was in operation for less than nine (9) months during the taxable year does not qualify. ()

v. The employee must have been covered for Idaho unemployment insurance purposes. ()

b. Idaho Department of Labor Reports. The taxpayer should begin with his Idaho Department of Labor reports to determine the number of employees. However, all employees reported on these reports do not automatically qualify for the calculation of the number of employees. (3-30-01)

c. Calculation. To calculate the number of employees for a taxable year, add the total qualified employees for each month and divide that sum by the number of months of operation. (3-30-01)

03. Calculating The Number Of New Employees. (3-30-01)

a. The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following: (3-30-01)

i. The number of employees for the prior taxable year; or (3-30-01)

- ii. The average of the number of employees for the three (3) prior taxable years. (3-30-01)
- b.** If the taxpayer treats the entire business as a revenue-producing enterprise under Subsection 745.04.a. of these rules, the calculations in Subsections 746.03.i. and 746.03.ii. shall be made on a consistent basis. The number of employees for the prior taxable year and the average for the three (3) prior taxable years shall be made presuming the entire business was a revenue-producing enterprise for those years. (3-30-01)
- c.** The requirements as to who qualifies for the calculation of number of employees in Subsection 746.02.a. shall apply in computing the number of employees in Subsections 746.03.a.i. and 746.03.a.ii. Calculations used in computing the credit earned in taxable years beginning in 2001 when the credit was not limited to employees in a revenue-producing enterprise may not be used in computing the credit earned in taxable years beginning after 2001. ()
- 04. Computing The Credit Earned.** The number of new employees shall be rounded to the nearest tenth (.1) and must equal or exceed one (1) or no credit is earned. The credit earned is the lesser of the following: (3-30-01)
- a.** The number of new employees multiplied by five hundred dollars (\$500); or (3-30-01)
- b.** The net income of the revenue-producing enterprise, as determined pursuant to Rule 747 of these rules, multiplied by three and one-quarter percent (3.25%). (3-30-01)
- 05. Limitations. In the year the credit for qualifying new employees is earned or claimed:** ()
- a.** Taxable years beginning in 2000 and 2002. This credit and all other credits may not exceed forty-five percent (45%) of the taxpayer's income tax liability *in the year earned or claimed for that year*. The credit for taxes paid to other states, grocery credit, and the credit for maintaining a home for a family member age sixty-five (65) or older or developmentally disabled dependents are not subject to this limitation. *See Section 63-3029H, Idaho Code, and Rule 799 of these rules for the priority order of credits.* (3-15-02)()
- b.** Taxable years beginning in 2003 and after. This credit and all other credits may not exceed fifty percent (50%) of the taxpayer's income tax for that year after deducting the credit for taxes paid to other states. The credit for taxes paid to other states is not subject to this limitation. ()
- c.** See Section 63-3029H, Idaho Code, and Rule 799 of these rules for the priority order of credits. ()
- 06. Carryover.** To claim the carryover, the taxpayer must maintain the employment level on which the credit was computed during the three (3) succeeding taxable years to which the unused credit is carried. If the employment level that generated the credit decreases, the taxpayer is not required to recapture the credit claimed in previous taxable years. However, the taxpayer shall recompute the credit based on the reduced employment level to determine the correct amount of carryover. (3-30-01)
- 07. Pass-Through Entities.** See Rule 785 of these rules for pass-through entities and the calculation of credits. (3-15-02)
- 08. Unitary Taxpayers.** (3-30-01)
- a.** A corporation may not use the credit for qualifying new employees earned by another member of the unitary group. See Rule 365 of these rules. (3-30-01)
- b.** Each corporation in a unitary group that claims the credit for qualifying new employees is subject to Section 63-3029H, Idaho Code, and Rule 799 of these rules for the priority order of credits. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

790. TRANSFER OF CREDIT -- IN GENERAL (Rule 790).

Sections 63-3029I and 63-3029J, Idaho Code. (3-15-02)

01. In General. A credit may be transferred only as specifically allowed in the statute authorizing the credit. The following credits are the only credits that may be transferred: (3-15-02)

a. The broadband equipment investment credit, as allowed by Section 63-3029I, Idaho Code; and (3-15-02)

b. The incentive investment tax credit, as allowed by Section 63-3029J, Idaho Code. (3-15-02)

02. Terms. For purposes of Rules 790 through 795 of these rules, the following terms have the stated meanings: (3-15-02)

a. Transferor. The taxpayer who earns the credit and sells, conveys, or transfers the credit to another taxpayer shall be referred to as the transferor. (3-15-02)

b. Transferee. The taxpayer who receives the credit from the transferor or intermediary shall be referred to as the transferee. (~~3-15-02~~)()

03. Transfer Limited. ()

a. ~~The transfer of a credit is limited to~~ Only the taxpayer who originally earned the incentive investment tax credit may transfer the credit. A taxpayer who receives the incentive investment tax credit ~~through unitary sharing or~~ through a transfer, may not transfer the credit to another taxpayer. (~~3-15-02~~)()

b. The broadband equipment investment credit may be transferred to another taxpayer required to file an Idaho income tax return or to an intermediary. The intermediary may use all or a portion of the broadband equipment investment credit or resell the credit to a taxpayer required to file an Idaho income tax return. The broadband equipment investment credit may not be transferred more than two (2) times. ()

c. A taxpayer who receives credit through unitary sharing may not transfer the credit to another taxpayer. ()

791. TRANSFER OF CREDIT -- NOTIFICATION OF INTENDED TRANSFER (Rule 791).

Sections 63-3029I and 63-3029J, Idaho Code. (3-15-02)

01. Timing Of Notification. A taxpayer who intends to transfer qualified credit shall notify the Tax Commission in writing of its intent to transfer the credit at least sixty (60) days prior to the date of the transfer. A transfer may not take place prior to the Tax Commission providing its response as to the amount of credit available and the years the credit may be carried forward. (3-15-02)

02. Information Required. A transferor or intermediary shall notify the Tax Commission by submitting the following information on a form prescribed by the Tax Commission: (~~3-15-02~~)()

a. Name, address, and federal employer identification number of the transferor or intermediary; (~~3-15-02~~)()

b. Name, address, and federal employer identification number of the transferee; (3-15-02)

c. Type of credit to be transferred; (3-15-02)

d. Amount of credit to be transferred; (3-15-02)

- e. Date of intended transfer; ~~and~~ (3-15-02)(____)
- f. Signature of authorized individual for transferor; or intermediary; and (3-15-02)(____)
- g. A copy of the Idaho Form 68, Idaho Broadband Equipment Investment Credit, or Idaho Form 69, Idaho Incentive Investment Tax Credit, and required schedules for each tax year the credit being transferred was earned. (____)

(BREAK IN CONTINUITY OF SECTIONS)

793. TRANSFER OF CREDIT -- TRANSFEREE (Rule 793).

Sections 63-3029I and 63-3029J, Idaho Code.

(3-15-02)

01. Tax Year Credit Available. A transferee may first claim the transferred credit on an income tax return originally filed during the calendar year in which the transfer takes place. However, if the transferee did not claim the transferred credit on his original return filed during the calendar year in which the transfer takes place, he may not amend such return to claim the credit for that tax year. ~~The credit may not be claimed on a tax return that begins prior to January 1, 2001.~~ (3-15-02)(____)

02. Copy Of Transfer Form Required. The form verifying the transferred credit shall be attached to the income tax return for each taxable year that the credit is claimed or carried over. (3-15-02)

03. Carryover Period. If a credit is transferred, the transferee is entitled to any remaining carryover period that would have been allowed to the transferor or intermediary had the credit not been transferred. The Tax Commission shall verify the carryover period. The carryover period approved shall apply to the taxable year of the transferee that begins in the calendar year in which the transferor's taxable year begins. (3-15-02)(____)

a. Taxpayer A earned the incentive investment tax credit in his taxable year beginning in 2001. He claimed part of the credit on his return for that year. In March of 2002, Taxpayer A sold the remaining credit to Taxpayer B. Taxpayer B claimed the credit on his original return for taxable year beginning in 2001 since he filed it in October of 2002. Taxpayer B has a fourteen (14) year carryover remaining, the same as Taxpayer A would have been entitled to. (3-15-02)(____)

b. Taxpayer A earned the incentive investment tax credit in his taxable year beginning in 2001. He claimed part of the credit on his return for that year. In December of 2002, Taxpayer A sold the remaining credit to Taxpayer B. Taxpayer B claimed the credit on his original return for taxable year beginning in 2002, which he filed in April of 2003. Taxpayer B has a thirteen (13) year carryover remaining. (3-15-02)(____)

c. Taxpayer A earned the incentive investment tax credit in his taxable year beginning in 2001. He claimed part of the credit on his return for that year. On his return for taxable year beginning in 2002, Taxpayer A claimed additional credit earned during his taxable year beginning in 2001. In September of 2003, Taxpayer A sold the remaining credit to Taxpayer B at which time he had a thirteen (13) year carryover remaining. Taxpayer B is entitled to claim the credit on his original return filed in October of 2003. Taxpayer B is entitled to a thirteen (13) year carryover. (3-15-02)(____)

d. Taxpayer A earned the broadband equipment investment credit in his taxable year beginning in 2002. He claimed part of the credit on his return for that year. In October of 2003, Taxpayer A sold the remaining credit to Taxpayer B, an intermediary. Taxpayer B resold the credit in May of 2004 to Taxpayer C. Taxpayer C claimed the credit on his original return for taxable year beginning in 2003, which he filed in November of 2004. Taxpayer C has a thirteen (13) year carryover remaining, the same as Taxpayer B would have been entitled to. (____)

(BREAK IN CONTINUITY OF SECTIONS)

799. PRIORITY ORDER OF CREDITS (Rule 799).

Section 63-3029P, Idaho Code.

(5-3-03)

01. Tax Liability. Tax liability is the tax imposed by Sections 63-3024, 63-3025, and 63-3025A, Idaho Code. (3-20-97)

02. Nonrefundable Credits. A nonrefundable credit is allowed only to reduce the tax liability. A nonrefundable credit not absorbed by the tax liability is lost unless the statute authorizing the credit includes a carryover provision. Nonrefundable credits apply against the tax liability in the following order of priority: (3-20-97)

a. Credit for taxes paid to other states as authorized by Section 63-3029, Idaho Code; (3-20-97)

b. For part-year residents only, the grocery credit as authorized by Section 63-3024A, Idaho Code; (5-3-03)

c. Credit for contributions to Idaho educational institutions as authorized by Section 63-3029A, Idaho Code; (3-20-97)

d. Investment tax credit as authorized by Section 63-3029B, Idaho Code; (3-20-97)

e. Credit for contributions to Idaho youth facilities, rehabilitation facilities, and nonprofit substance abuse centers as authorized by Section 63-3029C, Idaho Code; (3-30-01)

f. Credit for equipment using postconsumer waste or postindustrial waste as authorized by Section 63-3029D, Idaho Code; (3-30-01)

~~**g.** Natural resource conservation credit as authorized by Section 63-3024B, Idaho Code; (3-30-01)~~

~~**h.g.** Promoter-sponsored event credit as authorized by Section 63-3620C, Idaho Code; (3-15-02)~~

~~**h.** Credit for qualifying new employees as authorized by Sections 63-3029E and 63-3029F, Idaho Code; (3-15-02)~~

~~**h.i.** Credit for Idaho research activities as authorized by Section 63-3029G, Idaho Code; (3-15-02)~~

~~**h.j.** Broadband equipment investment credit as authorized by Section 63-3029I, Idaho Code; and (3-15-02)~~

~~**h.k.** Incentive investment tax credit as authorized by Section 63-3029J, Idaho Code. (3-15-02)~~

IDAPA 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-0302
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105 and 63-3039, Idaho Code.

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

DATE: Tuesday, October 7, 2003
TIME: 10:00 a.m.
PLACE: Conference Room 1CR5
Idaho State Tax Commission
800 Park Blvd., Plaza IV, Boise, ID

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

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

Income Tax Rule 719: H.B. 453 passed by the 2003 Legislature, amended Section 63-3029B, Idaho Code, to allow a property tax exemption on personal property in lieu of claiming the investment tax credit on qualified investment. A new Income Tax Rule is being promulgated to address the calculation of negative Idaho taxable income in the second preceding taxable year and the used property limitation.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Janice Boyd, Tap Policy Specialist, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0101-0302

717. -- 7198. (RESERVED).

719. IDAHO INVESTMENT TAX CREDIT -- PROPERTY TAX EXEMPTION IN LIEU OF (Rule 719).
Section 63-3029B, Idaho Code. ()

01. In General. Beginning with calendar year 2003, a qualifying taxpayer may elect a two (2) year property tax exemption on personal property placed in service during the year. Property placed in service prior to January 1, 2003, does not qualify for the exemption. The personal property must be qualified investment as defined in Section 63-3029B, Idaho Code, and Rules 710 through 716 of these rules. If the property tax exemption is elected on an item of personal property, the taxpayer may not earn the investment tax credit on that item. The election is irrevocable. ()

02. Terms. As used in this rule: ()

a. Second Preceding Taxable Year. The term second preceding taxable year shall mean the second preceding taxable year from the taxable year in which the property is placed in service. ()

b. Used Property Limitation. The term used property limitation shall mean the one hundred fifty thousand dollar (\$150,000) limitation imposed by Section 48, Internal Revenue Code of 1986 prior to November 5, 1990. ()

03. Negative Idaho Taxable Income In Second Preceding Taxable Year. To qualify for the property tax exemption on personal property, a taxpayer must have had negative Idaho taxable income in the second preceding taxable year. ()

a. Net Operating Loss Carryovers and Carrybacks. Negative Idaho taxable income in the second preceding taxable year shall be determined prior to the application of any Idaho net operating loss carryforwards or carrybacks. ()

b. Taxable year, for purposes of this calculation, includes a short taxable year as defined by the Internal Revenue Code. ()

c. Examples of Determining Second Preceding Taxable Year. ()

i. A taxpayer files income tax returns on a calendar year basis. During calendar year 2003, the taxpayer placed in service personal property that qualifies for the investment tax credit. The taxpayer's two (2) preceding taxable years were calendar years 2001 and 2002. To qualify for the property tax exemption on personal property, the taxpayer must have had negative Idaho taxable income in calendar year 2001, the second preceding taxable year from calendar year 2003. ()

ii. A taxpayer files income tax returns on a June 30 fiscal year end basis. During the fiscal year ended June 30, 2003, the taxpayer placed in service between January 1, 2003, and June 30, 2003, personal property that qualifies for the investment tax credit. The taxpayer's two (2) preceding taxable years were fiscal years ended June 30, 2001 and June 30, 2002. To qualify for the property tax exemption, the taxpayer must have had negative Idaho taxable income in fiscal year ended June 30, 2001, the second preceding taxable year from fiscal year ended June 30, 2003. Property placed in service during the fiscal year ended June 30, 2003, but in calendar year 2002 does not qualify for the exemption. ()

iii. Assume the same facts as in Subsection 719.03.c.ii., except the taxpayer placed the property in service on September 30, 2003, during his fiscal year ended June 30, 2004. To qualify for the property tax exemption on personal property placed in service between July 1, 2003 and June 30, 2004, the taxpayer must have had negative Idaho taxable income in fiscal year ended June 30, 2002, the second preceding taxable year from the fiscal year ended June 30, 2004. ()

iv. Assume the same facts as in Subsection 719.03.c.ii., except the taxpayer's previous two (2) taxable years included a short taxable year from January 1, 2002 to June 30, 2002, and calendar year 2001. To qualify for the property tax exemption on personal property placed in service between January 1, 2003 and June 30, 2003, the taxpayer must have had negative Idaho taxable income in the taxable year for calendar year 2001, the second preceding taxable year from the fiscal year ended June 30, 2003. ()

v. Table of examples of determining second preceding taxable year.

| <u>TAXABLE YEAR PROPERTY PLACED IN SERVICE</u> | <u>FIRST PRECEDING TAXABLE YEAR</u> | <u>SECOND PRECEDING TAXABLE YEAR</u> |
|---|--|---|
| <u>Calendar year 2003</u> | <u>Calendar year 2002</u> | <u>Calendar year 2001</u> |
| <u>Calendar year 2004</u> | <u>Calendar year 2003</u> | <u>Calendar year 2002</u> |
| <u>Calendar year 2004</u> | <u>Calendar year 2003</u> | <u>Short taxable year beginning February 1, 2002 and ending December 31, 2002</u> |
| <u>Fiscal year beginning July 1, 2002 and ending June 30, 2003</u> | <u>Fiscal year beginning July 1, 2001 and ending June 30, 2002</u> | <u>Fiscal year beginning July 1, 2000 and ending June 30, 2001</u> |
| <u>Fiscal year beginning September 1, 2003 and ending August 31, 2004</u> | <u>Fiscal year beginning September 1, 2002 and ending August 31, 2003</u> | <u>Fiscal year beginning September 1, 2001 and ending August 31, 2002</u> |
| <u>Fiscal year beginning July 1, 2002 and ending June 30, 2003</u> | <u>Short taxable year beginning January 1, 2002 and ending June 30, 2002</u> | <u>Calendar year 2001</u> |

()

d. Unitary Taxpayers. Each corporation included in a unitary combined group shall use its Idaho taxable income, as determined pursuant to Section 63-3027, Idaho Code, to determine whether it had negative Idaho taxable income in the second preceding taxable year. ()

e. Pass-through Entities. A taxpayer who is a partnership or an S corporation shall not qualify for the property tax exemption unless the total of its net business income apportioned to Idaho and its nonbusiness income or loss allocated to Idaho is negative for the second preceding taxable year. ()

f. Return Not Filed. If a taxpayer has not filed an Idaho income tax return for the second preceding taxable year so that the loss can be verified, the taxpayer shall not be entitled to the exemption. ()

04. Used Property Limitation. ()

a. In General. The cost of used property that a taxpayer may take into account for any taxable year in computing qualified investment shall not exceed one hundred fifty thousand dollars (\$150,000). This includes the cost of property the taxpayer placed in service during the taxable year and also his share of the cost of property placed in service during the taxable year by a partnership, S corporation, estate or trust. Because property must be qualified investment to qualify for the property tax exemption, the taxpayer is limited to one hundred fifty thousand dollars (\$150,000) for purposes of determining the property tax exemption. ()

b. Selection of Items of Used Property. If the cost of the taxpayer's used property eligible for the investment tax credit exceeds the used property limitation, the taxpayer must select the particular items of used property the cost of which is to be taken into account in computing qualified investment. When the taxpayer selects a particular item, the entire cost or the taxpayer's share of cost of the particular item must be taken into account unless the one hundred fifty thousand dollar (\$150,000) limitation is exceeded. For example, if a taxpayer places in service during the taxable year three (3) items of used property, each with a cost of sixty thousand dollars (\$60,000), the taxpayer must select the entire cost of two (2) of the items and only thirty thousand dollars (\$30,000) of the cost of the third item. The taxpayer may not select a portion of the cost of each of the three (3) items. The remaining thirty thousand dollars (\$30,000) of the third item shall not qualify for the investment tax credit nor the property tax exemption since it is not qualified investment. The selection by a taxpayer shall be made by taking the cost of the used property into account in computing the investment tax credit or the property tax exemption for a taxable year.

()

c. Electing Property Tax Exemption on Selected Used Property Items. Once the taxpayer has selected the particular items of used property, the cost of which is to be taken into account in computing qualified investment, the taxpayer shall determine whether he may elect the property tax exemption on the items selected. If an item qualifies as personal property and the taxpayer had a negative Idaho taxable income in the second preceding taxable year, the taxpayer may elect to claim the property tax exemption on the item in lieu of earning the investment tax credit. For example, assume the same facts as in Subsection 719.04.b. The taxpayer may elect the property tax exemption on any of the three (3) items, limited to the amount included as qualified investment if the item qualifies as personal property and the taxpayer had a negative Idaho taxable in the second preceding taxable year. ()

IDAPA 35 - STATE TAX COMMISSION

35.01.01 - INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-0303

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 63-105 and 63-3039, Idaho Code.

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

Income Tax Rule 872 is being amended to adjust the split monthly withholding thresholds to \$6,000 per monthly average per year and \$72,000 per year for withholding periods beginning on or after January 1, 2004, as required by statute.

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:

Statutory timing requires the rule be adopted as a temporary rule and shall be effective for the next succeeding calendar year. The rule will include an effective date that commences with withholding periods beginning on or after January 1, 2004.

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 and the fee is described herein: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being adopted as a temporary and proposed rule and the time constraints require having the schedule available to reflect the new rate.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Janice Boyd, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Janice Boyd, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0101-0303

872. REPORTING AND PAYING STATE INCOME TAX WITHHOLDING (RULE 872).

Sections 63-3035 and 63-3036, Idaho Code. (3-20-97)

01. Filing Of Returns. (7-1-99)

a. In General. An employer shall file returns quarterly to report payroll and state income tax withheld. Returns shall be filed on or before the last day of the month following the end of the quarter. (4-5-00)

b. Farmer-Employers. Generally, an employer who is a farmer shall file returns annually to report payroll and state income tax withheld. However, an employer who is a farmer shall file returns quarterly on or before the last day of the month following the end of the quarter if he is a covered employer required to file with the Department of Labor. (4-5-00)

c. Zero Tax Returns. A return shall be filed for each reporting period. For reporting periods in which the employer had no payroll or withheld no tax, the return shall be completed and filed by the due date. (7-1-99)

02. Extension Of Time To File Returns. The Tax Commission may allow a one (1) month extension of time to file the withholding return. (3-20-97)

a. The employer shall file a written request by the due date of the withholding return that identifies the reason for the extension and includes the required minimum payment. The minimum payment shall be at least ninety percent (90%) of the tax withheld for the period or one hundred percent (100%) of the tax withheld for the same period of the prior year. (4-5-00)

b. The employer shall file a return reporting the actual tax withheld for the period within one (1) month of the due date. The tax paid with the extension request shall be shown on the adjustment line of the return. Interest from the due date applies to any additional tax due. (3-20-97)

03. Payment Of State Income Tax Withheld. (7-1-99)

a. In General. An employer shall remit monthly any state income tax withheld. However, employers who owe ~~five~~ six hundred dollars (\$~~500~~600) or less per calendar quarter may, at the discretion of the Tax Commission, be allowed to remit the tax withheld on or before the last day of the month following the end of the quarter. ~~(4-5-00)~~(1-1-04)T

b. Split-Monthly Filers. (1-1-04)T

i. An employer who withholds state income taxes that meet or exceed the monthly or annual threshold amounts provided in Section 63-3035, Idaho Code, and listed in Subsection 872.03.b.ii., shall remit the tax withheld based on split-monthly withholding periods. Split-monthly withholding periods begin with the 16th day of the month and end on the 15th day of the following month. Payments for a split-monthly withholding period shall be made no later than five (5) days after the end of the withholding period. (1-1-04)T

ii. Threshold amounts:

| <u>WITHHOLDING PERIODS BEGINNING</u> | <u>MONTHLY THRESHOLD AMOUNTS</u> | <u>ANNUAL THRESHOLD AMOUNTS</u> |
|--|----------------------------------|---------------------------------|
| Prior to January 1, 2004 | \$5,000.00 | \$60,000.00 |
| On or After January 1, 2004, but Before July 1, 2005 | \$6,000.00 | \$72,000.00 |
| On or After July 1, 2005 | \$20,000.00 | \$240,000.00 |

(1-1-04)T

bc. Farmer-employers. Generally an employer who is a farmer shall remit state income tax withheld on or before the last day of February. However, an employer who is a farmer shall remit the state income tax withheld on or before the last day of the month following the end of the quarter if he is a covered employer required to file with the Department of Labor. (4-5-00)

04. Employer's Annual Reconciliation. On or before the last day of February, employers shall file a return reconciling the tax remitted throughout the preceding calendar year and the state income tax withholding reported on the W-2s. (3-20-97)

05. Employee's Wage And Tax Statements. Federal Form W-2 or a form of similar size and design may be used. In addition to the information required by the Internal Revenue Code, total Idaho wages paid, Idaho income tax withheld, and the name of the state shall be shown in the appropriate boxes. Altered forms are not accepted. (7-1-99)

a. The employer shall furnish each employee a W-2 before February 1, or at the request of the employee within thirty (30) days after termination of his employment. (3-20-97)

b. On or before the last day of February, each employer shall file with the Tax Commission a W-2 for each employee to whom Idaho taxable wages were paid, regardless of whether Idaho income tax was withheld. (3-20-97)

c. If a corrected W-2 is filed with the Internal Revenue Service, the W-2c shall be filed with the Tax Commission. (3-20-97)

d. Each employer with fifty (50) or more Idaho employees who is required to file returns on magnetic media or other machine-readable form by Section 6011, Internal Revenue Code, shall file in a similar manner with Idaho. In addition to the information required by the Internal Revenue Code, the magnetic media or machine readable form shall also include the employer's Idaho withholding account number, Idaho wages, and Idaho withholding. Employers who are required to file on magnetic media but fail to do so are subject to the provisions of Section 63-3046(e)(1), Idaho Code, and treated as if no W-2s were filed. (3-15-02)

e. If services are performed within and without Idaho, the state wages shown on the W-2 furnished to the employee shall include the portion of the employee's total wages reasonably attributed to services performed within Idaho. Wages may be allocated to Idaho based on work days, hours, mileage or commissions. (7-1-99)

06. Valid Returns. All withholding returns and other documents required to be filed pursuant to Sections 63-3035 and 63-3036, Idaho Code, and this rule shall be filed using the proper forms as prescribed by the Tax Commission. The forms shall include the taxpayer's name, signature, withholding account number, and federal employer identification number. Returns that fail to meet these requirements are invalid and may be returned to the taxpayer to be refiled. Failure to file a valid return by the due date may cause interest and penalties to be imposed. (3-20-97)

IDAPA 35 - STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This pending rule has been adopted by the agency and is now pending review by the 2004 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) 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting the pending rule and a statement of any changes between the text of the proposed rule and text of the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 2, 2003, Idaho Administrative Bulletin, Volume 03-7, pages 68 through 70.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact James Husted, at (208) 334-7530.

DATED this 15th day of August, 2003

James Husted
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 02

IDAHO SALES AND USE TAX ADMINISTRATIVE 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 03-7, July 2, 2003, 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 2004 Idaho State Legislature as a final rule.

IDAPA 35 - STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0304

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105 and 63-3624, Idaho Code.

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

Rule 031 - The State Tax Commission proposes to adopt a definition of telecommunication equipment based on the statutory definition found in Section 61-121, Idaho Code, which is part of the Public Utilities Act. This clarifies the definition of wireless telecommunications given away as an inducement to purchase telecommunications services found in Section 63-3621(a), Idaho Code.

Rule 037 - Section 63-3622GG, Idaho Code, provides an exemption for sales of aircraft to nonresidents who will not use the aircraft in Idaho. This amendment defines "nonresident business or organization" to mean an organization that has not registered to do business in Idaho and does not have significant contacts or ongoing operations in Idaho.

Rule 039 - Add clarifying sentence that states sales of commemorative medallions are taxable except for those sold by the Idaho State Treasurer's Office and its agent pursuant to Section 63-3622PP, enacted in 2003.

Rule 043 - Add a new subsection that clarifies what charges added to the sales price of tangible personal property are "services agreed to be rendered as part of the sale". Such charges are included in the sales price subject to tax pursuant to Section 63-3613(a), Idaho Code. Such charges include: amounts charged to bring an article into its finished condition, charges for customizing or modifying goods, charges based on the amount or frequency of a purchase, commissions, and mandatory charges.

Rule 058 - Section 63-3613(e), Idaho Code, states: Tangible personal property when sold at retail for more than eleven cents (\$.11) but less than one dollar and one cent (\$1.01) through a vending machine shall be deemed to have sold at a sales price equal to one hundred seventeen percent (117%) of the price which is paid for such tangible personal property and/or its component parts including packaging by the owner or operator of the vending machines. This amendment corrects the formula in Rule 058 to show that the tax on sales over \$1 is included in the total sales from the machines. The amendment also changes the formula to conform to industry practice.

Rule 105 - Subsection 105.08 conflicts with IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 140. The Sales Tax Rules incorporate the Administration and Enforcement Rule by reference. Therefore the conflicting subsection is being deleted. Also changes the threshold for quarterly and semi-annual filers from \$500 to \$600.

Rule 107 - Make the definition of "ATV" in the rule the same as in Section 63-3622R, Idaho Code, and correct the amount of tax in the example.

Rule 112 - Extend the duration of direct pay authorizations to five years.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Husted, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Jim Husted, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0102-0304

031. RADIO AND TELECOMMUNICATIONS EQUIPMENT AND LAND MOBILE RADIO SERVICE OF SYSTEMS (Rule 031).

01. General Rule And Scope. Sales and purchases of communication equipment and land mobile radio systems are subject to sales and use tax. This rule describes sales and use tax treatment of telephone terminal equipment or services and land mobile radio systems or service. (7-1-97)

02. Telephone Terminal Equipment And Services. (7-1-93)

a. Telephone terminal equipment includes, but is not limited to, desk sets, PBX systems, automated answering equipment, cellular telephones and mobile radio telephones. All lessors, or sellers, or both, of this type of equipment are required to obtain seller's permits, and must collect and remit sales tax on the retail sales price or lease price. (7-1-97)

b. Fees for access charges, toll charges, call waiting, call forward, message recording, and similar charges to customers are not subject to the sales tax. (7-1-97)

03. Land Mobile Radio Systems Or Services. (7-1-93)

a. Generally, land mobile radio systems or services are defined by 47 Code of Federal Regulations, Section 90.7. (7-1-93)

b. Sales of terminal equipment or customer premises equipment are taxable. Terminal and customer premises equipment shall include handsets, mobile telephones, antennae, and like or similar property. (7-1-97)

c. Separately stated fees for labor rendered to install or apply terminal or customer premises equipment on premises or in facilities under the dominion and control of the consumer are not subject to sales tax. (7-1-93)

d. Fees for access charges, toll charges, and similar charges are not subject to the sales tax. (7-1-97)

04. Provider Equipment. Equipment or tangible personal property used in receiving or transmitting, other than terminal or customer premises equipment, shall be deemed purchased for use by the owner or provider of

the telephone or land mobile radio system or service, and subject to sales or use tax on his purchase cost. The owner or provider of telephone or land mobile radio systems or services will be deemed the consumer of other tangible personal property which he purchases and which is used for other purposes including, but not limited to, office supplies, repair equipment, accounting or customer billing equipment, and equipment or devices or other property used to maintain or repair land mobile radio systems or services. (7-1-93)

05. Drop-In Equipment And Inside Wiring. (7-1-93)

a. Drop-in equipment and inside wiring shall include wires, plugs, sockets, receptacles, connectors and similar items which are or become improvements or accessions to real estate, and which are useful or necessary to bring telephonic or radio communication transmissions from a source outside the premises of the user, for example, telephone pole or transmitter, to terminal equipment within the user's premises. (7-1-93)

b. Sales and purchases of drop-in equipment and inside wiring shall be subject to sales or use tax as tangible personal property consumed by a contractor improving real estate, and persons installing drop-in equipment and inside wiring shall be considered contractors for the purposes of such installations. See ~~Idaho Sales Tax Administrative Rule 012~~ of these rules for tax treatment of contractors. (7-1-97)()

06. Wireless Telecommunications Equipment. A retailer may give away wireless telecommunications equipment as an inducement to commence or continue a contract for telecommunications service. Such a use is exempt from tax pursuant to Section 63-3621(a), Idaho Code. For the purposes of this exemption "telecommunications service" means the transmission of two-way interactive switched signs, signals, writing, images, sounds, messages, data, or other information that is offered to the public for compensation. "Telecommunication service" does not include the one-way transmission to subscribers of video programming, or other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service, surveying, internet service, alarm monitoring service, or the provision of radio paging, mobile radio telecommunication services, answering services (including computerized or otherwise automated answering or voice message services). ()

(BREAK IN CONTINUITY OF SECTIONS)

037. AIRCRAFT AND FLYING SERVICES (Rule 037).

01. Definitions. For the purposes of this rule, the following terms have the following meanings: (7-1-94)

a. Certified Air Carrier. Any person who directly or indirectly or by a lease or any other arrangement, offers air transportation and is authorized by the FAA to operate as an air carrier under an air carrier operating certificate. (7-1-94)

b. Regular Scheduled Flight. A flight which is operated regularly between two (2) points and is listed in a published schedule which is readily available to the public. (7-1-94)

c. On Demand Flight. The hiring on demand of an aircraft with a pilot to transport freight or passengers on an unscheduled flight. (7-1-94)

d. Recreational Flight. The hiring on demand of an aircraft with a pilot to transport passengers for a recreational purpose. Examples are a pleasure ride, sightseeing, photography, wildlife viewing, hot air balloon rides, or other similar activities. (7-1-94)

e. Intrastate Flight. A flight where the origin and destination points are within Idaho. (7-1-94)

f. Freight. Goods transported by a carrier between two (2) points. Freight does not include goods which are being transported for the purpose of aerial spraying or dumping. (7-1-94)

- g. Nonresident Individual. An individual as defined by Section 63-3014, Idaho Code. (7-1-94)
- h. Nonresident Businesses and Other Organizations. ~~A business with no property located in Idaho, or employees working in Idaho. A corporation, partnership, limited liability company, or other organization will be considered a nonresident if it is not formed under the laws of the state of Idaho, is not registered to do business with the Idaho Secretary of State, does not have significant contacts with this state and does not have consistent operations in this state.~~ (7-1-94)()
- i. Day. For the purpose of this rule any part of a day is a day. (7-1-94)
02. Sales Subject To Tax. Sales or use tax applies to the total sales price of: (7-1-94)
- a. An aircraft sold at retail, except as provided by Subsection 037.03 of this rule; (2-18-02)
- b. The receipts from intrastate on demand flights, except as part of a regularly scheduled flight by a certified air carrier, under the authority of the FAA; (2-18-02)
- c. The receipts from transporting passengers for a recreational flight; or (2-18-02)
- d. The sale of parts or other tangible personal property used to repair or maintain an aircraft not held for resale, except as provided by Subsection 037.05.e. of this rule. (2-18-02)
03. Aircraft Not Subject To Tax. Sales or use tax does not apply to the sale, lease, purchase, or use of an aircraft. (7-1-94)
- a. Primarily used to transport passengers or freight for hire; (2-18-02)
- b. Primarily used for emergency transportation of sick or injured persons; or (2-18-02)
- c. ~~By nonresidents~~ Purchased for use outside this state, when the aircraft is upon delivery taken outside this state, but only if: ()
- i. ~~The aircraft is sold to a nonresident as defined in Subsection 037.01.g. or 037.01.h. of this rule;~~ ()
and
- ii. The registration will be immediately changed to show the new owner and the aircraft will not be used in this state more than ninety (90) days in any twelve (12) month period. (7-1-94)()
04. Rentals And Leases Of Aircraft. The rental or lease of an aircraft without operator is a sale subject to sales tax, other than as provided in Subsection 037.03 of this rule. See Rule 024 of these rules. (2-18-02)
05. On Demand Flying Services. The charge for intrastate on demand flying of passengers or freight is subject to sales tax. The sales tax applies to the total amount charged for the intrastate charter flight, including standby time for a pilot, crew, or other separately stated charges. (7-1-94)
- a. Example: A customer hires a flight on demand from Boise to Coeur d'Alene, Idaho. During the flight the pilot stops briefly in Spokane, Washington, at the passenger's request. In this example the flight is an intrastate on demand flight of passengers for hire and is subject to sales tax. The measure of the sales tax is the total amount charged for the on demand flight. (7-1-94)
- b. Example: A customer hires a flight on demand from Boise, Idaho, to Spokane, Washington. During the flight the pilot stops briefly in Coeur d'Alene, Idaho, at the passenger's request. In this example the flight is an interstate on demand flight, even though the aircraft landed briefly in Idaho. Sales tax will not apply to the flight because it is an interstate flight. (7-1-94)
- c. Example: A company hires a flight on demand from Boise, Idaho, which is to transport one (1)

passenger to Pocatello, Idaho, and the remaining passengers to Salt Lake City, Utah. The amount charged to transport the passenger to Pocatello is subject to sales tax as an intrastate on demand flight. The charge for flying the remaining passengers to Salt Lake City is not subject to sales tax, as it is an interstate flight. (7-1-93)

d. Example: A company hires a flight on demand from Boise to Pocatello, Idaho, and requests that the plane then fly the passenger to Salt Lake City, Utah, later in the day. Two (2) on demand flights have occurred. The first is an intrastate flight from Boise to Pocatello, subject to sales tax. The second flight is interstate, Pocatello to Salt Lake City, and not subject to sales tax. (7-1-93)

e. Aircraft which are purchased, rented, leased, or withdrawn from resale inventory to be used primarily for on demand flights are not subject to sales or use tax. Sales or use tax does not apply to the sale or use of repair and replacement materials and parts which will become component parts of such aircraft. Sales or use tax does apply to the sale or use of tools and equipment utilized in performing the repair or maintenance. (2-18-02)

06. Aerial Contracting Services. Sales tax does not apply to the amount charged by the owner or operator of an aircraft to perform aerial contracting services such as aerial logging, applying agricultural products or other products by aerial spraying or dumping, or other similar activities not involving the transportation of freight or passengers. However, if the service involves the hauling of freight or passengers who are not employees of the flying service, the flight is deemed an on demand flight. (7-1-94)

a. Aircraft purchased, rented, or leased for aerial contracting are subject to sales tax. It makes no difference whether or not the service is provided to a government agency or a private individual or company. Sales or use tax also applies to the purchase of repair parts, oil, and other tangible personal property. (7-1-94)

b. When aircraft held for resale are used by the owner, aircraft dealer, for aerial contracting services, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service. (7-1-94)

07. Air Ambulance Service. Charges for the emergency transportation of sick or injured persons, including standby time, are not subject to sales tax. (7-1-94)

08. Flying Instructions. Flying instructions or lessons which may include solo flights are a service and the fees are not subject to sales tax. (7-1-94)

a. Aircraft purchased, rented, or leased to be used primarily for flying instruction are subject to sales or use tax. (7-1-94)

b. When aircraft held for resale are used by the aircraft dealer for flying instructions or lessons, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service. (7-1-94)

09. Recreational Flights. Fees charged for recreational flights are taxable as provided by Subsection 037.02.c. of this rule. Aircraft purchased, rented, or leased primarily for providing recreational flights are subject to sales or use tax. (7-1-94)

10. Aircraft Held For Resale. Aircraft purchased and held for resale become taxable when used for purposes other than demonstration or display in the regular course of business. (7-1-94)

a. Rentals of aircraft held for resale are taxable as provided by Subsection 037.04 of this rule. (7-1-93)

b. When an aircraft held for resale is used for a taxable purpose, the dealer owes tax on that use. The use tax applies to a reasonable rental value for the time the aircraft is used. (7-1-94)

c. Parts and oil purchased to repair or maintain aircraft held for resale are not subject to sales tax. The aircraft dealer must provide the supplier with a properly completed resale certificate. See Rule 128 of these rules. (2-18-02)

11. **Fuel.** The sale or purchase of fuels subject to motor fuels tax, or on which a motor fuels tax has been paid, pursuant to Chapter 24, Title 63, Idaho Code, is exempt from sales and use tax. (7-1-94)

12. **Records Required.** The owner or operator of an on-demand flying service must give his customer a receipt and keep a copy for his records, showing the customer's name and address, date of flight, its purpose, and its origin and destination. If the flight or transaction is subject to sales tax, the tax must be separately stated on the receipt. (7-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

039. SALE AND PURCHASE OF BULLION, COINS, OR OTHER CURRENCY (Rule 039).

01. **Sales And Purchases Of Bullion.** Sales and purchases of precious metal bullion and monetized bullion are exempt from sales tax. (7-1-93)

a. Precious metal bullion is an elementary precious metal, such as gold, silver, platinum, rhodium and chromium which has been processed by smelting or refining and where the value of the metal depends upon the content and not upon its form. (7-1-93)

b. Monetized bullion is a coin made of gold, silver or other metals which has been, is or will be used as a medium of exchange under the laws of this state, the United States or any foreign nation. (7-1-93)

02. **Jewelry Or Other Works Of Art.** The exemption does not extend to coins or money sold to create jewelry or other works of art. The exemption also does not extend to sales of coins whose values may be determined by their form, and which are not minted or manufactured as currency. (7-1-93)(____)

a. Sales of ~~M~~medallions, tokens or other coins created to commemorate a historical event are taxable. However, sales of Idaho commemorative medallions through the Office of the Treasurer of the state of Idaho or its agents are exempt pursuant to Section 63-3622PP, Idaho Code. (7-1-93)(____)

b. ~~A~~ Sales ingots of precious metal ~~purchased by an individual is~~ are exempt from sales tax. Sales of ~~J~~jewelry items, such as belt buckles, bracelets or necklaces, containing silver dollars or other legal tender or ingots are taxable. (7-1-93)(____)

c. Sales of ~~C~~coins, such as Krugerands the one (1) ounce gold coins of the Republic of South Africa, are exempt, unless incorporated into a jewelry item or other decoration. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

043. SALES PRICE OR PURCHASE PRICE DEFINED (Rule 043).

01. **Sales Price And Purchase Price.** The term sales price and purchase price may be used interchangeably. Both mean the price paid by the customer or user to the seller including: (7-1-93)

a. The cost of transporting goods to the seller. See ~~Idaho Sales Tax Administrative~~ Rule 061 of these rules. (7-1-97)(____)

b. Manufacturer's or importer's excise tax. See ~~Idaho Sales Tax Administrative~~ Rule 060 of these rules. (7-1-97)(____)

c. Services agreed to be rendered as part of the sale. (7-1-97)

d. Separately stated labor charges to produce or fabricate made to order goods. See ~~Idaho Sales Tax Administrative~~ Rule 029 of these rules. (7-1-97)()

02. Services Agreed To Be Rendered As A Part Of The Sale. The sales and use tax is computed on the sales price of a transaction. The term "sales price" is defined by Section 63-3613, Idaho Code, to include "services to be rendered as a part of the sale." The following items are among those that are part of the sales price and, therefore, may not be deducted before computation of the sales price. This is not intended to be an exclusive list of such items: ()

a. Any charges for any services to bring the subject of a sale to its finished state ready for delivery and in the condition specified by the buyer, including charges for assembly, fabrication, alteration, lubrication, engraving, monogramming, cleaning, or any other servicing, customizing or dealer preparation. ()

b. Any charge based on the amount or frequency of a purchase, such as a small order charge or the nature of the item sold, such as a slow-moving charge for an item not frequently sold. ()

c. Any commission or other form of compensation for the services of an agent, consultant, broker, or similar person. ()

d. Any charges for warranties, service agreements, insurance coverage, or other services required by the vendor to be taken as a condition of the sale. If the sale could be consummated without the payment of these charges, the charges are not part of the sales price if separately stated. Also see Rule 049 of these rules. ()

023. Charges Not Included. Sales price does not include charges for interest, carrying charges, amounts charged for optional insurance on the property sold, or any financing charge. These various charges may be deducted from the total sales price if they are separately stated in the contract. In the absence of a separate statement, it will be presumed that the amount charged is part of the total sales price. (7-1-93)()

034. Gratuities. A gratuity is defined as something given voluntarily or beyond obligation. Gratuities may sometimes be referred to as tips. (7-1-93)

a. When a gratuity is given directly to employees by the purchaser in the form of cash or the purchaser adds a nonsolicited gratuity to his bill, charge card voucher form, or house account form, no sales tax applies to the gratuity. (7-1-93)

b. When an amount is added to a customer's bill by the retailer and the customer is advised in writing on the face of the bill that he may decline to pay all or part of the amount, that amount is a gratuity. Sales tax will not apply to the gratuity. (7-1-93)

c. When an amount is added to a customer's bill by the retailer, and the customer is not advised in writing on the face of the bill that he may decline to pay all or part of the amount, it is not a gratuity and the fee so added is subject to the sales tax. (7-1-93)

d. When a gratuity is negotiated before the sale, such as in the case of a banquet, tax must be charged on the entire fee so negotiated. Because of the negotiation, the fee loses its identity as a gratuity and becomes a service charge and part of the purchase price of the meal. See Subsection 043.04 of this rule. (7-1-93)

045. Service Charges. Amounts designated as service charges, added to the price of meals or drinks, are a part of the selling price of the meals or drinks and accordingly, must be included in the purchase price subject to tax, even though such service charges are made in lieu of tips and paid over by the retailer to his employees. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

058. SALES THROUGH VENDING MACHINES (Rule 058).

01. **In General.** The sale of tangible personal property through a vending machine is a taxable transaction. The term vending machine shall mean any mechanical device which, without the assistance of a human cashier, dispenses tangible personal property to a purchaser who deposits cash in the device. Video games and other coin operated amusement devices are not vending machines. Fees paid for the use of coin operated amusement devices are not subject to sales tax pursuant to Section 63-3623B, Idaho Code. See Rule 109 of these rules. (5-3-03)

02. **Amount Subject To Tax.** Pursuant to Section 63-3613, Idaho Code, sales of items through a vending machine for amounts from twelve cents (\$0.12) through one dollar (\$1) are taxable at one hundred seventeen percent (117%) of the vendor's acquisition cost of the items. Items sold for more than one dollar (\$1) are taxable on the retail sales price. Sales of items for a price of eleven cents (\$0.11) or less are exempt from tax pursuant to Section 63-3622L, Idaho Code. (5-3-03)

03. **Requirement To Obtain A Seller's Permit.** Vendors who sell tangible personal property through a vending machine must obtain a seller's permit. Only one seller's permit is required; however, each vending machine operated by the vendor must conspicuously display the vendor's name, address, and seller's permit number. When a number of vending machines are placed in a single location, the owner's name, address, and seller's permit number need be displayed only once. (5-3-03)

04. **Calculation Of Tax.** The following examples show how vending machine operators shall calculate the amount of sales tax due: (5-3-03)

a. Example 1: Corporation A's business activity consists only of sales through vending machines in various locations in the state of Idaho. All of the items sold in the vending machines are sold for a unit price of twelve cents (\$0.12) or more but none are sold for a price greater than one dollar (\$1). During the month of July, ~~1989~~, Corporation A's gross receipts from the vending machine sales were ten thousand dollars (\$10,000). Corporation A purchased the items sold during that one (1) month period for eight thousand dollars (\$8,000). The company made no nontaxable or exempt sales. Corporation A should file a sales and use tax return for the month of July, ~~1989~~, computing and reporting its taxable sales as follows. Numbers correspond to line numbers on the return.

| | | |
|------------------------------------|-----------------------------|---------------------------------|
| Line 1. | Total sales | \$10,000 \$ 9,360 |
| Line 2. | Less nontaxable sales | \$ 640 |
| Line 3. | Net taxable sales | \$ 9,360 |
| Line 2 computed as follows: | | |
| | 8,000 x 117% = | \$ 9,360 |
| | 10,000 - 9,360 = | \$ 640 |

(7-1-93)()

b. Example 2: During the month of July, ~~1989~~, Corporation B had total Idaho sales in the amount of ten thousand dollars (\$10,000). In addition to sales through vending machines, the corporation made over-the-counter sales, all of which were taxable, in the amount of two thousand dollars (\$2,000). The remaining eight thousand dollars (\$8,000) constituted sales through vending machines, of which one thousand dollars (\$1,000) was for items with a unit retail price of over one dollar (\$1). The other seven thousand dollars (\$7,000) were sales of items through vending machines with a unit retail price of fifty cents (\$0.50) each. The items sold during the month for fifty cents (\$0.50) each were purchased by Corporation B for five thousand dollars (\$5,000). Corporation B should file a sales

and use tax return for the month, computing and reporting its taxable sales as follows:

| | | |
|---|--|-------------------------------------|
| Line 1. | Total sales | \$10,000 <u>8,793.40</u> |
| Line 2. | Less nontaxable sales | \$ 1,150 <u>0</u> |
| Line 3. | Net taxable sales | \$ 8,850 <u>8,793.40</u> |
| Line 2 computed as follows: | | |
| | $7,000 (117\% \text{ of } 5,000)$ | = \$ 1,150 |
| | $2,000 + (1,000 \div 1.06) + (5,000 \times 117\%)$ | <u>\$ 8,793.40</u> |

Note, that if a vendor sells some items for more than one dollar (\$1), ~~no special computation is required for those items if they are included on line 1, total sales~~ the sales tax is included in the total receipts. This amount must be divided by one (1) plus the current tax rate expressed as a decimal, to determine the receipts before sales tax. If the tax rate is six percent (6%) the divisor is one and six one-hundredths (1.06). (7-1-93)()

- 05. Cross-References.** (7-1-93)
- a.** Amusement devices, see Rule 109 of these rules. (5-3-03)
- b.** Money operated dispensing equipment, see Rule 095 of these rules. (5-3-03)
- c.** Sales of newspapers through vending machines, see Rule 033 of these rules. ()

(BREAK IN CONTINUITY OF SECTIONS)

105. TIME AND IMPOSITION OF TAX, RETURNS, PAYMENTS AND PARTIAL PAYMENTS (Rule 105).

01. Time And Imposition Of Tax. (7-1-93)

a. Sales Tax. Sales tax is imposed, computed and collected at the time of sale, without regard to the provisions of any contract relating to the time or method of payment. In the case of installment sales, sales on account, or other credit sales, the seller shall report as a taxable sale the entire sales price for the month in which the sale is made. No part of the sales tax may be deferred until the time the retailer actually collects payment from the buyer. A sale occurs when title to property passes through delivery to the customer or absolute and unconditional appropriation to a contract. Lease or rental payments are taxable during the month or other period for which the property is leased or rented. (7-1-93)

b. Use Tax. Use tax is determined at the time of the use, storage or other consumption of tangible personal property in Idaho. The tax is reported and payable in accordance with the provisions of this rule. Persons making purchases subject to use tax should apply for a use tax permit number from the Tax Commission. Application forms may be obtained by contacting any Tax Commission office. (7-1-93)

c. Taxable Sales Create State Revenue. The sales or use tax collected by a retailer from a customer at the time of purchase becomes state money at that time. The collected amounts may not be put to any use other than that allowed by Chapter 36, Title 63, Idaho Code, and these rules. (7-1-93)

02. Returns. (7-1-93)

a. Monthly Filing Generally Required. All retailers and persons subject to use tax are required to remit the tax to the state on a monthly basis unless a different reporting period is prescribed by the Commission. The remittance will include all sales and use tax due from the first through the last day of the preceding calendar month.

(7-1-93)

b. Request to File Quarterly or Semi-annually. Retailers or persons who owe ~~five~~ six hundred dollars (\$~~500~~) or less per quarter and have established a satisfactory record of timely filing and payment of the tax may request permission to file quarterly or semi-annually instead of monthly. ~~(6-23-94)~~()

c. Request to File Annually. Retailers or persons who have seasonal activities, such as Christmas tree sales or repeating fair booths, may request permission to file annually. Approval of the request is at the discretion of the Commission and is limited to taxpayers who have established a satisfactory record of timely filing and payment of the tax. (7-1-93)

d. Final Report. Whenever a taxpayer who is required to file returns under the Sales Tax Act or these rules stops doing business, he must mark cancel on the last return he files. This return ends the taxable year for sales or use tax purposes and constitutes the taxpayer's final report of sales or use tax activities or liabilities. The taxpayer must enclose his seller's permit with his request for cancellation or send a written statement that the permit has been destroyed. If the taxpayer continues business activity after filing a final report he may be subject to liabilities or penalties for failing to comply with the Idaho Sales Tax Act and these rules. (7-1-93)

03. Valid Return. A tax return or other document required to be filed in accordance with Section 63-3623, Idaho Code, and these rules must meet the conditions prescribed below. Those which fail to meet these requirements are invalid. They may be rejected and returned to the taxpayer to be redone in accordance with these requirements and refiled. A taxpayer who does not file a valid return is considered to have filed no return. A taxpayer's failure to properly file in a timely manner may result in penalties imposed by Section 63-3634, Idaho Code, and related rules. (7-1-93)

a. The sales and use tax return form must be completed and, if required, copies of all pertinent supporting documentation must be attached. The results of required supporting documentation must be carried forward to applicable lines on the sales or use tax return form. (7-1-93)

b. All sales and use tax returns or other documents filed by the taxpayer must include his sales or use tax permit number and federal taxpayer identification number in the spaces provided. (7-1-93)

c. A sales or use tax return that does not provide sufficient information to compute a tax liability does not constitute a valid return. (7-1-93)

d. Perfect accuracy is not required of a valid return, although each of the following conditions is required: it must be on the proper form, as prescribed by the Commission; the tax liability must be calculated and have sufficient supporting information, if required, to demonstrate how the result was reached; and it must show an honest and genuine effort to satisfy the requirements of the law. (7-1-93)

04. Perpetual Extensions Of Time To File Revoked. Any previously granted permanent or perpetual extension of time to file any sales or use tax returns is hereby revoked. Any person who has used such an extension in the past may avoid a penalty for late filing by filing a timely extension of time return estimating the tax liability, as provided by Subsection 105.05 of this rule. (7-1-93)

05. Use Of Estimates Extension Of Time Returns. (7-1-93)

a. The Commission may, for good cause, grant authority for a taxpayer to file for an extension of time by filing an estimated return. When filing the Extension of Time estimated return, the taxpayer must attach a written request which sets forth the reason for estimating. The Commission will review each request to determine if there is good cause for filing an Extension of Time estimated return. If the Commission determines that the request should be denied, the taxpayer will be notified in writing and a penalty, as provided by Section 63-3046, Idaho Code, will apply to any delinquent tax due when the original return is filed. (7-1-93)

b. If the return for any period is filed on an estimated basis, the estimated return must be filed timely and the estimate must be reconciled to actual figures by filing an original return within one month of the due date. Any additional tax due as a result of reconciliation must be remitted when the original return is filed and must include

interest on any unpaid balance due from the due date of the return. (7-1-93)

c. The estimated tax remitted must be at least ninety percent (90%) of the total sales and use tax due for the period or one hundred percent (100%) of the total sales and use tax due for the same month of the prior year. If the estimated tax paid is less than these requirements, a five percent (5%) penalty may be applied to the remaining tax due, as provided by Section 63-3046(a), Idaho Code. (7-1-93)

d. Taxpayers wishing to file an Extension of Time estimated return must obtain the required forms from the Commission. (7-1-93)

06. Forms Required. (7-1-93)

a. Separate Payments. The original return will be completed with the amount of total sales, nontaxable sales, taxable sales, items subject to use tax, and tax due inserted in the blanks. Payment must accompany the return. If the retailer owes payments for withholding or other taxes due to the state and payable to the Commission, separate checks should be made out for each tax payment and the reports and checks should be sent separately to the Commission. A complete sales and use tax return will be filed by each retailer or person subject to use tax. This return will be on a form prepared and mailed to the taxpayer by the Commission. If the original is lost or destroyed, a substitute form will be supplied upon request. (7-1-93)

b. Retailers Must Report Own Use and Nontaxed Transactions. All retailers must report any sales or purchases on which no sales or use tax was collected or paid. Goods sold or produced and consumed by the retailer, items withdrawn from stock for personal use or employee use, stock removed and used for gift or promotional purposes, or any combination of such uses are subject to tax. (7-1-93)

c. Reporting Adjustments. Any adjustments for additional tax due or credits claimed should be made on the next return due after the adjustments are discovered. These adjustments are to be shown on the line designated for adjustments on the return form and must be accompanied by an explanation and any documents that support the claimed adjustment. (7-1-93)

07. Payment Of Tax. (7-1-93)

a. Payment to Accompany Return. The return filed in accordance with this rule must be accompanied by a remittance of the total amount due as shown on the return. Checks or other negotiable instruments should be made payable to the Idaho State Tax Commission. (7-1-93)

b. Payment of One Hundred Thousand Dollars (\$100,000) or Greater. All taxes due to the state must be paid by electronic funds transfer whenever the amount due is one hundred thousand dollars (\$100,000) or greater, in accordance with rules promulgated by the Idaho State Board of Examiners, which is incorporated by reference to these rules. (7-1-93)

c. Remittance of Collections Required--Bracket Exception. Retailers are required to remit all taxes collected from purchasers, except any difference that may result from use of the bracket system described in ~~Idaho Sales Tax Administrative Rule 068 of these rules~~. Any taxes erroneously collected in excess of those properly due should be refunded to the purchaser by the retailer. If the retailer either cannot or does not make the refund during the period for which the return is due, then the retailer must report the erroneously collected taxes on the return and pay them to the Commission. If the erroneously collected taxes are subsequently refunded to the purchaser from whom they were collected, the retailer may claim a credit or refund of sales taxes in accordance with ~~Idaho Sales Tax Administrative Rule 117 of these rules~~. Under no circumstances may a retailer retain any amount collected as sales or use tax which is greater than the retained amount authorized under the bracket system by ~~Idaho Sales Tax Administrative Rule 068 of these rules~~. (6-23-94)(____)

~~**08. Partial Payment.** If penalties or interest accrue as a result of any deficiency or underpayment in tax, partial payments made by the taxpayer shall apply first to the penalties, next to the interest accrued and thereafter to the payment of the tax. (7-1-93)~~

~~**098. Filing Dates--General Rule.** The filing date for all sales or use tax returns is the twentieth (20th)~~

day of the calendar month immediately following the last day of the reporting period, unless otherwise allowed by these rules. This is the filing due date for all regular monthly, quarterly, semi-annual, and annual accounts. If the twentieth (~~20th~~) is a Saturday, Sunday, or legal holiday, the return shall be due on the next following day which is not a Saturday, Sunday or legal holiday. (7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

107. VEHICLES AND VESSELS - GIFTS, MILITARY PERSONNEL, NONRESIDENT, NEW RESIDENT, TAX PAID TO ANOTHER STATE, SALES TO FAMILY MEMBERS, SALES TO AMERICAN INDIANS, AND OTHER EXEMPTIONS (RULE 107).

01. In General. This rule discusses specific topics relating to motor vehicles including gifts, military personnel, and exemptions. Refer to Rule 106 of these rules for general information on purchases, sales, rentals, and leases of motor vehicles. (3-6-00)

02. Gifts Of Motor Vehicles. When the following facts clearly establish that a motor vehicle is being transferred as a gift from the titleholder to another, the vehicle can be transferred tax exempt if: (7-1-93)

a. No money, services, or other consideration is exchanged between the donor and recipient at any time. (7-1-93)

b. The recipient assumes no indebtedness. (7-1-93)

c. The relationship of the donor and recipient indicates a basis for a gift. (7-1-93)

d. The donor and recipient complete and sign a Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, and submit it to the county assessor or the Idaho Transportation Department along with the title to the vehicle being transferred. If the donor is unable to sign the affidavit: (2-18-02)

i. A letter stating the vehicle is a gift, and signed by the donor, may be accepted by the county assessor or his representative and attached to the affidavit; or (2-18-02)

ii. The back of the title may be marked as a gift and signed by the donor. (2-18-02)

03. Nonresidents. A nonresident does not owe use tax on the use of a motor vehicle which is registered or licensed under the laws of another state or nation, is not used in Idaho more than ninety (90) days in any consecutive twelve (12) months pursuant to Section 63-3621(k), Idaho Code, and is not required to be registered or licensed under Idaho law. For purposes of this Subsection, a motor vehicle is considered to have been used in Idaho for a day when it is present in this state for more than sixteen (16) hours during any twenty-four (24) hour period. (2-18-02)

04. New Residents. A new resident of Idaho does not owe tax on the use of household goods, personal effects and privately owned motor vehicles, if he acquired them while he resided in another state and used them primarily outside Idaho. If a vehicle owner obtained a registration or title from another state or nation of residence more than three (3) months before moving to Idaho, this is proof that the vehicle was primarily for use outside Idaho. New residents entering Idaho with a vehicle titled in a state that does not impose a general sales and use tax will be required to complete and sign a Three Month Exemption Claim Form ST-102 and submit it to the Idaho Transportation Department or county assessor when applying for a title transfer. (2-18-02)

a. If the vehicle was acquired less than three (3) months before the buyer moved to Idaho, it is presumed that it was acquired for use in this state. (7-1-93)

b. Exclusion from the tax applies only to motor vehicles owned by an individual. A privately owned motor vehicle is one which is owned by, and titled to, a private individual or individuals. (3-6-00)

05. Military Personnel. Military personnel receive no special exemption from the Idaho sales and use tax regarding motor vehicles or other tangible personal property. The exemptions discussed in this rule apply equally to military and nonmilitary personnel. A military person with a home of record other than Idaho is considered to be a nonresident. A military person whose home of record is Idaho is considered to be a resident of this state. Example: A military officer with a home of record in Oregon brings a vehicle purchased in Germany to Idaho upon being stationed at Mountain Home Air Force Base. During his first year at Mountain Home, the vehicle is present in Idaho for more than ninety (90) days. The exemption provided to nonresidents, as discussed in Subsection 107.03 of this rule, does not apply. Use tax applies to the fair market value of the vehicle. (7-1-93)

06. Tax Paid To Another State. When sales tax has been properly imposed by another state of the United States in an amount equal to or greater than the amount due Idaho, no Idaho tax is due. (7-1-93)

a. If the amount paid to the other state is less, Idaho tax is due to the extent of the difference, unless some other exemption applies. The owner must provide evidence that the tax was paid to the other state. A registration certificate or title issued by another taxing state is sufficient evidence that tax was imposed at the other state's tax rate. (7-1-93)

b. Example: A Wyoming resident buys a vehicle there for ten thousand dollars (\$10,000) two (2) months before moving to Idaho. He presents his Wyoming title to an Idaho county assessor. Since he acquired the vehicle only two (2) months before entering Idaho, no exemption applies. The tax paid to Wyoming was three hundred dollars (\$300) when the vehicle was purchased. Credit for this amount is allowed against the ~~five~~ six hundred dollars (\$~~500~~ 600) tax due Idaho. The assessor will collect ~~two~~ three hundred dollars (\$~~200~~ 300) tax. (7-1-93)

c. Example: A vehicle was purchased by a Colorado resident two (2) months before moving to Idaho. The applicant paid three percent (3%) Colorado state sales tax, one and six tenths of one percent (1.6%) city sales tax, and one and six tenths percent (1.6%) county sales tax. The total Colorado general sales tax paid was ~~five~~ six and two tenths percent (~~5.2~~ 6.2%). Since the Idaho tax rate is ~~five~~ six percent (~~5~~ 6%), no tax is due Idaho because the amount of tax paid to Colorado exceeds the amount owed Idaho. (~~2-18-02~~)()

d. A registration certificate or title issued by another taxing state is proof that tax was paid to the other taxing state. This does not apply to states that do not have a tax, such as Montana and Oregon, or when a state has exempted the motor vehicle from tax. (7-1-93)

e. Example: A church buys and titles a vehicle in Utah. The Utah sales tax law exempts the purchase of the vehicle from sales tax. The church later titles the vehicle in Idaho. Sales tax must be paid on the fair market value of the vehicle when it is titled in Idaho. (7-1-93)

f. Taxes paid to another nation cannot be offset against the taxes owed to Idaho. (7-1-93)

07. Sales To Family Members. The tax does not apply to sales of motor vehicles between members of a family related within the second degree of consanguinity. The second degree of consanguinity means only the following blood or formally adopted relatives of the person making the sale: parents, children, grandparents, grandchildren, brothers, and sisters. Relatives of the second degree of consanguinity do not include persons who are related only by marriage. However, when the motor vehicle sold is community property, and it is sold to a person who is related within the second degree of consanguinity to either spouse, the sale is exempt from tax. (7-1-93)

a. The Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, is used to document this exemption. The seller and buyer must complete and sign Form ST-133 and submit it to the Idaho Transportation Department or county assessor along with the title to the vehicle being transferred. If the seller is unable to sign the affidavit a letter from the seller stating the sale was made to a qualified family member may be accepted by the county assessor or his representative and attached to the affidavit. (2-18-02)

b. This exemption does not apply if the seller did not pay tax when he acquired the vehicle. (7-1-93)

c. Example: An Oregon resident buys a vehicle and titles it in Oregon without paying sales or use tax. Later, he sells the vehicle for ten thousand dollars (\$10,000) to his son who is an Idaho resident. No exemption

applies, since the father did not pay a sales or use tax when he acquired the vehicle. The son is required to pay Idaho use tax on the ten thousand dollars (\$10,000) purchase price of the vehicle. (7-1-93)

08. Sales To American Indians. An enrolled American Indian tribal member may buy a motor vehicle exempt from tax if the sale and delivery of the vehicle is made within the boundaries of the Indian Reservation. The Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, is used to document this exemption. The seller and the buyer must complete and sign Sales Tax Exemption Certificate - Transfer Affidavit Form ST-133 including the name of the tribe, Tribal Identification Number and the name of the Reservation upon which the sale and delivery occurred. The affidavit is then given to the Idaho Transportation Department or county assessor along with the title to the vehicle being transferred. (2-18-02)

09. Bulk Sale Transfers. A transfer or sale of a motor vehicle as part of a bulk sale of assets or property, as defined by Rule 099 of these rules, is exempt from tax. The buyer must complete and sign Sales Tax Exemption Certificate - Capital Asset Transfer Affidavit Form ST-133CATS to present to the Idaho Transportation Department or county assessor when applying for transfer of title. The buyer must attach a copy of the sales agreement showing the sale qualifies for the exemption on the Form ST-133CATS. (2-18-02)

10. Vehicles And Vessels Purchased In Idaho By Nonresidents For Use Outside Idaho. (5-3-03)

a. Sales to nonresidents of motor vehicles, trailers, vessels, all-terrain vehicles (ATVs), off-highway motorcycles, and snowmobiles for use out of this state, even though delivery is made within this state are exempt from tax when: (5-3-03)

i. The motor vehicles, vessels, ATVs, trailers, off-highway motorcycles, and snowmobiles will be taken from the point of delivery in this state directly to a point outside this state; and (5-3-03)

ii. The motor vehicles, vessels, ATVs, trailers, off-highway motorcycles, and snowmobiles will be registered immediately under the laws of another state or country and will be titled in that state or country, if required to do so by that state or country and will not be used in Idaho more than sixty (60) days in any twelve-month period. (5-3-03)

b. To claim the exemption, the buyer must provide the seller a completed and signed Sales Tax Exemption Certificate - Vehicle/Vessel Form ST104-MV. (5-3-03)

c. This exemption does not apply to sales of truck campers or to the sales of canoes, kayaks, or inflatable boats regardless of length when sold without a motor. (5-3-03)

d. For purposes of Subsection 107.10 of this rule, an ATV means any recreational vehicle with ~~two~~ three (23) or more tires, weighing under ~~six~~ six eight hundred fifty (6850) pounds, ~~less than~~ less than forty-eight (48) inches or less in width, having a wheel base of sixty-one (61) inches or less, and traveling on low pressure tires of less than ~~seven~~ ten (710) psi, ~~and designed to be ridden by one (1) person.~~ (5-3-03)()

e. For purposes of ~~this~~ Subsection 107.10 of this rule, a vessel means any boat intended to carry one (1) or more persons upon the water which is either: (5-3-03)()

i. Sold together with a motor; or (5-3-03)

ii. Eleven (11) feet in length or more, not including canoes, kayaks, or inflatable boats unless such canoe, kayak, or inflatable boat is sold together with attached motor. (5-3-03)

11. Motor Vehicles And Trailers Used In Interstate Commerce. The sale of motor vehicles with a maximum gross registered weight of over twenty-six thousand (26,000) pounds and trailers are exempt from sales or use tax when they are purchased to become part of a fleet of vehicles registered under the International Registration Plan, or similar proportional or pro rata registration system, and they will be used in interstate commerce with at least ten percent (10%) of the fleet miles operated outside this state. The owner must complete and sign the Sales Tax Exemption Certificate - Vehicle/Vessel Form ST-104MV, and provide it to the seller, the Idaho Transportation

Department or the county assessor when applying for title transfer. See Rule 101 of these rules. (5-3-03)

12. Related Party Transfers And Sales. Certain transfers and sales of motor vehicles between businesses defined as related parties are exempt from tax. Refer to Rule 099 of these rules. The new owner must complete and sign Sales Tax Exemption Certificate - Capital Asset Transfer Affidavit Form ST-133CATS to submit to the Idaho Transportation Department or county assessor when applying for title transfer. (2-18-02)

(BREAK IN CONTINUITY OF SECTIONS)

112. DIRECT PAY AUTHORITY (Rule 112).

01. In General. Direct Pay Authorization is issued to certain taxpayers where it is to the mutual convenience of the Tax Commission, the taxpayer, and the taxpayer's vendors to have the sales and use tax liability upon the taxpayer's purchases determined by the taxpayer and reported directly to the state in the form of a use tax. This allows vendors to sell all items of tangible personal property to the particular taxpayer without charging any sales tax. The only effect of this arrangement is to shift the reporting responsibility to the taxpayer holding the direct pay authority. (7-1-93)

02. Purchases Subject To Tax. If the particular transaction would have been one subject to the sales tax without the direct pay authorization, then the direct pay authorization holder must pay the sales tax to the state even if the use of the item is not subject to use tax. For example, if a direct pay authority holder purchases goods in Idaho from a retailer holding an Idaho seller's permit, then the purchaser must pay sales tax on the transaction even if the goods are intended for use solely outside the state. (7-1-97)

03. Documentation. To make a purchase without paying sales tax to the vendor, the taxpayer holding the direct pay authorization must furnish to each of his vendors a copy of the letter from the Commission granting the direct pay authority. (7-1-93)

04. Holder's Responsibilities. The direct pay authorization is granted only to those taxpayers who have demonstrated, to the Commission's satisfaction, the accounting and technical capability to comply with the Sales Tax Act. Direct pay authority holders must make all purchases of tangible personal property tax exempt and all taxes due as required by the Idaho Sales Tax Act will be remitted directly to the Commission by the direct pay authority holder. Vendors will be allowed to sell all items of tangible personal property to the direct pay authority holder without charging sales tax provided they obtain and keep on file a copy of the letter granting the direct pay authority. (7-1-93)

05. Revocation. The Commission may revoke a direct pay authorization if it determines that the direct pay authority holder is not complying with this rule or if the holder is allowing contractors or other third parties to make exempt purchases under the holder's authority. Notice of revocation shall be given in the manner provided for deficiencies in taxes in Section 63-3629, Idaho Code, and shall be subject to review as provided in section 63-3631, Idaho Code. Should the Commission revoke a taxpayer's direct pay authority it shall be the taxpayer's responsibility to notify his vendors of the revocation. (7-1-97)

06. Tax Imposed By Hotel/Motel Room Sales Tax. Taxpayers granted direct pay authority may not use this authority for taxes imposed on hotel/motel room or campground space accommodations. State sales tax, Travel and Convention tax, and Greater Boise Auditorium District tax, when applicable, must be charged by and paid to the retailer by the direct pay permittee. (7-1-93)

07. Valid Only On Purchases Of Tangible Personal Property. The direct pay authority is valid only on purchases of tangible personal property. The holder may not use their direct pay authority when engaging contractors involved in improving real property. Special rules apply to contractors. Refer to *Sales Tax Administrative Rules 012 through 015, and 066 of these rules.* (7-1-97)(____)

08. Expiration. Direct pay authorizations are granted for a period of not more than ~~two~~ five (25) years. If the authorization is not renewed at the end of the expiration period, the authorization will expire automatically. (7-1-97)(____)

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

Rule 313: At the request of the county assessors, Property Tax Administrative Rule 313 needs to be amended to delete an unnecessary reference to Idaho Code Section 63-602U and to clarify transient personal property that is not taxable. To make a technical correction.

Rule 316: Property Tax Administrative Rule 316 needs to be amended to be consistent with HB 142 as passed by the 2003 Legislature. The current rule provides for different rates of completion of the five-year plan each year than now provided by the current law as amended by the 2003 Legislature. To make technical corrections.

Rule 509: Property Tax Administrative Rule 509 needs to be amended to be consistent with HB 453 as passed by the 2003 Legislature. This rule needs to be amended so the county auditors include the value of the property exempted under Section 63-3029B, Idaho Code, on the abstract. To make technical corrections.

Rule 609: Property Tax Administrative Rule 609 needs to be amended to correct an inconsistency with amendments relating to beneficiary of trusts as passed by the 2001 Legislature in HB 150. For the purpose of the homeowner's exemption owner includes the beneficiary of a trust. To make technical corrections.

Rule 802: Property Tax Administrative Rule 802 needs to be amended to be consistent with HB 75 as passed by the 2003 Legislature. HB 75 provides for county auditors to submit by the fourth Monday in July to the State Tax Commission the values on the new construction roll making the submission of values on a corrected new construction roll by the first Monday in August unnecessary. The amendment to this rule also provides a date by which county auditors are to notify taxing districts of the values on the construction roll and resulting from annexation.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Alan Dornfest, Tax Policy Supervisor
Idaho State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0301

313. ASSESSMENT OF TRANSIENT PERSONAL PROPERTY (Rule 313).

Sections 63-213; and 63-313, ~~and 63-602U~~, Idaho Code.

(~~5-3-03~~)()

01. Definitions. The following definitions apply for the assessment of transient personal property.

(5-3-03)

a. Home County. Home county is identified in Section 63-313, Idaho Code, as the county selected by the owner of any transient personal property as that county where that transient personal property is usually kept. That county selected by the owner shall be a county in the state of Idaho.

(5-3-03)

b. Periods of Thirty (30) Days or More. Periods of thirty (30) days or more mean increments of no less than thirty (30) consecutive, uninterrupted days, during which any transient personal property is located in any one (1) county. For any period of less than thirty (30) days, the property owner shall report the transient personal property as being in the home county, resulting in that transient personal property being assessed in the home county for the entire year or the entire portion of the year the property has been in taxable status and not been outside the state of Idaho.

(5-3-03)

c. Prorated Assessment. Prorated assessment means the ratio of the number of days, exceeding twenty-nine (29), to three hundred sixty-five (365) days multiplied by the total market value of the transient personal property. For additional clarification, refer to the following examples.

(5-3-03)

i. If located in a second Idaho county (not the home county) for twenty-nine (29) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for the total market value in the home county.

(5-3-03)

ii. If located in a second Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for fifty-nine/three hundred sixty-five (59/365) of the total market value in the second county and for three hundred six/three hundred sixty-five (306/365) of the total market value in the home county.

(5-3-03)

iii. If located in a second Idaho county (not the home county) for thirty-one (31) consecutive, uninterrupted days, in a third Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days, and in the home county for the remainder of the year, the transient personal property should be assessed for thirty-one/three hundred sixty-five (31/365) of the total market value in the second county, fifty-nine/three hundred sixty-five (59/365) of the total market value in the third county, and two hundred seventy-five/three hundred sixty-five (275/365) of the total market value in the home county.

(5-3-03)

iv. If located in a second Idaho county (not the home county) for twenty-nine (29) consecutive, uninterrupted days and later in that same county for twenty-nine (29) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for the total market value in the home county.

(5-3-03)

v. If located in a second Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days, outside the state of Idaho for any thirty-five (35) days and taxed in the other state, and in the home county for the remainder of the year, the transient personal property should be assessed for fifty-nine/three hundred sixty-five (59/365) of the value in the second county and for two hundred seventy-one/three hundred sixty-five (271/365) of the total market value in the home county.

(5-3-03)

d. Transient Personal Property. Transient personal property is defined in Section 63-201, Idaho Code.

(5-3-03)

02. Overassessment Prohibited. Section 63-213, Idaho Code, prohibits the assessment of any

property in any one (1) county for the same period of time that property has been assessed in another county. The sum of the assessments of transient personal property in the home county and each other county where the property has been located shall not exceed the market value of the property. (5-3-03)

03. Nontaxable Transient Personal Property. ()

a. Transient Personal Property in Transit. Under Subsection 63-313(4) ~~and Section 63-602U~~, Idaho Code, any transient personal property only in transit through the home county or any other county and not remaining in any county for the purpose of use is not subject to property taxation. ()

b. Sold Transient Personal Property on Which Taxes Have Been Paid. Under Subsection 63-313(4), Idaho Code, any transient personal property, which was sold by the owner in the home county and upon which the full current year's property taxes were paid, is not subject to property taxation for the current year in any other county regardless of whether that property is to be used in or only in transit through any other county. (~~5-3-03~~)()

c. Qualified Investment Exemption. For information and directions relating to the qualified investment exemption, see Rule 988 of these rules. ()

(BREAK IN CONTINUITY OF SECTIONS)

316. COMPLIANCE OF CONTINUING VALUATION PROGRAM (Rule 316).
Sections 63-314 and 63-316, Idaho Code. (5-3-03)

01. Definitions. (5-3-03)

a. Continuing Appraisal. "Continuing appraisal" means the program by which each assessor completes the assessment of all taxable properties each year. This term includes any appraising or indexing done to accomplish the continuing program of valuation as defined in Rule 314 of these rules. (5-3-03)

b. Monitor. "Monitor" means collecting data and compiling statistical reports that show the number and percentage of parcels physically inspected at scheduled intervals within each year of each five (5) year appraisal cycle. The term "monitor" also includes an examination of and summary report of compliance with the most recently completed ratio study under Section 63-109, Idaho Code, and Rule 131 of these rules showing the status of appraisal and indexing to achieve market value. (5-3-03)

c. Progress Reports. "Progress reports" mean any informational or statistical report compiled and distributed by the State Tax Commission regarding the physical appraisal progress of a county. (5-3-03)

d. Appraisal Cycle. "Appraisal cycle" means consecutive five (5) year periods beginning with appraisals completed for the 1998 property roll, as established by the requirement in Section 63-314, Idaho Code. (5-3-03)

e. Remediation Plan. "Remediation plan" means, a written statement of the actions that will be taken by the county not in compliance with the requirements of Section 63-314, Idaho Code, to bring the continuing program of valuation into compliance with said Section. (5-3-03)

02. Monitoring Procedure. The State Tax Commission will monitor compliance with the continuing program of valuation in each county no less than annually. The State Tax Commission will monitor the completion of the appraisal of not less than ~~twenty~~ fifteen percent (~~20~~15%) of all parcels by the end of the first year of the appraisal cycle, not less than ~~forty~~ thirty-five percent (~~40~~35%) by the end of the second year, not less than ~~sixty~~ fifty-five percent (~~60~~55%) by the end of the third year, not less than ~~eighty~~ seventy-five percent (~~80~~75%) by the end of the fourth year, and not less than one hundred percent (100%) by the end of the fifth year in order that all parcels are appraised not less than every five (5) years. As a result of the monitoring process, the State Tax Commission will prepare and distribute progress reports to each county assessor at the end of each monitoring period. Each monitoring

period will be conducted in the following manner:

~~(5-3-03)~~()

a. The State Tax Commission will compile a progress report each July. The State Tax Commission will use this progress report in each county to determine compliance with Section 63-314, Idaho Code. This report will consist of an analysis of the county's progress within the current appraisal cycle as well as a summary report of the most recently completed ratio study showing the status of appraisal and indexing to achieve market value. The State Tax Commission will notify each county assessor on or before August 15 each year of the current status of the continuing program of valuation progress and any necessary corrective action. The State Tax Commission will notify the board of county commissioners that this report has been provided to the county assessor. (5-3-03)

b. Upon receipt of a written request from the county assessor, the State Tax Commission will complete and distribute a six (6) month progress report in January. This January report will show the total parcels in the county, the number of parcels that need to be physically inspected for the current year's assessment, a summary report of the most recently completed ratio study, and the number of parcels upon which physical inspections were completed during the preceding six (6) months. The State Tax Commission will distribute any January progress report only to inform the county assessor of the status of the continuing program of valuation and will not use the data gathered for this report to determine compliance with Section 63-314, Idaho Code. The State Tax Commission will notify the board of county commissioners that this report has been provided to the county assessor. (5-3-03)

03. Remediation Plans. If the results of any July report show that a county has not achieved the adequate appraisal of the required percent of the parcels, as stated in Subsection 316.02 of this rule, the assessor and board of county commissioners will be required to submit to the State Tax Commission, a remediation plan that demonstrates how compliance will be achieved. The remediation plan will be submitted to the State Tax Commission on or before September 15. The State Tax Commission will determine whether the plan is acceptable on or before October 1. Once a remediation plan has been approved, the continuing valuation program of the county will be considered in compliance so long as the county meets the terms of the remediation plan. The State Tax Commission will monitor progress toward successful completion of any remediation plan at intervals scheduled with the county assessor. (5-3-03)

04. State Tax Commission To Ensure Corrective Action. (5-3-03)

a. During the first four (4) years of any appraisal cycle, if any July progress report shows that a county assessor has not achieved the adequate appraisal of the required percent of parcels, as stated in Subsection 316.02 and implementation of the subsequent remediation plan does not achieve the required percent or the next July progress report shows the number of completed appraisals continues to be less than the required percent, the State Tax Commission will begin proceedings to ensure corrective action is taken up to and including taking exclusive and complete control of the continuing program of valuation as provided for in Section 63-316, Idaho Code. (5-3-03)

b. If, at the end of any appraisal cycle a county has not achieved adequate appraisal of all parcels, the State Tax Commission may begin proceedings to ensure corrective action is taken, up to and including taking exclusive and complete control of the continuing program of valuation as provided for in Section 63-316, Idaho Code. If, at the end of an appraisal cycle, a county has not met the requirements of Section 63-314, Idaho Code, and no extension has been granted pursuant to the provisions of Section 63-316(6), Idaho Code, the county plan for the next appraisal cycle submitted to the State Tax Commission must include provision for field inspection of those parcels not field inspected by the end of the expired appraisal cycle and an additional field inspection of the same parcels for the current plan for the continuing program of valuation. (5-3-03)

05. Compliance Procedure Examples. (5-3-03)

a. Example 1: The following chart outlines what will occur if a county assessor fails to complete the appraisal of the required number of parcels for 2003 and subsequently fails to complete the appraisal of the required number of parcels for 2004.

| | | |
|------------------------------|---|----------------------------------|
| January 2003 (If requested.) | - | Informational Progress Report |
| July 2003 | - | First Compliance Progress Report |

| | |
|------------------------------|---|
| Compliance | - No Action |
| Noncompliance | - Remediation Plan and Monitoring |
| January 2004 (If requested.) | - Informational Progress Report |
| July 2004 | - Second Compliance Progress Report |
| Compliance | - No Action |
| Noncompliance | - Enforcement of Section 63-316, Idaho Code (State Tax Commission may start proceedings to take exclusive and complete control of the program.) |

(5-3-03)

b. Example 2: The following chart outlines what will occur if a county assessor successfully completes the appraisal of the required number of parcels for 2003, 2004, and 2005 but fails to complete the appraisal of the required number of parcels for 2006 and subsequently fails to complete the appraisal of the required number of parcels for 2007.

| | |
|------------------------------|---|
| January 2003 (If requested.) | - Informational Progress Report |
| July 2003 | - First Compliance Progress Report |
| Compliance | - No Action |
| January 2004 (If requested.) | - Second Informational Progress Report |
| July 2004 | - Second Compliance Progress Report |
| Compliance | - No Action |
| January 2005 (If requested.) | - Informational Progress Report |
| Compliance | - No Action |
| July 2005 | - Third Compliance Progress Report |
| Compliance | - No Action |
| January 2006 (If requested.) | - Informational Progress Report |
| July 2006 | - Fourth Compliance Progress Report |
| Compliance | - No Action |
| Noncompliance | - Remediation Plan and Monitoring |
| January 2007 (If requested.) | - Informational Progress Report |
| July 2007 | - Fifth Compliance Progress Report |
| Compliance | - No Action |
| Noncompliance | - Enforcement of Section 63-316, Idaho Code (State Tax Commission may start proceedings to take exclusive and complete control of the program.) |

(5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

509. IDENTIFICATION OF URBAN RENEWAL INCREMENT AND PARTIAL EXEMPTION VALUES ON COUNTY AND SCHOOL DISTRICT ABSTRACTS OF VALUE (Rule 509).

Section 63-509, Idaho Code.

(5-3-03)

01. County And School District Abstracts To Balance. The taxable value of property in each category as shown on the abstracts prepared and submitted ~~pursuant to~~ under Section 63-509, Idaho Code, shall equal the sum of the taxable value of property in each category as shown on the school district abstracts, required ~~pursuant to~~ under Rule 315 of these rules, for the portion of each school district located within each given county.

~~(3-30-01)~~()

02. Identification Of Increment. The value that exceeds the value on the base assessment roll in any urban renewal district, ~~pursuant to~~ under Chapter 29, Title 50, Idaho Code, and Rule 804 ~~shall be of these rules is~~ identified as the "increment".

~~(3-30-01)~~()

03. Increment And Exemption Values To Be Indicated. In addition to the value of exemptions required ~~pursuant to~~ under Section 63-509, Idaho Code, any increment value and the value of any exemption provided under Sections 63-602X, 63-602BB, ~~and~~ 63-602FF, and 63-3029B, Idaho Code, shall be indicated and subtracted from the taxable value shown for each category of property on each county and school district abstract.

~~(5-3-03)~~()

(BREAK IN CONTINUITY OF SECTIONS)

609. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS (Rule 609).

Section 63-602G, Idaho Code.

(3-15-02)

01. Homeowner's Exemption. This exemption shall also be known as the homeowner's exemption.

(3-15-02)

02. Residential Improvements. Primary dwelling place means the claimant's dwelling place before April 15 of the year for which the claim is made. If the residential improvement becomes the claimant's primary dwelling place between January 1 and April 15, the claimant shall not have previously applied for the exemption under Section 63-602G, Idaho Code, for the same year. The primary dwelling place is the single place where a claimant has his true, fixed, and permanent home and principal establishment, and to which whenever the individual is absent he has the intention of returning. A claimant must establish the dwelling to which the claim relates as his primary dwelling place by clear and convincing evidence or by establishing that the dwelling is where the claimant resided before April 15 of the year for which the claim is made and:

(3-15-02)

a. At least six (6) months during the prior year; or

(3-23-94)

b. The majority of the time the claimant owned the dwelling if owned by the claimant less than one (1) year; or

(3-23-94)

c. The majority of the time after the claimant first occupied the dwelling if occupied by the claimant less than one (1) year.

(3-23-94)

03. Requirements. If these requirements are not met, the property upon which the claimant makes application shall be deemed to be the claimant's primary dwelling place if the claimant is otherwise qualified and resides in a care facility and does not allow the property upon which the claimant has made application to be occupied by persons paying a consideration excluding utilities to occupy the dwelling. A care facility is a hospital, skilled nursing facility, intermediate care facility or intermediate care facility for the mentally retarded as defined in Section 39-1301, Idaho Code, or a facility as defined in Section 39-3302(15), Idaho Code, or a dwelling other than the one upon which the applicant makes application where a claimant who is unable to reside in the dwelling upon which the

application is made lives and receives help in daily living, protection, and security. (3-15-02)

04. Owner. "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate. "Owner" shall also include any person who ~~as grantor created a revocable or an irrevocable trust and named himself or herself as~~ is a beneficiary of ~~that~~ a trust. ~~"Owner" shall not include any person that otherwise occupies property as beneficiary of a trust.~~ "Owner" includes a vendee in possession under a land sale contract. An "owner" shall also include a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation if that person has no less than a five percent (5%) ownership interest in the entity. (3-15-02)(____)

05. Partial Ownership. Any partial ownership shall be considered ownership for determining qualification for the homeowner's exemption, however, the amount of the exemption shall be decided on the reduced proportion of the value commensurate with the proportion of partial ownership. Partial ownership, for purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person. The combined community property interests of both spouses shall not be considered partial ownership. The proportional reduction required under this subsection shall not apply to community property interests. Additionally, there is no reduction to the ownership interests of a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation when that person has no less than five percent (5%) ownership interest in the entity unless any ownership interest is shared by any entity other than the limited partnership, limited liability company or corporation. (3-15-02)

06. Certification. As an owner, the applying partner of a limited partnership, member of a limited liability company or shareholder of a corporation with no less than a five percent (5%) ownership interest in the entity must certify to the county assessor that he has not made application for this exemption in any other county or on any other residential improvement in this county. Although more than one residential improvement owned by the same partnership, limited liability company or corporation may qualify for this exemption, each partner, member or shareholder shall not receive this exemption on more than one residential improvement. (3-15-02)

07. Determination Of Residency. The State Tax Commission may release pertinent information from any Idaho income tax return to the county assessor and the county ~~h~~Board of ~~e~~Equalization for the sole purpose of providing one indicator of eligibility for the homeowner's exemption. According to Section 63-3077(4), Idaho Code, this information is confidential and is not subject to public disclosure. (3-15-02)(____)

(BREAK IN CONTINUITY OF SECTIONS)

802. BUDGET CERTIFICATION RELATING TO NEW CONSTRUCTION AND ANNEXATION (Rule 802).
Sections 63-802, 63-301A, and 63-602FF, Idaho Code. (5-3-03)(____)

01. Definitions. (4-5-00)

a. "Change of Land Use Classification." "Change of land use classification" shall mean any change in land use resulting in a category change and in an increase in taxable land value to be reflected on the current assessment roll unless the increase in value was previously included on the new construction roll. Beginning with the assessment roll prepared to reflect value as of January 1, 1997, the increase in taxable land value due to change of land use classification shall be computed by subtracting the taxable land value, had the land remained in its previous use category, from the taxable land value in the current use category. (5-3-03)

b. "Nonresidential Structure." "Nonresidential structure" shall mean any structure listed by the assessor in any category not described as residential, manufactured homes, or improvements to manufactured homes pursuant to Rule 130 of these rules. (5-3-03)

02. New Construction Roll Listing. "Listing" shall mean a summary report of the net taxable value of

property listed on the new construction roll. This listing shall include the taxable value of qualifying new construction throughout each taxing district or unit, including qualifying new construction within any revenue allocation area within any urban renewal district encompassed by the taxing district or unit. This report is to summarize the value reported on the new construction roll by taxing district or unit. Taxing districts and units shall be listed in the same order that is used for the certification of value required pursuant to Section 63-510(1), Idaho Code. (7-1-99)

03. Manufactured Housing. "Installation" of new or used manufactured housing shall mean capturing the net taxable market value of the improvement(s) that did not previously exist within the county. (7-1-97)

04. Partial New Construction Values. The net taxable market value attributable directly to new construction shall be reported on the new construction roll in the tax year it is placed on the current assessment roll. Any increase in a parcel's taxable value, due to new construction, shall be computed by subtracting the previous year's or years' partial taxable value(s) from the current taxable value. In the case of partially completed property previously reported on the property roll, but subsequently exempt pursuant to Section 63-602W, Idaho Code, the increase in value to be reported on the new construction roll following loss of this exemption shall be the difference between previously reported new construction roll value and the taxable value for the year in which the occupied property is first entered on the property roll. If any of this difference is attributable to inflation, such value shall not be included on the new construction roll. (7-1-99)

Example: Assume a partially completed, never occupied residential improvement was assessed at ten thousand dollars (\$10,000) as of January 1, 1997. The improvement was occupied February 2, 1998. Assume the ten thousand dollars (\$10,000) value was on the 1997 new construction roll. Assume that in 1999 the improvement is assessed at ninety thousand dollars (\$90,000) and a forty-five thousand dollars (\$45,000) homeowner's exemption is then deducted. Assume there has been no inflation. The amount that can be reported on the 1999 new construction roll is calculated as follows: (7-1-99)

| | |
|--|------------|
| 1999 Value (before homeowner's exemption) | \$90,000 |
| 1999 Homeowner's Exemption | <\$45,000> |
| 1999 Taxable Value (after homeowner's exemption) | \$45,000 |
| 1997 Value Already Reported on New Construction Roll | <\$10,000> |
| 1999 New Construction Roll Value (this improvement) | \$35,000 |

05. Change In Exemption Status. (5-3-03)

a. A previously exempt improvement which becomes taxable shall not be included on the new construction roll, unless the loss of the exemption occurs during the year in which the improvement was constructed or unless the improvement has lost the exemption provided in Section 63-602W, Idaho Code. (7-1-99)

b. For any rural subdivision parcels of land changing use as a result of removal of the exemption under Section 63-602FF, Idaho Code, the increase in value resulting from the removal of this exemption shall not be listed on the new construction roll when the increase in value was already listed on any previous year's new construction roll. (5-3-03)

06. Corrected Notification Of New Construction Roll And Annexation Values. *The values shown on the listing required in Subsection 802.03 shall be subject to the adjustment if net taxable value for any property included on the new construction roll is changed by the county board of equalization meeting pursuant to Section 63-501, Idaho Code. Each county assessor must certify the corrected values to the appropriate county auditor. On or before the fourth Monday in July, Each county auditor must report the ~~corrected~~ net taxable values on the new construction roll and within annexed areas for each appropriate taxing district or unit to the State Tax Commission and to each that taxing district ~~prior to the first Monday of August on the notification required pursuant to Section 63-510(1), Idaho Code~~ or unit. (7-1-99)(_____)*

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0302

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 63-105A and 63-3624, Idaho Code.

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

Property Tax Administrative Rule 803 is being amended to implement HB 140 as passed by the 2003 Legislature changing the rule to provide directions and clarification relating to the property tax funded budgets for library districts when library districts consolidate with city library services.

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:

Statutory timing requires the rule be adopted as a temporary rule by making changes relating to the property tax funded budgets for library districts when library districts consolidate with city library services.

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 and the fee is described herein: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being adopted as a temporary/proposed rule and the time constraints require having the schedule available to reflect the new rate.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Dornfest, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Alan Dornfest,
Tax Policy Supervisor
Idaho State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0302

803. BUDGET CERTIFICATION -- DOLLAR CERTIFICATION FORM (L-2 FORM) (Rule 803).
 Sections 63-803 and 63-3067, Idaho Code. (3-15-02)

01. Definitions. (4-5-00)

a. “Dollar Certification Form” (L-2 Form). The Dollar Certification Form (L-2 Form) is the form used to submit to the State Tax Commission the budget request from each Board of County Commissioners for each taxing district. This form shall be presumed a true and correct representation of the budget previously prepared and approved by a taxing district. The budget will be presumed adopted in accordance with pertinent statutory provisions unless clear and convincing documentary evidence establishes that a budget results in an unauthorized levy requesting action as provided in Section 63-809, Idaho Code. ~~(4-5-00)~~(9-1-03)T

b. “Prior Year’s Market Value for Assessment Purposes.” Prior year’s market value for assessment purposes shall mean the value used to calculate levies during the immediate prior year. This value shall be used for calculating the permanent budget increase permitted for cities, pursuant to Section 63-802(1)(f), Idaho Code, and for fire districts, pursuant to Section 31-1420(3), Idaho Code. (4-5-00)

c. “Annual Budget.” For the purpose of calculating dollar amount increases permitted pursuant to Section 63-802(1), Idaho Code, the annual budget shall include any amount approved as a result of an election held pursuant to Sections 63-802(1)(f), 63-802(1)(g), or 31-1420(3), Idaho Code, provided that said amount is certified on the L-2 Form as part of the budget request. If the amount certified does not include the entire amount approved as a result of the election held pursuant to Sections 63-802(1)(f), 63-802(1)(g), and 31-1420(3), then the amount not used shall be added to the foregone increase amount determined for the taxing district. See the following example.

| CERTIFIED PROPERTY TAX BUDGET LIBRARY DISTRICT* | | | | |
|--|----------------|-----------------|-----------------|----------------|
| | FY 1999 | FY 2000 | FY 2001 | FY 2002 |
| Annual Budget | \$10,000 | \$10,000 | \$10,700 | \$11,621 |
| 3% Increase | \$0 | \$300 | \$321 | \$349 |
| Subtotal | \$10,000 | \$10,300 | \$11,021 | \$11,970 |
| 1999 Election Amount | \$0 | \$400 of \$1000 | \$600 of \$1000 | \$0 |
| Certified Budget | \$10,000 | \$10,700 | \$11,621 | \$11,970 |

*The Library District with zero (\$0) new construction and annexation approves an additional budget amount of one thousand dollars (\$1000) in 1999, but only certifies ~~six~~ four hundred dollars (\$400) for the year 2000. Note the example does not account for any foregone amount resulting from the district's decision to not increase its budget by three percent (3%) in 1997, 1998 or 1999. ~~(3-30-01)~~(9-1-03)T

d. “Property Tax Funded Budget.” Property tax funded budget means that portion of any taxing district’s budget certified to the board of county commissioners, approved by the State Tax Commission, and subject to the limitations of Section 63-802, Idaho Code. (9-1-03)T

02. Budget Certification. The required budget certification shall be made to each Board of County Commissioners representing each county in which the district is located. The certification shall be on a form prescribed by the State Tax Commission. (4-5-00)

03. Budget Requested Documents. Each Board of County Commissioners shall submit to the State Tax Commission a budget request for each taxing district in the county that certifies a budget request to finance the property tax funded portion of its annual budget. The Board shall not submit other documents unless requested to do

so by the State Tax Commission. Documents not to be submitted to the State Tax Commission unless requested include newspaper advertisements, school district budget books, entire budget documents, other than the budget request, and similar documents. Each taxing district certifying a budget request to finance the property tax funded portion of its annual budget shall complete the State Tax Commission's L-2 Form. (5-3-03)

04. L-2 Form Contents. Each taxing district or unit completing an L-2 Form shall include the following information on or with this form. (~~4-5-00~~)(9-1-03)T

a. "Department or fund." Identify the department or fund for which the taxing district is requesting a budget for the current tax year. (4-5-00)

b. "Total approved budget." List the dollar amount of the total budget for each department or fund identified. The amounts must include all money that a taxing district has a potential to spend at the time the budget is set, regardless of whether funds are to be raised from property tax. (4-5-00)

c. "Cash forward balance." List any money brought forward from a prior year to help fund the approved budget. Cash forward balance (Column 3) is the difference between the total approved budget (Column 2) and the sum of amounts reported as other revenue not shown in Column 5 (Column 4), agricultural equipment property tax replacement (Column 5), and balance to be levied (Column 6). (3-15-02)

d. "Other revenue not shown in Column 5." List the revenue included in the total approved budget to be derived from sources other than property tax or money brought forward from a prior year. For example, sales tax revenue is included. (3-15-02)

e. "Agricultural equipment property tax replacement." Report the amount of money to be received under Section 63-3067, Idaho Code. For school districts, report only the appropriate amount of such money to be subtracted as provided in Subsection 803.06 of this rule. (~~5-3-03~~)(9-1-03)T

f. "Balance to be levied." Report the amount of money included in the total approved budget to be derived from property tax. (3-15-02)

g. Other information. Provide the following additional information. (4-5-00)

i. The name of the taxing district or authority unit; (~~4-5-00~~)(9-1-03)T

ii. The date of voter approval (if required by statute) and effective period for any new or increased fund which is exempt from the budget limitations in Section 63-802, Idaho Code; (4-5-00)

iii. The signature, date signed, printed name, address, and phone number of an authorized representative of the taxing district; and (5-3-03)

iv. For a hospital district which has held a public hearing, a signature certifying such action. (4-5-00)

h. Attached information. Other information submitted to the county auditor with the L-2. (9-1-03)T

i. For all taxing districts, L-2 worksheet. (9-1-03)T

ii. For newly formed recreation or auditorium districts, a copy of the petition forming the district showing any levy restrictions imposed by that petition. (9-1-03)T

iii. For any new ballot measures (bonds, overrides, permanent overrides, supplemental maintenance and operations funds, and plant facility funds), notice of election and election results. (9-1-03)T

iv. Voter approved fund tracker. (9-1-03)T

v. For fire districts, a copy of any new agreements with utility companies providing for payment of property taxes by that utility company to that fire district. (9-1-03)T

vi. For any city with city funded library operations and services at the time of consolidation with any library district, each such city must submit a certification to the board of county commissioners and the board of the library district reporting the dedicated portion of that city's property tax funded library fund budget and separately reporting any portion of its property tax funded general fund budget used to fund library operations or services at the time of the election for consolidation with the library district. (9-1-03)T

vii. For any library district consolidating with any city that had any portion of its property tax funded budget(s) dedicated to library operations or services at the time of the election for consolidation, each such library district must submit to the board of county commissioners a copy of the certification from that city reporting the information provided for in Subsection 803.04.h.vi., of this rule. (9-1-03)T

05. Special Provisions For Fire Districts Levying Against Operating Property. To prevent double counting of public utility property values, for any year following the first year in which any fire district increases its budget using the provision of Section 63-802(2), Idaho Code, such fire district shall not be permitted further increases under this provision unless the following conditions are met: (3-30-01)

a. The fire district and public utility have entered into a new agreement of consent to provide fire protection to the public utility; and (3-30-01)

b. Said new agreement succeeds the original agreement; and (3-30-01)

c. In the first year in which levies are certified following the new agreement, the difference between the current year's taxable value of the consenting public utility and public utility value used in previous budget calculations made pursuant to this section is used in place of the current year's taxable value of the consenting public utility. (3-30-01)

06. Special Provisions For Property Tax Replacement Pursuant To Section 63-3067, Idaho Code. Property tax replacement monies received pursuant to Section 63-3067, Idaho Code, must be reported on the L-2 form. For all taxing districts except school districts, these monies must be subtracted from the "balance to be levied". For school districts, only "appropriate property tax replacement monies" are to be subtracted. The reduced balance shall be used to compute levies, but the maximum amount permitted pursuant to Sections 63-802 and 33-802, Idaho Code, shall be based on the sum of these property tax replacement monies and the amount actually levied, or, for school districts, the sum of "appropriate property tax replacement monies" and the amount actually levied. (5-3-03)(9-1-03)T

a. "Appropriate property tax replacement monies" is determined only for school districts and means all property tax replacement monies received pursuant to Section 63-3067, Idaho Code, except an amount equal to four thousands (0.004) multiplied by the year 2000 value of property exempted in Section 63-602EE, Idaho Code. If the amount so determined is greater than the total amount of property tax replacement monies, no property tax replacement monies received pursuant to Section 63-3067, Idaho Code, shall be subtracted from the school district maintenance and operation's (M&O) budget. (5-3-03)

b. After receipt from the counties of the year 2000 tax charges on property exempted in Section 63-602EE, Idaho Code, but no later than July 23, 2001, the State Tax Commission shall notify each county clerk of the amount of property tax replacement money to be paid to each taxing district in that county. Beginning in 2002 and thereafter, the State Tax Commission shall, by the fourth Monday of July, notify each county clerk if the amount of property tax replacement money to be paid to a taxing district or the "appropriate amount of property tax replacement money" to be paid to any school district changes from the amount paid in the preceding year. In 2002, the State Tax Commission shall also notify each county clerk of the amount of the "appropriate property tax replacement monies" to be subtracted before computing the M&O levy for each school district. (5-3-03)

c. By no later than the first Monday of August of each year, each county clerk shall notify each appropriate taxing district or unit of the total amount of property tax replacement monies that will be received and shall further notify each school district of the appropriate amount to be subtracted before the M&O levy is computed. (5-3-03)

d. The subtraction required in Subsection 803.06 may be from any fund(s) subject to the limitations of Section 63-802, Idaho Code, and from school district maintenance and operation funds made pursuant to Section 33-802, Idaho Code. (3-15-02)

e. Levy limits shall be tested against the amount actually levied. (3-15-02)

07. Special Provisions For Library Districts Consolidating With Any City's Existing Library Operations Or Services. For any library district consolidating with any city's existing library operations or services, the amount of the dedicated property tax funded general fund and library fund budgets certified by the city under Subsection 803.04.h.vi., of these rules shall be added to that library district's property tax funded budget in effect at the time of the election for consolidation. This total shall be used as this district's property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code. (9-1-03)T

08. Special Provisions For Cities With Existing Library Operations Or Services Consolidating With Any Library District. For any city with existing library operations or services at the time of consolidation with any library district, the amount of the dedicated property tax funded library fund budget included in the certification by the city under Subsection 803.04.h.vi., of these rules shall be subtracted from that city's total property tax funded budget in effect at the time of the election for the consolidation. This difference shall be used as this city's property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code.(9-1-03)T

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0303

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 63-105A and 63-3624, Idaho Code.

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

DATE: Tuesday, October 7, 2003
TIME: 10:00 a.m.
PLACE: Conference Room 1CR5
Idaho State Tax Commission
800 Park Bl., Plaza IV, Boise, ID

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Property Tax Administrative Rule 988 is being promulgated to provide directions to taxpayers and assessors for implementation of the new property tax exemption provided by HB 453 beginning January 1, 2004.

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:

Statutory timing requires the rule be adopted as a temporary rule by the adoption of HB 453 amending Section 63-3029B, Idaho Code, granting a property tax exemption to certain qualifying property for two years. A new Property Tax Administrative Rule 988 needs to be promulgated to implement this exemption.

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 and the fee is described herein: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being adopted as a temporary/proposed rule and the time constraints require having the schedule available to reflect the new rate.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Dornfest, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Alan Dornfest
Tax Policy Supervisor
Idaho State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0303

983. -- 9897. (RESERVED).

988. ELECTION OF QUALIFIED PROPERTY FOR EXEMPTION (Rule 988).

Sections 63-302, 63-313, 63-404, and 63-3029B, Idaho Code.

(1-1-04)T

01. Definitions. The following definitions apply for the purposes of the property tax exemption under Section 63-3029B, Idaho Code, and do not decide investment tax credit eligibility for Idaho income tax purposes.

(1-1-04)T

a. Calendar year immediately following the taxable year in which the property was placed in service. "Calendar year immediately following the taxable year in which the property was placed in service" means the calendar year beginning after the calendar year the property was put to use or placed in a condition or state of readiness and availability for a specifically assigned function in the production of income. For example, all property meeting the following criteria must be granted the property tax qualified investment exemption for calendar years 2004 and 2005:

(1-1-04)T

i. The property is eligible for the investment tax credit for Idaho income tax purposes.

(1-1-04)T

ii. The taxpayer had an Idaho loss for income tax purposes in the correct year, as indicated in IDAPA 35.01.01, "Income Tax Administrative Rules," Rule 719, prior to making the election.

(1-1-04)T

iii. The property was first placed in service in Idaho between January 1, 2003 and December 31, 2003.

(1-1-04)T

iv. The taxpayer completed and will file a copy of the State Tax Commission election form (Form 49E) with the correct year's income tax return.

(1-1-04)T

v. The taxpayer completed and timely returned a personal property declaration to each appropriate assessor listing the property and attaching the completed Form 49E.

(1-1-04)T

b. Operator's Statement. The "operator's statement" is the annual statement listing all property subject to assessment by the state tax commission and prepared under Section 63-404, Idaho Code.

(1-1-04)T

c. Personal Property Declaration. A "personal property declaration" is any form required for reporting personal property or transient personal property to the county assessor under Sections 63-302 or 63-313, Idaho Code, respectively.

(1-1-04)T

d. Qualified Investment. "Qualified investment" means property that would have otherwise been taxable for property tax purposes and is eligible or qualified under Section 63-3029B, Idaho Code, provided that property is reported on the personal property declaration or operator's statement and is designated as exempt from property tax for two (2) years on Form 49E.

(1-1-04)T

e. Qualified Investment Exemption. The “qualified investment exemption” (QIE) referred to in this rule is the property tax exemption under Section 63-3029B, Idaho Code. (1-1-04)T

02. Designation Of Property For Which Exemption Is Elected. The owner shall designate the property on which the QIE is elected. The owner shall make this designation on Form 49E and attach it to the personal property declaration or, for operating property, the operator’s statement. The description of the property on Form 49E must be adequate to identify the property to be granted the exemption. In addition to all other steps required to complete the personal property declaration or operator’s statement, the owner must provide on the personal property declaration or operator’s statement the date the item elected for the QIE was placed in service. (1-1-04)T

03. Election For Investments Not Otherwise Required To Be Listed On The Personal Property Declaration. For investments, like single purpose agricultural or horticultural structures, that are not otherwise required to be listed on the personal property declaration, the owner must list that property to elect the QIE. As with any property designated for the QIE, the owner must attach Form 49E to the personal property declaration. (1-1-04)T

04. Continuation Of Listing. For all property designated for QIE, even though that property is exempt for two (2) years, the owner must list that property on the personal property declaration or operator’s statement in the initial year for which the QIE is claimed and the following four (4) consecutive years, unless that property has been sold, otherwise disposed of, or ceases to qualify pursuant to Section 63-3029B, Idaho Code. (1-1-04)T

05. Period Of QIE. The QIE shall be granted for the two (2) calendar years immediately after the end of the calendar year in which the property acquired as a qualified investment was first placed in service in Idaho. (1-1-04)T

06. Election Specificity. The QIE election provided by Section 63-3029B, Idaho Code, shall be specific to each qualified item of property listed on the personal property declaration or operator’s statement. An item of property that is a qualified investment, but for which there is no QIE election during the “calendar year immediately following the taxable year in which the property was placed in service” in Idaho, is not eligible for the QIE. (1-1-04)T

07. Notification To State Tax Commission By Assessor. (1-1-04)T

a. Upon Receipt of Form 49E or a Listing. Upon receiving Form 49E or any listing provided to comply with Subsection 988.08 or 988.12 of these rules, the county assessor shall send a copy of this form or listing to the state tax commission. (1-1-04)T

b. Upon Discovery of Changes. Upon discovering that property granted the QIE was sold, otherwise disposed of, or ceased to qualify under Section 63-3029B, Idaho Code, within the five (5) year period beginning with the date the property was placed in service, the county assessor shall notify the state tax commission immediately. The county assessor shall also provide this notification upon discovery that the owner first claiming the QIE failed to list the item of property on any personal property declaration or failed to file a personal property declaration in any year during this five (5) year period. This notice shall include: (1-1-04)T

i. Name of the owner receiving the QIE. (1-1-04)T

ii. A description of the property that received the QIE. (1-1-04)T

iii. The date the owner reported the item was first placed in service in Idaho. (1-1-04)T

iv. For each item, the amount of exempt value in the first year the QIE was elected. (1-1-04)T

08. Moved Personal Property. In order to provide unmistakable identification of the property, certain taxpayers must send written notification by the date provided in Section 63-302, 63-313, or 63-404, Idaho Code, when moving property that previously received the QIE. This notification: (1-1-04)T

a. Is required of taxpayers moving property between counties in Idaho during the five (5) year period beginning the date that property was placed in service; (1-1-04)T

i. For locally assessed property, the taxpayers send this notification to the assessor in the county that granted the QIE and the assessor in any Idaho county to which the property has been moved; (1-1-04)T

ii. For state tax commission assessed operating property owned by electric distribution, generation, and transmission companies, the taxpayers send this notification to the state tax commission; (1-1-04)T

b. Must include a listing which describes the property exactly as it was described on the original Form 49E or cross references the property originally listed on Form 49E; and (1-1-04)T

c. Is not required of taxpayers when the property is state tax commission assessed operating property other than property owned by electric distribution, generation, and transmission companies. (1-1-04)T

09. Notification Regarding Transient Personal Property. For transient personal property elected for the QIE, the definition of home county in Section 63-313, Idaho Code, and Rule 313 of these rules, applies. When a home county receives information of an election for QIE and a notice that the exempt property was used in another county in Idaho, the home county must forward information identifying that property to the other county(ies) in accordance with procedures in Section 63-313, Idaho Code. Also, the home county assessor shall send a copy of this notice to the state tax commission. (1-1-04)T

10. Partial Year Assessments. Property assessed based on a value prorated for a portion of the year in which the property is first placed in service may still be eligible for the QIE in the subsequent two (2) calendar years, provided the QIE is elected. (1-1-04)T

11. Limitation On Amount Of Exemption. (1-1-04)T

a. New Property. The QIE shall be for the full market value for assessment purposes for new property that is a qualifying investment. (1-1-04)T

b. Used Property. For each taxpayer, the QIE shall be limited to one hundred fifty thousand dollars (\$150,000) in the cost of all qualifying used property in any one (1) year. See the following example, which assumes that each property is owned by one taxpayer and is a qualified investment.

| Property Description (same taxpayer) | Cost | New or Used | Year 1 Market Value | Year 1 Exempt Value | Year 1 Taxable Value |
|---|-------------|------------------------|--------------------------------|--------------------------------|---------------------------------|
| Assembly line | \$140,000 | Used | \$140,000 | \$140,000 | \$0 |
| Computer 1 | \$40,000 | Used | \$40,000 | \$10,000 | \$30,000 |
| Computer 2 | \$50,000 | New | \$50,000 | \$50,000 | \$0 |

In this example, "year 1" is the first year during which the qualified investment receives the QIE. (1-1-04)T

12. Multi-County Taxpayers. (1-1-04)T

a. Except taxpayers electing QIE for property that is state tax commission assessed operating property, any taxpayers electing the QIE for properties purchased new must indicate on Form 49E the county where each property is located or must complete a separate Form 49E and attach it to the personal property declaration submitted to each county. (1-1-04)T

b. Except taxpayers electing QIE for property that is state tax commission assessed operating property, any taxpayers electing the QIE for properties purchased used must attach any Form 49E listing property purchased used to the personal property declaration sent to each county. A Form 49E listing only property purchased used may be provided to comply with this requirement. (1-1-04)T

c. Any taxpayers electing QIE for property that is state tax commission assessed operating property and purchased new or used must indicate on Form 49E each county where each property is located and attach it to the operator's statement. (1-1-04)T

d. If multiple Form 49Es are submitted to one (1) or more assessors, a copy of each Form 49E must be attached to the correct year's income tax return. (1-1-04)T

13. Special Provisions For Operating Property. (1-1-04)T

a. For operating property, the market value of the QIE is calculated by multiplying the depreciated original cost of the property times the ratio of the correlated value determined under Subsection 405.08 of these rules to the cost approach value determined under Subsection 405.02 of these rules. (1-1-04)T

b. The following special provisions apply for the reduction in market value of operating property resulting from QIE being elected. (1-1-04)T

i. Reduction in Idaho value. For operating property except situs property and operating property owned by electric distribution, generation, and transmission companies, the reduction in market value will be made by subtracting the market value of the QIE from the allocated Idaho value before apportionment to any taxing district or unit. (1-1-04)T

ii. Reduction in market value of operating property owned by electric distribution, generation, and transmission companies. For operating property owned by electric distribution, generation, and transmission companies, the reduction in market value will be made by subtracting the market value of the QIE from the calculated market value by county before apportionment to any taxing district or unit within that county. (1-1-04)T

iii. Reduction in market value of situs property owned by operating property companies. For situs property owned by operating property companies, the reduction in market value will be made by subtracting the market value of the specific investment in the specific location. (1-1-04)T

14. Denial Of QIE. If the QIE is denied for all or part of the market value of any item for which the QIE had been claimed, the assessor shall notify the taxpayer electing the QIE and shall identify the basis for the denial. (1-1-04)T

15. Cross Reference. For more information relating to procedures and requirements for QIE, refer to Section 63-3029B, Idaho Code, and IDAPA 35.02.01, "Tax Commission Administrative and Enforcement Rules," Rule 450, and IDAPA 35.01.01, "Income Tax Administrative Rules," Rule 719. (1-1-04)T

989. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION

35.01.10 - IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0110-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105 and 63-3624, Idaho Code.

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

Section 63-2510A, Idaho Code provides a minimum bonding requirement for cigarette distributors but no maximum. Cigarette tax rule 017 (IDAPA 35.01.10.017) provides for a \$200,000 maximum bond. With the enactment of H.B. 264 the cigarette tax rate was increased from \$.29 per pack to \$.57 per pack. In light of this increase, the Tax Commission is proposing that the maximum bond amount be deleted from the rule.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Husted, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Jim Husted
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0110-0301

017. SECURITY FOR TAX REQUIRED (Rule 017).

01. Security For Payment Of Taxes. Every wholesaler liable for payment of cigarette taxes provided

by Chapter 25, Title 63, Idaho Code, shall at all times have in effect and on file with the State Tax Commission security for payment of the excise tax. The security shall be in the form and amount acceptable to the State Tax Commission, shall be payable to the State Tax Commission, and shall be conditioned upon remittance of taxes imposed on cigarettes by this state for which such wholesaler shall be liable, including any penalty and interest. (7-1-98)

a. The amount of the security shall be at least two (2) times the amount of the tax due on an average monthly cigarette tax return, using the previous twelve (12) month period as a base, but in no case shall be less than one thousand dollars (\$1,000); ~~nor greater than two hundred thousand dollars (\$200,000).~~ (7-1-93)(____)

b. If a wholesaler wishes to hold an inventory of unused Idaho cigarette stamps in excess of the limitations set by ~~Idaho Cigarette Tax Administrative~~ Rule 015 of these rules, the wholesaler must increase the amount of the security on file with the State Tax Commission accordingly, or pay a deposit to the State Tax Commission for future taxes due which exceed the limitations. (7-1-98)(____)

c. Example: A wholesaler has an average monthly tax liability of two thousand dollars (\$2,000). The wholesaler is required by the State Tax Commission to post a security in the amount of four thousand dollars (\$4,000). The wholesaler wishes to hold an unused Idaho cigarette stamp inventory of ten thousand eight hundred dollars (\$10,800). The wholesaler must increase the amount of the security on file with the State Tax Commission by six thousand eight hundred dollars (\$6,800), or pay a deposit of six thousand eight hundred dollars (\$6,800) to be applied to future tax due to the State Tax Commission. (7-1-98)

02. Reviewing Security On File. The State Tax Commission will review the amount of security on file periodically, but no less than annually, and may increase or decrease the amount of the required security in accordance with the increase or decrease of the wholesaler's average monthly tax liability. (7-1-98)

03. New Wholesaler Application. When a new wholesaler applies for a cigarette wholesaler's permit, as provided by Section 63-2503, Idaho Code, the security required will be determined as follows: (7-1-93)

a. If a cigarette tax reporting history is available from a previous ownership of the business, the new wholesaler shall furnish security based on the most recent twelve (12) month history of the prior ownership. (7-1-93)

b. If there is no cigarette tax reporting history available from a previous ownership of the business, the new wholesaler shall furnish security in the amount of an estimated two (2) month tax liability of the new firm, or one thousand dollars (\$1,000), whichever is greater. The estimate shall be prepared by the new wholesaler and shall be subject to review and approval by the State Tax Commission. (7-1-98)

04. Types Of Security. A wholesaler required to post security may, in lieu of posting a surety bond, deposit with the State Tax Commission any of the following equivalent to the amount of the security required. (7-1-98)

a. Bearer bonds or other similar obligations of the United States having a market value not less than the amount of the bond required and made payable to the State Tax Commission. (7-1-98)

b. Automatically renewable time certificates of deposit, not exceeding the federally insured amount, issued by a bank doing business in this state and insured by the Federal Deposit Insurance Corporation, made in the name of the depositor, payable to the State Tax Commission, and containing the provisions that interest earned shall be payable to the depositor. (7-1-98)

c. Investment certificates or share accounts, not exceeding the federally insured amount, issued by a savings and loan association doing business in this state, and insured by the Federal Savings and Loan Insurance Corporation. Evidence of the insured account, either certificate or passbook, must be delivered to the State Tax Commission, along with a properly executed assignment from whereby the fund on deposit is assigned and made payable to the State Tax Commission. (7-1-98)

d. Irrevocable letters of credit, not exceeding the federally insured amount, issued by a bank doing business in Idaho, and insured by the Federal Deposit Insurance Corporation, made to the benefit of the State Tax

Commission. The terms of the letter of credit must permit the State Tax Commission to make demand directly against the issuer of the letter of credit for any taxes, penalties, and interest due and unpaid, upon which the taxpayer's rights to appeal have expired, and for which the letter of credit was submitted to secure. (7-1-98)

e. Lawful money of the United States. Cash bonds must be submitted in the form of a cashier's check, money order, or other certified funds which are payable to the State Tax Commission. (7-1-98)

05. Taxpayer Petition For Release From Security Requirements. A security shall be required in all instances unless the State Tax Commission, upon petition by the taxpayer, determines that a security is not required. (7-1-98)

a. The following conditions must be met before the State Tax Commission will release a taxpayer from the posting of a security: The taxpayer has filed all cigarette tax returns including supplemental schedules on a timely basis for a period of not less than twelve (12) months, and the taxpayer has paid all cigarette tax due on a timely basis for a period of not less than twelve (12) months. (7-1-98)

b. Upon written petition from the taxpayer, the State Tax Commission will review the filing record of the taxpayer and, if determined necessary, examine his books and records within sixty (60) days. The State Tax Commission will advise the taxpayer of its determination no later than ninety (90) days from the date of receipt of the taxpayer's petition. (7-1-98)

c. If a petition for release of security is denied, notice shall be mailed to the taxpayer by certified mail. The notice shall include the reasons for the State Tax Commission's determination. If the taxpayer wishes to seek a redetermination of the decision, he must file a petition for redetermination in the manner set forth in Section 63-3045, Idaho Code. The petition for redetermination must be filed no later than thirty (30) days from the date on which the notice of determination is mailed to or served upon the claimant. (7-1-98)

06. Failure To File Timely After Release From Security. If a taxpayer has been released from security requirements and fails to file a cigarette tax return or fails to pay the cigarette tax due by the due date specified in Chapter 25, Title 63, Idaho Code, the State Tax Commission may immediately make demand for the tax return or payment, and demand that a security be posted. (7-1-98)

a. The demand shall be in writing and shall be personally served on the taxpayer or mailed to him by certified mail. (7-1-93)

b. If the taxpayer wishes to petition for redetermination of the demand, he must do so in writing within ten (10) days of the date upon which the demand is mailed to or served on him. (7-1-93)

c. Failure to file a petition for redetermination will cause the demand to become final and a jeopardy assessment will be issued. Immediate collection actions shall be taken which may include seizing all Idaho cigarette stamps held by the taxpayer, filing liens of record, seizing all cigarettes held in the inventory of the taxpayer, revoking the taxpayer's cigarette permit, or notifying the manufacturers of the cigarettes held in the taxpayer's inventory of all actions taken. (7-1-93)

IDAPA 35 - STATE TAX COMMISSION

35.01.11 - IDAHO UNCLAIMED PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0111-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105 and 14-539, Idaho Code.

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

Rule 015: Amend Subsection 015.02 to read "fifty dollars (\$50) or less" from "less than fifty dollars (\$50)." Amend Subsection 015.03 to read "more than fifty dollars (\$50)" rather than "fifty dollars (\$50) or more." This brings the rule into conformity with Sections 14-501 and 14-520, Idaho Code.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jim Husted, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Jim Husted
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0111-0301

015. REPORT OF ABANDONED PROPERTY (Rule 015).

01. Incomplete Report. A report filed with the State Tax Commission must meet the requirements of a valid tax return as set out in Administrative and Enforcement Rule 150. A report that does not meet the requirements

of a valid tax return may be returned to the holder as incomplete. Any report returned to the holder as incomplete will not be treated as filed in compliance with Section 14-517, Idaho Code. (7-1-98)

02. Voluntary Payments Of Unclaimed Property. A holder who voluntarily reports and remits any intangible property, as defined in Section 14-501, Idaho Code, with a total value of ~~less than~~ fifty dollars (\$50) or less to the administrator is relieved of all liability in accordance with Section 14-520, Idaho Code. The administrator will remit the funds to the appropriate state. (~~7-1-98~~)()

03. Underlying Shares And Cumulative Dividends. The holder must report and remit total cumulative dividends to date, together with the stock certificate, when the certificate is in the holder's possession, if the value of total cumulative dividends plus the value of the underlying shares belonging to the apparent owner is more than fifty dollars (\$50) ~~or more~~. (~~7-1-98~~)()

IDAPA 35 - STATE TAX COMMISSION

35.02.01 - TAX COMMISSION RULES GOVERNING ADMINISTRATION AND ENFORCEMENT

DOCKET NO. 35-0201-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105 and 63-3039, Idaho Code.

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

Rule 310: Section 63-3045, Idaho Code, establishes a formula for calculating the yearly interest rate applied to deficiencies of tax and refunds. The rates are published in Administration and Enforcement Rule 310. The rule needs to be amended to add the interest rate for calendar year 2004.

Rule 400: Sections 63-3033 and 63-3046, Idaho Code, provide for various late filing, late payment and extension of time related penalties. Calculations established in the statutes use the terms "total tax due under the provision of this chapter," "total tax due," and "tax due on such return." Because the income tax returns also provide lines for taxpayers to pay fuels tax due or sales/use tax due or to receive fuels tax refunds, solely for the convenience of the taxpayer, the calculations for computing penalties can sometimes be interpreted differently. The rules therefore need to be amended to clarify what the tax amounts are for these calculations.

Rule 704: HB 453, passed by the 2003 Legislature, amended Section 63-3029B, Idaho Code, to allow a property tax exemption on personal property in lieu of claiming the investment tax credit on qualified investment. Rule 704 identifies the government agencies with whom the Tax Commission can exchange information. Amendments to the statute now allow the Tax Commission to exchange information with the county assessors to properly coordinate the exemption. The rule needs to be amended to identify what can be exchanged with the county assessors with regard to this exemption. To make technical correction.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Janice Boyd, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Janice Boyd, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0201-0301

310. INTEREST ON AMOUNTS OF TAX ACCRUING OR UNPAID RATES (Rule 310).

Sections 63-3045 and 63-3073, Idaho Code.

(3-20-97)()

01. ~~July 1, 1981, Through December 31, 1993 In General.~~ The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of ~~the period from July 1, 1981, through December 31, 1993, subject to assessment of interest pursuant to~~ a calendar year is determined in accordance with Section 63-3045, Idaho Code, ~~is twelve percent (12%) simple interest.~~ The rates starting with the rate applicable at July 1, 1981, and the Internal Revenue Service Revenue Rulings, if applicable for the calculation of the rate, are listed in Subsection 310.02. These interest rates also apply to the allowance of a credit or refund of tax erroneously or illegally assessed or collected as provided in Section 63-3073, Idaho Code.

(3-20-97)()

02. ~~Calendar Year 1994.~~ The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1994 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Ruling 93-64 **Idaho Interest Rates And Applicable Revenue Rulings.**

| <u>PERIOD</u> | <u>RATE OF INTEREST</u> | <u>INTERNAL REVENUE SERVICE REVENUE RULING</u> |
|--|----------------------------|--|
| <u>July 1, 1981, through December 31, 1993</u> | <u>12% simple interest</u> | <u>Not Applicable</u> |
| <u>Calendar Year 1994</u> | <u>7% simple interest</u> | <u>Revenue Ruling 93-64</u> |
| <u>Calendar Year 1995</u> | <u>9% simple interest</u> | <u>Revenue Ruling 94-61</u> |
| <u>Calendar Year 1996</u> | <u>8% simple interest</u> | <u>Revenue Ruling 95-67</u> |
| <u>Calendar Year 1997</u> | <u>9% simple interest</u> | <u>Revenue Ruling 96-49</u> |
| <u>Calendar Year 1998</u> | <u>8% simple interest</u> | <u>Revenue Ruling 97-41</u> |
| <u>Calendar Year 1999</u> | <u>7% simple interest</u> | <u>Revenue Ruling 98-50</u> |
| <u>Calendar Year 2000</u> | <u>8% simple interest</u> | <u>Revenue Ruling 99-41</u> |
| <u>Calendar Year 2001</u> | <u>8% simple interest</u> | <u>Revenue Ruling 2000-45</u> |
| <u>Calendar Year 2002</u> | <u>7% simple interest</u> | <u>Revenue Ruling 2001-49</u> |
| <u>Calendar Year 2003</u> | <u>5% simple interest</u> | <u>Revenue Ruling 2002-61</u> |
| <u>Calendar Year 2004</u> | <u>6% simple interest</u> | <u>Revenue Ruling 2003-107</u> |

(3-20-97)()

03. ~~Calendar Year 1995.~~ The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1995 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is nine percent (9%) simple interest. See Revenue Ruling 94-61.

(3-20-97)

04. ~~Calendar Year 1996.~~ The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1996 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 95-67.

(3-20-97)

05. ~~Calendar Year 1997.~~ The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1997 subject to assessment of interest pursuant to Section 63-3045, Idaho

~~Code, is nine percent (9%) simple interest. See Revenue Ruling 96-49. (3-20-97)~~

~~06. **Calendar Year 1998.** The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1998 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 97-41. (3-19-99)~~

~~07. **Calendar Year 1999.** The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1999 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Ruling 98-50. (4-5-00)~~

~~08. **Calendar Year 2000.** The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 2000 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 99-41. (4-5-00)~~

~~09. **Calendar Year 2001.** The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 2001 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 2000-45. (2-23-01)~~

~~10. **Calendar Year 2002.** The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 2002 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Ruling 2001-49. (3-15-02)~~

~~11. **Calendar Year 2003.** The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 2003 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is five percent (5%) simple interest. See Revenue Ruling 2002-61. (5-3-03)~~

(BREAK IN CONTINUITY OF SECTIONS)

400. PENALTIES -- GENERAL RULES (Rule 400).

Sections 63-3033 and 63-3046, Idaho Code. (3-20-97)()

01. Penalty Presumed Appropriate. If a taxpayer becomes liable to pay the Internal Revenue Service a penalty similar to one provided in Section 63-3046, Idaho Code, it shall be presumed the penalty is appropriate as part of the related state tax deficiency. (3-20-97)

02. ~~Credits To Be Considered.~~ The penalties referred to in this rule apply to the net amount of the tax due after applicable credits. Computation Of Tax Due Amounts For Extension Of Time Criteria. For purposes of computing whether the taxpayer has met the extension of time criteria provided in Section 63-3033, Idaho Code, the terms, total tax due on the income tax return when it is filed, total tax due on the income tax return for the prior year, and total tax due under the provisions of this chapter shall mean amounts computed as follows: (3-20-97)()

a. Include the income tax, the permanent building fund tax, tax from recapture of Idaho income tax credits, and any income tax credits. ()

b. Exclude items reported on the income tax return that are not included in Title 63, Chapter 30, Idaho Code, such as sales or use tax due, fuels tax due, and special fuels or gasoline tax refunds. Payments for the amounts included in Subsection 400.02.a. are also excluded for purposes of this calculation. ()

03. Computation Of Tax Due Amounts For Failure To File, Failure To Pay, Delinquent Filing, And Extension Penalties. For purposes of computing the failure to file, failure to pay, or delinquent filing penalties, provided by Section 63-3046, Idaho Code, and the penalty for failing to meet the extension criteria, provided by Section 63-3033, Idaho Code, the terms tax shown thereon to be due and tax due on such return, and the amount on which the extension penalty is applied shall mean amounts computed as follows: ()

a. Include the income tax, the permanent building fund tax, tax from recapture of Idaho income tax credits, income tax credits, and any payments for these taxes for that year. ()

b. Exclude items reported on the income tax return that are not included in Title 63, Chapter 30, Idaho Code, such as sales or use tax due, fuels tax due, and special fuels or gasoline tax refunds. ()

034. Net Operating Loss And Capital Loss Carrybacks. If the tax due for the taxable year is reduced after the application of a net operating loss carryback or a capital loss carryback, the penalty shall be computed on the tax due prior to the application of the carryback. (5-3-03)

045. Minimum Penalty. A ten dollar (\$10) minimum penalty applies to each penalty imposed by Subsection (a), (b), (c)(1), (d) or (e) of Section 63-3046 and by Section 63-3033, Idaho Code. For example, if a taxpayer fails to file only one (1) withholding tax statement, which generally results in a penalty of two dollars (\$2) pursuant to Section 63-3046(e)(1), Idaho Code, a penalty of ten dollars (\$10) will be applied. (3-15-02)

056. Dishonored Checks. The charge provided by Section 63-3046(h), Idaho Code, for each dishonored check or instrument is: (2-23-01)

a. Ten dollars (\$10) if dishonored prior to July 1, 2001. (2-23-01)

b. Twenty dollars (\$20) if dishonored on or after July 1, 2001. (2-23-01)

c. This charge may be added even if sufficient funds are in the taxpayer's account after the date of dishonor. (2-23-01)

(BREAK IN CONTINUITY OF SECTIONS)

704. DISCLOSURE OF INFORMATION -- GOVERNMENT AGENCIES AND OFFICIALS. (Rule 704). Sections 39-78405, 50-1049, 63-2442, 63-3029B, 63-3077, 63-3077A, 63-3077B, 63-3077C, 63-3634A, and 63-4917C, Idaho Code. (~~5-3-03~~)()

01. Legislature. The Tax Commission shall disclose returns or return information to the Idaho Legislature on the written request of the chair of any committee of either branch of the Idaho Legislature on behalf of the committee. When authorized by statute, the Tax Commission shall disclose information to the Legislative Council, the Joint Legislative Oversight Committee, or to the Joint Finance and Appropriations Committee. (3-20-97)

02. Government Agencies Or Officials. The Tax Commission shall disclose information necessary to comply with provisions of the Idaho Code requiring reports or information to be provided to government agencies or officials. This includes the disclosure of tax returns and return information for use in enforcing child support obligations pursuant to Section 56-231, Idaho Code. (3-20-97)

03. Exchange Of Information. Information may be exchanged between the Tax Commission and: (4-5-00)

a. The Internal Revenue Service, as allowed by Section 63-3077(1)(a), Idaho Code; (5-3-03)

b. Other states, if reciprocal provisions for information exchanges are granted under Section 63-3077(1)(b), Idaho Code; (5-3-03)

c. County assessors, limited to: ()

i. ~~Information~~ relating to the taxpayer's residence or domicile, Section 63-3077(4), Idaho Code; and (~~5-3-03~~)()

- ii. Information related to the property tax exemption claimed in lieu of the Idaho investment tax credit, as allowed by Section 63-3029B, Idaho Code. ()
- d. Department of Labor, as allowed by Section 63-3077A, Idaho Code; (4-5-00)
- e. Industrial Commission, as limited by Section 63-3077B, Idaho Code; (4-5-00)
- f. Multistate Tax Commission, as allowed by Section 63-3077(1)(b), Idaho Code; (5-3-03)
- g. Idaho Transportation Department, relating to; ()
- i. ~~Fuels tax~~, as allowed by Section 63-2442, Idaho Code; ~~and relating to~~ ()
- ii. ~~Residency information~~, as allowed by Section 63-3634A, Idaho Code; ~~(5-3-03)~~()
- h. Financial Management Services of the U. S. Department of the Treasury, as allowed by Section 63-3077(1)(a), Idaho Code; (5-3-03)
- i. Governing entity of the International Fuels Tax Agreement, IFTA, Inc., as allowed by Section 63-3077(1)(b), Idaho Code; (5-3-03)
- j. Department of Fish and Game, limited to information relating to an individual's place of residence or domicile, Section 63-3077C, Idaho Code; (5-3-03)
- k. Attorney General, as limited by Section 39-78405, Idaho Code; ~~(5-3-03)~~()
- l. Resort cities, as allowed by Section 50-1049, Idaho Code; and (5-3-03)
- m. Auditorium districts, as allowed by Section 67-4917C, Idaho Code. (5-3-03)

IDAPA 35 - STATE TAX COMMISSION

35.02.01 - TAX COMMISSION RULES GOVERNING ADMINISTRATION AND ENFORCEMENT

DOCKET NO. 35-0201-0302

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105 and 63-3039, Idaho Code.

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

DATE: Tuesday, October 7, 2003
TIME: 10:00 a.m.
PLACE: Conference Room 1CR5
Idaho State Tax Commission
800 Park Blvd., Plaza IV, Boise, ID

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

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

Administration and Enforcement Rule 450: H.B. 453 passed by the 2003 Legislature, amended Section 63-3029B, Idaho Code, to allow a property tax exemption on personal property in lieu of claiming the investment tax credit on qualified investment. A new Administration and Enforcement Rule 450 is being promulgated to discuss specifics of the property tax exemption penalty.

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Janice Boyd, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0201-0302

431. -- 4949. (RESERVED).

450. PROPERTY TAX EXEMPTION PENALTY (Rule 450).

Section 63-3029B, Idaho Code. ()

01. In General. If a taxpayer is electing or has elected the property tax exemption allowed by Section 63-3029B, Idaho Code, for property sold or otherwise disposed of, or that ceases to qualify or failed to originally qualify pursuant to Section 63-3029B, Idaho Code, prior to being held five (5) full years, a penalty shall be computed by the Tax Commission. See IDAPA 35.01.03, "Property Tax Administrative Rules," Rule 988, for information related to the election of qualified property for exemption. See IDAPA 35.01.03, "Property Tax Administrative Rules," Rule 719, for information related to the requirement that the taxpayer had negative Idaho taxable income in the second preceding taxable year from the taxable year in which the qualified property was placed in service. ()

02. Calculation Of Penalty. A penalty of two (2) times the average urban property tax levy of the state of Idaho as calculated by the Tax Commission shall be multiplied by the claimed investment. For purposes of computing the penalty: ()

a. Claimed investment shall be the value of the nonqualifying investment that would have been taxable for property tax purposes for the first year of the exemption if such exemption had not been allowed. ()

b. Average urban property tax levy of the state shall be the levy computed as such by the Tax Commission for the first year for which property subject to the penalty was exempt. ()

03. Notification That Property Ceases To Qualify. If property on which a taxpayer claimed the property tax exemption ceases to qualify during the recapture period or was incorrectly claimed by the taxpayer as qualified investment, the taxpayer shall notify the Tax Commission in writing, of such information. The taxpayer shall provide a schedule that includes a description of each property that ceases to qualify, the county the property was located in, and the original cost for the property. ()

04. Notification Of Penalty Amount By Tax Commission. Upon receiving information that property on which the property tax exemption was claimed was sold or otherwise disposed of, or that ceases to qualify or failed to originally qualify during the recapture period, the Tax Commission shall issue a Notice of Deficiency in the manner provided in Section 63-3045, Idaho Code, to the owner of the nonqualifying property. ()

05. Protest Of Penalty. If a taxpayer does not agree with the Notice of Deficiency issued to assert the penalty, the taxpayer may file a protest with the Tax Commission to request a redetermination of the deficiency. The protest shall meet the requirements as provided in Section 63-3045, Idaho Code, and Rule 320 of these rules. ()

451. -- 499. (RESERVED).

IDAPA 37 - DEPARTMENT OF WATER RESOURCES

37.02.03 - WATER SUPPLY BANK RULES

DOCKET NO. 37-0203-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 27, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 42-1762, Idaho Code.

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

Rule 040.05 is to be amended to provide that the Board may, upon good cause being determined by the Board, approve amendments to approved rental pool procedures submitted after April 1 of any year. The rules are additionally amended to add or modify certain nonsubstantive mandatory sections to comply with the requirements of the Office of Administrative Rules.

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

This temporary/proposed rule would allow the Board to approve changes in the rental rate for the Upper Snake Rental Pool after the April 1st deadline provided in the current rule. Without an increase in rates, water for replacement or mitigation purposes may not be available due to the extended drought conditions. The temporary rule will protect the public health, safety and welfare and will confer a benefit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Hal Anderson, (208) 327-7910.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 21st day of August, 2003.

Jerry R. Rigby, Chairman
Idaho Water Resource Board
1301 N. Orchard St.
P. O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866

THE FOLLOWING IS THE TEXT OF DOCKET NO. 37-0203-0301

000. ~~(RESERVED)~~ LEGAL AUTHORITY (Rule 0).

This chapter is adopted under the legal authority of Section 42-1762, Idaho Code.

(6-27-03)T

001. TITLE AND SCOPE (Rule 1).

01. Title. The title of this chapter is IDAPA 37.02.03, "Water Supply Bank Rules". (6-27-03)T

02. Scope. These rules were first adopted by the Water Resource Board in October 1980 as mandated by Section 42-1762, Idaho Code enacted in 1979. The rules govern the Board's operation and management of a Water Supply Bank provided for in Sections 42-1761 to 42-1766, Idaho Code. The purposes of the Water Supply Bank, as defined by statute, are to encourage the highest beneficial use of water; provide a source of adequate water supplies to benefit new and supplemental water uses; and provide a source of funding for improving water user facilities and efficiencies. These rules are to be used by the Water Resource Board in considering the purchase, sale, lease or rental of natural flow or stored water, the use of any funds generated therefrom, and the appointment of local committees to facilitate the lease and rental of stored water. The purchase, sale, lease or rental of water shall be in compliance with state and federal law. The adoption of these rules is not intended to prevent any person from directly selling or leasing water by transactions outside the purview of the Water Supply Bank Rules where such transactions are otherwise allowed by law. (7-1-93)(6-27-03)T

002. WRITTEN INTERPRETATIONS (Rule 2).

There are no written interpretations of these rules. (6-27-03)T

004. INCORPORATION BY REFERENCE (Rule 4).

No documents have been incorporated by reference into these rules. (6-27-03)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (Rule 5).

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. (6-27-03)T

02. Mailing Address. The mailing address for the state office is Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098. (6-27-03)T

03. Street Address. The street address for the state office of the Department of Water Resources, the regional offices in Idaho Falls, Coeur d'Alene, Twin Falls, and Boise, and the satellite offices in Salmon, Soda Springs, and Lewiston may be obtained by calling the state office at (208) 327-7900, or by visiting the Department's website at <http://www.idwr.state.id.us>. (6-27-03)T

006. PUBLIC RECORDS ACT COMPLIANCE (Rule 6).

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code. (6-27-03)T

0047. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

040. APPOINTMENT OF LOCAL RENTAL POOL COMMITTEES (Rule 40).

01. Board Meetings For Committee Appointments. The Board may at any regular or special meeting to consider appointing an entity to serve as a local committee to facilitate the lease and rental of stored water. At least ten (10) days prior to the meeting, the entity seeking appointment shall provide to the Director information concerning the organization of the entity, a listing of its officers, a copy of its bylaws and procedures, if applicable, a copy of the proposed local committee procedures, pursuant to which the local committee would facilitate the lease and rental of stored water, together with a copy of each general lease and rental form proposed to be used by the local committee. The local committee procedures must be approved by the Board and must provide for the following: (7-1-93)

- a. Determination of priority among competing applicants to lease stored water to the rental pool and to rent stored water from the rental pool; (7-1-93)
- b. Determination of the reimbursement schedule for those leasing stored water into the rental pool; (7-1-93)
- c. Determination of the rental price charge to those renting stored water from the rental pool; (7-1-93)
- d. Determination of the administrative charge to be assessed by the local committee; (7-1-93)
- e. Allocation of stored water leased to the bank but not rented; (7-1-93)
- f. Notification of the Department and the watermaster of any rentals where stored water will be moved from the place of use authorized by the permit, license, or decree establishing the stored water right; (7-1-93)
- g. Submittal of applications to rent water from the rental pool for more than five (5) years to the Board for review and approval as a condition of approval by the local committee; (7-1-93)
- h. Prevention of injury to other water rights; (7-1-93)
- i. Protection of the local public interest, except for applications submitted pursuant to the interim authority provided by Section 42-1763A, Idaho Code; (7-1-93)
- j. Consistency with the conservation of water resources within the state of Idaho, except for applications submitted pursuant to the interim authority provided by Section 42-1763A, Idaho Code; (7-1-93)
- k. Management of rental pool funds as public funds pursuant to the Public Depository Law, Chapter 1, Title 57, Idaho Code. (7-1-93)

02. Local Committee Procedures. The local committee procedures shall provide that a surcharge of ten percent (10%) of the rental fee charged per acre foot of stored water rented from the rental pool shall be assessed and credited to the revolving development account and the water management account established in Sections 42-1752 and 42-1760, Idaho Code, in such proportion as the Board in its discretion shall determine. Such moneys, together with moneys accruing to or earned thereon, shall be set aside, and made available until expended, to be used by the Board for the purposes of Rule 1 unless the surcharge is prohibited by statute, compact or inter-governmental agreement. (7-1-93)

03. Review By Director. The Director will review the local committee procedures and submit them along with the Director's recommendation to the Board. The lease and rental form must receive the Director's approval. The Board may designate the applying entity as the local committee for a period not to exceed five (5) years. A Certificate of Appointment will be issued by the Board. The Board may extend the appointment for additional periods up to five (5) years, upon written request of the local committee. The Board may revoke a designation upon request of the local committee, or after a hearing pursuant to the promulgated Rules of Practice and Procedure of the Board, if the Board determines that the local committee is no longer serving a necessary purpose or is not abiding by its own approved procedures, these rules or applicable statutes. (7-1-93)

04. Annual Report. The local committee shall report annually on the activity of the rental pool on forms provided by the Board. (7-1-93)

05. Submission Of Amendments To Procedures To Board. Amendments to the approved procedures of an appointed local committee which change the amount charged for the rental of stored water shall be submitted to the Board by April 1st of any year. The amendment will be considered approved by the Board unless specifically disapproved at the first regular Board meeting following the amendment action of the local committee. The Board may, upon good cause being determined by the Board, specifically approve of amendments submitted after April 1 of any year. (7-1-93)(6-27-03)T

IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION

47.01.01 - RULES OF THE IDAHO DIVISION OF VOCATIONAL REHABILITATION

DOCKET NO. 47-0101-0301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted initiated proposed regular rulemaking procedures. The action is authorized pursuant to Section(s) Title 33-031, Idaho Code, and the Rehabilitation Act of 1973 and all-subsequent Amendments.

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

After review of our current administrative rules by our Federal partners, they recommended further changes to our rules and some deletions.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because rules have been implemented through the Rehabilitation Act of 1973 and all subsequent Amendments.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Sue Payne (208) 334-3390 ext. 110.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 8th day of August, 2003.

Sue Payne
Chief, Bureau of Field Services
Idaho Division of Vocational Rehabilitation
650 W. State Street, Room 150
P.O. Box 83702
Boise, ID 83720-0096
(208) 334-3390 ext. 110, Fax: (208) 334-5305

THE FOLLOWING IS THE TEXT OF DOCKET NO. 47-0101-0301

004. INCORPORATION BY REFERENCE.

01. General. Unless provided otherwise, any reference in these rules to any document identified in Subsection 004 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. (3-30-01)

02. Availability Of Reference Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (3-30-01)

a. Central Office, Idaho Division of Vocational Rehabilitation, 650 W. State Street, Room 150, Boise, Idaho 83720, (208) 334-3390. (3-30-01)

b. Regional Offices, Idaho Division of Vocational Rehabilitation, located at: (3-30-01)

i. 1010 Ironwood Drive, Suite 101, Coeur d’Alene, Idaho 83814, (208) 769-1441. (3-30-01)

ii. 1118 F. Street, P.O. Box 1164, Lewiston, Idaho 83501, (208) 799-5070. (5-3-03)

iii. 3350 Americana Terrace, Suite 210, Boise, Idaho 83706, (208) 334-3650. (5-3-03)

iv. 10200 W. Emerald Street, Suite 101, Boise, Idaho 83704, (208) 327-7411. (3-30-01)

v. 245 3rd Avenue North, Twin Falls, Idaho 83301, (208) 736-2156. (3-30-01)

vi. 1070 Hiline, Suite 200, Pocatello, Idaho 83201, (208) 236-6333. (3-30-01)

vii. 1825 Hoopes Avenue, Idaho Falls, Idaho 83404, (208) 525-7149. (3-30-01)

viii. 3110 E. Cleveland Blvd. #A7, Caldwell, Idaho 83605, (208) 454-7606. (5-3-03)

ix. This document is also available at website <http://www.state.id.us/idvr/idvrhome.htm>. (3-30-01)

03. Documents Incorporated By Reference. The following documents are incorporated by reference into these rules: (3-30-01)

a. All federal publications through the Rehabilitation Services Administration. (5-3-03)

b. Idaho Division of Vocational Rehabilitation Field Services Manual, 2002~~3~~ - 2004. ~~(5-3-03)~~()

c. State Plan for Vocational Rehabilitation ~~2001~~-2003 - 2004. ~~(3-30-01)~~()

d. Workforce Investment Act, Public Law 105-220. (5-3-03)

e. Federal Register, Department of Education, 34 CFR Part 361. (3-30-01)

f. The Rehabilitation Act, as amended 1998. (3-30-01)

005. -- 009. (RESERVED).

010. DEFINITIONS.

01. Authorization To Purchase. A purchase order issued on behalf of the Division. (5-3-03)

02. CFR. Code of Federal Regulations. (7-1-93)

03. Client/Participant. Any individual who has applied for or is eligible for Vocational Rehabilitation services. (5-3-03)

04. ~~Core Vocational Rehabilitation Services.~~ ~~Services that reduce the impact of functional limitations~~

~~on the ability to achieve an employment outcome (i.e. medical restoration services, training services, assistive technology, job placement, etc.)~~ (5-3-03)

- ~~054.~~ **Designated State Agency.** The Idaho State Board of Education. (5-3-03)
- ~~065.~~ **Designated State Unit.** The Idaho Division of Vocational Rehabilitation. (7-1-93)
- ~~07.~~ **Extended Period Of Time.** ~~An anticipated six (6) or more months within which time rehabilitation services are being provided on an active and ongoing basis.~~ (5-3-03)
- ~~086.~~ **IDVR.** The Idaho Division of Vocational Rehabilitation. (4-5-00)
- ~~097.~~ **IPE.** Individualized Plan for Employment. (4-5-00)
- ~~108.~~ **Most Significant Disability (MSD).** Meets the criteria as Significant Disability as found in the Rehabilitation Act of 1973, as amended, and is further defined as: (5-3-03)
- a.** Having a severe physical, mental, cognitive or sensory impairment which seriously limits two (2) or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance or work skills) in terms of an employment outcome; and (5-3-03)
- b.** Whose vocational rehabilitation can be expected to require multiple ~~core~~ vocational rehabilitation services ~~(as opposed to supportive services)~~ over an extended period of time. (5-3-03)()
- ~~109.~~ **Method Of Written Notification.** The written notification of findings and conclusions arising from an Informal Dispute Resolution, Mediation, Impartial Due Process Hearing, shall be served to the client via the U.S. Postal Service by means of certified mail. Durational requirements for appeals shall commence on the day received by the client as noted by the certified mail records. (5-3-03)
- ~~120.~~ **PM.** Policy Memorandum. (5-3-03)
- ~~131.~~ **RSA.** Rehabilitation Services Administration, U.S. Department of Education. (5-3-03)
- ~~142.~~ **State Administrator.** The Chief Executive Officer of the Idaho Division of Vocational Rehabilitation. (4-5-00)
- ~~15.~~ **Supportive Services.** ~~Services that complement the provision of core services and are provided only to insure that the client/participant can benefit in terms of an employment outcome.~~ (5-3-03)
- ~~163.~~ **VRC.** Vocational Rehabilitation Counselor. (5-3-03)
- ~~14.~~ **Vocational Rehabilitation Services.** Services that reduce the impact of functional limitations on the ability to achieve an employment outcome. ()

(BREAK IN CONTINUITY OF SECTIONS)

300. CLIENT/PARTICIPANT SERVICES.

01. Provision Of Purchased Services Contingent Upon Financial Need Of The Client/Participant. The Idaho Division of Vocational Rehabilitation will apply a Financial Needs Assessment. Financial need will not be a consideration in the determination of eligibility for Vocational Rehabilitation, but will be a consideration in allocating the cost of VR services, with some exceptions. (5-3-03)

02. Authorization To Purchase. The Division requires that when purchasing services from a vendor,

an authorization must be issued prior to, or on, the beginning date of service. If services are provided without a Division approved authorization to purchase, the Division reserves the right to not honor the vendor's invoice. (5-3-03)

03. General Provisions. Idaho Division of Vocational Rehabilitation will only pay for services that contribute to the determination of eligibility or to achieve an employment outcome. ()

04. Non-Residents Of The State. Financial participation will only be available to residents of Idaho. Citizenship is not a requisite for financial assistance; however, the individual must have legal resident status and be present in the state (i.e., illegal aliens will not be eligible for the Vocational Rehabilitation programs). ()

05. Provision Of CRP (Community Rehabilitation Program) Services. IDVR will purchase vocational services from CRPs that are accredited by either CARE, the Rehabilitation Accreditation Commission, or Rehabilitation Services Accreditation System (RSAS). In conjunction with the client/participant, the qualified professional Vocational Rehabilitation Counselor, will determine which CRP Services, if any, are required for the client/participant to achieve an employment outcome. ()

~~301.—399. (RESERVED)~~

~~**400. SERVICES FOR WHICH IDAHO DIVISION OF VOCATIONAL REHABILITATION FINANCIAL PARTICIPATION WILL NOT BE AVAILABLE.**~~

~~**01. General Provisions.** Idaho Division of Vocational Rehabilitation will not pay for any services that do not contribute to the determination of eligibility or to achieve an employment outcome. (5-3-03)~~

~~**02. Private Pilot's License.** The Division of Vocational Rehabilitation will not financially participate in the securing of a private pilot's license. The Division may assist in securing a Commercial Pilot's License. (5-3-03)~~

~~**03. Advanced Degree.** The Idaho Division of Vocational Rehabilitation may assist with an advanced degree if it is the only means available for an individual with a significant disability to achieve an employment outcome. (5-3-03)~~

~~**04. Vehicular Purchase.** Financial assistance will not be available for the purchase of a vehicle. For the purpose of this rule, "vehicle" is defined as any motorized conveyance that must be licensed by the state of Idaho in order to be operated on state highways, roads, streets, and waterways. (Included within this definition are: cars, trucks, vans, motorcycles, and boats of various sizes and description). Division funds may be utilized to render an already owned vehicle accessible for the client's/participant's use (i.e., hand controls, van conversions, and installation of lifts). (5-3-03)~~

~~**05. Surgery.** (5-3-03)~~

~~**a.** Surgery will not be provided if it is the sole core service needed for return to work or to achieve an employment outcome. (5-3-03)~~

~~**b.** If the original disability(ies) and limitations substantially worsen, surgery may be provided if it is part of a comprehensive plan (IPE) and required to correct a medical problem which, if left untreated, would jeopardize completion of the rehabilitation plan and employment. (The original disability(ies) is/are defined as the disabilities on which eligibility is determined.) (5-3-03)~~

~~**c.** If a new disability is diagnosed during the provision of VR services under an IPE, surgery may be provided if it is part of a comprehensive plan (IPE) and required to correct a medical problem which, if left untreated, would jeopardize completion of the rehabilitation plan and employment. (5-3-03)~~

~~**d.** VR will not cover the cost of surgery if surgery does not substantially reduce or eliminate functional limitations, as VR would still need to retrain or accommodate the limitations. (5-3-03)~~

~~e. Regional Manager must review and approve all surgery plans for VRC, VRCL, VRCH and VRCHH. (5-3-03)~~

~~06. **Organ Transplantation.** The Idaho Division of Vocational Rehabilitation will not pay for organ transplantation with the exception of Renal Transplantation. (5-3-03)~~

~~07. **Non-Residents Of The State.** Financial participation will not be available to non-residents of Idaho. Citizenship is not a requisite for financial assistance; however, the individual must have legal resident status (i.e., illegal aliens will not be eligible for the Vocational Rehabilitation programs). (5-3-03)~~

~~401. — 499. (RESERVED).~~

~~500. **PROVISION OF CRP (COMMUNITY REHABILITATION PROGRAM) SERVICES.**~~

~~Work Evaluation, Work Adjustment, Community Based Work Evaluation, Community Based Work Adjustment, Job Site Development, Job Coaching, Placement and Follow Along Services, are services the Idaho Division of Vocational Rehabilitation purchases from CRPs which are accredited by Commission on Accreditation of Rehabilitation Facilities (CARF) or Rehabilitation Services Accreditation System (RSAS). In conjunction with the client/participant, the qualified professional Vocational Rehabilitation Counselor, will determine which CRP Services, if any, are required for the client/participant to achieve an employment outcome. (5-3-03)~~

~~501. — 599. (RESERVED).~~

~~600. **CHIROPRACTIC SERVICES.**~~

~~Chiropractic examinations will not suffice in meeting the medical documentation required for eligibility purposes. (5-3-03)~~

~~601. — 699. (RESERVED).~~

~~700. **PAYMENT POLICY.**~~

~~01. **Rates Of Payment.** The Vocational Rehabilitation staff will negotiate rates of payment in the best interest of the organization. We will always encourage the pursuit of comparable benefits. (5-3-03)~~

~~02. **Policy.** It is the policy of the Division to pay the "usual and customary" charges for services provided to itself or to its client/participants by providers of goods or services. The only exceptions to the "usual and customary" considerations are listed in the Payment Policy Chapter of the Idaho Division of Vocational Rehabilitation Field Services Manual, 2002 or addressed as a result of state purchasing rules or superseding Idaho Statute. Exceptions may be required for geographical considerations. (5-3-03)~~

~~701. -- 999. (RESERVED).~~

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-0304

NOTICE OF FINAL DECISION ON THE BISSEL CREEK TMDL (LOWER PAYETTE RIVER SUBBASIN)

AUTHORITY: In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Bissel Creek Total Maximum Daily Load (TMDL).

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Bissel Creek TMDL. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Bissel Creek TMDL (Hydrologic Unit Code 17050122, Lower Payette River) addresses one (1) water body segment within the Lower Payette River subbasin on Idaho's 1998 Section 303(d) list. DEQ has submitted this TMDL to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

AVAILABILITY OF THE TMDL: Electronic copy of the TMDL can be obtained at www.deq.state.id.us/water/tmdls/bissel_creek/bissel_creek_final.htm or by contacting Marti Bridges, TMDL Program Manager, 208-373-0382, mbridges@deq.state.id.us.

Dated this 1st day of October, 2003.

Paula J. Gradwohl
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-0305

NOTICE OF FINAL DECISION ON THE SUPPLEMENT TO THE TETON RIVER TMDL

AUTHORITY: In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Supplement to the Teton River Total Maximum Daily Load (TMDL).

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Supplement to the Teton River TMDL. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Supplement to the Teton River TMDL (Hydrologic Unit Code 17040204) addresses three (3) water body segments within the Teton River subbasin (Moody, Fox and Spring Creeks) on Idaho's 1998 Section 303(d) list. DEQ has submitted this TMDL to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

AVAILABILITY OF THE TMDL: Electronic copy of the TMDL can be obtained at www.deq.state.id.us/water/tmdls/teton_river/teton_river_supp_final.htm or by contacting Marti Bridges, TMDL Program Manager, 208-373-0382, mbridges@deq.state.id.us.

Dated this 1st day of October, 2003.

Paula J. Gradwohl
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0302

NOTICE OF RULEMAKING - NEGOTIATED RULE

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality," Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact Don Essig at (208)373-0502 or dessig@deq.state.id.us.

October 24, 2003

9:00 a.m.

**Department of Environmental Quality, Conference Room B
1410 N. Hilton, Boise, Idaho**

DESCRIPTIVE SUMMARY: This rulemaking is in response to the Petition for Initiation of Rulemaking filed by the Idaho Mining Association (IMA) to revise Idaho's mercury criteria in accordance with new EPA guidance. The Department of Environmental Quality (DEQ) has initiated negotiated rulemaking to consider IMA's proposed revision and other updates to Idaho's metals criteria that are determined to be necessary and prudent. The text of the rule will be developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. All users of Idaho's waters, particularly dischargers of mercury and other metals, may be interested in participating in this rulemaking.

DEQ intends to conclude the negotiations by May 2004, publish a proposed rule for public comment in the August 2004 issue of the Idaho Administrative Bulletin, and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in the fall of 2004.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning the negotiated rulemaking, contact Don Essig at (208) 373-0502 or dessig@deq.state.id.us.

Dated this 2nd day of September, 2003.

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 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.10 - RULES REGULATING THE DISPOSAL OF RADIOACTIVE MATERIALS NOT REGULATED UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

DOCKET NO. 58-0110-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule was effective August 22, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality is commencing proposed rulemaking to promulgate a final rule. The action is authorized by Section 39-4405, Idaho Code.

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

October 20, 2003, 5:30 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: This rulemaking is being undertaken to avoid the potential for radioactive material to be introduced into the environment by indiscriminate disposal. The rule would require that authorities be contacted prior to disposal.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2003 for adoption of a pending rule. The rule is expected to be final upon the conclusion of the 2004 session of the Idaho Legislature if approved by the Legislature.

SECTION 39-107D, IDAHO CODE, STATEMENT: The proposed rule regulates an activity not regulated by federal law. Federal law, via the Atomic Energy Act of 1954, as Amended (the AEA) regulates the disposal of a large portion of, but not all, radioactive materials. Individual states are left to regulate the disposal of non-AEA radioactive materials. Idaho fulfills this regulatory need with its Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, as Amended, IDAPA 58.01.10. (Idaho's Radioactive Materials Rules). This rule modifies Idaho's Radioactive Materials Rules by adding a notification requirement that applies to all persons with knowledge of radioactive materials being transferred for disposal to a prohibited location, an area not regulated by federal law.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is necessary to protect the public health, safety and welfare.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because the temporary rulemaking schedule did not allow for the timing of it.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Brian Monson at (208)373-0502 or bmonson@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before October 22, 2003.

DATED this 22nd day of August, 2003.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0110-0301

011. -- 0198. (RESERVED).

019. NOTIFICATION OF RADIOACTIVE MATERIALS.

Any person with knowledge of the transfer, or proposed transfer, of radioactive materials for disposal to any location other than a location authorized by Section 020 to receive radioactive materials for disposal shall notify the Department of the transfer as soon as the transfer takes place or as soon as the person learns of the transfer, or proposed transfer, whichever is sooner. (8-22-03)T

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