

IDAHO ADMINISTRATIVE BULLETIN

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Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a monthly compilation of all administrative rule-making 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 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 rule-making activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin 02-1 refers to the first Bulletin issued in calendar year 2002; Bulletin 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. 03-2 refers to February 2003; 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.

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 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, Title 67, Chapter 52, Idaho Code, comprises five distinct activities: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings involve all five. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the 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 the 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 consensus on the content of a 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 wherein 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. This notice must include:

- a) the specific statutory authority (from Idaho Code) 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 as provided in Section 67-5222, Idaho Code; 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. 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) 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 legislative session unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.

State law required 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 the proposed rule, the rulemaking can be done concurrently as a proposed/temporary 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 become 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 Rulemaking". This includes:

- a) a statement giving 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;*
- 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 change 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 Rulemaking" 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 an 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 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 that 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, Twin Falls, Lewiston and East Bonner County 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 83720-00306, telephone (208) 332-1820.

*The **Idaho Administrative Bulletin** is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.*

*The **Idaho 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 are available on the Internet at the following address:*

<http://www2.state.id.us/adm/adminrules/>

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 38.07.01.200.02.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 Administrations's Division of Purchasing*

*"**01**." refers to Chapter 01 of Title 05, "Rules of the Division of Purchasing"*

*"**200**." refers to Major Section 200, "Content of the Invitation to Bid"*

*"**02**." refers to Subsection 200.02.*

*"**c**." refers to Subsection 200.02.c.*

*"**ii**." refers to Subsection 200.02.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 "-", (38-0501-0401). 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. 38-0501-0401"

"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**).

"0401" denotes the year and sequential order of the docket received during the year; in this case the first rule-making action in calendar year 2004.

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 of a rule 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."

The citation may also include the IDAPA, Title, or Chapter number, 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 rule.

"01" denotes the Chapter number of the rule.

: "201" references the main Section number of the rule that the citation refers to.

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 38.04.041, "Rules Governing Capitol Mall Parking."

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2005

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
05-1	January 2005	*November 19, 2004	January 5, 2005	January 26, 2005
05-2	February 2005	January 5, 2005	February 2, 2005	February 23, 2005
05-3	March 2005	February 2, 2005	March 2, 2005	March 23, 2005
05-4	April 2005	March 2, 2005	April 6, 2005	April 27, 2005
05-5	May 2005	April 1, 2005	May 4, 2005	May 25, 2005
05-6	June 2005	May 4, 2005	June 1, 2005	June 21, 2005
05-7	July 2005	June 1, 2005	July 6, 2005	July 27, 2005
05-8	August 2005	July 1, 2005	August 3, 2005	August 24, 2005
05-9	September 2005	August 3, 2005	September 7, 2005	September 28, 2005
05-10	October 2005	**August 24, 2005	October 5, 2005	October 26, 2005
05-11	November 2005	October 5, 2005	November 2, 2005	November 23, 2005
05-12	December 2005	November 2, 2005	December 7, 2005	December 28, 2005

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2006

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
06-1	January 2006	*November 16, 2005	January 4, 2006	January 25, 2006
06-2	February 2006	January 1, 2006	February 1, 2006	February 22, 2006
06-3	March 2006	February 1, 2006	March 1, 2006	March 22, 2006
06-4	April 2006	March 1, 2006	April 5, 2006	April 26, 2006
06-5	May 2006	April 5, 2006	May 3, 2006	May 24, 2006
06-6	June 2006	May 3, 2006	June 7, 2006	June 28, 2006
06-7	July 2006	June 2, 2006	July 5, 2006	July 26, 2006
06-8	August 2006	June 30, 2006	August 2, 2006	August 23, 2006
06-9	September 2006	August 2, 2006	September 6, 2006	September 27, 2006
06-10	October 2006	**August 23, 2006	October 4, 2006	October 25, 2006
06-11	November 2006	October 4, 2006	November 1, 2006	November 22, 2006
06-12	December 2006	November 1, 2006	December 6, 2006	December 27, 2006

****Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rules to be reviewed by the legislature.***

*****Last day to submit proposed rules in order to complete rulemaking for review by legislature.***

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THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2004-06

**CONTINUING THE GOVERNOR'S COUNCIL ON ADOLESCENT PREGNANCY PREVENTION
REPLACING EXECUTIVE ORDER 2003-04**

WHEREAS, the percentage of adolescents giving birth remains alarmingly high in Idaho; and

WHEREAS, the incidence of inadequate prenatal care, out-of-wedlock babies, low-birth weight babies, and infant deaths is significantly higher for adolescent mothers; and

WHEREAS, in 1997, approximately 2,789 Idaho females aged 10 to 19 became pregnant, at a rate of 54 pregnancies per week; and

WHEREAS, twenty-eight percent of Idaho's adolescent pregnancies are repeat pregnancies; and

WHEREAS, adolescent childbearing causes delays in school completion or alters the young mother's aspirations for home, school, or career; and

WHEREAS, it is in the best interest of all Idahoans to prevent unintended adolescent pregnancies; and

WHEREAS, the most effective response to the problems of adolescent pregnancy is to prevent adolescents from becoming sexually active;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby continue the Governor's Council on Adolescent Pregnancy Prevention.

The duties of the Council shall include:

- 1. Development and implementation of a statewide campaign focused on delaying sexual activity by adolescents; and*
- 2. Assessing the impact of the campaign on reducing the rate of adolescent pregnancy and reporting the results annually.*

The Council shall be limited to no more than 19 members appointed by the Governor.

The members shall serve two-year terms. A chair of the Council shall be appointed annually by the Governor.

The Council members shall include persons representing:

*Public health/welfare
Education
Clergy
Private business
Parents
Adolescents
Local elected officials
Health care providers
Media*

The Governor's Coordinating Council for Families and Children will provide administrative support to the Council.

This Order replaces Executive Order No. 2003-04.

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



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

DIRK KEMPTHORNE
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2004-07

**ESTABLISHING THE CAPITOL MALL AREA AS A WEAPON FREE ZONE
REPEALING AND REPLACING EXECUTIVE ORDER NO. 2000-02**

WHEREAS, the safety and protection of the public, employees of state government and elected officials is a vital concern; and

WHEREAS, continuing access for the public to state government offices located within the Capitol Mall Area is a high priority; and

WHEREAS, current state laws provide for safety and protection from the potential threats of weapons in the work environment for the public, local government employees and elected officials in city and county buildings; and

WHEREAS, it is in the best interests of the general public, employees and state officials and the efficient and safe operation of state government to ensure the highest level of safety in the Capitol Mall Area; and

WHEREAS, there is currently no restriction on the possession of weapons in the Capitol Mall Area;

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

1. *Unless expressly exempted below, possession of a weapon in the Capitol Mall Area by any individual at any time is expressly prohibited.*
2. *The following individuals are exempt from this Executive Order:*
 - a. *State Elected Officials;*
 - b. *Peace officers as defined in Idaho Code Section 19-5101;*
 - c. *Criminal investigators of the Attorney General's Office or a county prosecuting attorney's office; and*
 - d. *Individuals or organizations displaying weapons as part of a historical or cultural presentation who have received written permission from the Office of the Governor.*
 - e. *Law enforcement officials authorized to carry a firearm under federal statute.*
3. *The term "weapon" means: (1) any type of firearm or (2) any knife or similar object which has a blade in excess of six (6) inches in length.*
4. *"Capitol Mall Area" means: the Statehouse, Joe R. Williams Building (700 West State Street); Len B. Jordan Building (650 West State Street); State Parking Garage (550 West State Street); Borah Building (750 West Bannock Street); and the Towers Building (450 West State Street), including all underground tunnels which provide a walkway between these buildings.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on the 22nd day of October in the year of our Lord two thousand and four and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred-fifteenth.

**DIRK KEMPTHORNE
GOVERNOR**

**BEN YSURSA
SECRETARY OF STATE**

OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2004-08

**CONTINUING THE WORKFORCE DEVELOPMENT COUNCIL FOR PLANNING AND OVERSIGHT OF
THE STATE'S WORKFORCE DEVELOPMENT SYSTEM,
REPLACING EXECUTIVE ORDER NO. 2000-14**

WHEREAS, the economic future of Idaho and the prosperity of its residents depends upon the ability of businesses in Idaho to compete in the world economy; and

WHEREAS, a well-educated and highly skilled workforce provides businesses in Idaho with a competitive edge critical for their success; and

WHEREAS, Idaho is committed to preparing its current and future workforce with the skills necessary for the 21st Century; and

WHEREAS, empowering business, labor and community leaders to take a more active and strategic role in developing the state's economic and workforce development policy will enhance the quality and responsiveness of these programs; and

WHEREAS, the development of a comprehensive workforce development strategy for Idaho will improve planning and oversight functions; improve the effectiveness, quality and coordination of services designed to maintain a highly skilled workforce; and help provide for the most efficient use of federal, state and local workforce development resources;

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

- 1. The Idaho Workforce Development Council (the "Council") is established in accordance with section 111(e) of the Workforce Investment Act (WIA) of 1998, as amended.*
- 2. The Council shall consist of not more than 33 members appointed by the Governor, consistent with federal requirements for the nomination and composition requirements set forth in section 702 of the Job Training Partnership Act as amended. The Council's membership, shall be as follows:*
 - a. Representatives of business and industry shall comprise at least 40% of the members;*
 - b. At least 15% of the members shall be representatives of local public education, postsecondary institutions, and secondary or postsecondary vocational educational institutions;*
 - c. At least 15% of the members shall be representatives of organized labor based on nominations from recognized state labor federations;*
 - d. Representatives from the Department of Commerce and Labor, the Department of Health & Welfare, the Division of Vocational Rehabilitation, the Division of Vocational Education, the Commission on Aging and the Superintendent of Public Instruction;*
 - e. A representative of a Community-Based Organization; and*
 - f. May include individuals from the general public who have special knowledge and qualifications with respect to special education and career development needs of hard to serve individuals.*
- 3. The Council will be responsible for advising the Governor and the State Board of Education, as appropriate and at regular intervals, on the following:*
 - a. Development of a statewide strategy for workforce development programs which encompasses all workforce programs;*
 - b. Development of the WIA State plan;*

- c. *Development and continuous improvement of services offered under the statewide workforce investment system;*
 - d. *Development of comments at least once annually on the Carl D. Perkins Vocational and Applied Technology Education Act;*
 - e. *Development and continuous improvement of comprehensive State performance measures;*
 - f. *Preparation of the annual report to the United States Secretary of Labor as required under section 136 of the WIA;*
 - g. *Development of a statewide employment statistic program;*
 - h. *Development of a plan for comprehensive labor market information; and*
 - i. *Development of applications for an incentive grant under section 503 of the WIA.*
4. *The Council shall also be responsible for:*
- a. *Approval and oversight of the expenditures from the Employment Security Reserve Fund as set forth in Section 72-1347A, Idaho Code;*
 - b. *Development and oversight of procedures, criteria and performance measures for the Workforce Development Training fund established under Section 72-1347B, Idaho Code; and*
 - c. *Such other duties as the Governor assigns the Council.*
5. *The Governor shall name the chair and vice-chair from among the private sector members of the Council;*
6. *The Council shall be jointly staffed by a management team of directors of state agencies that administer workforce development programs, as designated by the Governor. Funding for the Council shall be provided by the agencies staffing the Council, which shall agree upon appropriate ratios for the allocation of administrative funding. The Idaho Department of Commerce and Labor shall have responsibility for providing secretarial and logistical support to the Council;*
7. *The Council's members shall serve at the pleasure of the Governor, and appointments shall be for three-year terms.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 30th day of November in the year of our Lord two thousand and four, and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.

DIRK KEMPTHORNE
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2004-09

**CONTINUATION OF A STATE HOUSING TAX CREDIT AGENCY
REPLACING EXECUTIVE ORDER NO. 98-12**

WHEREAS, the United States Congress has enacted and amended the Internal Revenue Code of 1986 (the "Code"); and

WHEREAS, Section 42 of the Code authorizes a Low-Income Housing Credit; and

WHEREAS, Section 42(h) of the Code stipulates that the Housing Credit is subject to certain restrictions regarding the aggregate credit allowable with respect to projects located in a state; and

WHEREAS, the Idaho Housing and Finance Association was created by the adoption of Title 67, Chapter 62 of the Idaho Code to increase the supply of housing for persons and families of low income and to encourage cooperation and coordination among private enterprise and state and local government to sponsor, build and rehabilitate residential housing for such persons and families; and

WHEREAS, in order to establish and continue an equitable process for the allocation of the allowable Low-Income Housing Credit for the State of Idaho, it is necessary and desirable to issue this Executive Order to provide authorization required under Section 42(h) for a State Housing Credit agency as defined in the Code;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the power vested in me do hereby order as follows:

Section 1: As used in the Executive Order:

- (a) "Annual Report" means the report required from any agency which allocates any housing credit amount to any building for any calendar year, as specified in Section 42(l)(3) of the Code.
- (b) "Code" means the Internal Revenue Code of 1986, as amended, and any related regulations.
- (c) "Executive Director" means the Executive Director of the Idaho Housing and Finance Association or such other official or officials of the Idaho Housing and Finance Association as the Executive Director shall designate to carry out the duties set forth in this Executive Order.
- (d) "Housing Credit Ceiling" means the dollar amount of State Housing Credit Ceiling applicable to any state for any calendar year in an amount based upon the applicable per capita limit and the State's population as determined in accordance with Section 42(h)(3) of the Code.
- (e) "Idaho Housing and Finance Association" or "Association" means the Idaho Housing and Finance Association, an independent public body, corporate and politic, created by the Idaho Legislature under the provisions of Chapter 62, Title 67 of the Idaho Code, as amended.
- (f) "Low-Income Housing Credit" means the federal tax credit authorized under Section 42 of the Code.
- (g) "Qualified Low-Income Housing Project" means any project for residential rental property which meets the requirements of Section 42(g) of the Code; in general Section 42(g) of the Code pertains to the requirement that 20 percent of the units in the project be both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income, or that 40 percent of the units in the project be both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

- (h) "State" means the State of Idaho.
- (i) "State Housing Credit Agency" means the agency authorized to carry out the provisions of Section 42(h), Section 42(l) and Section 42(m) of the Code and in particular the Idaho Housing and Finance Association.
- (j) "Year" means the period January 1 through December 31, inclusive, for each calendar year beginning prior to or after January 1, 2004.

Section 2. The Code has created a Low-Income Housing Credit which can be granted by a State Housing Credit Agency for a Qualified Low-Income Housing Project.

The Code has further created a Housing Credit Ceiling which the state may use in any year to assist Qualified Low-Income Housing Projects during the allocation term.

Section 3. The state has delegated certain responsibilities and granted certain powers to the Idaho Housing and Finance Association in order that the supply of housing for persons and families of low income be increased and that coordination and cooperation among private enterprise, state and local government be encouraged to sponsor, build and rehabilitate residential housing for such persons and families.

Section 4. The state requires the development of a Qualified Allocation Plan described in Section 7(a) below for the allocation of the Low-Income Housing Credit in order to ensure fair and equal opportunity by interested parties in gaining an allocation of the Housing Credit Ceiling.

Section 5. The state requires the implementation of said Qualified Allocation Plan in order to ensure the proper use of such credits for Qualified Low-Income Housing Projects.

Section 6. An Annual Report shall be submitted to the Secretary of the Treasury and to the Governor of the State of Idaho with respect to the use of the Low-Income Housing Credit for any year.

Section 7. In consideration of the requirements of the state, the Governor appoints the Idaho Housing and Finance Association to act as the State Housing Credit Agency for the state in the distribution of the Housing Credit Ceiling for any year.

The Idaho Housing and Finance Association is required to:

- (a) Establish a Qualified Allocation Plan as defined and provided for in Section 42(m) of the Code for the fair distribution of the Housing Credit Ceiling for the state;
- (b) Distribute the Housing Credit Ceiling for Qualified Low-Income Housing Projects in the manner required under Section 42 of the Code.
- (c) Submit an Annual Report to the Secretary of the Treasury and the Governor of the State of Idaho (at such time and in such manner as the Secretary shall prescribe) specifying:
 - (1) the amount of housing credit allocated to each building for such year;
 - (2) sufficient information to identify each such building and the taxpayer with respect thereto, and
 - (3) such other information as the Code, the Secretary, the Governor or the Legislature of the State of Idaho may require.

Section 8. The state pledges and agrees with the owners of any Qualified Low-Income Housing Project for which an allocation of the Housing Credit Ceiling has been granted under this Executive Order that the state will not retroactively alter the allocation of the Housing Credit Ceiling to such project except as may be required under the terms of the Code.

Section 9. No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt, or

liability of the state.

Section 10. The purpose of this Executive Order is to maximize the opportunity for developing low-income housing units through the use of the Low-Income Housing Credit by providing a responsible State Housing Credit Agency within the meaning and requirements of Section 42 of the Code.

Section 11. This Executive Order shall be effective immediately continue the designation of the Idaho Housing and Finance Association as the State Housing Tax Credit Agency since January 1, 1998 and shall be applied to all allocations made after January 1, 1998, with respect to any Qualified Low-Income Housing Project. This Executive Order shall continue in effect until such time as it may be repealed or superseded by operation of the state or federal law.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capital, the 30th day of November, in the year of our Lord two thousand four, and of the Independence of the United States of America the two hundred twenty-ninth, and of the Statehood of Idaho the one hundred fifteenth.

DIRK KEMPTHORNE
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2004-10

CONTINUING A SYSTEM FOR ALLOCATING VOLUME CAP IN THE STATE CONSISTENT WITH THE PROVISIONS OF TITLE 50, CHAPTER 28, IDAHO CODE, AND THE U.S. INTERNAL REVENUE CODE OF 1986 REPEALING AND REPLACING EXECUTIVE ORDER NO. 2000-20

WHEREAS, Section 146 of the U.S. Internal Revenue Code of 1986 (the "Code") subjects certain private activity and non-private activity bonds to volume limitations or "volume cap" (the "Volume Cap"); and

WHEREAS, as required by Section 146(e) of the Code, the Idaho Legislature did adopt the provisions of Title 50, Chapter 28, Idaho Code, (the "State Law") to provide a permanent allocation formula for Volume Cap in the state; and

WHEREAS, Section 50-2804 Idaho Code, authorizes and directs the Governor of the State of Idaho to provide for the implementation and administration of the allocation formula established under Section 50-2803, Idaho Code, by executive order and the Governor did issue his Executive Order No. 2000-20 providing therefore; and

WHEREAS, in order to renew the provisions contained in said Executive Order No. 2000-20, to amend the allocation formula in order to meet the requirements of said amendments to the State Law and to continue to provide for the implementation and administration of the formula for allocation of the Volume Cap among the state and its issuing authorities under the State Law, it is necessary and desirable to issue this Executive Order;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the power vested in me by the Constitution and laws of the State of Idaho, do hereby order and proclaim:

Section 1: As used in this Executive Order:

- (1) "Allocation Dollars" means the dollar amount of the Volume Cap expressed in terms of dollars. Each allotment dollar equals one dollar of Volume Cap that may be allocated under this Executive Order and the State law.
- (2) "Bonds" means any obligations for which an allocation of the Volume Cap is required by the Code and the State Law including, without limitation, mortgage credit certificates described in Section 25 of the Code. With respect to any allocation of Allotment Dollars for the purpose of issuing certificates, certificates will be deemed "issued" when the mortgage credit certificate program for which the allocation is made is implemented.
- (3) "Code" means the Internal Revenue Code of 1954, as amended by the Reform Act of 1986 and renamed the Internal Code of 1986, and any related regulations.
- (4) "Department" means the Department of Commerce and Labor of the State.
- (5) "Director" means the director of the Department or such other official or officials of the Department as the director shall designate to carry out the duties of the director set forth in this Executive Order.
- (6) "Form 8038" means Department of the Treasury tax form 8038 (OMB NO. 1545-0720) or any other federal tax form or other method of reporting required by the Department of the Treasury under Section 149(e) of the Code.
- (7) "Issuing Authority" means
 - (a) any county, city or port district;

- (b) *any public corporation created pursuant to Section 50-2703 of the Idaho Code, or other entity acting on behalf of one or more counties, cities, or both;*
- (c) *the State; or*
- (d) *any other entity authorized to issue Bonds in the State.*
- (8) *“Priority Set Aside” means one of the priority set asides established under Section 4(1) hereof.*
- (9) *“Program” means the program to be financed in whole or in part with the proceeds of the sale of Bonds or to be implemented through the issuance of mortgage credit certificates under Section 25 of the Code.*
- (10) *“Project” means the facility to be financed in whole or in part with the proceeds of sale of Bonds.*
- (11) *“Qualifying Carryforward Project or Program” means a Project or Program qualifying for carryforward under Section 146(f) of the Code.*
- (12) *“State” means the state of Idaho, any of its agencies, instrumentalities, institutions and divisions authorized to issue Bonds under State law.*
- (13) *“State Law” means Title 50, Chapter 28, Idaho Code, as amended.*
- (14) *“Volume Cap” means the volume cap for the State as computed under Section 146 of the Code.*
- (15) *“Year” means each calendar year beginning January 1, 2005.*

Section 2. The Volume Cap for each Year is allocated to Issuing Authorities in accordance with the procedures set forth in this Executive Order. An allocation of the Volume Cap may be obtained by submitting an application to the Director in accordance with Section 3 or Section 5, as appropriate. The Director shall evidence a grant of an allocation of the Volume Cap by issuing a certificate of allocation in accordance with Section 4 or Section 5, as appropriate.

Section 3.

- (1) *Any Issuing Authority proposing to issue Bonds shall, prior to the issuance of such Bonds, submit an application to the Director which contains the following information and attachments:*
 - (a) *the name of the Issuing Authority;*
 - (b) *the mailing address of the Issuing Authority;*
 - (c) *the tax identification number of the Issuing Authority;*
 - (d) *the name, title and office telephone number of the official of the Issuing Authority to whom notices should be sent and from whom information can be obtained;*
 - (e) *the principal amount of Bonds proposed to be issued for which an application for an allocation of the Volume Cap is requested;*
 - (f) *the nature, the purpose and the specific location of the Project or the type of Program;*
 - (g) *the initial owner or user of the Project or Program, if other than the Issuing Authority;*
 - (h) *a copy of a valid and fully executed resolution or similar official action of the Issuing Authority evidencing its intention to issue Bonds for the Project or Program;*
 - (i) *with respect to Bonds, the anticipated date on which the Bonds are expected to be sold and the*

- anticipated date on which the closing or final transaction with respect to the issuance and sale of the Bonds is expected to occur and, with respect to mortgage credit certificates under Section 25 of the Code, the anticipated date on which such mortgage credit certificates are expected to be issued;*
- (j) *the name, address, and telephone number of all parties to the transaction;*
 - (k) *the applicable provisions of the Code under which the Bonds are expected to be issued; and*
 - (l) *such information as the applicant may wish to submit in order to demonstrate the need for, and economic impact of, its Program or Project in the State, together with any information which demonstrates how its Program or Project will effectively utilize and efficiently distribute resources throughout the State;*
 - (m) *any other information or attachments reasonably required by the Director.*
- (2) *The Director shall*
- (a) *establish the form of application for requests for allocations of the Volume Cap, which form shall contain the information required by Section 3(1), and*
 - (b) *make such forms available to the public upon request.*
- (3) *The Director shall be under no obligation to process any application that is incomplete. Any application submitted by an Issuing Authority that the Director does not process shall be returned by the Director on or before the fifteenth day after receipt thereof with a brief explanation as to why the application was not processed.*

Section 4.

- (1) *Allocations of Volume Cap shall be made each Year according to the following Priority Set Asides:*
- (a) *qualified small issue manufacturing projects under Section 144(a) of the Code, in an amount between 7% and 13% of the total Allocation Dollars available for the Year as determined by the Director;*
 - (b) *single family housing financing through the Idaho Housing and Finance Association under Section 143 of the Code, in an amount between 55% and 80% of the total Allocation Dollars available for the Year as determined by the Director;*
 - (c) *multifamily housing, as qualified residential rental projects under Section 142(a)(7) of the Code, in an amount between 0% and 8% of the total Allocation Dollars available for the Year as determined by the Director;*
 - (d) *student loan programs through the Education Funding Association of Idaho under Section 144(b) of the Code, in an amount between 0% and 15% of the total Allocation Dollars available for the Year as determined by the Director;*
 - (e) *beginning farmer financings, arranged by the Idaho Department of Agriculture under Section 144(a) of the Code, in an amount between 0% and 2% of the total Allocation Dollars available for the Year as determined by the Director;*
 - (f) *exempt facilities under Section 142(a) of the Code, other than qualified residential rental projects, in an amount between 0% and 32% of the total Allocation Dollars available for the Year as determined by the Director.*
 - (g) *Any qualified uses for Volume Cap not identified above are eligible for allocations in accordance with Section 4(4) below.*

- (h) *Not later than January 31st of each year, subject to the provisions of Section 4(9) hereof, the Director shall determine the amount of Allocation Dollars within each Priority Set Aside, based on the need for, and economic impact of, the Program or Project to be financed under each application and how such expected Program or Project will effectively utilize and efficiently distribute resources throughout the State.*
- (i) *The above Priority Set Asides shall be in effect through August 31 of each Year. Thereafter, allocations shall be made in accordance with Section 4(4) and (5) below. All other potential uses of Volume Cap under the Code, other than those listed in the Priority Set Asides above, may also be allocated on or after September 1 of each Year upon application to the Director as provided in Section 4(4) and (5) below.*
- (2) *Except as otherwise provided in this Executive Order, on or before the fifteenth day after receipt by the Director of an application for an allocation of the Volume Cap, the Director shall, if the application is in satisfactory order, and if the Director determines that the application demonstrates the need for, and economic impact of, the particular Program or Project in the State and how the Program or Project will effectively utilize and efficiently distribute resources throughout the State, the Director will make the requested allocation in the amount so requested, if available under the applicable Priority Set Aside in Section 4(1) above and provided that prior to March 31 of each Year not more than 75% of the total Volume Cap available for such Year has been allocated to Issuing Authorities for specific Programs or Projects, and certify to the Issuing Authority applying for the allocation that an allocation has been made, the amount of such allocation. Certificates of allocation evidencing the granting of an allocation by the Director in accordance with the preceding sentence, shall be issued by the Director in the chronological order in which completed applications are received within the applicable Priority Set Aside in Section 4(1) above. No Issuing Authority issuing Bonds or Certificates is entitled to any allocation of the Volume Cap with respect to such Bonds or Certificates unless it has first received the aforementioned certificate of allocation from the Director evidencing the granting of an allocation for such Bonds or Certificates.*
- (3) *Every allocation of the Volume Cap granted under this Executive Order by the Director for which Bonds or Certificates have not been issued with respect to such allocation, except those grants made pursuant to Section 5, shall remain effective until, and including, the earlier of*
- (a) *a date to be determined by the Director but not to exceed 180 days after the date on which such allocation was made or any date until December 27 as determined by the Director if the Program is being allocated Volume Cap under a Priority Set Aside which sets aside Allocation Dollars for a specific Issuing Authority [Sections 4(1)(b), 4(1)(d) and 4(1)(e) above] and such Issuing Authority has a Program for Bond issuance to be carried out throughout the Year,*
- (b) *12:00 o'clock midnight on December 27 of the Year in which such allocation was made, or*
- (c) *the date upon which the Director receives a written notification from any such Issuing Authority pursuant to Section 7(2). Any allocation for which Bonds or Certificates are issued on or prior to the applicable date specified in this subsection shall be irrevocably allocated to such Bonds or Certificates.*
- (4) *On and after September 1 of each Year allocations of Volume Cap shall be made to applicants submitting applications by such date for Project(s) or Program(s) that best demonstrate effective utilization, need, economic impact and efficient distribution of resources throughout the State. The Director and the Department may elect not to allocate Volume Cap if an application does not demonstrate a need for, and economic impact of, the particular Program or Project in the State and how the Program or Project will effectively utilize and efficiently distribute resources throughout the State. If qualified applications have not been received by the Department for all remaining Allocation Dollars by September 1 of such Year, then the Department shall continue to receive additional applications until the first of each succeeding month and make allocations on the same basis until all Allocation Dollars have been allocated.*
- (5) *Until and including December 27 of each Year, any allocation of Allocation Dollars made in such Year, except allocations made pursuant to Section 5, for which Bonds or Certificates are not issued on or prior to the applicable date specified in Section 4(3) shall be available for reallocation to applying Issuing*

Authorities. On December 28 of each Year, any allocation of Allocation Dollars made in such Year for which Bonds or Certificates are not issued on or prior to the applicable date specified in Section 4(3) and any Allocation Dollars for such Year or any Allocation Dollars not allocated under Section 4(4) above shall become available for reallocation only for Qualifying Carryforward Projects or Programs. In either case, such reallocations shall be made in the same manner as for allocations of Allocation Dollars on and after September 1 as provided in Section 4(4) above.

- (6) No application submitted by an Issuing Authority to the Director pursuant to this section shall be processed if the amount of allocation of the Volume Cap requested in such application is in excess of the amount of Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director shall continue to process other applications in the chronological order in which received, granting allocations pursuant to the provisions of this Executive Order.*
- (7) The expiration date of an allocation of Volume Cap under this Executive Order may be extended upon prior written approval of the Director, provided there are no pending applications for Volume Cap within the same Priority Set Aside, or if there are other such applications pending, that the application for the allocation being extended best demonstrates the need for, and economic impact of, the Program or Project in the State and how the Program or Project will effectively utilize and efficiently distribute resources throughout the State, and provided further that all other provisions of this Executive Order are complied with.*
- (8) In the event that the Director is uncertain whether an application meets the requirements set forth in 4(2) or 4(4) above, he may defer action on such application until he has received another application(s) and then determine which application best meets such criteria.*
- (9) In the case of an application filed prior to the date when the Director makes an allocation under 4(1)(h) above for an allocation from a Priority Set Aside which provides for a minimum percent of Allocation Dollars and sets forth a specific Issuing Authority to receive the Priority Set Aside [specifically, Priority Set Asides 4(1)(b), 4(1)(d) and 4(1)(e)], the Director may, and, at the request of the Issuing Authority, shall, make an allocation of that Year's Allocation Dollars in an amount not to exceed the minimum percentage stated for the Priority Set Aside prior to the date the Director has set for determination of allocations under 4(1)(h) but in no event later than 15 days after the date such application is filed.*

Section 5.

- (1) Issuing Authorities with Qualifying Carryforward Projects or Programs may apply for an allocation of Allotment Dollars for such Qualifying Carryforward Projects or Programs by submitting an application to the Director which shall contain:
 - (a) the carryforward purpose for the Bonds under Section 146(f) of the Code;*
 - (b) any other information required by Section 146(f) of the Code;*
 - (c) a certification signed by both an official of the Issuing Authority responsible for the supervision of the issuance of the Bonds and, if applicable, a representative of the person or entity constructing, acquiring, or rehabilitating the Project or administering the Program, stating that the Issuing Authority and, if applicable, such person or entity, will proceed with diligence to ensure the issuance of the Bonds within the carryforward period provided by Section 146(f) of the Code;*
 - (d) a preliminary opinion from bond counsel that the Project or Program qualifies for carryforward under Section 146(f) of the Code, if applicable;*
 - (e) if applying for an allocation of Allotment Dollars for the purpose of issuing mortgage credit certificates under Section 25 of the Code, the amount of qualified mortgage bonds defined in Section 143 of the Code which the Issuing Authority elects not to issue under the Code; and**

(f) *such other information and attachments as are set forth in Section 3(1).*

- (2) *No application submitted by an Issuing Authority to the Director pursuant to this section shall be processed if at the time such application is considered the amount of allocation of the Volume Cap requested in such application is in excess of the amount of the Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be resubmitted to the Director, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director shall continue to process other applications in accordance with the provisions of Section 4(4), granting allocations pursuant to the provisions of this Executive Order.*
- (3) *Allocations of the Volume Cap for Qualifying Carryforward Projects or Programs shall be granted by the Director in the amount requested by the applying Issuing Authority, if available, on or after December 1, but no later than December 31, of the Year in which an application in satisfactory order is submitted to the Director for an allocation of the Volume Cap for a Qualifying Carryforward Project or Program in accordance with the provisions of Section 4(5). The Director shall issue certificates of allocation evidencing the granting of an allocation within the time period specified in the preceding sentence to each Issuing Authority which applied to the Director and which received an allocation of the Volume Cap for a Qualifying Carryforward Project or Program of such Issuing Authority, such certificates of allocation to be similar to the certificates of allocation described in Section 4, stating the amount of Allotment Dollars which have been allocated to such Issuing Authority, specifying the Qualifying Carryforward Project or Program for which the allocation has been made and specifying the expiration date of the allocation, as provided by Section 146(f) of the Code.*

Section 6. No application submitted to the Director may be amended without the consent of the Director; provided, however, that no such consent shall be required for an Issuing Authority to submit a new application in order to replace a previously submitted application if such new application is submitted before an allocation is made on the basis of the original application; provided further, that the consent of the Director shall not be required for an Issuing Authority to withdraw a previously submitted application. For purposes of receiving an allocation of the Volume Cap, any application that has been amended shall be treated as though such application was submitted on the date that the amendment was made, rather than on the date of the original submission of such application.

Section 7.

- (1) *After the effective date of this Executive Order, any Issuing Authority issuing Bonds without a certificate or allocation of the Director issued pursuant to Section 4 or Section 5, as appropriate, evidencing the granting of an allocation for such Bonds or Certificates, or any Issuing Authority issuing Bonds or Certificates after the expiration of an allocation under Section 4 or Section 5, as appropriate, is not entitled to any allocation of the Volume Cap for such Bonds or Certificates, and any Issuing Authority issuing Bonds or Certificates in excess of the allocation set forth in the certificate of allocation is not entitled to any allocation of the Volume Cap for such excess.*
- (2) *Each Issuing Authority shall*
 - (a) *advise the Director on or before the earlier of the sixtieth day after the issuance of any Bonds or Certificates or December 27 of each Year, of the principal amount of Bonds or Certificates issued under the allocation set forth in each certificate of allocation issued by the Director evidencing the granting of an allocation for such Bonds or Certificates by delivering to the Director a copy of the Form 8038 which was delivered to the Internal Revenue Service in connection with such Bonds or Certificates, or, if no such form was required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the Director with respect to such Bonds or Certificates, or*
 - (b) *if all or a stated portion of such Bonds or Certificates will not be issued, shall advise the Director in writing, on or before the earlier of*
 - (i) *the fifteenth day after the earlier of*

- (A) *the final decision not to issue all or a stated portion of such Bonds or Certificates or*
 - (B) *the expiration of the allocation, or*
 - (ii) *December 27 of the Year in which the allocation for such Bonds or Certificates was made.*
- (3) *Each Issuing Authority shall cooperate with the Director in furnishing any information the Director reasonably requires. If an Issuing Authority obtains an allocation of a portion of the Volume Cap for a particular Project or Program from the Director as provided in Section 4 or Section 5, as appropriate, but does not issue its Bonds or Certificates within the prescribed time limit, or issues a lesser amount of Bonds or Certificates within the prescribed time limit, such Issuing Authority may again submit an application with respect to the proposed Bonds or Certificates or portion of such Bonds or Certificates not issued for such Project or Program as provided in Section 4 or Section 5, as appropriate. Such application shall be treated as a new application.*

Section 8. In addition to the duties otherwise specifically set forth in this Executive Order, the Director shall:

- (1) *determine the amount of Allotment Dollars available on December 28 of each Year for allocation for Qualifying Carryforward Projects or Programs and allocate the Allotment Dollars available for Qualifying Carryforward Projects or Programs as provided in this Executive Order;*
- (2) *maintain a record of all applications filed by Issuing Authorities under Section 3 and Section 5 and all certificates of allocation issued under Section 4 and Section 5;*
- (3) *maintain a record of all Bonds or Certificates issued by Issuing Authorities during each Year;*
- (4) *maintain a record of all information filed by Issuing Authorities under this Executive Order;*
- (5) *make available upon reasonable request a certified copy of all or any part of the records maintained by the Department under this Executive Order or a summary thereof including information regarding the Volume Cap for each Year and any amounts available or at any time remaining available, for allocation under this Executive Order;*
- (6) *the Director shall serve as the State official designated under State law to make any certifications required to be made under the Code including, without limitation, the certification required by Section 149(e)(2)(F) of the Code; and*
- (7) *promulgate reasonable rules not inconsistent with this Executive Order deemed necessary or expedient to allocate the Volume Cap hereunder.*

Section 9. If any provision of this Executive Order shall be held to be, or shall, in fact, be invalid, inoperative or unconstitutional, the defect of the provision shall not affect any other provision of this Executive Order or render it invalid, inoperative, or unenforceable. To the extent this Executive Order shall be held or shall, in fact, be invalid inoperative, or unconstitutional, all allocations of the Volume Cap previously made under this Executive Order shall be treated as allocations made by the Governor of the State in accordance with provisions of the State Law.

Section 10. This Executive Order replaces Executive Order No 2000-20 which is hereby repealed, provided that such replacement shall not affect any allocations in the State made prior to the effective date hereof pursuant to any other Executive Orders or laws of the State.

Section 11. The State pledges and agrees with the owners of any Bonds or Certificates to which an allocation of the Volume Cap has been granted under this Executive Order that the State will not retroactively alter the allocation of the Volume Cap to such Bonds or Certificates.

Section 12. No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt or liability of the State or be deemed to constitute an approval of any obligation issued or to be issued hereunder.

Section 13. The purpose of this Executive Order is to maximize the benefits of financing and development through the use of Bonds and Certificates providing a system for the implementation and administration of the formula specified in the State Law for allocating the Volume Cap within the meaning of Section 146 of the Code.

Section 14. This Executive Order shall be effective immediately and shall continue in effect until such time as it may be repealed or superseded by operation of State or Federal law. Notwithstanding the foregoing, allocations for Qualifying Carryforward Projects or Programs pursuant to Section 5 hereof shall remain effective for the term of such allocation provided for in Section 146(f) of the Code.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 30th day of November in the year of our Lord two thousand four and of the Independence of the United States of America the two hundred twenty-ninth and of the Statehood of Idaho the one hundred fifteenth.

DIRK KEMPTHORNE
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.03.01 - RULES GOVERNING PESTICIDE MANAGEMENT PLANS FOR GROUND WATER PROTECTION

DOCKET NO. 02-0301-0401 (NEW CHAPTER)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-3418, 22-3419, 22-3420, and 22-3421, Idaho Code.

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

This chapter establishes a process for responding to pesticide detections in ground water.

The department held five public hearings around the state prior to the September 22, 2004 public comment deadline. The department hired a Hearing Officer and court reporters for each hearing. The Hearing Officer executed his Decision and Recommendations on October 15, 2004, and on November 8, 2004, the Director executed a Decision adopting the Recommendations of the Hearing Officer. As a result of the Director's Decision, the legal authorities now cited in the rule are Sections 22-3418, 22-3419, 22-3420, and 22-3421, Idaho Code.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 1, 2004 Idaho Administrative Bulletin, Vol. 04-9, pages 13 through 23.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Gary Bahr, Agricultural Bureau Chief at 208-332-8597.

DATED this 8th day of November, 2004.

Patrick A. Takasugi
Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83712
Phone: 208-332-8500
Fax: 208-334-2170

IDAPA 02, TITLE 03, CHAPTER 01

RULES GOVERNING PESTICIDE MANAGEMENT PLANS FOR GROUND WATER PROTECTION

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-9, September 1, 2004, pages 13 through 23](#).

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 02-0301-0401

Section 000

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 22-3418, 22-3419, 22-3420, and 22-3421, Idaho Code.
()

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.03.03 - RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 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 22-3421, Idaho Code.

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

The proposed rule change revises the required waiting periods following any failed pesticide examination to one week. The current rules require a waiting period of one week following the first failure, two weeks following the second failure and one month following any subsequent examination failures. The industry is of the opinion that the waiting periods essentially eliminate individuals from consideration of employment due to the shortness of the application season and have requested that the waiting period be reduced to one week. The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 26 through 31.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact George Robinson, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8593.

DATED this 15th day of November, 2004.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790, Boise, Idaho 83701-0790
(208) 332-8500, Fax (208) 334-4062

IDAPA 02, TITLE 03, CHAPTER 03

RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

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 04-10, October 6, 2004, pages 26 through 31.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.15 - RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATION

DOCKET NO. 02-0415-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 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) 22-101, and 22-4903, Idaho Code.

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

The proposed rule implements the provisions of HB 682 regarding nutrient management plans, updates referenced materials, and makes technical corrections.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the September 1, 2004, Idaho Administrative Bulletin, Vol. 04-9, pages 27 through 32.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact John Chatburn, Deputy Administrator, (208) 332-8540.

DATED this 15th day of November, 2004.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
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(208) 332-8500, Fax (208) 334-4062

IDAPA 02, TITLE 04, CHAPTER 15

RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATION

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 04-9, September 1, 2004, pages 27 through 32.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE

DOCKET NO. 02-0419-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-3704, Idaho Code.

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

This rule requires visible identification of domestic cervidae, wild ungulate herd plans, and makes technical corrections.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin.

The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 43 through 54.

In response to public comments and to make technical corrections, this pending rule amends the following Section: 026 - Wild Cervidae.

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

DATED this 15th day of November, 2004.

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Director
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2270 Old Penitentiary Road
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(208) 332-8500
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IDAPA 02, TITLE 04, CHAPTER 19

RULES GOVERNING DOMESTIC CERVIDAE

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 43 through 54.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 02-0419-0401

Subsection 026.05

026. WILD CERVIDAE.

Wild cervidae shall not be confined, kept or held on a domestic cervidae ranch.

(4-2-03)

05. Wild Ungulate Cooperative Herd Plan. The Idaho Department of Fish and Game shall cooperate with ISDA and the owners or operators of domestic cervidae ranches where any wild cervidae or wild ungulates are present within the external perimeter fence of the domestic cervidae ranch to develop and implement a site specific written herd plan to address the disposition of the wild cervidae or wild ungulates. ()

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.25 - RULES GOVERNING PRIVATE FEEDING OF BIG GAME ANIMALS

DOCKET NO. 02-0425-0401 (NEW CHAPTER)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-207A, Idaho Code.

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

This rule designates an area of eastern Idaho where the private feeding of big game animals is prohibited for disease control purposes, and delineates how the interaction of livestock and big game animals on feedlines will be regulated.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin.

The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 55 through 59.

In response to public comments and to make technical corrections, this pending rule amends the following Section 100 - Eastern Idaho Big Game Private Feeding Prohibition Zone; Section 150 - Management Activities; and adds a new Section 151 - Entering Premises.

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

DATED this 15th day of November, 2004.

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IDAPA 02, TITLE 04, CHAPTER 25

RULES GOVERNING PRIVATE FEEDING OF BIG GAME ANIMALS

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 55 through 59.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 02-0425-0401

Subsection 100.04

100. EASTERN IDAHO BIG GAME PRIVATE FEEDING PROHIBITION ZONE.

In order to prevent the spread of brucellosis and other diseases between big game animals and from big game animals to livestock, the following portion of Idaho is designated as the eastern Idaho big game private feeding prohibition zone: ()

04. Madison County. All of Madison County. ()

Section 150 (Partial Section)

150. MANAGEMENT ACTIVITIES.

When requested by the Administrator, IDFG shall assist in conducting big game management activities, which include but are not limited to: ()

Section 151 Entire Section

151. ENTERING PREMISES.

State and federal animal health officials are authorized to enter premises during normal business hours, within the eastern Idaho big game private feeding prohibition zone where big game animals are being provided with supplemental feed or there is feedline contact between livestock and big game animals, to conduct big game management activities. ()

01. Notification. ISDA shall make reasonable efforts to notify the owner or operator of any premises prior to entry for the purpose of conducting big game management activities. ()

02. Cooperation. The owner or operator of a premises shall cooperate with ISDA in developing plans for conducting big game management activities. ()

152. -- 989. (RESERVED).

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.16 - CROP RESIDUE DISPOSAL RULES

DOCKET NO. 02-0616-0401

NOTICE OF RULEMAKING - PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-4801, Idaho Code.

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

The proposed rule change was necessary pursuant to HB 776, emergency legislation that became effective March 23, 2004. The amendment of Section 22-4804(1) Idaho Code, increased registration fees from \$1.00 per acre to \$2.00 per acre. The department received no public comment on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 2, 2004 Idaho Administrative Bulletin, Volume 04-6, pages 12 and 13.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 67-5226(2), Idaho Code. The Governor found that the fee or change being imposed or increased is justified and necessary to avoid immediate danger. House Bill 776 changed the registration fee for fields to be burned from one dollar (\$1) to two dollars (\$2) per acre.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sherman K. Takatori, (208) 332-8609.

DATED this 15th day of November, 2004.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, Idaho 83712
Phone: (208) 332-8500 / Fax: (208) 334-217

IDAPA 02, TITLE 06, CHAPTER 16

CROP RESIDUE DISPOSAL 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 04-6, June 2, 2004, pages 12 and 13.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.01 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS AND STANDARDS FOR PRIVATE CONTRACT PROVIDERS

DOCKET NO. 05-0101-0401 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 20-504(2), 20-504(9), 20-504(11), 20-504(14), 20-431(4), and 20-545(1), Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 72.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

DATED this 15th day of November, 2004.

Nancy Bishop
Deputy Attorney General
Idaho Department of Juvenile Corrections
400 N. 10th St., 2nd Floor
P.O. Box 83720
Boise, ID 83720-0285
Phone: 334-5100, ext. 384; Fax: 334-5120

IDAPA 05, TITLE 01, CHAPTER 01

RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS AND STANDARDS FOR PRIVATE CONTRACT PROVIDERS

There are no substantive changes from the proposed rule text.

**The text of the proposed rule was published in the Idaho Administrative
Bulletin, [Volume 04-10, October 6, 2004, page 72.](#)**

**This rule has been adopted as a pending rule by the Agency and is now pending
review and approval by the 2005 Idaho State Legislature as a final rule.**

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.01 - RULES FOR CONTRACT PROVIDERS

DOCKET NO. 05-0101-0402 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 20-504(2), 20-504(9), 20-504(11), 20-504(14), 20-431(4), and 20-545(1), Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 73 through 117.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

DATED this 15th day of November, 2004.

Nancy Bishop
Deputy Attorney General
Idaho Department of Juvenile Corrections
400 N. 10th St., 2nd Floor
P.O. Box 83720
Boise, ID 83720-0285
Phone: 334-5100, ext. 384; Fax: 334-5120

IDAPA 05, TITLE 01, CHAPTER 01

RULES FOR CONTRACT PROVIDERS

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 73 through 117.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.03 - RULES OF THE CUSTODY REVIEW BOARD

DOCKET NO. 05-0103-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 20-520(1)(q), 20-532, and 20-504(11), Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 118 and 120.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

DATED this 15th day of November, 2004.

Nancy Bishop
Deputy Attorney General
Idaho Department of Juvenile Corrections
400 N. 10th St., 2nd Floor
P.O. Box 83720
Boise, ID 83720-0285
Phone: 334-5100, ext. 384; Fax: 334-5120

IDAPA 05, TITLE 01, CHAPTER 03

RULES OF THE CUSTODY REVIEW BOARD

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 118 and 120.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS
05.01.04 - UNIFORM STANDARDS FOR JUVENILE PROBATION SERVICES
DOCKET NO. 05-0104-0401 (NEW CHAPTER)
NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 20-504(11) and 20-504(14), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 121 through 125.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy Bishop, Deputy Attorney General, 334-5100, ext. 384.

DATED this 15th day of November, 2004.

Nancy Bishop
Deputy Attorney General
Idaho Department of Juvenile Corrections
400 N. 10th St., 2nd Floor
P.O. Box 83720
Boise, ID 83720-0285
Phone: 334-5100, ext. 384; Fax: 334-5120

IDAPA 05, TITLE 01, CHAPTER 04

UNIFORM STANDARDS FOR JUVENILE PROBATION SERVICES

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 121 through 125.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.06 - RULES GOVERNING THE USE OF THE INTERNATIONAL BUILDING CODE

DOCKET NO. 07-0306-0401

NOTICE OF RULEMAKING - PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-4107, 39-4112 and 39-4113(2), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the November 3, 2004 Idaho Administrative Bulletin, Volume 04-11, pages 20 and 21.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. The pending rule adopts the building permit fee schedule published in the 1997 edition of the Uniform Building Code to raise permit and plan review fees an estimated 55% above current levels. The fee increase is authorized by Sections 39-4112 and 39-4113(2), Idaho Code.

Because of the fees being imposed or increased through this rulemaking, this pending rule will not be adopted as final nor will it become effective until it has been approved, amended, or modified by concurrent resolution of the legislature.

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

DATED this 17th day of November, 2004.

Dave Munroe, Administrator
Division of Building Safety
1090 E. Watertower St.
Meridian, Idaho 83642
Phone: 208-332-7100/Fax: 208-855-2164

IDAPA 07, TITLE 03, CHAPTER 06

RULES GOVERNING THE USE OF THE INTERNATIONAL BUILDING CODE

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-11, November 3, 2004, pages 20 and 21.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 08 - DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0402

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is November 12, 2004. This pending rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under 33-107, 33-116, 33-1612, Title 33, Chapter 12, Idaho Code.

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

The No Child Left Behind Act (NCLB) requires that all teachers in Public Schools be highly qualified by the 2005-06 school year. Currently, districts may grant a waiver to use a consultant specialist in classrooms when certified teachers cannot be hired. Our schools currently employ over 200 consultant specialists each year. In order to comply with NCLB, alternative routes to certification have been created. These new alternative routes will take effect in 2006. Between now and 2006 we face the challenge of providing a vehicle to certify those individuals who already work in our schools or may be hired in the Consultant Specialist role. This certification process includes a pre-assessment of skills and educational needs for the teacher candidate, prescribed instruction, passage of two tests to assure mastery of both content knowledge and pedagogy, and structured mentoring in the first two years of teaching. The U.S. Department of Education has approved this process as meeting the Highly Qualified Teachers requirements for NCLB.

Subsection 045.04 has been amended to make it possible for teachers to still complete the required mentoring component if they don't get a teaching job during the first or second year of their interim certificate.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Board amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the May 5, 2004 Idaho Administrative Bulletin, Vol. 04-5 pages 64 and 65.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Allison McClintick at (208) 332-1579.

DATED this 16th day of November, 2004.

Karen L. Echeverria
Policy and Governmental Affairs Officer
State Board of Education
650 West State Street, 3rd Floor
PO Box 83720
Boise, ID 83720-0037
(208) 332-1567 phone
(208) 334-2632 fax

IDAPA 08
TITLE 02
CHAPTER 02

RULES GOVERNING UNIFORMITY

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-5, May 5, 2004, pages 64 and 65](#).

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0202-0402

Subsection 045.04

045. COMPUTER-BASED ALTERNATIVE ROUTE TO TEACHER CERTIFICATION.

An individual may acquire interim certification as found in Section 015 of these rules through a computer based alternative route certification program. (3-12-04)T

04. Interim Certificate. Upon completion of the computer based certification process described herein, the individual will be awarded an interim certificate from the State Department of Education's Bureau of Certification and Professional Standards. The term of the interim certification shall be three (3) years. During the ~~first two (2) years~~ term of the interim certification, teaching by the individual must be done ~~through~~ in conjunction with a two (2) year a teacher mentoring program approved by the Board. ~~Continued teaching shall be subject to successful completion of the (2)-year teacher mentoring program.~~ The individual must start the mentoring program during the term of the interim certificate and it may be completed after standard certification is granted. All laws and rules governing the fully certificated teachers with respect to conduct, discipline and professional standards shall apply to individuals teaching under an interim certificate. (3-12-04)T(11-12-04)T

IDAPA 08 - DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0403

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-1501 through 33-1512 and 33-1006, Idaho Code. Rulemaking was initiated by this agency subsequent to Office of Performance Evaluations (OPE) reports 03-02 and 04-02, legislative inquiries, 2004 session law, 2004 legislation and State Board of Education and other stakeholder concerns.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule and changes to the incorporation by reference document with an explanation of the reasons for the changes

On November 12, 2004 and subsequent to the proposed rulemaking process which included two public hearings, the agency approved the changes to the incorporation by reference document, "Standards for Idaho School Buses and Operations," dated August 13, 2004, and adopted the pending rule. The changes listed below are those that were made to the incorporation by reference document that are different from the proposed rule and provide rationale for the changes. Since the "Standards for Idaho School Buses and Operations," dated August 13, 2004, is incorporated by reference, it is not being republished with this notice. The changes are as follows:

Clarified language related to school bus paint color (SISBO – Color, pages 20 and 42) – for standardizing coloring schemes;

Removed language requiring regional staff (SISBO - Administration, page 62) – removes unnecessary language (stakeholder input);

Added language that includes public charter schools in the spot inspection and review process consequent to school bus purchases or receipt of pupil transportation reimbursements (SISBO – Administration, page 62) – required by statutes;

Removed contradicting language and added clarifying language related to revenues received and related mileage (SISBO – Pupil Transportation Support Program – Financial Reporting, page 73) – tracking of all school bus mileage is required in previous section of SISBO;

Removed language related to optimal rotation goal for site visit frequency (SISBO – Pupil Transportation Support Program – Financial Reporting, page 73) – language related to a "goal" is unnecessary;

Relocated and changed language related to appeal process to another section (SISBO – Pupil Transportation Support Program – Financial Reporting, page 74) – only changes location of the rule in SISBO;

Added language requiring request for consideration to be in writing – Financial Reporting, page 74) – adds clarity to consideration process;

Relocated language related to proprietary information to another paragraph (SISBO – Contract For Transportation Services, pages 76-77) - only changes location of the rule in SISBO;

Changed language (for purpose of clarity) related to reimbursement for contracted pupil transportation services (SISBO – Contract For Transportation Services, page 77) – subsequent to significant dialogue between various

stakeholders; and

Changed language (for purpose of clarity and correctness) related to appeals and waivers (SISBO – Appeals and Waivers, page 83) – subsequent to input from agency’s deputy attorney general.

The pending rule is being adopted with the changes made to the incorporation by reference document that are listed above. The original text of the proposed rule was published in the October 6, 2004 Administrative Bulletin, Volume 04-10, pages 174 through 176.

ASSISTANCE ON TECHNICAL QUESTIONS - OBTAINING COPIES: For assistance on technical questions concerning the pending rule or to obtain a copy of the incorporation by reference document, “Standards for Idaho School Buses and Operations,” contact Rodney D. McKnight, State Department of Education, Finance and Transportation, P.O. Box 83720, Boise, Idaho, (208) 332-6851 or fax to (208) 334-3484.

DATED this 12th day of November, 2004.

Dr. Marilyn Howard
Superintendent of Public Instruction
State Department of Education
650 West State Street
P.O. Box 83720
Boise, Idaho 83720-0027
(208) 332-6811
(208) 332-6836 fax

IDAPA 08
TITLE 02
CHAPTER 02

RULES GOVERNING UNIFORMITY

There are substantive changes to the pending rule that were made to the Incorporation by Reference document.

Copies of the “Standards for Idaho School Buses and Operations” may be obtained from the agency

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 174 through 176.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0405

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1612, Idaho.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule and changes to the incorporated by reference document with an explanation of the reasons for the changes. According to Section 33-1258, Idaho Code, the Professional Standards Commission (PSC) may make recommendations for improving professional teacher standards. Periodic development, review, and revision of the current Idaho teacher standards are necessary to ensure that the standards align with best practices in the teaching profession. To meet current best practices in the teaching profession, standards for reading teachers have been developed. Idaho core standards for the preparation of all K-12 teachers and Idaho standards for the preparation of social studies teachers, science teachers, special education generalist teachers, special education teachers of the deaf and hard of hearing, and special education teachers of the blind and visually impaired have been reviewed and revised. After receiving public input, the Professional Standards Commission postponed requesting approval of the standards for special education teachers of students with severe disabilities until a review of special education endorsements has been completed. These standards have been removed from the incorporated by reference document.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 177 and 178.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patricia Toney, State Department of Education, Bureau of Certification and Professional Standards, P.O. Box 83720, Boise, Idaho, (208) 332-6938 or fax (208) 334-2094.

DATED this 17th day of November, 2004.

Dr. Marilyn Howard, Superintendent of Public Instruction
Idaho State Department of Education
650 West State Street
P.O. Box 83720, Boise, Idaho 83720-0027
(208) 332-6811 - (208) 332-6836 (fax)

IDAPA 08, TITLE 02, CHAPTER 02 - RULES GOVERNING UNIFORMITY

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 177 and 178.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0406

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-1701(2), Idaho Code.

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

In the past, Commercial Driving Schools and Public Schools were governed by the same rules. Last year, the Department and the Board rewrote the Standards for Driver Education and Training. At that time, the Commercial Driving Schools objected to the new manual. The manual was adopted for Public Schools only. These rules now set out the standards for Commercial Driving Schools. This docket also clarifies an incorrect citation found in these rules.

The text of the pending rule has been amended to update the effective date of the incorporated document and as been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 179 and 180.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Karen Echeverria at 332-1579.

DATED this 17th day of November, 2004.

Karen L. Echeverria
Policy and Governmental Affairs Officer
State Board of Education
650 West State Street, 3rd Floor
PO Box 83720
Boise, ID 83720-0037
(208) 332-1567 phone
(208) 334-2632 fax

**IDAPA 08
TITLE 02
CHAPTER 02**

RULES GOVERNING UNIFORMITY

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 179 and 180.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0202-0406

Subsection 004.07

004. INCORPORATION BY REFERENCE.

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

(4-5-00)

07. Incorporated Document. The Idaho ~~*Driver Education Administrative Manual as approved on October 17, 1996*~~ Standards for Commercial Driving Schools as approved on November 12, 2004.

(5-3-03)()

08. Document Availability. The Idaho ~~*Driver Education Administrative Manual*~~ Standards for Commercial Driving Schools is available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702.

(5-3-03)()

Subsection 230.01

230. DRIVER EDUCATION.

01. Commercial Schools. All driver education courses offered in Idaho commercial schools must be conducted in compliance with all the requirements in the Idaho ~~*Driver Education Administrative Manual as approved on October 17, 1996*~~ Standards for Commercial Driving Schools as approved on November 12, 2004.

(5-3-03)()

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0407

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 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) 33-1701-33-1708, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The 2004 legislature repealed a section of Statute that was addressed in rule. Specific explanation is given to clarify in-car instruction and providing flexibility for required observation time. Content Standards and Benchmarks developed over a period of 4 years are identified for "approved driver education and training programs. A numbering system replaced bullets in one section for clarification. A clarification is given for what qualifies for reimbursement of expenses. A timeframe is given for when vehicle signs must be replaced. Idaho State Police recommended removal of a section that was not enforceable. Clarification was given for commercial schools contracting with public schools as to the public school rules that must be followed when instructing teen drivers for a school district. The State Board of Education requested dropping the requirement for any daytime driving hours and amended the requirement for late enrollment in the incorporated by reference document. The goal of the State Department of Education is to clarify standards language where appropriate and continue in its support of rules and procedures designed to promote safety, equity, accountability and efficiency. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 181 and 182.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Elizabeth Weaver, State Department of Education, Finance and Transportation, P.O. Box 83720, Boise, Idaho, (208) 332-6854 or fax to (208) 334-3484.

DATED this 17th day of November, 2004.

Dr. Marilyn Howard, Superintendent of Public Instruction
Idaho State Department of Education
650 West State Street
P.O. Box 83720, Boise, Idaho 83720-0027
(208) 332-6811 – (208) 332-6836 (fax)

IDAPA 08, TITLE 02, CHAPTER 02 - RULES GOVERNING UNIFORMITY

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 181 and 182.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0408

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-119, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. Public school districts, in addition to public schools, will be required to be accredited by the state. The four accreditation options currently in Board rule will be eliminated and all schools and districts will be expected to meet the same high standards of state accreditation. Districts will be required to develop and implement district-wide strategic plans. Schools will be required to develop continuous school improvement plans. The district strategic plan and school improvement plans within that school district will align and focus on improving school and staff capacity to increase student achievement. Districts and schools will be required to report progress on their strategic/improvement plans as well as the attainment of new accreditation standards. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 183 and 184.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Shannon Page, State Accreditation Coordinator, 332-6947.

DATED this 17th day of November, 2004.

Dr. Marilyn Howard, Superintendent of Public Instruction
Idaho State Department of Education
650 West State Street
P.O. Box 83720
Boise, Idaho 83720-0027
(208) 332-6811 – (208) 332-6836 (fax)

IDAPA 08, TITLE 02, CHAPTER 02

RULES GOVERNING UNIFORMITY

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 183 and 184.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0409

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, and 33-1612, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. According to Section 33-1258, Idaho Code, the Professional Standards Commission is responsible for making recommendations to the State Board as to the approval of teacher preparation programs. Idaho State Board Rule 08.02.02.100 states that the Idaho Standards for Initial Certification of Professional School Personnel is the vehicle by which teacher preparation programs are state-approved. It has been standard practice that the total cost for sending a state team to conduct an on-site Idaho teacher preparation program review be covered by the Professional Standards Commission's operating budget. With the advent of out-of-state colleges/universities requesting consideration for offering teacher preparation programs in Idaho and in-state colleges/universities with out-of-state program components, the cost is becoming prohibitive and beyond the budget of the Professional Standards Commission. This purpose of amending Section 100 (Official Vehicle for approving Teacher Education Programs) is to clarify payment responsibilities for conducting both in-state and out-of-state teacher preparation program reviews. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, page 185 and 186.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patricia Toney, State Department of Education, Bureau of Certification and Professional Standards, P.O. Box 83720, Boise, Idaho, (208) 332-6938 or fax (208) 334-2094.

DATED this 17th day of November, 2004.

Dr. Marilyn Howard
Superintendent of Public Instruction
Idaho State Department of Education
650 West State Street
P.O. Box 83720, Boise, Idaho 83720-0027
(208) 332-6811 – (208) 332-6836 (fax)

IDAPA 08, TITLE 02, CHAPTER 02 - RULES GOVERNING UNIFORMITY

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 185 and 186.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 08 - STATE BOARD OF EDUCATION
08.02.03 - RULES GOVERNING THOROUGHNESS
DOCKET NO. 08-0203-0402
NOTICE OF RULEMAKING
PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is November 16, 2004.

This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-105.

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

The rule change provides further clarification between school and district/LEA sanctions for failing to meet Adequate Yearly Progress (AYP) under the federal "No Child Left Behind" Act (NCLB).

Specifically changes were made to rename School Improvement to distinguish between the plans required for all Idaho schools and that are required for failing to meet AYP. Also, Alternate Governance was renamed "Restructuring". Under the federal law, restructuring includes two phases: creating a plan for alternative governance and the actual restructuring of a school. This rulemaking clarifies that difference.

The rules create a separate District/Local Education Agency (LEA) section to more clearly outline the sanctions that apply only to districts/LEAs and outline the previous sanctions that continue to be applicable with increasing sanctions and years missing AYP.

The pending rule is being amended to remove language that is already found in federal code and to more clearly define the intent of the federal code and the State Board of Education.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Board amended the temporary rule with the same revisions which have been made to the pending rule. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 4, 2004 Idaho Administrative Bulletin, Vol. 04-8, pages 45 through 47.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Carissa Miller at (208) 332-1573.

DATED this 17th day of November, 2004.

Karen L. Echeverria
Policy and Governmental Affairs Officer
State Board of Education
650 West State Street, 3rd Floor
PO Box 83720, Boise, ID 83720-0037
(208) 332-1567 phone / (208) 334-2632 fax

IDAPA 08, TITLE 02, CHAPTER 03 - RULES GOVERNING THOROUGHNESS

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-8, August 4, 2004, pages 45 through 47.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0203-0402

Subsections 114.01 and 114.02

114. FAILURE TO MEET ADEQUATE YEARLY PROGRESS (AYP).

The State Department of Education shall develop procedures for a Technical Assistance Plan, School Improvement Plan, School Choice, Supplemental Education Services, Corrective Action, and Restructuring for approval by the State Board of Education. All schools and districts/Local Education Agencies (LEAs) will comply with applicable federal laws governing specific federal grants. (6-17-04)T

~~01-~~ **School Sanctions: Compliance with Federal Law.** All schools and local educational agencies in this state shall comply with applicable federal laws governing specific federal grants. (6-17-04)T(11-16-04)T

a. *Technical assistance plan. Schools that fail to achieve AYP for two (2) consecutive years will be provided with technical assistance from the District/LEA.* With respect to schools and local educational agencies in this state that receive federal grants under title I of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (Title I schools), the State Department of Education shall develop procedures for approval by the State Board of Education, consistent with federal law, that describe actions to be taken by local educational agencies and schools in this state in regard to schools that fail to meet AYP. (6-17-04)T(11-16-04)T

b. *School improvement plan. Schools that fail to achieve AYP for two (2) consecutive years must be placed on School Improvement and develop a two year (2) Intervention School Improvement Plan (ISIP).* With respect to schools and local educational agencies in this state that do not receive federal grants under Title I of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, such non-Title I schools and local educational agencies shall be required to comply with federal law and with the procedures relating to failure to meet AYP as provided in Subsection 114.01.a. of this rule, as if they were Title I schools, except that any provisions relating to the use of federal grants to pay for such expenses shall not be applicable to such non-Title I schools and local educational agencies. In such event, non-title I schools shall be required to fund such compliance costs from general operating funds. (6-17-04)T(11-16-04)T

e. *School choice. Schools that fail to achieve AYP for two (2) consecutive years must inform all parents of the School Improvement Status and offer students the option to choose another school within the District/LEA. School Choice is at the expense of the school that did not meet AYP.* (6-17-04)T

d. *Supplemental education services in reading and math. Schools that fail to meet AYP for three (3) consecutive years must offer supplemental services in reading and math to eligible students. The school must continue to offer School Choice and the district/LEA must continue to provide technical assistance.* (6-17-04)T

~~e. Corrective action. Schools that fail to meet AYP for four (4) consecutive years must be placed on corrective action. The school must continue to offer School Choice and Supplemental Education Services and the district/LEA must continue to provide Technical Assistance. (6-17-04)F~~

~~f. Restructuring. (6-17-04)F~~

~~i. Schools that fail to meet AYP for five (5) consecutive years should plan to restructure the operation and governance of the school by the following school year. All previous years' sanctions still apply: School Choice, Supplemental Education Services, Corrective Action and the district/LEA must continue to provide Technical Assistance. (6-17-04)F~~

~~ii. Districts/LEAs will implement an Alternative Governance Plan for schools that fail to meet AYP for six (6) consecutive years. The school must continue to offer School Choice and Supplemental Education Services and the district/LEA must continue to provide Technical Assistance. (6-17-04)F~~

02. District/LEA Sanctions. State Department of Education. With respect to the implementation of duties responsibilities described under Title I of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, that are applicable to a state educational agency, the State Department of Education shall perform such duties and responsibilities, including, but not limited to, making technical assistance available to local educational agencies that fail to meet AYP as required under federal law, and for providing technical assistance, developing improvement plans, and providing for mandatory corrective actions to local educational agencies as required under federal law. (6-17-04)F(11-16-04)T

~~a. Technical assistance plan. Districts/LEAs that fail to achieve AYP for two (2) and three (3) consecutive years will be provided with technical assistance from the State Department of Education. (6-17-04)F~~

~~b. LEA improvement plan. Districts/LEAs that fail to achieve AYP for two (2) and three (3) consecutive years will be placed on District/LEA Improvement, and develop a two (2) year Intervention LEA Improvement Plan (ILIP). (6-17-04)F~~

~~e. Corrective action. Districts/LEAs that fail to meet AYP for four (4) consecutive years must be placed on corrective action. The State must continue to offer Technical Assistance. (6-17-04)F~~

03. "Safe Harbor" Provision. If any subgroup(s) does not meet or exceed Idaho baseline (see Section 112), the public school or district/LEA may be considered to have achieved AYP if any one (1) of the following conditions are met: (6-17-04)F

~~a. The subgroup(s) that did not meet or exceed Idaho's baseline reduces by ten percent (10%) the percentage of nonproficient students, and the School or District/LEA as a whole achieves the state baseline for proficiency for the additional academic indicator. (6-17-04)F~~

~~b. The subgroup(s) that did not meet or exceed Idaho's baseline for the additional academic indicator maintains or makes progress towards the baseline for the additional academic indicator or graduation rate. (3-20-04)~~

04. Appeals Process. (3-20-04)

~~a. The State Department of Education determines preliminary identification of all schools and districts/LEAs that have not met AYP according to the state criteria. (6-17-04)F~~

~~b. Within thirty (30) days of preliminary identification, the agency (School or District/LEA) reviews its data and may challenge its identification. The agency (School or District/LEA) not meeting AYP may appeal its status and provide evidence to support the challenge to the State Department of Education. (6-17-04)F~~

~~e. No later than thirty (30) days after preliminary identification, the identifying agency reviews the appeal and makes a final determination. (6-17-04)F~~

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0403

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 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) 33-105, Idaho Code, and Title III-Sec. 3113.b.(2).

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

Establishment and implementation of English Language Proficiency (ELP) Standards are required for all states under the No Child Left Behind Act of 2001 (PL 107-110), Title III: Language Instruction for Limited English Proficient and Immigrant Students (Sec 3113b.2).

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the August 4, 2004 Idaho Administrative Bulletin, Vol. 04-8, pages 48 through 129.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Wendy Verity at (208) 332-1586.

DATED this 16th day of November, 2004.

Karen L. Echeverria
Policy and Governmental Affairs Officer
State Board of Education
650 West State Street, 3rd Floor
PO Box 83720, Boise, ID 83720-0037
(208) 332-1567 phone / (208) 334-2632 fax

IDAPA 08, TITLE 02, CHAPTER 03

RULES GOVERNING THOROUGHNESS

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-8, August 4, 2004, pages 48 and 129.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0404

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-105, Idaho Code.

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

Staff was unable to determine which schools were eligible for awards because the reward criteria were not specific. "Distinguished Schools" is a reward required by the federal law. Staff has ensured that the reward criteria has been outlined and is consistent with federal requirements. The rule has been changed to add clarification to the rewards naming structure and specific reward criteria has been added. Two rewards have been combined into one category to ease understanding.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 189 and 190.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Carissa Miller at (208) 332-1573.

DATED this 16th day of November, 2004.

Karen L. Echeverria
Policy and Governmental Affairs Officer
State Board of Education
650 West State Street, 3rd Floor
PO Box 83720, Boise, ID 83720-0037
(208) 332-1567 phone / (208) 334-2632 fax

IDAPA 08, TITLE 02, CHAPTER 03

RULES GOVERNING THOROUGHNESS

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 189 and 190.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.30 - RULES OF THE BENEFITS BUREAU

DOCKET NO. 09-0130-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 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) 67-4702(2), Idaho Code.

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

There are no changes to the pending rule. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 214 through 216.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Roger Holmes, UI Benefits Bureau Chief, (208) 332-3570 ext. 3233.

DATED this 17th day of November, 2004.

Roger Holmes
UI Benefits Bureau Chief
Benefit Programs Bureau
Department of Commerce and Labor
317 W. Main Street
Boise, Idaho 83735
(208) 332-3570 ext. 3233
(208)334-6301 Fax

IDAPA 09, TITLE 01, CHAPTER 30

RULES OF THE BENEFITS BUREAU

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 04-10, October 6, 2004, pages 214 through 216.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.30 - RULES OF THE BENEFITS BUREAU

DOCKET NO. 09-0130-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 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) 67-4702(2), Idaho Code.

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

There are no changes to the pending rule. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 217 through 219.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Roger Holmes, UI Benefits Bureau Chief, (208)332-3570 ext. 3233.

DATED this 17th day of November, 2004.

Roger Holmes
UI Benefits Bureau Chief
Benefit Programs Bureau
Department of Commerce & Labor
317 W. Main Street
Boise, Idaho 83735
(208) 332-3570 ext. 3233
(208)334-6301 Fax

IDAPA 09, TITLE 01, CHAPTER 30

RULES OF THE BENEFITS BUREAU

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 04-10, October 6, 2004, pages 217 through 219.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

DOCKET NO. 09-0135-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2005, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-4702, Idaho Code.

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

There are no changes to the pending rule. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 220 and 221.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mark Whitworth, Bureau Chief, 332-3570 ext 3266.

DATED this 17th day of November, 2004.

Mark Whitworth
Bureau Chief
Employer Accounts Bureau
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 ext. 3266
334-6301

IDAPA 09, TITLE 01, CHAPTER 35

RULES OF THE EMPLOYER ACCOUNTS BUREAU

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 04-10, October 6, 2004, pages 220 and 221.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

DOCKET NO. 09-0135-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2005, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-4702, Idaho Code.

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

There are no changes to the pending rule. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 222 and 223.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mark Whitworth, Bureau Chief, 332-3570 ext. 3266.

DATED this 17th day of November, 2004.

Mark Whitworth
Bureau Chief
Employer Accounts Bureau
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 ext. 3266
334-6301

IDAPA 09, TITLE 01, CHAPTER 35

RULES OF THE EMPLOYER ACCOUNTS BUREAU

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 04-10, October 6, 2004, pages 222 and 223.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.02.04 - IDAHO GEM GRANT PROGRAM

DOCKET NO. 09-0204-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2005, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-4702, Idaho Code.

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

There are no changes to the pending rule. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 224 through 230.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jerry Miller, Rural Development Specialist, 332-3570 ext. 2143.

DATED this 17th day of November, 2004.

Jerry Miller
Rural Development Specialist
Department of Commerce and Labor
700 West State Street
P.O. Box 83720
Boise, ID 83720-0093
332-3570 ext. 2143
334-2631

IDAPA 09, TITLE 02, CHAPTER 04

IDAHO GEM GRANT PROGRAM

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 224 through 230.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 11 - IDAHO STATE POLICE

11.02.01 - RULES OF THE IDAHO STATE BRAND BOARD

DOCKET NO. 11-0201-0501 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 18, 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) 25-1160(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 January 19, 2005.

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 rule change raises the brand inspection fee from \$.75 to \$.84, and the livestock pasture fee from \$.38 to \$.42. The Idaho Brand Board has not had a fee increase since FY92 (Fiscal Year 1992). Our cost of doing business has increased. For example: Comparing FY92 to FY05, we have had a 214% increase in employee benefits. Estimated increase for FY06 is 244%. Fuel costs for FY04 were up 59% compared to FY99. Our head count is a little lower, however, but still not enough to reduce our work force more than we already have and maintain adequate service to the livestock industry.

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

Due to the cyclical nature of fee collections, it is necessary to increase the fees for cattle brand and livestock pasture inspections in this temporary rule. The increases are necessary to meet current business costs and to protect the public health, safety, and welfare.

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:

Increase cattle brand inspection fee \$.09, and the livestock to pasture fee \$.04 - Section 25-1160(a), Idaho Code.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted .

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Larry A. Hayhurst at 208-884-7070.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 26, 2005.

DATED this 19th day of November, 2004.

Larry A. Hayhurst
State Brand Inspector
Idaho Brand Board
P. O. Box 1177
Meridian, ID 83680-1177
208-884-7070 / Fax 208-884-7097

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0201-0501

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

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

SCHEDULE OF FEES		
Recording of a Brand	\$50 initial recording fee plus a \$10 per year prorated staggered renewal fee every year thereafter	
Transfer of a recorded brand	\$25.00	
Renewal of a recorded brand (Every five years)	\$50.00	
Duplicate brand registration certificate	\$ 1.50	
Ownership and transportation certificate	\$25.00	
Duplicate ownership and transportation certificate	\$ 5.00	
Annual inspection equine or bovine	\$ 5.00	
	CATTLE	HORSES
Brand inspection (per head)	\$.75 <u>.84</u>	\$ 1.50
Idaho livestock to pasture (per head)	\$.38 <u>.42</u>	\$.75
Minimum auction fee	\$50.00	\$50.00
Minimum field brand inspection fee	\$10.00	\$10.00
Courtesy brand inspection	\$.75 <u>.84</u>	\$ 1.50

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

~~(3-13-02)~~(10-18-04)T

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.10 - IDAHO REPORTABLE DISEASES

DOCKET NO. 16-0210-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This pending rule has been adopted by the agency and is now pending review by the 2005 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 Chapters 6, 9, 10, 16, and 43, Title 39, Idaho Code.

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

The pending rules are being adopted as proposed with no changes. The original text of the proposed rules was published in the July 7, 2004 Idaho Administrative Bulletin, Volume 04-7, pages 22 through 27.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Dr. Leslie Tengelsen at (208) 334-5941.

DATED this 15th day of November, 2004.

Sherri Kovach, Program Supervisor
DHW - Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax
kovachs@idhw.state.id.us e-mail

IDAPA 16, TITLE 02, CHAPTER 10

IDAHO REPORTABLE DISEASES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-7, July 7, 2004, pages 22 through 27.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

**16.02.11 - IMMUNIZATION REQUIREMENTS FOR CHILDREN ATTENDING
LICENSED DAY CARE FACILITIES IN IDAHO**

DOCKET NO. 16-0211-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-1118, Idaho Code.

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

The pending rules are being adopted as proposed with no changes. The original text of the proposed rules was published in the September 1, 2004 Administrative Bulletin, Volume 04-9, pages 98 through 104.

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

DATED this 15th day of November, 2004.

Sherri Kovach, Program Supervisor
Administrative Procedures Section
Department of Health Welfare
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax
kovachs@idhw.state.id.us e-mail

IDAPA 16, TITLE 02, CHAPTER 11

**IMMUNIZATION REQUIREMENTS FOR CHILDREN ATTENDING
LICENSED DAY CARE FACILITIES IN IDAHO**

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-9, September 1, 2004, pages 98 through 104.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.15 - IMMUNIZATION REQUIREMENTS FOR IDAHO SCHOOL CHILDREN

DOCKET NO. 16-0215-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-4801, Idaho Code.

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

The pending rules are being adopted as proposed with no changes. The original text of the proposed rules was published in the September 1, 2004 Administrative Bulletin, Volume 04-9, pages 105 through 110.

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

DATED this 15th day of November, 2004.

Sherri Kovach, Program Supervisor
Administrative Procedures Section
Department of Health Welfare
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax
kovachs@idhw.state.id.us e-mail

IDAPA 16, TITLE 02, CHAPTER 15

IMMUNIZATION REQUIREMENTS FOR IDAHO SCHOOL CHILDREN

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 04-9, September 1, 2004, pages 105 through 110.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.19 - FOOD SAFETY AND SANITATION STANDARDS FOR FOOD ESTABLISHMENTS

DOCKET NO. 16-0219-0401 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 37-121 and 39-1603, Idaho Code.

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

The pending rules are being adopted as proposed with no changes. The original text of the proposed rules was published in the August 4, 2004 Idaho Administrative Bulletin, Volume 04-8, page 134.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patrick Guzzle at (208) 334-5936.

DATED this 15th day of November, 2004.

Sherri Kovach, Program Supervisor
Administrative Procedures Section
Department of Health and Welfare
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 332-7347 fax
kovachs@idhw.state.id.us e-mail

IDAPA 16, TITLE 02, CHAPTER 19

FOOD SAFETY AND SANITATION STANDARDS FOR FOOD ESTABLISHMENTS

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 04-8, August 4, 2004, page 134.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.19 - FOOD SAFETY AND SANITATION STANDARDS FOR FOOD ESTABLISHMENTS

DOCKET NO. 16-0219-0402 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 37-121 and 39-1603, Idaho Code.

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

The change being made to the proposed text is to update the Department's website address. The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Only the section that has a change from the proposed text is printed in this bulletin.

The complete text of the proposed rule was published in the August 4, 2004 Idaho Administrative Bulletin, Volume 04-8, pages 135 through 150.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patrick Guzzle at (208) 334-5936.

DATED this 15th day of November, 2004.

Sherri Kovach
Program Supervisor
Administrative Procedures Section
Department of Health and Welfare
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone
(208) 332-7347 fax
kovachs@idhw.state.id.us e-mail

**IDAPA 16
TITLE 02
CHAPTER 19**

FOOD SAFETY AND SANITATION STANDARDS FOR FOOD ESTABLISHMENTS

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-8, August 4, 2004, pages 135 through 150](#).

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT TO DOCKET NO. 16-0219-0402

Subsection 005.05

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- INTERNET WEBSITE.

05. Internet Website. The Department's Internet website is found at "<http://www.healthandwelfare.idaho.gov>". ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.01 - ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-0401

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2004.

This pending rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-201, 56-203(g), 56-209, 56-209b, and 56-1004(1), Idaho Code.

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

Based on comments from staff and interested stakeholders, amendments were made to the temporary rule in order to clarify eligibility requirements for CHIP-A, CHIP-B and the Children's Access Card program. One of the benefits of this is to ensure that families are informed of the differences between the CHIP-B and the Children's Access Card program. Minor corrections were also made to the text of the temporary rule, as needed.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes different from the proposed text are printed in this bulletin.

The original text of the proposed rules was published in the July 7, 2004 Administrative Bulletin, Volume 04-7, pages 28 through 50.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Phil Gordon at (208) 334-4905.

DATED this 15th day of November, 2004.

Sherri Kovach
Program Supervisor
DHW – Administrative Procedures Section
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone
(208) 332-7347 fax
kovachs@idhw.state.id.us e-mail

IDAPA 16, TITLE 02, CHAPTER 19

FOOD SAFETY AND SANITATION STANDARDS FOR FOOD ESTABLISHMENTS

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-7, July 7, 2004, pages 28 through 50.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0301-0401

Subsection 016.04

016. ABBREVIATIONS.

- 04. AIM.** *The Department's* Advanced Information Management system for Medicaid. (7-1-98)(7-1-04)T

Subsection 349.01

349. CALCULATING A FULL MONTH'S INCOME USING ACTUAL AND PROJECTED INCOME.

The participant's monthly income is calculated using actual income and anticipated income. Anticipated income is income the participant is reasonably expected to receive. The estimate of anticipated income must be based on the best available information. (7-1-04)T

- 01. Full Month's Income Anticipated.** If no changes are anticipated, the actual income received in the past thirty (30) days is used to calculate a full month's income. If changes are anticipated, ~~project~~ the full month's income is projected with the new information. (7-1-04)T(7-1-04)T

Subsections 505.04 and 505.07

505. CHIP A.

A child may be eligible for CHIP A coverage if all non-financial and financial criteria are met. The child must meet all the conditions listed in Subsections 505.01 through 505.08 of these rules. (7-1-04)T

- 04. Child Disenrolled To Qualify For CHIP A.** If a child is disenrolled from creditable insurance with the intent to qualify for CHIP A he is not eligible for CHIP A. ~~A child who is disenrolled from creditable health coverage through no fault of his own will not be denied CHIP A coverage under this provision. A child did not~~

disenroll with the intent to qualify if he lost creditable insurance for one of the following reasons:

~~(7-1-04)F~~(7-1-04)T

- ~~a. The child lost insurance due to the loss of employment; or~~ (7-1-04)F
- ~~b. The employee lost eligibility for his employer sponsored insurance; or~~ (7-1-04)F
- ~~c. The employer stopped providing creditable insurance coverage; or~~ (7-1-04)F
- ~~d. The child lost access to his health insurance because his parent can no longer legally cover him with employer sponsored insurance.~~ (7-1-04)F

07. Choice Agreement Change Requested. CHIP A participants can move from CHIP A to the Children's Access Card at any time if they request the change in writing at least forty-five (45) days in advance of the change. A Children's Access Card participant who is income eligible for CHIP A can move to CHIP A at any time if they make the request in writing at least forty-five (45) days in advance of the change. The forty-five (45) day advance notice requirement will be waived if the child is moving from Children's Access Card to CHIP A for one (1) of the following reasons listed in Subsection 505.04.a. through 505.04.d. of this rule. ~~(7-1-04)F~~(7-1-04)T

- a. The child lost health insurance due a parents' loss of employment; or (7-1-04)T
- b. The employee lost eligibility for his employer sponsored insurance; or (7-1-04)T
- c. The employer stopped providing creditable insurance coverage; or (7-1-04)T
- d. The child lost access to his health insurance because his parent can no longer legally cover him with employer sponsored insurance. (7-1-04)T

Subsections 506.07 and 506.08

506. CHIP B.

The CHIP B coverage group provides a limited benefit package as described in IDAPA 16.03.18, "CHIP B and Children's Access Card Rules," to children who apply and are found eligible during an open enrollment period. Children applying during closed enrollment periods are denied. A child may be eligible for the CHIP B coverage group if all non-financial and financial criteria are met. The child must also meet all the conditions listed in Subsections 506.01 through 506.12 of this rule. (7-1-04)T

07. Choice Agreement Signed. A child who is eligible to participate in CHIP B and chooses Children's Access Card coverage must have a Choice Agreement signed and on file. If a Choice Agreement is not signed and on file, the child will be enrolled in the CHIP B program. The Choice Agreement will describe the differences between the CHIP B program and the Children's Access Card. ~~(7-1-04)F~~(7-1-04)T

08. Choice Agreement Change Requested. A CHIP B participant can move from CHIP B to the Children's Access Card at any time if the request is made in writing at least forty-five (45) days in advance of the change. A Children's Access Card participant who is income eligible for CHIP B can move to CHIP B at any time if the request is made in writing at least forty-five (45) days in advance of the change. The forty-five day (45) advance notice requirement will be waived if the child is moving from Children's Access Card to CHIP B for one (1) of the reasons listed in Subsections ~~505.04~~7.a. through 505.04.d. of this rule. ~~(7-1-04)F~~(7-1-04)T

Section 507 (Entire Section)

507. CHILDREN'S ACCESS CARD.

The Children's Access Card coverage group provides insurance premium assistance to children who apply and are

found eligible during an open enrollment period. A child receiving Children's Access card can change to CHIP A or B with a forty-five (45) day written notice, subject to the provisions in Subsections 505.07 and 506.08 of these rules.

(7-1-04)T

01. Children's Access Card Eligibility. A child ~~may be~~ is eligible for the Children's Access Card if all eligibility requirements for either CHIP A or CHIP B listed in Sections 505 and 506 of these rules are met if the person meets all of the conditions specified in Subsections 507.02 through 507.06 of these rules. ~~(7-1-04)T~~(7-1-04)T

02. Co-Pays And Deductibles.The family is responsible for the co-pays and deductibles required by their private insurance. (7-1-04)T

03. Choice Agreement. The family must have a signed Choice Agreement on file requesting Children's Access Card. If the family does not sign a Choice Agreement they will be enrolled in the CHIP coverage group they are eligible for. The Choice Agreement form will describe the differences between the CHIP B program and the Children's Access Card. ~~(7-1-04)T~~(7-1-04)T

04. Enrollment Cap. The number of individuals who can be enrolled in this program is subject to an enrollment cap specified by the Department. Individual's who meet all eligibility criteria for this program will be denied if there are no enrollment openings. (7-1-04)T

05. CHIP Coverage Within Sixty Days of Application Date. A person applying for the Children's Access Card program, who did not indicate on the Choice Agreement Form that he wanted CHIP coverage until his private insurance began, may receive coverage if he requests CHIP within sixty (60) days following the date of his application. (7-1-04)T

06. Eligibility Outside the Open Enrollment Period. If the insurance carrier will add the child to the health insurance plan, an eligible child may be added to the Children's Access Card program outside of an open enrollment period when one or both of the following conditions exist: (7-1-04)T

a. The child is living in or entering the home of a family who currently has a child enrolled in the Children's Access Card program; or (7-1-04)T

b. The enrollment cap has been met. (7-1-04)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

DOCKET NO. 16-0304-0401

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective dates of the amendments to the temporary rule are October 1, 2003; November 1, 2003; February 1, 2004; March 1, 2004; and January 1, 2005. This pending rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 56-203, Idaho Code.

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

The proposed rule simplifies the reporting requirements for Food Stamps participants and adds references to standardized utility and homeless shelter deductions. These rule changes provide participants with more stable Food Stamp benefits, thereby allowing them a greater opportunity to budget household expenses and become successful at being self-reliant. Simplified reporting also reduces the work load for Department staff, namely in the nature and amount of changes reported by participants that must be acted upon. By reducing the amount of required actions, staff will be free to spend more time on casework to prevent errors.

Amendments to the pending and temporary rule:

1. Added definitions for “adequate notice,” “participant,” “timely notice,” “twelve month contact,” and “verified upon receipt”;
2. Added language to clarify definitions of “change reporting household,” “extended certification household,” “simplified reporting household” and “Systematic Alien Verification for Entitlements” (SAVE), and updated the definition of “spouse”;
3. Pursuant to Section 67-5228, Idaho Code, all references to the “Department of Labor (DOL)” to read “Department of Commerce and Labor” in accordance with the change approved by the 2004 Legislature;
4. Updated and clarified language regarding household interview requirements;
5. Updated requirements for verification of alien status;
6. Added a new section stating circumstances under which food stamp participation is prohibited;
7. Added URL for Homeless Shelter Deduction to eliminate need for annual rule changes to update deduction amount;
8. Added clarifying language regarding the averaging of periodic expenses;
9. Made corrections to reporting requirements for change reporting, extended certification, and simplified reporting households;
10. Updated language regarding time frames for reporting changes in household circumstances;

11. Updated language regarding changes in participant circumstances on which the Department must take action;
12. Added clarifying language regarding changes in shelter, dependent care, child support, and medical expenses;
13. Added new subsections clarifying reporting requirements when changes will result in an increase in Food Stamps benefits; and
14. Added new section regarding reporting requirements when changes will result in a decrease in Food Stamp benefits.

Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the May 5, 2004, Idaho Administrative Bulletin, Vol. 04-5, pages 73 through 107. The original text of the temporary rule was published in the February 4, 2004, Idaho Administrative Bulletin, Vol. 04-2, pages 61 through 95.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact John Wheeler at (208) 334-5815 .

DATED this 17th day of November, 2004.

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IDAPA 16, TITLE 03, CHAPTER 04

RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-5, May 5, 2004, pages 73 through 107.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0304-0401

Section 002 (Entire Section)

002. DEFINITIONS.

For the Food Stamp Program, the following definitions apply: (6-1-94)

01. Adequate Notice. Notice a household must receive on or before the first day of the month an action by the Department is effective. (11-1-03)T

~~02.~~ **Administrative Error Claim.** A claim resulting from an overissuance caused by the Department's action or failure to act. (6-1-94)

~~03.~~ **Applicant.** A person applying for Food Stamps. (6-1-94)

~~04.~~ **Application For Participation.** The application form filed by the head of the household or authorized representative. (6-1-94)

~~05.~~ **Authorized Representative.** A person designated by the household to act on behalf of the household to apply for or get and use Food Stamps. Authorized representatives include private nonprofit organizations or institutions conducting a drug addiction or alcoholic treatment and rehabilitation center acting for center residents. Authorized representatives include group living arrangement centers acting for center residents. Authorized representatives include battered women's and children's shelters acting for the shelters' residents. Homeless meal providers may not be authorized representatives for homeless Food Stamp recipients. (6-1-94)

~~06.~~ **Battered Women And Children's Shelter.** A shelter for battered women and children which is a public or private nonprofit residential facility. If the facility serves others, a portion of the facility must be set aside on a long-term basis to serve only battered women and children. (6-1-94)

~~07.~~ **Boarder.** Any person or group to whom a household, other than a commercial boarding house, furnishes meals and lodging in exchange for an amount equal to or greater than the thrifty food plan. Children, parents and spouses in a household must not be treated as boarders. (6-1-94)

~~08.~~ **Boarding House.** A licensed commercial enterprise offering meals and lodging for payment to make a profit. (6-1-94)

~~09.~~ **Categorical Eligibility.** If all household members are authorized to get TAFI, AABD and/or SSI, the household is categorically eligible. Categorically eligible households are exempt from resource, gross and net income eligibility standards. (7-1-98)

~~10.~~ **Certification Determination.** Actions necessary to determine household eligibility including interviews, verification, approval, denial, field investigation, analysis and corrective action necessary to insure prompt, efficient and correct certifications. (6-1-94)

~~11.~~ **Claim Determination.** The action taken by the Department establishing the household's liability for repayment when an overissuance of Food Stamps occurs. (6-1-94)

~~12.~~ **Change Reporting Household (CR).** A household that meets one (1) of the following conditions: (11-1-03)F(2-1-04)T

a. No countable member of the household has income; (11-1-03)F(2-1-04)T

b. Contains any able-bodied adult without dependents (ABAWD), regardless of income; (11-1-03)F

- ~~e.~~ *Migrant and seasonal farmworker household; or* (11-1-03)T
- ~~b.~~ Income cannot reasonably be ~~prospected~~; anticipated the month after approval of Food Stamp benefits; or (11-1-03)T(2-1-04)T
- c. All adult household members are elderly or disabled. (1-1-05)T
- ~~123.~~ **Client.** A person entitled to or receiving Food Stamps. (6-1-94)
- ~~134.~~ **Coupon.** Any coupon, stamp, access device, or certificate issued under the Food Stamp Program for the purchase of food. (11-1-03)T
- ~~145.~~ **Coupon Allotment.** The total dollar amount of Food Stamps allowed the household during the full or prorated month. (6-1-94)
- ~~156.~~ **Department.** The Idaho Department of Health and Welfare. (6-1-94)
- ~~167.~~ **Disqualified Household Members.** Individuals required to be excluded from participation in the Food Stamp Program are Disqualified Household Members. These include: (6-1-94)
- a. Ineligible legal non-citizen who do not meet the citizenship or eligible legal non-citizen requirements. (7-1-98)
- b. Individuals awaiting proof of citizenship when citizenship is questionable. (6-1-94)
- c. Individuals disqualified for failure or refusal to provide a Social Security Number (SSN). (6-1-94)
- d. Individuals disqualified for Intentional Program Violation (IPV). (6-1-94)
- e. Individuals disqualified for receiving three (3) months of Food Stamps in a three (3) year period in which they did not meet the work requirement for able-bodied adults without dependent children. (7-1-98)
- f. Individuals disqualified as a fugitive felon or probation or parole violator. (7-1-98)
- g. Individuals disqualified for a voluntary quit or reduction of hours of work to less than thirty (30) hours per week. (7-1-98)
- h. Individuals disqualified for failure to cooperate in establishing paternity and obtaining support for a child under eighteen (18). (7-1-98)
- i. Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use, or distribution of a controlled substance when they do not comply with the terms of a withheld judgment, probation, or parole. The felony must have occurred after August 22, 1996. (3-30-01)
- ~~178.~~ **Documentation.** The method used to record information establishing eligibility. The information must sufficiently explain the action taken and the proof and how it was used. (6-1-94)
- ~~189.~~ **Drug Addiction Or Alcoholic Treatment Program.** Any drug addiction or alcoholic treatment rehabilitation program conducted by a private nonprofit organization or institution or a publicly operated community mental health center under Part B of Title XIX of the Public Health Service Act (42 USC 300x, et seq.). Indian reservation based centers may qualify if FCS requirements are met and the program is funded by the National Institute on Alcohol Abuse under Public Law 91-616 or was transferred to Indian Health Service funding. (10-1-03)T
- ~~1920.~~ **EBT Handbook.** Idaho Department of Health and Welfare Rules, IDAPA 16.03.20, "Rules Governing Electronic Benefit Transfer (EBT) of Public Assistance, Food Stamps, and Child Support". (7-1-98)
- ~~201.~~ **Electronic Benefit Transfer.** A method of issuing Food Stamps to an eligible household. (7-1-98)

- 242. Eligible Foods.** Any food or food product for human consumption excluding alcohol, tobacco, and hot foods and hot food products ready for immediate consumption. Eligible foods include: (6-1-94)
- a.** Garden seeds and plants to grow food for human consumption. (6-1-94)
 - b.** Meals prepared for the elderly at a communal dining facility. (6-1-94)
 - c.** Meals prepared and delivered by an authorized meal delivery service. (6-1-94)
 - d.** Meals served to a narcotics addict or alcoholic who participate and reside in a rehabilitation center program. (6-1-94)
 - e.** Meals prepared and served by an authorized group living center to blind or disabled residents who receive benefits under Titles I, II or X, XIV, XVI of the Social Security Act. (6-1-94)
 - f.** Meals prepared and served at a shelter for battered women and children to eligible residents. (6-1-94)
 - g.** Meals prepared and served by an authorized public or private nonprofit establishment to homeless Food Stamp participants. (6-1-94)
- 223. Eligible Household.** A household living in a project area and meeting the eligibility criteria in these rules. (6-1-94)
- 234. Emancipated Minor.** A person, age fourteen (14) but under age eighteen (18), who has been married or whose circumstances show the parent and child relationship has been renounced such as a child in the military service. (6-1-94)
- 245. Enumeration.** The requirement that each household member provide the Department either their Social Security Number (SSN) or proof that they have applied. (6-1-94)
- 256. Exempt.** A household member who is not required to register for or participate in the JSAP program is exempt. A household member who is not required to register for work is exempt. (6-1-94)
- 267. Extended Certification Household (EC).** ~~Simplified reporting~~ A household in which all adult members are elderly or disabled, ~~with stable income.~~ ~~(11-1-03)F(1-1-05)T~~ (11-1-03)T
- 278. Farm Bill.** Public Law 107-171, "Farm Security and Rural Investment Act of 2002". (11-1-03)T
- 289. Federal Fiscal Year.** The federal fiscal year (FFY) is from October 1 to September 30. (6-1-94)
- 2930. Field Office.** A Department of Health and Welfare service delivery site. (10-1-03)T
- 301. Food Assistance.** The Department's Food Stamp Program or Food Distribution Program. (6-1-94)
- 342. General Assistance.** Cash or other aid, excluding in-kind assistance, financed by Federal, state or local government and provided to cover living expenses or other basic needs. This cash or other aid is intended to promote the health and well-being of recipients. (6-1-94)
- 323. Group Living Arrangement.** A public or private nonprofit residential setting serving no more than sixteen (16) residents. The residents are blind or disabled and receiving benefits under Title II or XVI of the Social Security Act, certified by the Department under regulations issued under Section 1616(e) of the Social Security Act, or under standards determined by the Secretary of USDA to be comparable to Section 1616(e) of the Social Security Act. (6-1-94)
- 334. Homeless Person.** A person: (6-1-94)

- a.** Who has no fixed or regular nighttime residence. (6-1-94)
- b.** Whose primary nighttime residence is a temporary accommodation for not more than ninety (90) days in the home of another individual or household. (7-1-98)
- c.** Whose primary nighttime residence is a temporary residence in a supervised public or private shelter providing temporary residence for homeless persons. (6-1-94)
- d.** Whose primary nighttime residence is a temporary residence in an institution which provides temporary residence for people who are being transferred to another institution. (6-1-94)
- e.** Whose primary nighttime residence is a temporary residence in a public or private place which is not designed or customarily used as sleeping quarters for people. (6-1-94)
- 345.** **Homeless Meal Provider.** A public or private nonprofit establishment or a profit making restaurant which provides meals to homeless people. The establishment or restaurant must be approved by the Department and authorized as a retail food store by FCS. (7-1-98)
- 356.** **Identification Card.** The card identifying the bearer as eligible to get and use Food Stamps. (6-1-94)
- 367.** **Inadvertent Household Error Claim (IHE).** A claim resulting from an overissuance, caused by the household's misunderstanding or unintended error. A household error claim pending an intentional program violation decision. (6-1-94)
- 378.** **Income And Eligibility Verification System (IEVS).** A system of information acquisition and exchange for income and eligibility verification which meets Section 1137 of the Social Security Act requirements. (6-1-94)
- 389.** **Indian General Assistance.** The general assistance program administered by the Bureau of Indian Affairs. (6-1-94)
- 3940.** **Institution Of Higher Education.** Any institution which normally requires a high school diploma or equivalency certificate for enrollment. These institutions include colleges, universities, and business, vocational, technical, or trade schools at the post-high school level. (7-1-97)
- 401.** **Institution Of Post Secondary.** Educational institutions normally requiring a high school diploma or equivalency certificate for enrollment, or admits persons beyond the age of compulsory school attendance. The institution must be legally authorized by the state and provide a program of training to prepare students for gainful employment. (6-1-94)
- 442.** **Legal Noncitizen.** A qualified alien under 8 USC Section 1641(b). (10-1-03)T
- 43.** **Migrant Farmworker Household.** A migrant farmworker household has a member who travels from community to community to do agricultural work. (11-1-03)T
- 424.** **Nonexempt.** A household member who must register for and participate in the JSAP program. A household member who must register for work. (6-1-94)
- 435.** **Nonprofit Meal Delivery Service.** A political subdivision or a private nonprofit organization, which prepares and delivers meals, authorized to accept Food Stamps. (6-1-94)
- 446.** **Overissuance.** The amount Food Stamps issued exceeds the Food Stamps a household was eligible to receive. (6-1-94)
- 457.** **Parental Control.** Parental control means that an adult household member has a minor in the

household who is dependent financially or otherwise on the adult. Minors, emancipated through marriage, are not under parental control. Minors living with children of their own are not under parental control. (10-1-03)T

~~46. **Participation.** Participation means a person or household was certified for the Food Stamp Program and is getting Food Stamps. (6-1-94)~~

48. Participant. A person who receives Food Stamp benefits. (11-1-03)T

~~479. **Program.** The Food Stamp Program created under the Food Stamp Act and administered in Idaho by the Department. (6-1-94)~~

~~4850. **Project Area.** The state of Idaho has been approved as one (1) project area by the Department of Agriculture. (6-1-94)~~

~~4951. **Public Assistance.** Public assistance means ~~Old Age Assistance (OAA), Temporary Assistance for Families in Idaho (TAFI), and Aid to the Aged, Blind, (AB) and Aid to the Disabled (AABD).~~ (7-1-98)(11-1-03)T~~

~~502. **Retail Food Store.** A retail food store, for Food Stamp purposes means: (6-1-94)~~

~~a. An establishment, or recognized department of an establishment, or a house-to-house food trade route, whose food sales volume is more than fifty percent (50%) staple food items for home preparation and consumption. (6-1-94)~~

~~b. Public or private communal dining facilities and meal delivery services. (6-1-94)~~

~~c. Private nonprofit drug addict or alcohol treatment and rehabilitation programs. (6-1-94)~~

~~d. Public or private nonprofit group living arrangements. (6-1-94)~~

~~e. Public or private nonprofit shelters for battered women and children. (6-1-94)~~

~~f. Private nonprofit cooperative food purchasing ventures, including those whose members pay for food prior to the receipt of the food. (6-1-94)~~

~~g. A farmers' market. (6-1-94)~~

~~h. An approved public or private nonprofit establishment which feeds homeless persons. The establishment must be approved by FCS. (7-1-98)~~

~~53. **Seasonal Farmworker Household.** A seasonal farmworker household has a member who does agricultural work of a seasonal or other temporary nature. (11-1-03)T~~

~~514. **Simplified Reporting Household (SR).** A household with countable expected to have earned or unearned income, regardless of the amount and doesn't contain an ABAWD or Migrant/Seasonal farmworker during the month following the month in which the household was approved to receive Food Stamp benefits. (11-1-03)T(2-1-04)T~~

~~525. **Spouse.** Persons who are: (6-1-94)~~

~~a. Ceremonially married under applicable state law; or (6-1-94)~~

~~b. Living together, married or free to marry, and are holding themselves out as man and wife. (6-1-94)(11-1-03)T~~

~~536. **State.** Any of the fifty (50) States, the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands and the Virgin Islands of the United States. (6-1-94)~~

- ~~547.~~ **State Agency.** The Idaho Department of Health and Welfare. (6-1-94)
- ~~558.~~ **Student.** An individual between the ages of eighteen (18) and fifty (50), physically and mentally fit, and enrolled at least half-time in an institution of higher education. (6-1-94)
- ~~569.~~ **Supplemental Security Income (SSI).** Monthly cash payments under Title XVI of the Social Security Act. Payments include state or Federally administered supplements, such as AABD payments in Idaho. (6-1-94)
- ~~60.~~ **Timely Notice.** Notice that is mailed at least ten (10) days before the effective date of an action taken by the Department. (11-1-03)T
- ~~61.~~ **Twelve Month Contact.** For households that have a twenty-four (24) month certification period, Department staff contact the household during the twelfth month of the certification period for the purpose of determining continued eligibility. (11-1-03)T
- ~~5762.~~ **Verification.** The proof obtained to establish the accuracy of information and the household's eligibility. (6-1-94)
- ~~63.~~ **Verified Upon Receipt.** Information "verified upon receipt" is received from a manual query or automated system match with the Social Security Administration, the Idaho Department of Labor and Commerce for unemployment benefits, or Homeland Security for citizenship status. (11-1-03)T

Subsections 003.16 through 003.40

003. ABBREVIATIONS.

For the purposes of the Food Stamp Program, the following abbreviations are used. (6-1-94)

- ~~16.~~ **DOL.** Department of Commerce and Labor of the State of Idaho. (7-1-98)
- ~~176.~~ **EBT.** Electronic Benefit Transfer. (7-1-98)
- ~~187.~~ **EE.** Eligibility Examiner. (6-1-94)
- ~~198.~~ **EFNEP.** Expanded Food and Nutrition Education Program. (6-1-94)
- ~~2019.~~ **EWS.** Enhanced Work Services. (10-1-03)T
- ~~240.~~ **FNS.** The Food and Nutrition Service of the U.S. Department of Agriculture. This is the federal entity that administers the Food Stamp program. (10-1-03)T
- ~~221.~~ **FFY.** Federal fiscal year. (6-1-94)
- ~~232.~~ **FmHA.** Farm Home Administration. (8-1-94)
- ~~243.~~ **FMV.** Fair market value. (6-1-94)
- ~~24.~~ **FPG.** Federal Poverty Guideline(s). (11-1-03)T
- ~~25.~~ **FQC.** Federal Quality Control. (6-1-94)
- ~~26.~~ **GA.** General assistance. (6-1-94)
- ~~27.~~ **HUD.** The U.S. Department of Housing and Urban Development. (6-1-94)

28. **IEVS.** Income and Eligibility Verification Systems. (6-1-94)
29. **IHE.** Inadvertent household error. (6-1-94)
30. **INS.** Immigration and Naturalization Service (6-1-94)
31. **INA.** Immigration and Nationality Act. (10-1-03)T
32. **IPV.** Intentional program violation. (6-1-94)
33. **IRS.** Internal Revenue Service. (6-1-94)
34. **JSAP.** Job Search Assistance Program. (6-1-94)
35. **LUA.** Limited utility allowance. Household has a cost for more than one (1) utility. This includes electricity and fuel for purposes other than heating or cooling, water, sewage, well and septic tank installation and maintenance, telephone, and garbage or trash collection. (10-1-03)T
36. **MUA.** Minimum utility allowance. Household has a cost for one (1) utility. (10-1-03)T
37. **PA.** Public Assistance. (6-1-94)
38. **RSDI.** Retirement, Survivors, Disability Insurance received from SSA. (6-1-94)
39. **SAVE.** Systematic Alien Verification for Entitlements. The SAVE program enables federal, state, and local government agencies to obtain immigration status information they need in order to determine an applicant's eligibility for many public benefits, including Food Stamps. ~~(6-1-94)~~(11-1-03)T

Section 120 (Entire Section)

120. HOUSEHOLD INTERVIEWS.

~~Households must have an interview before certification and recertification.~~ The Department must conduct an interview with a member of the household or its authorized representative at least once every twelve (12) months. Interviews must be conducted either face-to-face or via telephone, based on hardship criteria evident in the case record. A household member or an authorized representative can be interviewed. The applicant may bring any other person to the interview. The Department does not require households to report for an in-office interview during their certification period. ~~(11-1-03)T~~(11-1-03)T

Section 121 (Entire Section)

121. WAIVER OF FACE-TO-FACE INTERVIEW.

A face-to-face interview may be replaced with a telephone interview if one (1) or more conditions in Subsections 121.01 through 121.054 of this rule are met. The reason for the waiver of the face-to-face interview must be documented in the case record. ~~(11-1-03)T~~(11-1-03)T

01. Age Sixty Or Older Or Handicapped. All adult household members have no earned income and are age sixty (60) or older or have a mental or physical illness or disability. (11-1-03)T

02. Transportation Difficulties. The adult household members have transportation difficulties including reliability, availability, distance from the field office, and cost of fuel. (11-1-03)T

03. Residence In A Rural Area. The adult household is located more than thirty (30) miles from a field office. (11-1-03)T

054. Other Hardships. Other hardships include illness, care of a household member, prolonged severe

weather, and work or training hours.

(11-1-03)T

Sections 151, 152, 153, and 154

151. -- 154. (RESERVED).

~~152. MIGRANT FARMWORKER HOUSEHOLD DEFINED.~~

~~A migrant farmworker household has a member who travels from community to community to work in agricultural employment. (6-1-94)~~

~~153. AGRICULTURAL EMPLOYMENT DEFINED.~~

~~Agricultural employment is farm work. Cultivation and tillage of the soil are farm work. Working in dairy operations is farm work. Producing, cultivating, growing and harvesting commodities are types of farm work. Raising livestock, bees, fur-bearing animals or poultry is farm work. Performing forestry operations on the farm is farm work. Working in agriculture is farm work. Work to prepare farm products in their unmanufactured state for market, for delivery to storage, for delivery to market or for delivery to a carrier for transportation to market is farm work. (6-1-94)~~

~~154. SEASONAL FARMWORKER HOUSEHOLD DEFINED.~~

~~A seasonal farmworker household has a member working in agricultural employment of a seasonal or other temporary nature. The seasonal farmworker is not required to be gone overnight from his permanent place of residence. The person may be employed on a farm or ranch, performing field work related to planting, cultivating or harvesting operations. The person may be employed in canning, packing, ginning, seed conditioning or processing operations in a day-haul operation. Day-haul operation workers are assembled at a pick-up point waiting to be hired and employed. The day-haul operation transports the workers to agricultural employment and returns the workers to a drop-off point on the same day. (6-1-94)~~

Subsections 206.03, 206.03.a., and 206.03.b.

206. PROOF OF PROPER IMMIGRATION STATUS.

Households are required to submit documents to verify the immigration status of the legal non-citizen applicants. An alien number, by itself, is not considered proof of immigration status. (10-1-03)T

03. Verification Of Immigration Status. The documents provided by the household for members identified as legal non-citizens are submitted to INS for verification. The validity of the documents is verified through SAVE. Primary and secondary methods of proof Alien Status Verification and secondary verification through SAVE are described below: (10-1-03)F(10-1-03)T

a. Primary proof Alien Status Verification Index (ASVI). Primary proof is telephone access to the INS files. This method uses the Verification is provided through the automated interface with the Alien Status Verification Index (ASVI). The Alien indicator (A) plus the seven (7) or eight (8) numbers shown on the original document is used to access the ASVI file. If primary proof ASVI fails to verify legal non-citizen status, the secondary proof verification procedure must be completed before the Department denies Food Stamps based solely on legal non-citizen status. (10-1-03)F(10-1-03)T

b. Secondary proof Verification. Secondary verification, provided by a response from SAVE, is used if ASVI fails to verify legal non-citizen status. Secondary proof is SAVE may request the Department to sending photo copies of the original immigration documents and a Document Verification Request Form (G-845) to INS for proof. Notify ~~The Department must receive permission from the participant before getting seeking secondary proof verification from SAVE. Secondary proof is used if primary proof fails to verify legal non-citizen status.~~ (10-1-03)F(10-1-03)T

Section 219 (New Section)

219. CIRCUMSTANCES UNDER WHICH FOOD STAMP PARTICIPATION IS PROHIBITED.

An individual is prohibited from receiving Food Stamp benefits in the same month as he: (11-1-03)T

- a. Receives tribal commodities: (11-1-03)T
- b. Is incarcerated: (11-1-03)T
- c. Is in an institution: (11-1-03)T
- d. Is in foster care; or (11-1-03)T
- e. Receives Food Stamp benefits in another household. (11-1-03)T

~~219.~~ 220. (RESERVED).

Subsections 533.03 and 533.06

533. HOUSEHOLD ELIGIBILITY AND BENEFIT LEVEL.

A household's eligibility and benefit level will be calculated in accordance with 7 CFR 273.10, except as indicated below in Subsections 533.01 through 533.07. of this rule. (11-1-03)T

03. Homeless Shelter Deduction. The homeless shelter deduction is ~~one hundred forty three dollars (\$143)~~ established by FNS and may be found under <http://www.fns.usda.gov/fsp/government/cola.htm>.
(10-1-03)T(10-1-03)F

06. Child Support Expense. The child support expense deduction is the legally obligated child support ~~amount~~ and arrearage the household pays, or expects to pay, on behalf of a non-household member.
(11-1-03)F(11-1-03)T

Section 534 (Entire Section)

534. AVERAGING ~~PERIODIC~~ INFREQUENT, FLUCTUATING, OR ONE-TIME ONLY EXPENSES.

Infrequent, ~~changing~~ fluctuating, or one-time only expenses for medical, child support, shelter or child care that can be anticipated for the month after approval of the application for Food Stamp benefits, recertification, or the twelve (12) month contact are averaged. ~~Averaging deductible expenses and procedures are listed below:~~

(11-1-03)F(11-1-03)T

01. Averaging Infrequent Expenses. Households can have infrequent expenses averaged forward over the interval between scheduled billings, if there are scheduled billings. If there ~~is~~ are no scheduled ~~interval~~ billings, expenses are averaged over the intended coverage period.
(6-1-94)(11-1-03)T

02. Averaging Fluctuating Expenses. Households can have fluctuating expenses averaged over the certification period in which they are billed. (6-1-94)

03. Averaging One-Time Only Expenses. One-time only expenses can be averaged over the certification period in which they are billed. ~~One time only expenses can be used as a one time deduction for one month. One time only expenses can be averaged over the remaining months in the certification period. Expenses averaged over the remaining certification period begin the month the change will become effective.~~

(6-1-94)(11-1-03)T

04. Predicting Future Expenses. Predicted expenses must be based on the most recent month's bills, unless changes are expected to occur. (6-1-94)

05. Converting Expenses To Monthly Figures. Whenever an expense is billed on other than a monthly basis, the expense is converted ~~the expense~~ to a monthly amount. The method used to compute monthly expenses must be documented. ~~(11-1-03)F~~(11-1-03)T

06. Averaging One-Time Medical Expenses For Households Certified For Twenty-Four Months. Households with one-time medical expenses, ~~and~~ that are certified for twenty-four (24) months; have the option of: ~~(3-15-02)~~(11-1-03)T

- a. Deducting the expense for one (1) month. (3-15-02)
- b. Averaging the expense over the ~~remainder of the~~ first twelve (12) months of the certification period. ~~(3-15-02)~~(11-1-03)T
- c. Averaging the expense over the ~~remaining months in the~~ twenty-four (24) month certification period. ~~(3-15-02)~~(11-1-03)T

Subsections 542.03 and 542.06

542. COSTS ALLOWED FOR SHELTER DEDUCTION.

Shelter costs are current charges for the shelter occupied by the household. Shelter costs include costs for the home temporarily not occupied because of employment or training away from home or illness. The costs allowed for the shelter deduction are listed below: (6-1-94)

03. Homeless Shelter Deduction. The homeless shelter deduction is ~~one hundred forty three dollars (\$143)~~ established by FNS and may be found under <http://www.fns.usda.gov/fsp/government/cola.htm>. This deduction must not be used in combination with other costs allowed for shelter deduction. ~~(10-1-03)F~~(10-1-03)T

06. Taxes And Insurance. Property taxes, state and local assessments, and insurance on the structure. This also includes insurance on a vehicle used as a residence. ~~(11-1-03)F~~(11-1-03)T

Section 601 (Entire Section)

601. REPORTING REQUIREMENTS AND RESPONSIBILITIES.

The household must report and verify changes in circumstances based on the requirements for the reporting group to which the household is assigned. Changes may be reported by phone, by mail, or directly to the Department. Households must report as follows: ~~(11-1-03)F~~(11-1-03)T

01. Change Reporting (CR) And Extended Certification (EC) Households ~~(CR)~~. Change Reporting and extended certification ~~H~~households must report the following: ~~(11-1-03)F~~(1-1-05)T

- a. Unearned income changes of more than fifty dollars (\$50); (11-1-03)T
- b. Earned income changes of more than one hundred dollars (\$100); (11-1-03)T
- c. Decrease in ABAWD hours to less than eighty (80) hours per month; (11-1-03)T
- d. Address changes and the related changes in shelter costs; ~~(11-1-03)F~~(3-1-04)T
- e. Changes in household composition; and (11-1-03)T
- f. When resources exceed the resource limit. (11-1-03)T

02. Simplified Reporting (SR) ~~And Extended Certification (EC)~~ Households. Simplified reporting

~~and extended certification~~ households must report ~~changes~~ the following: (1-1-05)T

- a.** ~~When the household's~~ total gross income exceeds one hundred thirty percent (130%) of the Federal Poverty Guideline (FPG) for the household size ~~and~~; (11-1-03)T
- b.** ~~Any change of address; and the related changes in shelter costs; and~~ (~~11-1-03~~)F(3-1-04)T
- c.** A decrease in ABAWD hours to less than eighty (80) hours per month. (11-1-03)T

Section 611 (Entire Section)

611. TIME FRAMES FOR REPORTING PROCEDURES CHANGES IN HOUSEHOLD CIRCUMSTANCES.

Households must report changes in circumstances as required by the household's reporting group. Except for income changes, households must report changes within ten (10) days of the date the change becomes known to the household. ~~For income changes, the household must report the change within ten (10) days of receiving the income that changed.~~ If changes in circumstances occur after the certification interview, but before the Notice of Decision is sent, the household must report changes within ten (10) days of the Notice of Decision date. For income changes, the following reporting timeframes are determined by the reporting group to which a household has been assigned: (~~11-1-03~~)F(11-1-03)T

01. Change Reporting Households. When a change in income listed under Subsection 601.01 of these rules is received by a change reporting household, the household must report the change within ten (10) days of receiving it. (11-1-03)T

02. Simplified Reporting Households. When the actual gross income received in a month by a simplified reporting household is greater than one hundred thirty percent (130%) of the poverty limit for the household size, the household must report this change by the tenth day of the month after the month in which the income exceeded the limit. (11-1-03)T

03. Must Not Impose Added Reporting Requirements. The Department must not require additional household reporting not listed in these rules. (6-1-94)

04. Report Form. The Department must give households a Change Report Form at certification, at recertification, when the household reports a change, and when the household requests the form. (11-1-03)T

05. Reporting Methods. Changes can be reported by telephone, personal contact, or mail. Changes can be reported by a household member or authorized representative. (6-1-94)

06. Failure to Report. If Food Stamps are overissued because a household fails to report required changes, a Claim Determination must be prepared. A person can be disqualified for failure to report a change if he commits an Intentional Program Violation. (7-1-99)

Subsections 613.01, 613.02, and 613.07

613. CHANGES ON WHICH THE DEPARTMENT MUST ACT.

01. General Changes On Which Department Must Act. Regardless of whether the Food Stamp Benefit will increase or decrease, the Department must act when: (11-1-03)T

- a.** ~~The TAFI or AABD grant amount changes~~ The household requests closure; (~~11-1-03~~)F(11-1-03)T
- b.** ~~An individual is sanctioned or disqualified~~ The TAFI or AABD grant amount changes; (~~11-1-03~~)F(11-1-03)T

- c. ~~The household requests closure; and~~ An individual is sanctioned or disqualified; ~~(11-1-03)F(11-1-03)T~~
- d. ~~Information is received from sources considered verified upon receipt.~~ The change would cause duplicate participation; ~~(11-1-03)F(11-1-03)T~~
- e. Information is received from a source considered verified upon receipt; (11-1-03)T
- f. The change is required to be reported and the change is expected to continue into the next month; (11-1-03)T
- g. The Food Stamp benefit will increase and the change is not a change in expenses; or (11-1-03)T
- h. There is a change of address and shelter expenses change as a result. (3-1-04)T
- i. All members of the household move out of the State of Idaho. (11-1-03)T
02. **Changes ~~Based On The Household's Reporting Group~~ Resulting in an Increase in the Food Stamp Benefit.** The Department must also act on changes as appropriate based on the household's reporting group that have been reported that would increase the household's Food Stamp amount excluding the changes listed in Section 615 of these rules. ~~(11-1-03)F(11-1-03)T~~
- a. ~~For change reporting (CR) households, the Department must act when a change that is required to be reported is received.~~ ~~(11-1-03)F~~
- b. ~~For simplified reporting (SR) households, the Department must act when:~~ ~~(11-1-03)F~~
- i. ~~The income exceeds one hundred thirty percent (130%) of the Federal Poverty Guideline (FPG) for the household size;~~ ~~(11-1-03)F~~
- ii. ~~The Food Stamp Benefit will increase and the change is not a change in expenses; and~~ ~~(11-1-03)F~~
- iii. ~~There is a change of address.~~ ~~(11-1-03)F~~

07. **Unclear Information.** If the Department is unable to readily determine the effect of a change on the household's benefit amount, the Department will issue a written request clearly advising the household of proof it must provide or actions it must take, to clarify its circumstances. ~~Allow~~ The household has ten (10) days for the household in which to respond to the Department's request, either by telephone or correspondence. ~~(3-15-02)(11-1-03)T~~

Section 615 (Entire Section)

615. CHANGES IN SHELTER, DEPENDENT CARE, CHILD SUPPORT OR MEDICAL EXPENSES. Regardless of the reporting group to which it belongs, a household reporting a change in shelter, dependent care, child support or medical expenses will be not required to provide proof of the change until recertification or the twelve (12) month contact. The Department will not adjust the Food Stamp benefit during the certification period regardless of whether the change in expenses would cause the Food Stamp benefit to increase or decrease. Only a shelter cost that is a result of the household moving will be acted upon during the certification period, regardless of whether it increases or decreases the Food Stamp benefit. ~~(11-1-03)F(3-1-04)T~~

Section 617 (Entire Section)

617. INCREASES IN FOOD STAMPS BENEFITS. If a change results in an increase in Food Stamps, the Department must allow the household ten (10) days to provide proof. The increase must be handled as follows: ~~(6-1-94)(11-1-03)T~~

01. Changes Required to be Reported. If the household fails to provide proof of a change required to be reported under Section 601 of these rules, the Food Stamp case must be closed. If the Food Stamp household moves and fails to provide proof of a change in shelter costs, but continues to reside in the state of Idaho, no shelter costs will be allowed. This may cause the Food Stamp benefits to be reduced. If the household subsequently provides proof before the first day of the month the case would close, benefits must be continued, adjusted, or ended, as appropriate. The Department must give adequate notice to the household to adjust or end benefits. (11-1-03)T

02. Changes Not Required to be Reported. If the household fails to provide proof of a change that would increase the benefit level, the Food Stamp benefit remains at the amount already established. If the household fails to provide proof within ten (10) days of reporting the change, but shows proof later, benefits will be increased the month after the month that proof of the change was provided. (11-1-03)T

03. Proof Provided Within Ten Days. If the household provides proof within ten (10) days of reporting the change, the Department ~~must act on the change~~ will increase the Food Stamp benefits beginning the month ~~after~~ immediately following the month in which the change was reported. For changes reported after the 20th of the month, a supplement is issued for the next month no later than the 10th of the next month. If the change is reported and verified after the ~~EPICS cut off~~ final date to adjust Food Stamp benefits for the following month in the Department's automated eligibility system, the change to the Food Stamp benefits must be made by the second monthly issuance of Food Stamp ~~issuance~~ benefits after the month the change is reported. ~~(11-1-03)T~~(11-1-03)T

~~02. No Proof of Eligibility Change. If the household fails to provide proof of a change requiring the Department to act under Section 613 of these rules, Food Stamps must be closed. If the household then provides proof before the first day of the month the case would close, benefits must be continued, adjusted, or ended as appropriate. The Department must give adequate notice to adjust or end benefits. (11-1-03)T~~

~~03. No Proof of Benefit Level Change. If the household fails to provide proof of a change increasing the benefit level, the change is not allowed. The Food Stamp benefit remains at the amount already verified. If the household fails to show proof within ten (10) days of reporting the change, but shows the proof later, benefits will be increased the month after the month proof is provided. (11-1-03)T~~

Section 618 (New Section)

618. DECREASES IN FOOD STAMP BENEFITS.

If a change results in a decrease in Food Stamp benefits, and proof is required, the Department must allow the household ten (10) days to provide proof. The decrease must be handled as follows: (11-1-03)T

01. Changes Required to be Reported. (11-1-03)T

a. If the household provides proof within ten (10) days, the Department must act on the change during the month after the change was reported. The Department must give the household timely notice to adjust or end benefits. (11-1-03)T

b. If the household fails to provide proof of a change required to be reported, Food Stamp case must be closed. If the Food Stamp household moves and fails to provide proof of a change in shelter costs, but continues to reside in the state of Idaho, no shelter costs will be allowed. This may cause the Food Stamp benefits to be reduced. If the household then provides proof before the first day of the month the case would close, benefits must be continued, adjusted, or ended as appropriate. The Department must give adequate notice to adjust or end benefits. (11-1-03)T

02. Changes not Required to be Reported. If the household reports a change not required to be reported that would result in a decrease in Food Stamp benefits, the Department will not request proof and will not take action until recertification. (11-1-03)T

~~6189. -- 620. (RESERVED).~~

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

DOCKET NO. 16-0309-0311

**NOTICE OF CORRECTION TO THE PENDING RULE
AND AMENDMENT TO TEMPORARY RULE**

CORRECTION: The following notice corrects omissions that occurred during the publication of the pending rule. This correction is being done in conjunction with the Office of the Administrative Rules Coordinator.

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is August 1, 2004.

This pending rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency is correcting omissions in the pending text and amending the temporary rule in conjunction with the Office of the Administrative Rules Coordinator. These corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule. The action is authorized pursuant to Sections 56-202(b) and 56-203(g), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the nature of the correction being made to the pending rule and amendment to the temporary rule.

Based on comment received, corrections are being made to the list of professionals who can be reimbursed by Medicaid for conducting a psychiatric diagnostic interview exam. This list was inadvertently omitted when the pending rule was published in the November 2004 Bulletin.

Only the Sections that have changes are printed in this bulletin. The amendments to the temporary rule were published with the notice of pending rule in the July 7, 2004, Idaho Administrative Bulletin, Volume 04-7 on pages 51 through 72. The original text of the proposed rule was published in the November 5, 2003, Idaho Administrative Bulletin, Volume 03-11, pages 38 through 63.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this correction, contact Paul Leary at (208) 364-1833.

DATED this 17th day of November, 2004.

Sherri Kovach
Program Supervisor
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IDAPA 16
TITLE 03
CHAPTER 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

There are substantive changes that correct the pending rule.

Only those sections that correct the pending rule and amend the temporary rule are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-11, November 5, 2003, pages 38 through 63.

The text of the pending rule was published in the Idaho Administrative Bulletin, Volume 04-7, July 7, 2004, pages 51 through 72.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE CORRECTED AND AMENDED TEXT OF DOCKET NO. 16-0309-0311

Subsection 468.07

468. EVALUATION AND DIAGNOSTIC SERVICES IN MENTAL HEALTH CLINICS.

07. **Psychiatric Diagnostic Interview Exam.** A psychiatric diagnostic interview exam may be provided as a reimbursable service when delivered by ~~qualified agency staff identified in Subsections 469.06.a. through 469.06.e. of these rules.~~ one (1) of the following licensed professionals: (8-1-04)T(8-1-04)T

- a. Psychiatrist: (8-1-04)T
- b. Physician: (8-1-04)T
- c. Practitioner of the healing arts: (8-1-04)T
- d. Psychologist: (8-1-04)T
- e. Clinical social worker; or (8-1-04)T
- f. Clinical professional counselor. (8-1-04)T

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

DOCKET NO. 16-0309-0404

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This pending rule has been adopted by the agency and is now pending review by the 2005 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 56-202(b) and 56-203(g), Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 354 and 355.

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

DATED this 15th day of November, 2004.

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IDAPA 16, TITLE 03, CHAPTER 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 354 and 355.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

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

DOCKET NO. 16-0309-0405

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b) and 56-203(g), Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 356 through 361.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Paul Leary at (208) 364-1833.

DATED this 17th day of November, 2004.

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IDAPA 16, TITLE 03, CHAPTER 09

RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 356 through 361.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM
DOCKET NO. 16-0309-0406
NOTICE OF VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the proposed rulemaking previously initiated under this docket. The action is authorized pursuant to Sections 56-202(b), 56-203(g), and 56-209h, Idaho Code

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this proposed rulemaking:

The Department is vacating this docket in order to hold discussions with the Home Health industry before amending these rules.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Sheila Pugatch at (208) 364-1817.

DATED this 17th day of November, 2004.

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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO

DOCKET NO. 16-0310-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2005, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202 and 56-117, Idaho Code.

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

The Department is amending the text of the pending rules because of comments received during the comment period from both providers and staff. Section 005, Incorporation by Reference is added to correctly place the incorporation of the Resource Utilization Groups Grouper document which was noted in the definition section into Section 005. Several definitions have had minor grammatical changes. The term for "Case Mix Component" has been deleted and the term "Case Mix Adjustment Factor" has been added. Under the Direct Care costs the term registered nurse was amended to professional nurse with (RN) to help clarify the type of certification. Also, medical waste disposal was added as a direct care cost beginning July 1, 2005.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Only sections that have changes different from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the October Administrative Bulletin, Volume 04-10, pages 367 through 377.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Sheila Pugatch at (208) 364-1817.

DATED this 17th day of November, 2004.

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IDAPA 16, TITLE 03, CHAPTER 10

RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 367 through 377.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 16-0310-0401

Section 005 (Entire Section)

005. INCORPORATION BY REFERENCE.

Unless provided otherwise, any reference in these rules to any document identified in Section 005 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards, or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. The following documents are hereby incorporated by reference: (3-20-04)

01. 42 CFR Part 447. 42 CFR Part 447, "Payment for Services," revised as of October 1, 2001, is available from HCFA (CMS), 7500 Security Blvd, Baltimore, M.D., 21244-1850 or on the Code of Federal Regulations internet site at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>. (3-20-04)

02. Provider Reimbursement Manual (PRM). The Provider Reimbursement Manual (PRM), Part I and Part II (HCFA Publication 15-1 and 15-2), is available on the CMS internet site at http://cms.hhs.gov/manuals/pub151/PUB_15_1.asp and http://cms.hhs.gov/manuals/pub152/PUB_15_2.asp. (3-20-04)

03. Resource Utilization Groups (RUG) Grouper. *The RUG III, version 5.12, 34 Grouper, nursing weights only, with index maximization. The RUG Grouper is available from CMS, 7500 Security Blvd., Baltimore, MD, 21244-1850.* ()

Subsections 010.04, .11, .14, .15.a., .15.b., 15.c., .19, .20, .26, .31.a., .31.f, .31.g., .31.h.,

~~004~~10. DEFINITIONS A THROUGH D.

04. Appraisal. The method of determining the value of property as determined by an MAI appraisal. The appraisal must specifically identify the values of land, buildings, equipment, and goodwill. (9-15-84)()

11. Case Mix Component. *The portion of the facility's rate, direct care component, that is determined from quarterly case mix indices. The case mix component of a facility's rate is established at the beginning of each calendar quarter, based on the case mix indices calculated on the picture date of the preceding quarter.* (4-5-00)

14. Case Mix Adjustment Factor. *The factor used to adjust a provider's direct care rate component for the difference in the average Medicaid acuity and the average facility-wide acuity. The average Medicaid acuity is*

from the picture date immediately preceding the rate period. The average facility-wide acuity is the average of the indexes that correspond to the cost reporting period. ()

125. Case Mix Index (CMI). A numeric score assigned to each facility resident, based on the resident's physical and mental condition, ~~which that~~ projects the amount of relative resources needed to provide care to the resident. (4-5-00)()

a. Facility Wide Case Mix Index. The average of the entire facility's case mix ~~indices indexes~~ identified at each picture date during the cost reporting period. If case mix ~~indices indexes~~ are not available for applicable quarters due to lack of data, case mix ~~indices indexes~~ from available quarters will be used. (4-5-00)()

b. Medicaid Case Mix Index. The average of the weighting factors assigned to each Medicaid resident in the facility on the picture date, based on their RUG's classification. Medicaid or non-Medicaid status ~~will be is~~ based upon information contained in ~~claims and the~~ MDS databases. To the extent that Medicaid identifiers are found to be incorrect ~~at the time of the audit~~, the Department may adjust the Medicaid case mix index and reestablish the reimbursement rate. (4-5-00)()

c. State-Wide Average Case Mix Index. The simple average of all facilities "facility wide" case mix ~~indices indexes~~ used in establishing the reimbursement limitation July 1 of each year. The state-wide case mix index will be calculated annually during each July 1 rate setting. (4-5-00)()

159. Control. Control exists where an individual or an organization has the power, directly or indirectly, ~~to~~ significantly ~~to~~ influence or direct the actions or policies of an organization or institution. (4-5-00)()

~~1620.~~ **Cost Center.** A "collection point" for expenses incurred in the rendering of services, supplies, or materials ~~which that~~ are related or so considered for cost-accounting purposes. (1-16-80)()

226. Costs Not Related to Patient Care. Costs which are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities. Such costs are ~~not non~~allowable in computing reimbursable costs. They include, for example, cost of meals sold to visitors or employees; cost of drugs sold to other than patients; cost of operation of a gift shop; and similar items. Travel and entertainment expenses are ~~not non~~allowable unless it can be specifically shown that they relate to patient care and for the operation of the nursing facility. (4-5-00)()

~~2731.~~ **Direct Care Costs.** Costs directly assigned to the nursing facility or allocated to the nursing facility through the Medicare cost finding principles and consisting of the following: (4-5-00)

a. Direct nursing salaries ~~which that~~ include the salaries of ~~registered professional~~ nurses (RN), licensed professional nurses, certified nurse's aides, and unit clerks; ~~and~~ (4-5-00)()

b. Routine nursing supplies; ~~and~~ (4-5-00)()

c. Nursing administration; ~~and~~ (4-5-00)()

d. Direct portion of Medicaid related ancillary services; ~~and~~ (4-5-00)()

e. Social services; ~~and~~ (4-5-00)()

f. Raw food; ~~and~~ (4-5-00)()

g. Employee benefits associated with the direct salaries; ~~and~~ (4-5-00)()

h. Medical waste disposal, for rates with effective dates beginning July 1, 2005. ()

~~2832.~~ **Director.** The Director of the Department of Health and Welfare or his designee. (1-1-82)

Section 011 (Entire Section)

011. DEFINITIONS E THROUGH J.

2901. Equity. The net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles. (9-15-84)

302. Facility. ~~An entity which contracts with the Director to provide services to recipients in a structure owned, controlled, or otherwise operated by such an entity, and which entity is responsible for operational decisions in conjunction with the use of the term "facility".~~ Facility refers to a nursing facility or an intermediate care facility for persons with mental retardation. (1-1-82)()

ba. "Free-standing Nursing Facility" means a *skilled* nursing facility, ~~as defined in and licensed under Chapter 13, Title 39, Idaho Code, which that~~ is not owned, managed, or operated by, nor is otherwise a part of a licensed hospital, ~~as defined in Section 39-1301(a), Idaho Code, or~~ (9-28-90)()

eb. "Hospital-based facility" means a nursing facility, ~~as defined in and licensed under Chapter 13, Title 39, Idaho Code, which that~~ is owned, managed, or operated by, or is otherwise a part of a licensed hospital, ~~as defined in Section 39-1301(a), Idaho Code.~~ (7-1-97)()

c. "Intermediate Care Facility For Persons With Mental Retardation (ICF/MR)" means a facility licensed as an ICF/MR and federally certified to provide care to Medicaid and Medicare patients. ()

ed. ~~The term "Nursing Facility" or "(NF)" is used to describe all non-ICF/MR facilities~~ means a facility licensed as a nursing facility and federally certified to provide care to Medicaid and Medicare patients, (2-1-91)()

de. "Rural Hospital-Based Nursing Facilities:" ~~Those~~ means hospital-based nursing facilities not located within a metropolitan statistical area (MSA) as defined by the United States Bureau of Census. (4-5-00)()

f. "Skilled Nursing Facility" means a nursing facility licensed by the Department to provide twenty-four (24) hour skilled nursing services and federally certified as a "Nursing Facility" under Title XVIII. ()

eg. "Urban Hospital-Based Nursing Facilities:" ~~Those~~ means hospital-based nursing facilities located within a metropolitan statistical area (MSA) as defined by the United States Bureau of the Census. (4-5-00)()

03. Federally Qualified Health Center (FOHC). An entity that meets the requirements of 42 USC Section 1395x(aa)(4). The FOHC may be located in either a rural or urban area designated as a shortage area or in an area that has a medically underserved population. ()

3104. Fiscal Year. ~~The business year of an organization~~ An accounting period that consists of twelve (12) consecutive months. (1-16-80)()

3205. Forced Sale. A forced sale is a sale required by a bankruptcy, foreclosure, the provisions of a will or estate settlement pursuant to the death of an owner, physical or mental incapacity of an owner which requires ownership transfer to existing partner or partners, or a sale required by the ruling of a federal agency or by a court order. (11-4-85)

3306. Funded Depreciation. Amounts deposited or held which represent recognized depreciation. (1-16-80)

34. GAAP. ~~Generally accepted accounting principles, pronounced "gap".~~ (1-16-80)

3507. Generally Accepted Accounting Principles (GAAP). ~~Those concepts, postulates, axioms, etc.,~~

~~which are considered standards for accounting measurement.~~ A widely accepted set of rules, conventions, standards, and procedures for reporting financial information as established by the Financial Standards Accounting Board.
(1-16-80)()

3608. Goodwill. The amount paid by the purchaser that exceeds the value of the net tangible assets. The value of goodwill is derived from the economic benefits that a going concern may enjoy, as compared with a new one, from established relations in the related markets, with government departments and other noncommercial bodies and with personal relationships. These intangible assets cannot be separated from the business and sold as can plant and equipment. Under the theory that the excess payment would be made only if expected future earnings justified it, goodwill is often described as the price paid for excess future earnings. The amortization of goodwill is a nonallowable, nonreimbursable expense.
(9-15-84)()

3709. Historical Cost. The actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.
(1-1-82)

10. Hospital. A hospital as defined in Section 39-1301, Idaho Code. ()

3811. ICF/MR. An intermediate care facility for ~~the mentally retarded~~ persons with mental retardation.
(9-15-84)()

3912. ICF/MR Living Unit. The ~~specific property or portion thereof~~ physical structure that an ICF/MR uses to house patients.
(7-1-97)()

4013. Improvements. Improvements to assets which increase their utility or alter their use. (1-16-80)

414. Indirect Care Costs. The following costs either directly coded to the nursing facility or allocated to the nursing facility through the Medicare step-down process described in the PRM:
(4-5-00)

- ba.** Activities; ~~and~~ (4-5-00)()
- ab.** Administrative and general care costs; ~~and;~~ (4-5-00)()
- c.** Central service and supplies; ~~and~~ (4-5-00)()
- ed.** Dietary (non-"raw food" costs); ~~and~~ (4-5-00)()
- he.** Employee benefits associated with the indirect salaries; ~~and~~ (4-5-00)()
- if.** Housekeeping; ~~and~~ (4-5-00)()
- dg.** Laundry and linen; ~~and~~ (4-5-00)()
- gh.** Medical records; ~~and~~ (4-5-00)()
- ji.** Other costs not included in direct care costs, or costs exempt from cost limits; ~~and~~ (4-5-00)()
- fi.** Plant operations and maintenance (excluding utilities); ~~and;~~ (4-5-00)()

4215. Inflation Adjustment. ~~The~~ €cost used in establishing a nursing facility's prospective reimbursement rate ~~shall be~~ is indexed forward from the midpoint of the cost report period to the midpoint of the rate year using the inflation factor plus one percent (+1%) per annum.
(4-5-00)()

4316. Inflation Factor. For use in establishing nursing facility prospective rates, the inflation factor is the Skilled Nursing Facility ~~(SNF)~~ Market Basket as established by Data Resources, Inc. (DRI), or its successor. If subsequent to the effective date of these rules, Data Resources, Inc., or its successor develops an Idaho-specific nursing facility index, it will be used. The Department is under no obligation to enter into an agreement with DRI or its successor to have an Idaho-specific index established. The national index is used when there is no state or regional

index. (4-5-00)(____)

4417. Interest. The cost incurred for the use of borrowed funds. (1-16-80)

4518. Interest on Capital Indebtedness. The cost incurred for borrowing funds used for acquisitions of capital assets, improvements, etc. These costs are *differentiated from those related to current indebtedness by the payback period of the related debt reported under property costs.* (1-16-80)(____)

4619. Interest On Current Indebtedness. The costs incurred for borrowing funds which will be used for "working capital" purposes. These costs are *differentiated from others by the fact that the related debt is scheduled for repayment within one (1) year reported under administrative costs.* (1-16-80)(____)

4720. Interest Rate Limitation. The interest rate allowed for working capital loans and for loans for major movable equipment for ICF/MR facilities is the prime rate as published in the western edition of the Wall Street Journal or successor publication, plus one percent ($\pm 1\%$) at the date the loan is made. (4-5-00)(____)

4821. Interim Reimbursement Rate (IRR). A rate paid for each Medicaid patient day which is intended to result in total Medicaid payments approximating the amount paid at audit settlement. The interim reimbursement rate is intended to include any payments allowed in excess of the percentile cap. (10-22-93)

4922. Intermediary. Any organization ~~which~~ that administers the Title XIX program; in this case the Department of Health and Welfare. (1-16-80)(____)

~~**50. Intermediate Care Facility For The Mentally Retarded.** A habilitative facility designed and operated to meet the educational, training, habilitative and intermittent medical needs of the developmentally disabled.~~ (9-15-84)

Subsections 013.02, .05, .06, .07, .12, and .15

013. DEFINITIONS P THROUGH Z.

7402. Picture Date. A point in time when case mix ~~indices~~ indexes are calculated for every facility based on the residents in the facility on that day. The picture date to be used for rate setting will be the first day of the first month of a quarter. The picture date from that quarter will be used to establish the facility's rate for the next quarter. (4-5-00)(____)

7705. Property Costs. Property costs are ~~The~~ total of allowable interest expense, plus depreciation, property insurance, real estate taxes, amortization, and allowable lease/rental expense. The Department may require and utilize an appraisal to establish ~~those~~ which components are an integral part of property costs ~~which are identified as an integral part of an appraisal.~~ (9-15-84)(____)

7806. Property Rental Rate. A rate paid per Medicaid patient day to other than hospital based nursing ~~homes~~ facilities in lieu of reimbursement for property costs other than property taxes, property insurance, and the property costs of major movable equipment at ICF/MR facilities. (7-1-97)(____)

807. Provider. ~~A licensed and certified skilled nursing or intermediate care facility which renders care to Title XIX recipients.~~ Any individual, organization or business entity furnishing medical goods or services in compliance with this chapter who has a Medicaid provider number and has entered into a written provider agreement with the Department under IDAPA 16.03.09, "Rules Governing the Medical Assistance Program". (1-16-80)(____)

8612. Recipient. An individual determined eligible by the ~~Director~~ Department for the services provided in the state plan for Medicaid. (1-1-82)(____)

8815. Resource Utilization Groups (RUG~~s~~). A process of grouping residents according to the clinical

and functional status identified by the responses to key elements of the MDS. The RUG Grouper is used ~~For the purposes of initial rate setting, RUG's III, version 5.12, 34 Grouper, nursing weights only, with index maximization will be used for grouping residents and is hereby incorporated into these rules. The RUG's Grouper is available from HCFA, 7500 Security Blvd., Baltimore, MD, 21244-1850. Subsequent versions of RUG's, or its successor, will be evaluated and may be incorporated into the rate setting process as necessary.~~ (4-5-00)(____)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO

DOCKET NO. 16-0310-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2005, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202 and 56-117, Idaho Code.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice.

Only sections that have changes different from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the October Administrative Bulletin, Volume 04-10, pages 378 through 394. The Department is amending the text of the pending rules because of comments received during the comment period from both providers and staff. Those changes include the following:

Section 110 - Allowable Costs has had clarifications made to entertainment costs, food costs, and home office costs.

Section 302 - Development Of The Rate was amended to provide clearer directions on the applicable case mix index and how it is calculated. Typographical and grammar changes were made which included changing the abbreviations of NF to nursing facilities throughout the docket.

Section 304 - Treatment of New Beds was amended to clarify exceptions to new bed rates when beds are added for under served area.

Section 311 - Special Rates was amended to clarify the special rate add on amount and when those additional cost apply. The ventilator dependent resident rate was also amended for clarification.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Sheila Pugatch at (208) 364-1817.

DATED this 17th day of November, 2004.

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IDAPA 16, TITLE 03, CHAPTER 10

RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 378 through 394.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 16-0310-0402

Section 020

020. COST REPORTING.

The provider's Medicaid cost report must be filed using the Department designated reporting forms, unless the Department has approved an exception. The request to use alternate forms must be sent to the Department in writing, with samples attached, a minimum of ninety (90) days prior to the due date for the cost report. The request for approval of alternate forms cannot be used as a reason for late filing. ()

Subsections 110.10 through .13 and 110.19

110. ALLOWABLE COSTS.

~~Below is a list of the normally allowable costs, and the related following~~ definitions and explanations, ~~which includes, but is not limited to, the following items~~ apply to allowable costs: (7-1-97)()

10. Employee Recruitment. Costs of advertising for new employees, including applicable entertainment costs, are allowable. ()

11. Entertainment Costs Related to Patient Care. Entertainment costs related to patient care are allowable only when documentation is provided naming the individuals and stating the specific purpose of the entertainment. ()

12. Food. Costs of raw food, not including vending machine items, are allowable. The provider is only reimbursed for costs of food purchased for patients. Costs for nonpatient meals are nonreimbursable. If the costs for nonpatient meals cannot be identified, the revenues from these meals are used to offset the costs of the raw food. ()

13. Home Office Costs. Reasonable costs allocated by related entities for home office services are allowable in their applicable cost centers. ()

~~149.~~ **Property Costs.** Property costs related to patient care are allowable subject to other provisions of this chapter. Property taxes and reasonable property insurance are allowable for all facilities. ~~A For free-standing nursing facilities and ICF/MRs, the property rental rate will be is paid in lieu of costs in some circumstances according to other provisions as described in Section 060 of these rules. Hospital-based nursing facilities are paid based on property costs.~~ (7-1-97)(____)

Section 302 Subsections 302.01, 302.03, 302.04.a. through 302.04.d., and 302.05

302. DEVELOPMENT OF THE RATE.

~~Nursing facility Rates shall be~~ are prospective, with new rates effective July 1 of each year, and rebased annually. ~~Rate setting shall be prospective with new rates effective July 1 of each year. There will be no settlement between actual costs incurred during the rate year and the rate itself. Rates for skilled care nursing facilities with unaudited cost reports will be interim rates established by the Department until a rate is calculated based on an audited cost report. The draft audit of a cost report submitted by a facility shall be issued by the Department no later than five (5) months from the date all information required for completion of the audit is filed with the Department. Data used to develop the reimbursement rate for nursing facilities will be made up of the following components:~~ The rate for a nursing facility is the sum of the cost components described in Subsection 302.04 through 302.09 of this rule. In no case will the rate be set higher than the charge for like services to private pay patients in effect for the period for which payment is made as computed by the lower of costs or customary charges. (4-5-00)(____)

~~081.~~ **Applicable Case Mix Component Index (CMI).** The Medicaid ~~case mix indices~~ CMI used in establishing each facility's rate ~~will be recalculated quarterly and each facility's rate will be adjusted accordingly. The case mix indices will be is~~ calculated based on the most recent assessment for each Medicaid resident in the nursing facility on the first day of the ~~first~~ month of the preceding quarter (~~i.e. for example, assessments as of April 1, 1999 would be~~ are used to establish the ~~case mix indices~~ CMI needed to establish rates for the quarter beginning July 1, 1999). ~~Facility-wide CMI is calculated based on the most recent assessment for all residents in the nursing facility. The CMI is recalculated quarterly and each nursing facility's rate is adjusted accordingly. A facility-wide CMI is also established each year by averaging four (4) calendar quarter CMIs for the cost reporting period from historical data to represent each fiscal quarter in the cost reporting period (for example, an October 1 CMI would represent the fiscal quarter ended September 30).~~ (4-5-00)(____)

03. Interim Rates. Nursing facilities with unaudited cost reports are given an interim rate established by the Department until a rate is calculated based on an audited cost report. When audited data are available, a retroactive adjustment to the payment rate is made through the calculation of the finalized rate. (____)

034. Direct Care Cost Component. The direct care cost component of a nursing facility's rate is ~~the lesser of the facility's inflated direct care per diem costs, or the case mix adjusted per diem cost limit for that type of provider (free-standing nursing facility and urban hospital-based facilities, or rural hospital-based facilities). The lesser of the cost or limitation is then case mix adjusted, based on the facility's Medicaid case mix index. determined as follows:~~ (4-5-00)(____)

a. ~~All costs included in the direct care component will be adjusted based on the facility's case mix indices, with the exception of raw food and Medicaid-related ancillary costs. The direct care per diem cost limit applicable to the rate period for a nursing facility type (free-standing and urban hospital-based nursing facility or rural hospital-based nursing facility) is identified. The identified direct care cost limit is divided by the statewide average CMI for the cost reporting period, and then multiplied by the nursing facility's facility-wide CMI for the cost reporting period to derive the adjusted direct care per diem cost limit.~~ (4-5-00)(____)

b. ~~The direct care limitation will be adjusted based on each facility's case mix index. The calculated direct care limit will be divided by the statewide average facility-wide case mix index, and then multiplied by the individual facility-wide case mix index. The adjusted direct care per diem cost limit is compared to the nursing facility's inflated direct care per diem costs. The lower of the two (2) amounts is then case mix adjusted.~~ (4-5-00)(____)

ei. ~~The lesser of the cost or limit will be divided by the facility-wide case mix index, and then multiplied by the most recent quarterly Medicaid case mix index to arrive at the direct care component. If the adjusted direct care per diem cost limit is lower, the adjusted limit is divided by the nursing facility's facility-wide CMI for the cost reporting period, and then multiplied by the nursing facility's most recent quarterly Medicaid CMI for the rate period to arrive at the direct care cost component.~~ (4-5-00)()

ii. ~~If the inflated direct care per diem costs are lower, these costs, minus raw food and Medicaid related ancillary costs, are divided by the nursing facility's facility-wide CMI for the cost reporting period, then multiplied by the nursing facility's most recent quarterly Medicaid CMI for the rate period. Raw food and Medicaid related ancillary costs are then added back to arrive at the direct care cost component.~~ ()

045. Indirect Care Cost Component. The indirect care cost component of a facility's rate is the lesser of the facility's inflated indirect care per diem costs, or the indirect per diem cost limit for that type of provider (-- free-standing *nursing facilities* and urban hospital-based *nursing facilities*, or rural hospital-based *nursing facilities*). (4-5-00)()

Subsections 304.01.b., 304.03.a., .03.b., and .03.d.

304. TREATMENT OF NEW BEDS.

Facilities ~~which that~~ add beds ~~subsequent to the effective date of these rules (after July 1, 1999)~~, will have their reimbursement rate subjected to an additional limitation for the next three (3) ~~full~~ years. This limitation will apply beginning with the first rate setting period which utilizes a cost report that includes the date when the beds were added. ~~The facility's rate will be limited to the bed-weighted average of two (2) rates. Those two (2) rates are:~~ (4-5-00)()

01. Limitation of Facilities Rate. The facility's rate will be limited to the bed-weighted average of the following two (2) rates: ()

a. ~~¶~~The facility's current prospective rate calculated in accordance with Section 302, of these rules; and ()

b. ~~¶~~The current median rate for ~~skilled-care~~ *nursing facilities* of that type, (free-standing, rural hospital-based, or urban hospital-based), established each July 1. (4-5-00)()

03. Exception to New Bed Rate. The following situations will not be treated as new beds for reimbursement purposes: (4-5-00)

a. Any beds converted from nursing facility beds to assisted living beds, ~~may not be reclassified to new can be converted back to nursing facility beds until within~~ three (3) years ~~have elapsed from the date the beds were reclassified to assisted living beds~~ and not be classified as new nursing facility beds. When a *nursing facility* bed has been converted to an assisted living bed for three (3) or more concurrent years and the bed is converted back to a nursing facility bed, it must be treated as a new *nursing facility* bed. (4-5-00)()

b. Beds ~~which are~~ added as a result of expansion plans, which the Department was ~~made~~ aware of ~~in writing~~ prior to July 1, 1999, will not be treated as new beds. The facility must have already expended significant resources on the purchase of land, site planning, site utility planning, and/or development. ~~Simply ¶~~The existence of adequate land ~~and/or~~ space will at the nursing facility does not ~~by itself~~ constitute ~~having expended a~~ significant expenditure of resources for the purposes of expansion. A written request with adequate supporting documentation for an exception under this provision must ~~be~~ have been received by the Department no later than December 31, 1999. In no case will beds added ~~subsequent to after~~ July 1, 2003, qualify for ~~the~~ this exception to the new bed criteria. (4-5-00)()

c. Beds which are decertified as a requirement of survey and certification due to deficiencies at the facility may can be re-certified as existing beds with the approval of the Department. (4-5-00)()

d. When a facility can demonstrate to the Department that adding beds is necessary to meet the needs of an under served area, these beds will not be treated as new beds. For an existing facility the new beds are reimbursed at the same reimbursement rate for that facility's existing beds. For a new facility, the reimbursement rate is negotiated with the Department. ()

Section 311, Subsection 311.01, 311.06.a.ii., .06.a.iv., .06.b., .06.c., and .06.e.

311. SPECIAL RATES.

A special rate consists of a facility's daily reimbursement rate for a patient plus an add-on amount. Section 56-117, Idaho Code, provides authority for the Director Department to pay facilities a special an amount in addition to the daily rate for care given to when a patients who have long term care has needs that are beyond the normal scope of facility services. These patients must have needs which are and when the cost of providing for those additional needs is not adequately reflected in the rates calculated pursuant to the principles set forth found in Section 56-102, Idaho Code. The payment This special rate add-on amount for such specialized care will be is in addition to any payments made in accordance with other provisions of this chapter. The incremental cost to a facility that exceeds the rate for services provided pursuant to the provisions of this section will be and is excluded from the computation of payments or rates under other provisions of Section 56-102, Idaho Code, and these rules. (4-5-00)()

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

086. Determination of Payment for Qualifying Residents. Special rates shall be reimbursed in add-on amounts are calculated using one (1) of the methods described in Subsections 311.086.a. through 311.086.e. of these rules. (3-20-04)()

a. Special Rate Care Units. If a facility operates a special rate care unit, i.e., such as a behavioral unit, or a Traumatic Brain Injury (TBI) unit, etc., the following reimbursement methods will apply under the circumstances is determined as described in Subsections 311.086.a.i. through 311.086.a.vi. of these rules. (3-20-04)()

ii. Facility is Over the Direct Care Limit If the facility operates a special rate unit, the costs of which exceed the direct care limit, with all direct care costs included in the rate calculation, the special rate for the unit will be equal to the lesser of the per diem amount by which direct care costs exceed the limit, or the special rate add-on calculated as follows: each Medicaid resident approved for a special rate is classified using Medicare's grouper (currently RUG's III v.5.12 44 Group) and is assigned a total rate equal to the applicable Medicare price that would be paid if the resident were Medicare eligible. The special rate "add-on" to the facility rate is calculated by subtracting the resident specific Medicaid rate (based on each resident's Medicaid CMI) from the Medicare price. The average of the special rate add-on amounts calculated using this methodology shall be compared to the amount the provider is over the limit. The lesser amount is allowed as a special rate. If the facility is over the direct care cost limit with special care unit costs included, a special rate add-on amount will be calculated. The special rate add-on amount for the unit is the lesser of the per diem amount by which direct care costs exceed the limit or a calculated add-on amount. The calculated special rate add-on is derived as follows: each Medicaid resident is assigned a total rate equal to the Medicare rate that would be paid if the resident were Medicare eligible. The resident's acuity adjusted Medicaid rate, based on each resident's individual Medicaid CMI, is subtracted from the Medicare rate. The average difference between the Medicaid and the Medicare rates for all special care unit residents is the calculated special rate add-on amount. The calculated special rate add-on amount is compared to the per diem amount by which the provider exceeds the direct care limit. The lesser of these two amounts is allowed as the special rate add-on amount for the unit. (3-15-02)()

iv. One Hundred Percent (100%) Special Care Facility in Existence as of Existing July 1, 2000. - If at on July 1, 2000, an entire facility is devoted to caring for "special rate" residents, including was a special care unit which included Medicaid residents approved for special rates as well as private pay and other residents who would

~~qualify for special rates if they were Medicaid eligible, the facility's allowable reimbursement will be calculated as follows. The costs of the direct care component cost per diem will not be subject to the direct care cost limit. However, those the direct care costs will still be~~ are case-mix adjusted based on the ratio of the facility's Medicaid ~~case-mix CMI~~ case-mix index CMI for the rate period to the facility-wide ~~case-mix index CMI~~ case-mix index CMI for the cost reporting period. (3-15-02)(____)

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

c. ~~Ventilator Dependent Residents and Residents Receiving Tracheostomy Care. The facility need not exceed the direct care limit to receive a special rate for ventilator care and tracheostomy care. In the case of ventilator dependent and tracheostomy residents, a two (2) step approach shall be~~ Ventilator Dependent Residents and Residents Receiving Tracheostomy Care. The facility need not exceed the direct care limit to receive a special rate for ventilator care and tracheostomy care. In the case of ventilator dependent and tracheostomy residents, a two (2) step approach shall be is taken to establish ~~the special rate an add-on amount. The facility need not exceed the direct care limit to receive a special rate for ventilator care and tracheostomy care.~~ the special rate an add-on amount. The facility need not exceed the direct care limit to receive a special rate for ventilator care and tracheostomy care. The first step is the calculation of a staffing add-on for the cost, if any, of additional direct care staff required to meet the exceptional needs of these residents. The add-on ~~shall be~~ is calculated following the provisions ~~set forth~~ set forth in Subsection 311.086.d. of these rules, ~~adjusted for the appropriate skill level of care staff. The second step shall be~~ adjusted for the appropriate skill level of care staff. The second step shall be is the calculation of an ~~add-on for equipment, supply supplies, or both add-on to be added to the rate up to the invoice cost or rental amount. The combined amount of these two (2) components shall be~~ add-on for equipment, supply supplies, or both add-on to be added to the rate up to the invoice cost or rental amount. The combined amount of these two (2) components shall be is considered the special ~~rate add-on amount to the facility's rate for approved residents receiving this care.~~ (3-20-04)(____)

e. ~~Varying Levels of One-to-One Care. For differing varying levels of one-to-one care; i.e., such as eight (8) hours or twenty-four (24) hours, only the total special rate add-on amount is calculated as the number of hours of approved for one-to-one care approved would be changed times the hourly add-on rate as described in Subsection 311.086.d. The WAHR CNA wage rate as described in IDAPA 16.03.09, "Rules Governing the Medical Assistance Program," Section 148 will be updated prior to the July 1st rate setting each year. Should the WAHRs survey be discontinued, the Department may index prior amounts may be indexed forward, or conduct a comparable survey may be conducted.~~ (3-20-04)(____)

Section 407 and Subsection 407.02

407. COSTS FOR THE COMPLETION OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS (NATCEPS) IN NURSING FACILITIES (NFS) (EXCLUDING ICF/MR FACILITIES) AND FOR COMPLYING WITH CERTAIN OTHER REQUIREMENTS.

Provisions of federal law require the state to give special treatment to costs related to the completion of training and competency evaluation of nurse aides and to increase rates related to other new requirements. Treatment will be as follows: (9-28-90)(____)

02. **Costs Subject to Audit.** Such NATCEP costs ~~shall remain~~ shall remain are subject to audit, ~~shall be reported separate from other costs, shall~~ shall be reported and must be reported by all ~~NFS nursing facilities, including those which that are hospital-based, and will~~ NFS nursing facilities, including those which that are hospital-based, and will are not ~~be~~ included in the percentile cap. (9-28-90)(____)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.11 - RULES GOVERNING INTERMEDIATE CARE FACILITIES
FOR THE MENTALLY RETARDED

DOCKET NO. 16-0311-0101

NOTICE OF RULEMAKING

RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is rescinding the temporary rule previously adopted under this docket. The action is authorized pursuant to Sections 56-202(b) and 56-203(g), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the rescission of this temporary rule:

This docket was adopted as a temporary rule by the Department and published in the January Administrative Bulletin, Volume 01-1, pages 112 and 113. These rules were required to comply with the 2000 Legislative Intent language in the Department's appropriations bill (HB 797) for the budget year 2001. The Department is rescinding the temporary rule that originally adopted the bed cap rate to be effective from July 1, 2000 through June 30, 2001.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rescission of temporary rule, contact Paul Leary (208) 364-1840.

DATED this 16th day of November, 2004.

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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.17 - RULES GOVERNING SERVICE COORDINATION

DOCKET NO. 16-0317-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202(b), Idaho Code.

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

The proposed rule was amended to better reflect that the mode and frequency of contact between service coordinator and participant must be based on the needs of the participant and that face-to-face contact must occur at least monthly for mental health service coordination and at least every ninety (90) days for all other service coordination. This rule change is being made based on comment.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 395 through 400.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Leslie Clement at (208) 364-1804.

DATED this 17th day of November, 2004.

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IDAPA 16, TITLE 03, CHAPTER 17

RULES GOVERNING SERVICE COORDINATION

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 395 through 400.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0317-0401

Section 500 Entire Section

500. SERVICE COORDINATOR CONTACT AND AVAILABILITY.

01. Contact with Participant. At least every thirty (30) days, service coordinators must have contact with the participant, legal guardian or provider who can verify the participant's well being and whether services are being provided according to the written plan. The frequency, mode of contact, and person being contacted must be identified in the plan. (3-20-04)

a. The mode and frequency of contact for developmental disability service coordination must be identified in the plan and must meet the needs of the participant. ~~Developmental disabilities s~~Service coordinators must have face-to-face contact with each participant at least every ninety (90) days. (3-20-04)()

b. The mode and frequency of contact for mental health service coordination must be identified in the plan and must meet the needs of the participant. Mental health service coordinators must have a face-to-face contact every month with each participant. (3-20-04)()

c. The mode and frequency of contact for Early and Periodic Screening and Diagnosis and Treatment (EPSDT) service coordination must be identified in the plan and must meet the needs of the child. EPSDT service coordinators must have face to face contact with the child and the child's family at least every ninety (90) days. ()

d. The mode and frequency of contact for Personal Care Service (PCS) service coordination must be identified in the plan and must meet the needs of the participant. PCS service coordinators must have face to face contact with the participant and others at least every ninety (90) days as necessary to coordinate and monitor the progress of the existing individual service plan. ()

02. Hours of Availability. Service coordinators do not have to be available on a twenty-four (24) hour basis, but must include on the plan what the participant, families, and providers should do in an emergency situation. (3-20-04)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.18 - CHIP B AND CHILDREN'S ACCESS CARD RULES

DOCKET NO. 16-0318-0401

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2004.

This pending rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-202(b), 56-239 and 56-240, Idaho Code.

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

Since this rule was published in July, the Department has obtained a new Internet website address, therefore it was added to Section 005.05 in order to provide accurate public access to this website. After the public comment period the following amendments were made to the proposed text of this rule: the words "or employer" were deleted from Section 010.15 because the premium referred to in this subsection is only paid to an insurance company; in Section 605 a sentence was added to clarify Access Card payments and, two terms were changed for clarity and a subsection was added to clarify data reporting requirements in Section 620.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the July 7, 2004 Administrative Bulletin, Volume 04-07, pages 73 through 80.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Robin Pewtress at (208) 364-1892.

DATED this 17th day of November, 2004.

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IDAPA 16, TITLE 03, CHAPTER 18

CHIP B AND CHILDREN'S ACCESS CARD RULES

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-7, July 7, 2004, pages 73 through 80.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0318-0401

Subsection 005.05

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEBSITE.

05. **Internet Website.** The Department's internet website is found at "<http://www2.state.id.us/dhw/www.healthandwelfare.idaho.gov>". ~~(7-1-04)F~~(7-1-04)T

Subsection 010.15

010. DEFINITIONS.

15. **Premium Assistance.** The partial or total premium paid to an insurance company ~~or employer~~ by the State to supplement the cost of enrolling an eligible individual in a health insurance plan. ~~(7-1-04)F~~(7-1-04)T

Section 605 (Entire Section)

605. **INSURANCE PREMIUM SUBSIDY.**

The Department or its designee will pay an insurance premium subsidy to an approved insurance vendor in full or partial payment of a premium for a ~~qualifying~~ conforming health benefit plan selected by an eligible participant and defined in Section 56-238(8), Idaho Code. The Department's payment will not exceed one hundred dollars (\$100) each month for each participant. The total payment for eligible children in the same family will not exceed three hundred dollars (\$300) each month. The Department will not pay more than one Access Card payment for the same month for the same participant. ~~(7-1-04)F~~(7-1-04)T

Section 620 (Entire Section)

620. VENDOR APPLICATION AGREEMENT.

An insurance company that wants to participate in the Children's Access Card Program must apply to the Department and be approved for participation. The Department will confirm that the ~~vendor~~ applicant is an insurance company ~~recognized~~ regulated by the Department of Insurance. ~~(7-1-04)T~~(7-1-04)T

01. Agreement. The applicant must submit a signed Access Card Program Vendor Participation Agreement to the Department. (7-1-04)T

02. Conforming Benefit Plan. The vendor must certify to the Department that the benefit plan meets the definition of a health benefit plan ~~that includes inpatient and outpatient hospital services and physician medical and surgical services~~ as set forth in Section 56-238(8), Idaho Code. The benefit plan must include inpatient and outpatient hospital services, and physician medical and surgical services. ~~(7-1-04)T~~(7-1-04)T

03. Vendor Application Denied. The Department will not approve the application of a vendor whose authority to sell insurance plans in the State of Idaho is suspended. (7-1-04)T

04. Data Reporting Requirement. The Department requires Access Card participating insurance vendors to provide data to the Department as necessary to comply with federal reporting requirements. (7-1-04)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.18 - CHIP B AND CHILDREN'S ACCESS CARD RULES

DOCKET NO. 16-0318-0402

NOTICE OF RULEMAKING - PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and are now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b), 56-239 and 56-240, Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the July 7, 2004 Idaho Administrative Bulletin, Volume 04-7, pages 81 and 82.

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

This rule change adds the requirement for a monthly premium of fifteen dollars (\$15) to participate in the CHIP B Program.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Robin Pewtress at (208) 364-1892.

DATED this 15th day of November, 2004.

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IDAPA 16, TITLE 03, CHAPTER 18

CHIP B AND CHILDREN'S ACCESS CARD 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 04-7, July 7, 2004, pages 81 and 82.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.22 - RULES FOR LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITIES

DOCKET NO. 16-0322-0401

NOTICE OF RULEMAKING

VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the proposed rulemaking previously initiated under this docket. The action is authorized pursuant to Sections 56-202(b), 56-203(g), and 56-209h, Idaho Code

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating this rulemaking:

The Department is vacating this docket because the Board of Health and Welfare did not approve the amendments to these rules by a 3-3 vote.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Sheila Pugatch at (208) 364-1817.

DATED this 17th day of November, 2004.

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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.04 - RULES AND MINIMUM STANDARDS FOR EMPLOYMENT SERVICES

DOCKET NO. 16-0404-0401 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-4605, Idaho Code.

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

The pending rule for the repeal of IDAPA 16.04.04 is being adopted as proposed and the chapter is being repealed in its entirety. The notice of the proposed rulemaking to repeal this chapter of rules was published in the August 4, 2004, Administrative Bulletin, Volume 04-8, page 162.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cameron Gilliland at (208) 334-5512.

DATED this 15th day of November, 2004.

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IDAPA 16, TITLE 04, CHAPTER 04

RULES AND MINIMUM STANDARDS FOR EMPLOYMENT SERVICES

This chapter is being repealed in its entirety.

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-8, August 4, 2004, page 162.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.11 - RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES

DOCKET NO. 16-0411-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This pending rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-4601 et seq., Idaho Code.

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

The pending rules are being adopted as proposed with no changes. The original text of the proposed rules was published in the September 1, 2004 Idaho Administrative Bulletin, Volume 04-9, pages 147 through 149.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Cameron Gilliland at (208) 334-0924.

DATED this 15th day of November, 2004.

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IDAPA 16, TITLE 04, CHAPTER 11

RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES

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 04-9, September 1, 2004, pages 147 through 149.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.11 - RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES

DOCKET NO. 16-0411-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-4605, Idaho Code.

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

In order to better assure the quality and safety of developmental disabilities services provided to children under three years of age, the Department has revised the coursework content areas required for Developmental Specialists serving children under three. This revision follows recommendations submitted to the Idaho Infant Toddler Program by the Governor-appointed Idaho Infant Toddler Interagency Coordinating Council during the comment period and will bring the rules into alignment with the current standards for the Early Childhood/Early Childhood Special Education "blended" certificate.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 1, 2004, Idaho Administrative Bulletin, Vol. 04-9, pages 150 through 159.

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

DATED this 15th day of November, 2004.

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IDAPA 16
TITLE 04
CHAPTER 11

RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-9, September 1, 2004, pages 150 through 159.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0411-0402

Subsection 010.11.e.ii.

010. DEFINITIONS -- A THROUGH O.

For the purposes of these rules the following terms are used as defined below: (3-20-04)

11. Developmental Specialist. A person qualified to conduct developmental evaluation and therapy, including: (3-30-01)

e. Developmental Specialists providing services to infants and toddlers, birth to three (3) years of age, must have a minimum of two hundred forty (240) hours of professionally supervised experience with young children who have developmental disabilities and one (1) of the following: (3-30-01)

i. An Elementary Education Certificate or Special Education Certificate with an Endorsement in Early Childhood Special Education; or (3-30-01)

ii. A bachelor's or master's degree in special education, elementary education, speech language pathology, early childhood education, physical therapy, occupational therapy, psychology, social work, or nursing plus a minimum of twenty-four (204) semester credits in Early Childhood/Early Childhood Special Education (EC/ECSE) from the listing of approved courses an accredited college or university. ()

(1) Courses taken must appear on college or university transcripts and must cover the following standards in their content in each of the following areas: normal child development, characteristics of young children with disabilities and foundations of special education, curriculum and instruction in ESCE, assessment in ESCE and families of young children with disabilities.: ()

(a) Promotion of development and learning for children from birth to three (3) years: ()

(b) Evaluation and observation methods for developmentally appropriate assessment of young children: ()

(c) Building family and community relationships to support early interventions: ()

(d) Development of appropriate curriculum for young children, including IFSP and IEP development: ()

(e) Implementation of instructional and developmentally effective approaches for early learning.

including strategies for children who are medically fragile and their families; and ()

(f) Demonstration of knowledge of policies, procedures, and exceptionalities in special education and early intervention. ()

(2) Closely related electives may be ~~accepted~~ approved by the Department with a recommendation from an institution of higher education. Developmental Specialists who possess a bachelor's or master's degree listed in Subsection 010.11.e.ii., have completed a minimum of twenty (20) semester credits in EC/ECSE, and with Department approval are serving children under three (3) years of age as of July 1, 2005, will be allowed to continue providing services. In circumstances where When the Department in its role as lead agency for implementation of Part C of the Individuals with Disabilities Education Act (IDEA) has determined that there is a shortage in a specific geographic area of such qualified personnel to meet service needs the Department may approve the most qualified individuals who are demonstrating satisfactory progress toward completion of applicable course work in accordance with the individuals's approved plan to meet the required standard within three (3) years of being hired. Satisfactory progress will be determined on an annual review by the Department. Individuals who have an approved plan for completion of twenty (20) semester credits in EC/ECSE prior to July 1, 2005, will be allowed to continue providing services so long as they demonstrate satisfactory progress on the plan and complete the requirements on the plan within three (3) years of their date of hire. (3-30-01)()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.17 - RULES GOVERNING RESIDENTIAL HABILITATION AGENCIES

DOCKET NO. 16-0417-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This pending rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-4601 et seq., Idaho Code.

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

The pending rules are being adopted as proposed with no changes. The original text of the proposed rules was published in the September 1, 2004 Idaho Administrative Bulletin, Volume 04-9, pages 160 through 162.

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

DATED this 15th day of November, 2004.

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IDAPA 16, TITLE 04, CHAPTER 17

RULES GOVERNING RESIDENTIAL HABILITATION AGENCIES

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 04-9, September 1, 2004, pages 160 through 162.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.02 - RULES GOVERNING AUDITS OF PROVIDERS

DOCKET NO. 16-0502-0301 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This pending rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-125, 56-202(b), 56-1003, and 67-2501, Idaho Code.

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

The pending rules are being adopted as proposed with no changes and the chapter is repealed in its entirety. The original text of the proposed rules was published in the September 3, 2003 Administrative Bulletin, Volume 03-9, page 187.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Paul Leary at (208) 364-1833.

DATED this 15th day of November, 2004.

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IDAPA 16, TITLE 05, CHAPTER 02

RULES GOVERNING AUDITS OF PROVIDERS

This chapter is being repealed in its entirety,

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 03-9, September 3, 2003, page 187.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES
DOCKET NO. 16-0601-0402
NOTICE OF RULEMAKING
PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2003. This pending rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 16-1624, 16-2001, 16-2402, 56-202(b), 56-203(b), 56-204(a), 56-204A, 56-1003 and 56-1004, Idaho Code.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes different from the proposed text are printed in this bulletin.

The original text of the proposed rules was published in the July Administrative Bulletin, Volume 04-7, pages 85 through 87. The changes to this document include adding a definition for the term 'deprivation' which required amending Section 010, Definitions, the section was formatted into smaller sections for ease of publishing in the future. Section 424 was amended to clarify what the abbreviation AFDC-FC meant. Section 430 was added to delete the same requirement in this section that was deleted from Section 425 in the original proposed rulemaking.

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

DATED this 15th day of November, 2004.

Sherri Kovach, Program Supervisor
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IDAPA 16, TITLE 06, CHAPTER 01

RULES GOVERNING FAMILY AND CHILDREN'S SERVICES

There are substantive changes from the proposed rule text.

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-7, July 7, 2004, pages 85 through 87.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 16-0601-0402

Section 010 - Subsections 010.22 through 010.78 are being renumbered

010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.

For the purposes of the rules contained in Idaho Department of Health and Welfare Rules, IDAPA 16.06.01, "Rules Governing Family and Children's Services," the following terms and abbreviations are used as defined herein in Sections 010 through 013 of these rules: (~~3-18-99~~)(7-1-03)T

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

02. Adoption Assistance. Funds provided to adoptive parent(s) of children who have special needs and/or could not be adopted without financial or medical assistance. (5-3-03)

03. Adoption Services. Protective service through which children are provided with permanent homes, under new legal parentage, including transfer of the mutual rights and responsibilities that prevail in the parent-child relationship. (5-3-03)

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

05. Alternate Care Plan. A federally required component of the Family Plan for children in alternate care. The alternate care plan contains elements related to reasonable efforts, the family's plan, child's alternate care provider, compelling reasons for not terminating parental rights, Indian status, education, immunization, medical and other information important to the day-to-day care of the child. (5-3-03)

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

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

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

- 09. Case Plan.** See "Family Plan". (3-18-99)
- 10. Central Office.** The state level administrative office of the Department of Health and Welfare located in Boise, Idaho. (3-18-99)
- 11. Certified Adoption Professional (formerly "qualified individual").** An individual certified by the Department who meets the qualifications specified in Section 889 of these rules for completion of pre-placement adoption home studies, reports to the court under the Termination of Parent and Child Relationship and Adoption of Children Acts, and placement supervision reports. (3-20-04)
- 12. Child Mental Health.** All of the following children under eighteen (18) years of age shall be served without regard to income or type of health insurance: (3-30-01)
- a.** Those who have a serious emotional disturbance or a grave disability due to a serious mental illness; and (3-30-01)
 - b.** Present a significant risk of harm to themselves or to others, due to their mental illness; and (3-30-01)
 - c.** Because of their mental illness are at risk for out-of-home placements or are currently in out-of-home placement and lack adequate resources to participate in their community's non-public system of care; or (3-30-01)
 - d.** Are involuntarily committed to the Department for out-of-home placement. (3-30-01)
- 13. Child Mental Health Services.** Services provided in response to the needs of children with a serious emotional disturbance and their families. These services are provided in accordance with the provisions of Section 16-2402 et seq., Idaho Code, the "Children's Mental Health Services Act". (3-30-01)
- 14. Child Protection.** All children under eighteen (18) who have been harmed or threatened with harm by a person responsible for their health or welfare through non-accidental physical or mental injury, sexual abuse (as defined by state law) or negligent treatment or maltreatment, including the failure to provide adequate food, clothing or shelter shall be served without regard to income. (3-30-01)
- 15. Child Protective Services.** Services provided in response to potential, alleged or actual abuse, abandonment or neglect of individuals under the age of eighteen (18) in accordance with the provisions of Section 16-1601 et seq., Idaho Code, the "Child Protective Act". (3-18-99)
- 16. Compact Administrator.** The individual designated to coordinate interstate transfers of persons requiring special services in accordance with the provisions of Section 16-2101 et seq., Idaho Code; "Interstate Compact on the Placement of Children," Section 16-1901 et seq., Idaho Code; or the "Interstate Compact on Mental Health," Section 66-1201 et seq., Idaho Code; or the "Interstate Compact on Adoption and Medical Assistance," Section 39-7501 et seq., Idaho Code. (3-20-04)
- 17. Concurrent Planning.** Planning which addresses a child's need for a permanent family by working toward family reunification while, at the same time, developing an alternative plan that will provide permanency for the child through adoption, guardianship, placement with a relative or other permanent placement. (3-30-01)
- 18. DHW Regions.** Seven (7) geographically defined regions which serve as administrative units for the delivery of social services through local Department local offices. (3-18-99)
- 19. Day Care for Children.** Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. (3-18-99)
- 20. Day Treatment Services.** Intensive nonresidential services that include an integrated set of educational, clinical, social, vocational and family interventions provided on a regularly scheduled, typically daily,

basis. (3-18-99)

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

22. Deprivation. *One of the factors used in determining AFDC-FC eligibility for children in foster care. Deprivation is a lack of, or interruption in, the maintenance, physical care, and parental guidance a child ordinarily receives from one (1) or both parents. A child is deprived by the continued absence of a parent, incapacity of a parent, death of a parent, unemployment or underemployment of the principal wage earner parent.* (7-1-03)T

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

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

011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.

2401. Family. Parent(s), legal guardian(s), related individuals including birth or adoptive immediate family members, extended family members and significant other individuals, who are included in the family plan. (5-3-03)

2502. Family and Children's Services (FACS). Those programs and services directed to families and children, administered by the Department and provided in accordance with these rules. (3-18-99)

2603. Family Assessment. An ongoing process based on information gained through a series of meetings with a family to gain mutual perception of strengths and resources that can support them in creating long-term solutions related to identified service needs and/or safety issues that threaten family integrity, unity or the ability to care for their members. (3-18-99)

2704. Family Case Record. Electronic and hard copy compilation of all documentation relating to a family, including, but not limited to, legal documents, identifying information, and evaluations. (3-30-01)

2805. Family Centered Services. An approach to the delivery of social services that focuses on families rather than individuals. Services are based on assessment of the entire family and a negotiated family plan designed to strengthen and maintain the family, while ensuring the safety, well being and permanency of children. (3-30-01)

2906. Family Plan. Also referred to as Service Plan. A written document that serves as the guide for provision of services. The plan, developed with the family, clearly identifies who does what, when, how and why. The family plan incorporates any special plans made for individual family members. If the family includes an Indian child, or child's tribe, tribal elders and/or leaders should be consulted early in the plan development. (3-30-01)

307. Family Services Worker. Any of the direct service personnel, including social workers, psychologists, counselors and family therapists, working in regional Family and Children's Services Programs. (3-20-04)

3108. Field Office. A Department of Health and Welfare service delivery site. (3-18-99)

3209. Goal. A statement of the long term outcome or plan for the child and family. (3-18-99)

3310. Guardianship Assistance. State benefits provided to legal guardian(s) for the support of a child who would otherwise remain in the guardianship of the Department of Health and Welfare. For a child to come into the Department's guardianship, parental rights must have been terminated. (5-3-03)

3411. Independent Living. Services provided to eligible foster or former foster youth ages fifteen (15) to twenty-one (21) designed to support a successful transition to adulthood. (3-30-01)

3512. Indian. Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 U.S.C. 1606. (3-18-99)

3613. Indian Child. Any unmarried person who is under the age of eighteen (18) who is: (3-18-99)

a. A member of an Indian tribe, or (3-18-99)

b. Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe. (3-18-99)

3714. Indian Child Welfare Act (ICWA). The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (3-18-99)

3815. Indian Child's Tribe. (3-18-99)

a. The Indian tribe in which an Indian child is a member or eligible for membership, or (3-18-99)

b. In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (3-18-99)

3916. Indian Tribe. Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. 1602(c). (3-18-99)

4017. Information and Referral Services. A service which enables individuals to gain access to human services through providing accurate, current information on community and Department resources. (3-30-01)

418. Intercountry Adoption Act of 2000 (P.L. 106-279). Federal law designed to protect the rights of, and prevent abuses against children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and to insure that such adoptions are in the children's best interests; and to improve the ability of the federal government to assist U.S. citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States. (5-3-03)

4219. Interethnic Adoption Provisions of 1996 (IEPA). IEPA prohibits delaying or denying the placement of a child for adoption or foster care on the basis of race, color or national origin of the adoptive or foster parent(s), or the child involved. (5-3-03)

4320. Interstate Compact on the Placement of Children (ICPC). Interstate Compact on the Placement of Children (ICPC) in Chapter 21, Title 16, Idaho Code, ensures that the jurisdictional, administrative and human rights obligations of interstate placement or transfers of children are protected. (3-20-04)

4421. Issue. Circumstances which brought a child and family to the attention of the Department. These circumstances typically involve safety issues which put the child at risk of harm. (3-30-01)

4522. Kin. Non-relatives who have a significant, family-like relationship with a child. Kin may include godparents, close family friends, clergy, teachers and members of a child's Indian tribe. Also known as fictive kin. (3-30-01)

4623. Kinship Care. Alternative care that is provided by kin. (3-30-01)

012. DEFINITIONS AND ABBREVIATIONS L THROUGH R.

4701. Legal Guardianship. A judicially created relationship, including one made by a tribal court, between a child and a relative or non-relative caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decision making. The term "legal guardian"

means the caretaker in such a relationship. For purposes of these rules a child must be in Department guardianship at the time the Petition for Legal Guardianship is filed with the court. Department guardianship may only take place when there has been a termination of parental rights. (5-3-03)

4802. Licensed. Facilities or programs being licensed in accordance with the provisions of Idaho Department of Health and Welfare Rules IDAPA 16.06.02, "Rules and Standards for Child Care Licensing". (3-18-99)

4903. Licensing. See Idaho Department of Health and Welfare Rules, IDAPA 16.06.02, "Rules and Standards for Child Care Licensing," Section 100. (3-18-99)

504. Medicaid. See "Title XIX". (3-30-01)

5105. Multiethnic Placement Act of 1994 (MEPA). MEPA prohibits states or public and private foster care and adoption agencies that receive federal funds from delaying or denying the placement of any child solely on the basis of race, color or national origin. (3-18-99)

5206. Objective. Behaviorally specific description of how the family circumstances will look when the risk factors which brought a child and family to the Department's attention, either no longer exist or are significantly reduced. (3-30-01)

5307. Parent(s). The person(s) who, by birth or through adoption, is considered legally responsible for a child. For purposes of these rules, when it is necessary to be more specific, identifiers will be added to parent(s): birth parent(s), foster parent(s), adoptive parent(s), step-parent(s), and pre-adoptive parent(s). The term "legal guardian(s)" is not included in the definition of parent(s). (3-20-04)

5408. Permanency Planning. A primary function of family services initiated in all cases to identify programs, services and activities designed to establish permanent home and family relationships for children within a reasonable amount of time. (3-18-99)

5509. Personal Care Services (PCS). Services to eligible Medicaid recipients that involve personal and medically oriented tasks dealing with the physical or functional impairments of the individual. (3-18-99)

5610. P.L. 96-272. Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980". (3-30-01)

5711. P.L. 105-89. Public Law 105-89, the federal "Adoptions and Safe Families Act of 1997", amends P.L. 96-272 and prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family. (3-30-01)

5812. Planning. An orderly rational process which results in identification of goals and formulation of timely strategies to fulfill such goals, within resource constraints. (3-30-01)

5913. Prevention. Programs, services and activities aimed at preventing child abuse and neglect and severe emotional disturbance. (3-30-01)

6014. Protective Services. To provide assistance in response to potential, actual or alleged neglect, abuse or exploitation of children. (3-18-99)

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

6216. Qualified Expert Witness--ICWA. A person who is most likely to be a qualified expert witness in the placement of an Indian child is: (3-18-99)

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

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

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

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

6317. Relative. Person related to a child by blood, marriage, or adoption. (3-30-01)

6418. Reservation. Indian country as defined in 18 U.S.C. Section 1151, and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation. Such term includes but is not limited to the Kootenai Reservation, the Coeur d'Alene Reservation, the Nez Perce Reservation, the Duck Valley Reservation, and the Shoshone-Bannock Reservation. (3-18-99)

6519. Respite Care. Time limited care provided to children. Respite care is utilized in circumstances which require short term, temporary placement of a child from the home of their usual care giver to that of another licensed or agency approved family. In general, the duration of a respite placement is from one (1) to fourteen (14) days. (3-30-01)

6620. Risk Assessment. Standardized protocol for contact between a family services worker and a family to objectively determine if safety issues, risk issues or immediate service needs exist, which require further Family and Children's Services response. (3-30-01)

013. DEFINITIONS AND ABBREVIATIONS S THROUGH Z.

6701. SSI (Supplemental Security Income). Income maintenance grants for eligible persons who are aged, blind or disabled. These grants are provided under Title VI of the Social Security Act and are administered by the Social Security Administration and local Social Security Offices. (3-18-99)

6802. Safety Plan. Plan developed by the Department and a family which assures the immediate safety of a child who has been determined to be conditionally safe or unsafe. (3-30-01)

6903. Serious Emotional Disturbance (SED). An emotional or behavioral disorder or a neuropsychiatric condition which results in a serious disability, which requires sustained treatment interventions and causes the child's functioning to be impaired in at least one (1) of the following areas: thought, perception, affect and behavior. A disorder shall be considered to be a serious disability if it causes substantial impairment in functioning. Functional impairment shall be assessed using the Child and Adolescent Functional Assessment Scale (CAFAS). Substantial impairment shall require a full eight (8) scale score of eighty (80) or higher with "moderate" impairment in at least one (1) of the following three (3) scales: Self-harmful behavior; Moods/emotions; or thinking. A substance abuse disorder or conduct disorder, and/or developmental disorder, alone does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance. (3-20-04)

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

7105. TAFI. Temporary Assistance to Families in Idaho. (3-18-99)

7206. Target Population. Group of persons, residing within a defined geographical area, who are identified as being at risk for an adverse social or health condition or combination of conditions and whom the program is designed to serve. (3-18-99)

7307. Title IV-E. Title under the Social Security Act which provides funding for foster care maintenance and adoption assistance payments for certain eligible children. (3-20-04)

7408. Title XIX (Medicaid). Title under the Social Security Act which provides "Grants to States for Medical Assistance Programs". (3-18-99)

7509. Title XXI. (Children's Health Insurance Program). Title under the Social Security Act which provides access to health care for uninsured children under the age of nineteen (19). (3-18-99)

7610. Tribal Court. A court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings. (3-18-99)

7711. Unmarried Parents' Services. Unmarried parent(s) services are aimed at achieving or maintaining self-reliance or self-support for unmarried parent(s). These services include counseling for all unmarried parent(s) who need such service in relation to their plans for their children and arranging for and/or paying for prenatal and confinement care for the well-being of the parent and infant. (5-3-03)

7812. Voluntary Services Agreement. A written and executed agreement between the Department and parent(s) or legal guardian(s) regarding the goal, issues, objectives and task responsibility including payment. A children's mental health family services plan is the Voluntary Service Agreement. (5-3-03)

0144. -- 019. (RESERVED).

Section 425

425. AID TO FAMILIES WITH DEPENDENT CHILDREN - FOSTER CARE (AFDC-FC) ELIGIBILITY.
A child is eligible for *Aid To Families With Dependent Children-Foster Care (AFDC-FC)* if the child would have been eligible to receive AFDC aid payments except that he was removed, by court order, from the home of a parent(s) or other caretaker relative(s) and placed in foster care. AFDC-FC is also available to eligible children voluntarily placed in foster care by a parent(s). The caretaker relative(s) is the relative(s) who exercises day-to-day physical custody of the child prior to the court action or voluntary placement. The child may qualify for AFDC payments as a child living with a relative. Eligibility for AFDC-FC is determined by Family and Community Services.
~~(7-1-03)F(7-1-03)T~~

Section 430

430. ONGOING ELIGIBILITY.
To continue eligibility for AFDC-FC, a child must meet each of the eligibility conditions listed in Table 430.

CONTINUING ELIGIBILITY CONDITIONS, TABLE 430		
	CONDITION	DESCRIPTION
01.	Financial Need.	The child's own income, after any applicable AFDC income exclusions and disregards, must not exceed the foster care need standard established for him by the Department.

CONTINUING ELIGIBILITY CONDITIONS, TABLE 430	
CONDITION	DESCRIPTION
02. AFDC Factors.	The child must continue to meet the following AFDC eligibility factors. Age; Residence; Citizenship; Resource limits; and Deprivation of parental support in relation to the current situation in the home from which the child was removed. (A child <u>who has been</u> removed from the home of a caretaker relative who is not his parent, meets the deprivation requirement without review.)
03. Ongoing Custody and Placement.	The child must remain in the Department's custody through either a current court order or a voluntary placement agreement that has not been in effect more than one hundred and eighty (180) days. They must continue to live in a licensed foster home, licensed institution, licensed group home, or a licensed relative's home.
04. Redetermination.	<p>The child's eligibility for AFDC-FC must be redetermined at least once every six (6) months.</p> <p>A redetermination, rather than an initial eligibility determination, is used for a child who left foster care, was placed in a non-AFDC-FC living situation such as a hospital or detention center, did not return home, remained in the Department's custody throughout his absence, and returned to foster care. Any return home other than a visit requires a new judicial determination or a new agreement and a new determination of eligibility based on current circumstances.</p> <p>Annual Review: An annual redetermination is required to assure that the court has determined that the Department has made reasonable efforts to finalize a permanent plan for the child. This is done at the Permanency Hearing held every twelve (12) months from the date of removal until the child is either adopted or placed in legal guardianship.</p> <p>The foster care payment standard is also the child's eligibility income limit for determining continued eligibility for AFDC-FC.</p>
05. Other Eligibility Considerations.	<p>The following must be considered for AFDC-FC eligibility:</p> <p>A child's eligibility does not depend on the availability of a home to which he can return;</p> <p>The Department must provide services designed to allow the child to return home, where not possible, the family's worker must aggressively pursue other permanent options for the child;</p> <p>A child receiving AFDC-FC who becomes available for adoption, remains eligible to receive AFDC-FC until he is legally adopted. The child must otherwise qualify for AFDC-FC;</p> <p>The child must not receive AFDC-FC and SSI, or AFDC-FC and AFDC, in the same month.</p>

(3-30-01)(7-1-03)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

**16.06.06 - RULES GOVERNING LOANS TO GROUP HOMES FOR
RECOVERING ALCOHOL AND DRUG ABUSERS**

DOCKET NO. 16-0606-0401 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-303 and 39-311, Idaho Code.

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

The pending rules are being adopted as proposed with no changes and is being repealed in its entirety. The original text of the proposed rules was published in the July 7, 2004 Idaho Administrative Bulletin, Volume 04-07, page 88.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Pharis Stanger at (208) 334-4944.

DATED this 15th day of November, 2004.

Sherri Kovach, Program Supervisor
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IDAPA 16, TITLE 06, CHAPTER 06

**RULES GOVERNING LOANS TO GROUP HOMES FOR
RECOVERING ALCOHOL AND DRUG ABUSERS**

This chapter is being repealed in its entirety.

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-7, July 7, 2004, page 88.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 17 - INDUSTRIAL COMMISSION

17.06.02 - BOILER AND PRESSURE VESSEL SAFETY RULES - ADMINISTRATION

DOCKET NO. 17-0602-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 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) 72-508,72-720, 72-721,72-722, and 72-723, Idaho Code.

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

The proposed rule designated the appointment of a Chief Inspector by the Division of Building Safety Administrator, and designated the Chief Inspector as the Idaho representative to sit on the National Board of Boiler and Pressure Vessel Inspectors.

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, page 402 through 403.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tom Limbaugh, Commissioner, Industrial Commission, (208) 334-6000, or Dave Munroe, Administrator, Division of Building Safety, (208) 332-7100.

DATED this 17th Day of November, 2004.

Thomas E. Limbaugh, Commissioner
Industrial Commission
317 Main Street
P.O. Box 83720, Boise, ID 83720-0041
(208) 334-6000 / (208) 334-2321

IDAPA 17, TITLE 06, CHAPTER 02

BOILER AND PRESSURE VESSEL SAFETY RULES - ADMINISTRATION

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 04-10, October 6, 2004, page 402 through 403.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 17 - INDUSTRIAL COMMISSION

17.07.01 - SAFETY RULES FOR ELEVATORS, ESCALATORS, AND MOVING WALKS

DOCKET NO. 17-0701-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 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) 72-508,72-720, 72-721,72-722, and 72-723, Idaho Code.

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

The proposed rule repealed the entire chapter to comply with changes passed by the 2004 legislature removing safety inspections of elevators, escalators, and moving walks from Section 72-720, Idaho Code, under jurisdiction of the Industrial Commission and placing jurisdiction with the Division of Building Safety in Title 39, Chapter 86, that became effective July 1, 2004.

The pending rule is being adopted as proposed with no change and is repealed in its entirety. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, page 404.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tom Limbaugh, Commissioner, Industrial Commission, (208) 334-6000, or Dave Munroe, Administrator, Division of Building Safety, (208) 332-7100.

DATED this 17th Day of November, 2004.

Thomas E. Limbaugh, Commissioner
Industrial Commission
317 Main Street
P.O. Box 83720, Boise, ID 83720-0041
(208) 334-6000 / (208) 334-2321

IDAPA 17, TITLE 07, CHAPTER 01

THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY

SAFETY RULES FOR ELEVATORS, ESCALATORS, AND MOVING WALKS

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 04-10, October 6, 2004, page 404.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 19 - BOARD OF DENTISTRY

19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY

DOCKET NO. 19-0101-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-912(4) and 54-924(8), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The proposed rule incorporated the American Dental Hygienists' Association's Code of Ethics for Dental Hygienists into the Board of Dentistry's administrative rules by reference; specified that a violation of the American Dental Hygienists' Association's Code of Ethics for Dental Hygienists constitutes unprofessional conduct by a dental hygienist that may constitute grounds for disciplinary action; specifically identified three additional areas of specialty dental practice (oral and maxillofacial radiology, oral and maxillofacial pathology and dental public health) to be recognized and licensed by the Board of Dentistry; and included the three additional areas of specialty dental practice to be recognized and licensed by the Board of Dentistry in the specialty advertising standards. There was no textual change between the text of the proposed rule and the text of this pending rule. The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the September 1, 2004 Idaho Administrative Bulletin, Volume 04-9, pages 169 through 174.

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

DATED this 4th day of November, 2004.

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)

IDAPA 19, TITLE 01, CHAPTER 01

RULES OF THE IDAHO STATE BOARD OF DENTISTRY

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 04-9, September 1, 2004, pages 169 through 174.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 22 - BOARD OF MEDICINE

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

DOCKET NO. 22-0104-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1806(2), Idaho Code.

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

The proposed rule was created to comply with the legislative intent of HB 659. The Idaho State Board of Medicine is adopting rule changes to reflect the elimination of the supervision requirement for advanced practice nurses.

There have been no changes to the text of the proposed rule. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 4, 2004, Idaho Administrative Bulletin, Volume 04-8, pages 172 through 176.

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

DATED this 4th day of November, 2004.

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

IDAPA 22, TITLE 01, CHAPTER 04

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

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-8, August 4, 2004, pages 172 through 176.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.01.01 - RULES OF THE IDAHO BOARD OF ARCHITECTURAL EXAMINERS

DOCKET NO. 24-0101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s)54-312, Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 410 through 412.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 8th day of November, 2004.

Rayola Jacobsen,
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste 220
Boise, ID 83709
(208) 334-3233
(208) 334-3945

IDAPA 24, TITLE 01, CHAPTER 01

RULES OF THE IDAHO BOARD OF ARCHITECTURAL EXAMINERS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 410 through 412.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS

DOCKET NO. 24-0201-0401

NOTICE OF RULEMAKING - PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-521(4), Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 413 and 414.

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

This fee charge is being imposed pursuant to Section 54-518, Idaho Code and will reduce the fee for original license and renewal fee in an attempt to bring the reserve fund for this board, which the auditors advised was significantly larger than recommended, into balance. The action is authorized pursuant to Section 54-518, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 8th day of November, 2004.

Rayola Jacobsen, Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste 220
Boise, ID 83709
(208) 334-3233 / (208) 334-3945

IDAPA 24, TITLE 02, CHAPTER 01

RULES OF THE BOARD OF BARBER EXAMINERS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 413 and 414.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.05.01 - RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS

DOCKET NO. 24-0501-0401 (NEW CHAPTER)

NOTICE OF RULEMAKING

PENDING FEE RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 25, 2004.

This pending rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to Sections 67-5224 and 67-5291, Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending and temporary rule. The action is authorized pursuant to Section(s) 54-2406, Idaho Code.

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

This temporary rule is being promulgated as per Chapter 24, Title 54, Idaho Code, which was signed into law this last session. Since this is a new law, there were no rules in place. These rules further define qualifications, definitions, and outline continuing education criteria. Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and/or clerical corrections have been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule. 300.03.f – delete a reference to a rule that does not exist and 500 – change professional to professionals. The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 415 through 426.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger.

This fee or charge is being imposed pursuant to Section 54-2407, Idaho Code. The following is a specific description of the fee or charge imposed or increased: These rules maintain present fees.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and amendment to temporary rule, contact Cherie Simpson at (208) 334-3233.

DATED this 10th day of August, 2004.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83702
(208) 334-3233
334-3945 fax

IDAPA 24
TITLE 05
CHAPTER 01

RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS

There are substantive changes from the proposed rule text.

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 415 through 426.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 24-0501.0401

Subsection 300.03.f.

300. REQUIREMENTS FOR LICENSE (RULE 300).

Applicants shall submit an application together with the required fees and such documentation as is required. (8-25-04)T

03. Substituting Education for Experience. Applicants may substitute approved education for operating and responsible charge experience as specified below. (8-25-04)T

f. One (1) year of post high school education *in addition to what is described in Rule 300.04.c. and d.* may be substituted for one (1) year experience up to a maximum of fifty percent (50%) of the required operating or responsible charge experience. ~~(8-25-04)T~~(8-25-04)T

Section 500

500. CONTINUING EDUCATION (RULE 500).

In order to further protect the health, safety and welfare of Idaho's public, and to facilitate the continued competence of persons licensed under the drinking water and wastewater professionals *licensing* act, the Board has adopted the following rules for continuing education. ~~(8-25-04)T~~(8-25-04)T

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.06.01 - RULES OF THE BOARD OF HEARING AID DEALERS AND FITTERS

DOCKET NO. 24-0601-0401

NOTICE OF RULEMAKING - PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-2914(m), Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 427 and 428.

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

This fee is being imposed pursuant to Section 54-2906, Idaho Code, and increases annual renewal fees from \$150 to \$250, to bring the Board's financial status into a positive situation pursuant to Section 54-2906, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 8th day of November, 2004.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste 220
Boise, ID 83709
(208) 334-3233 / (208) 334-3945

IDAPA 24, TITLE 06, CHAPTER 01

RULES OF THE BOARD OF HEARING AID DEALERS AND FITTERS

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 04-10, October 6, 2004, pages 427 and 428.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.07.01 - RULES OF THE BOARD OF LANDSCAPE ARCHITECTS

DOCKET NO. 24-0701-0401

NOTICE OF RULEMAKING - PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-3003(4), Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 429 and 430.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-3003(5), Idaho Code. Increase the original license fee and the annual renewal fee from \$100 to the cap of \$125 to maintain a positive cash balance for the Board's operation pursuant to Section 54-3003(5), Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 8th day of November, 2004.

Rayola Jacobsen, Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

IDAPA 24, TITLE 07, CHAPTER 01

RULES OF THE BOARD OF LANDSCAPE ARCHITECTS

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 04-10, October 6, 2004, pages 429 and 430.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.09.01 - RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

DOCKET NO. 24-0901-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-1604(3) Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 431 through 434.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 8th day of November, 2004.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

IDAPA 24, TITLE 09, CHAPTER 01

RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 431 through 434.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.12.01 - RULES GOVERNING THE BOARD OF PSYCHOLOGIST EXAMINERS

DOCKET NO. 24-1201-0401

NOTICE OF RULEMAKING - PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-2305(B), Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 435 through 439.

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

This fee is being imposed pursuant to Section 54-2315, Idaho Code, and increases the renewal fee to cap of \$225 to maintain a positive cash balance pursuant to Section 54-2315, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 8th day of November, 2004.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

IDAPA 24, TITLE 12, CHAPTER 01

RULES GOVERNING THE BOARD OF PSYCHOLOGIST EXAMINERS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 435 through 439.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.14.01 - RULES GOVERNING THE BOARD OF SOCIAL WORK EXAMINERS

DOCKET NO. 24-1401-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-3204, Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 440 through 445.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 8th day of November, 2004.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

IDAPA 24, TITLE 14, CHAPTER 01

RULES GOVERNING THE BOARD OF SOCIAL WORK EXAMINERS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 440 through 445.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

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

DOCKET NO. 24-1501-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-3404, Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 446 through 449.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 8th day of November, 2004.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

IDAPA 24, TITLE 15, CHAPTER 01

RULES OF THE IDAHO LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

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 04-10, October 6, 2004, pages 446 through 449.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.16.01 - RULES OF THE STATE BOARD OF DENTURITRY

DOCKET NO. 24-1601-0401

NOTICE OF RULEMAKING - PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-3309(g), Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 450 and 451.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee is being imposed pursuant to Section 54-3312, Idaho Code and will increase the renewal fees from \$300 to \$450. Due to increasing costs and decreasing numbers of licensees, the Board is in a revenue deficit situation.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 8th day of November, 2004.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste 220
Boise, ID 83709
(208) 334-3233
(208) 334-3945

IDAPA 24, TITLE 16, CHAPTER 01

RULES OF THE STATE BOARD OF DENTURITRY

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 04-10, October 6, 2004, pages 450 and 451.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.17.01 - RULES OF THE IDAHO BOARD OF ACUPUNCTURE

DOCKET NO. 24-1701-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-4705, Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 452 and 453.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 8th day of November, 2004.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

IDAPA 24, TITLE 17, CHAPTER 01

RULES OF THE IDAHO BOARD OF ACUPUNCTURE

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 452 and 453.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.18.01 - RULES OF THE REAL ESTATE APPRAISERS BOARD
DOCKET NO. 24-1801-0401
NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s)54-4106, Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 454 through 457.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 8th day of November, 2004.

Rayola Jacobsen
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste 220
Boise, ID 83709
(208) 334-3233
(208) 334-3945

IDAPA 24, TITLE 18, CHAPTER 01

RULES OF THE IDAHO BOARD OF REAL ESTATE APPRAISERS

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 04-10, October 6, 2004, pages 454 through 457.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD

DOCKET NO. 24-1801-0501

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 20, 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) 54-4106, Idaho Code, and Title XI of the federal statute.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 19, 2005.

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:

As mandated by federal requirements, the educational credit for classroom hours is being changed from the Appraisal Foundation to the Appraisal Qualifications Board.

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: Temporary rule is necessary to bring the education requirements into compliance with federal regulations.

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 this change is necessary to comply with federal requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at (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 January 26, 2005.

DATED this 10th day of November, 2004.

Rayola Jacobsen
Bureau Chief
1109 Main St., Suite 220
Boise, ID 83702
(208)334-3233
334-3945 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1801-0501

299. REQUIREMENTS FOR LICENSURE/CERTIFICATION (RULE 299).

All applicants for licensure/certification in any real estate appraiser classification must meet the following requirements in addition to those requirements set forth in Sections 300, 350, and 400 below. All applicants for trainee registration must meet the following requirements regarding education set forth in Section 299 in addition to those requirements set forth in Section 430. (3-13-02)

01. Examination. Successful completion of an examination approved by the Board pursuant to the guidelines of the Appraisal Foundation. (7-1-97)

02. Education. (7-1-97)

a. Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours, and the individual successfully completes an examination pertinent to the educational offering. (7-1-97)

b. Credit for the classroom hour requirement may be obtained from the following: (7-1-97)

i. Colleges or Universities. (7-1-97)

ii. Community or Junior Colleges. (7-1-97)

iii. ~~Any member of the~~ The Appraisal Foundation Qualifications Board. (~~7-1-97~~)(8-20-04)T

iv. State or Federal Agencies or Commissions. (7-1-97)

v. Other providers approved by the Board. (7-1-97)

c. Only those courses completed preceding the date of application will be accepted for meeting educational requirements. (3-18-99)

d. Course credits which are obtained from the course provider by challenge examination without attending the course will not be accepted. (3-18-99)

e. Various appraisal courses may be credited toward the classroom hour education requirement. Applicants must demonstrate that their education involved coverage of all topics listed below. Licensed Residential and Certified Residential must include emphasis in one (1) to four (4) unit residential properties; Certified General must include emphasis in nonresidential properties. (7-1-97)

i. Influences on Real Estate Value. (7-1-97)

ii. Legal Considerations in Appraisal. (7-1-97)

iii. Types of Value. (7-1-97)

iv. Economic Principles. (7-1-97)

v. Real Estate Markets and Analysis. (7-1-97)

vi. Valuation Process. (7-1-97)

vii. Property Description. (7-1-97)

viii. Highest and Best Use Analysis. (7-1-97)

ix. Appraisal Statistical Concepts. (7-1-97)

x. Sales Comparison Approach. (7-1-97)

- xi. Site Value. (7-1-97)
- xii. Cost Approach. (7-1-97)
- xiii. Income Approach. (7-1-97)
- xiv. Valuation of Partial Interests. (7-1-97)
- xv. Appraisal Standards and Ethics. (7-1-97)
- f.** Advanced courses will be those courses for which an introductory or basic course is required. Typically classes titled "Introductory," "Basic," or "Principles" will not be accepted for advanced requirements. (7-1-97)
- 03. Experience.** (7-1-97)
 - a.** The work product claimed for experience credit must be in conformity with the USPAP or shall be in compliance with generally accepted standards which were in effect at the time those appraisals were prepared. (3-13-02)
 - b.** On or after July 1, 2003, appraisal experience must be obtained as a registered trainee or as a licensed or certified appraiser. A year of experience is equal to a minimum of one thousand (1,000) hours worked during a consecutive twelve (12) month period. Regardless of the number of experience hours submitted or obtained during any twelve (12) month period, no more than one thousand (1,000) of those hours may be credited to meet this requirement. Hours obtained in excess of one thousand (1,000) hours during any consecutive twelve (12) month period may not be credited or carried over into the next twelve (12) month period. (3-13-02)
 - c.** Only experience gained during the five (5) years preceding application will be considered for evaluation. (7-1-97)
 - d.** Acceptable non field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, tax appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, and feasibility analysis/study. (3-18-99)
 - e.** An appraiser applying for certification/licensure must verify his completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board. (7-1-97)
 - i. To demonstrate experience the Board requires submission of a log which details hours claimed for experience credit. (7-1-97)
 - ii. The Board reserves the right to contact an employer for confirmation of length and extent of experience claimed. This may require an employer to submit appraisal reports and/or an affidavit. (7-1-97)
 - iii. The Board may request submission of written reports or file memoranda which substantiate an applicant's claim for experience credit. (7-1-97)
 - f.** Ad valorem tax appraisers who demonstrate that they use techniques to value properties similar to those used by appraisers and effectively use the process as defined in Subsection 010.10, Field Real Estate Appraisal Experience will receive experience credit. (7-1-97)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.19.01 - RULES OF THE BOARD OF EXAMINERS OF RESIDENTIAL CARE FACILITY ADMINISTRATORS

DOCKET NO. 24-1901-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s)54-4205(3), Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 458 and 459.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 8th day of November, 2004.

Rayola Jacobsen,
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

IDAPA 24, TITLE 19, CHAPTER 01

RULES OF THE BOARD OF EXAMINERS OF RESIDENTIAL CARE FACILITY ADMINISTRATORS

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 458 and 459.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-0402

NOTICE OF RULEMAKING - PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and are now pending review by the 2005 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 36-2107(b) and (d), Idaho Code.

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

There are some minor changes to the pending rule that differ from the proposed text. Section 009 – Outfitter License Codes and Guide Activities Codes, Subsection 01 - Outfitter License Codes, has been changed from “4BG Blue Grouse” to “4FG Forest Grouse” and “4CH Chukar, Grey Partridge and Hungarian Partridge” has been changed to “4CH Chukar and Grey Partridge. Based on comments received from industry and Board concerns, Section 059 - (CL1), (CL2), and (CL3) have been changed to delete clarifying combination license limits.

Only the sections that have changes different from the proposed text are printed in this bulletin. The original text of the proposed rules was published in the September 1, 2004, Idaho Administrative Bulletin, Volume 04-9, pages 188 through 214.

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

The changes in Rule 009 delete amendment fees which are provided elsewhere by statute and rule, and provide for outfitter license codes and guide activity codes. The changes in Rule 015 provide that instead of a late fee, a penalty fee shall be paid before the license is issued, and that an outfitter shall pay an annual license fee for each license they hold. The fees discussed in the rulemaking are implementation of existing fees in statute and rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the pending rule, contact: Jake Howard, Executive Director (208) 327-7380 - FAX 327-7382

DATED this 15th day of November, 2004.

Jake Howard, Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172
Boise, Idaho 83706
(208) 327-7380 / FAX (208) 327-7382

IDAPA 25, TITLE 01, CHAPTER 01

RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-9, September 1, 2004, pages 188 through 214.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 25-0101-0402

Subsection 009.01

009. ~~(RESERVED)~~ OUTFITTER LICENSE CODES AND GUIDE ACTIVITY CODES.

01. Outfitter License Codes.

License Codes	Guide Activity Codes
1A	<u>Antelope</u>
1B	<u>Bobcat</u>
1D	<u>Deer</u>
1E	<u>Elk</u>
1G	<u>Goat</u>
1M	<u>Moose</u>
1S	<u>Sheep</u>
1W	<u>Wolf</u>
2B	<u>Bear</u>
2C	<u>Cougar</u>
3P	<u>Predators</u>
4FG	<u>Forest Grouse</u>
4CH	<u>Chukar and Grey Partridge</u>
4TK	<u>Turkey</u>
4UG	<u>Upland Game Birds (shooting preserves)</u>
4WF	<u>Waterfowl</u>
14DH	<u>Day Hikes</u>

License Codes	Guide Activity Codes
<u>16LP</u>	<u>Llama and Goat Packing</u>
<u>17SV</u>	<u>Survival Course</u>
<u>19BT</u>	<u>Mountain Bike Touring</u>
<u>20PT</u>	<u>Photography Trips</u>
<u>5AF</u>	<u>Anadromous Fishing (including walk and wade fishing unless otherwise restricted. Includes all fish unless otherwise restricted.)</u>
<u>5F</u>	<u>Fishing (including walk and wade fishing unless otherwise restricted. Does not include anadromous fish)</u>
<u>5PBF</u>	<u>Powerboat Fishing (including walk and wade fishing unless otherwise restricted)</u>
<u>5FBF</u>	<u>Floatboat Fishing (including walk and wade fishing unless otherwise restricted)</u>
<u>5WW</u>	<u>Walk and Wade Fishing Only (access by land based means only)</u>
<u>6BCS</u>	<u>Backcountry Snowshoeing</u>
<u>6SK1</u>	<u>Level I Skiing</u>
<u>6SK2</u>	<u>Level II Skiing</u>
<u>6MTR</u>	<u>Motorized Trail Rides</u>
<u>6TR</u>	<u>Non-motorized Trailrides, Equestrian Rides, etc.</u>
<u>7BP</u>	<u>Backpacking</u>
<u>8SN</u>	<u>Snowmobiling</u>
<u>9TM</u>	<u>Technical Mountaineering</u>
<u>10 FB</u>	<u>Float Boating and Kayaking</u>
<u>10 PB</u>	<u>Power Boating</u>

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Subsections 059.01 - (CL1), (CL2), (CL3) (Partial Section)

059. RIVER, LAKE AND RESERVOIR POWER AND FLOAT OUTFITTER LIMITS.

01. Licensable Waters -- River Sections BL1 through Salmon River -- Table. The following rivers and streams or sections that lie totally or partially within the state of Idaho shall be open to commercial boating operations by outfitters and guides. All other rivers and streams or sections that lie totally or partially within the state of Idaho shall be closed to commercial boating by outfitters and guides.

River/Section	Maximum No. Power	Maximum No. Float
<p>(CL1) Clearwater River - Lowell to <u>the Upper Bridge at Kooskia</u>. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).</p>	none	5
<p>(CL2) Clearwater River - <u>The Upper Bridge at Kooskia</u> to <u>the Orofino Bridge</u>. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan).</p>	6	10
<p>(CL3) Clearwater River - <u>The Orofino Bridge</u> to <u>the Railroad Bridge at Lewiston</u>. (Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan).</p>	10	10

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IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-1101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and now is pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 61-515, Idaho Code, and 49 C.F.R. Section 192.95.

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

The pending rule is being adopted as proposed with no changes. No public comments were received in response to the proposed rule. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 471 and 472.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ron Law, Executive Administrator, at (208) 334-0330.

DATED this 15th day of November, 2004.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338

IDAPA 31, TITLE 11, CHAPTER 01

SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 471 and 472.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

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. 31-2101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-4291, 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 dates specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 61-507, 61-515, and 14-508, Idaho Code.

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

The pending rule is being adopted as proposed with no changes. No public comments were received in response to the proposed rule. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 473 and 474.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Beverly Barker at (208) 334-0302.

DATED this 15th day of November, 2004.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338

IDAPA 31, TITLE 21, CHAPTER 01

CUSTOMER RELATIONS RULES FOR GAS, ELECTRIC AND WATER PUBLIC UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION (THE UTILITY CUSTOMER RELATIONS RULES)

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 473 and 474.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.41.01 - CUSTOMER RELATIONS RULES FOR TELEPHONE CORPORATIONS PROVIDING LOCAL EXCHANGE OR INTRASTATE MTS/WATS SERVICE IN IDAHO SUBJECT TO CUSTOMER SERVICE REGULATION BY THE IDAHO PUBLIC UTILITIES COMMISSION UNDER THE PUBLIC UTILITIES LAW OR THE TELECOMMUNICATIONS ACT OF 1988 (THE TELEPHONE CUSTOMER RELATIONS RULES)

DOCKET NO. 31-4101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and now is pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 61-507, 62-615(3), 62-622(5), Idaho Code, and 47 C.F.R. Section 64.1120.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change: The pending rule is being adopted as proposed with no changes. No public comments were received in response to the proposed rule. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 477 through 479.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Beverly Barker at (208) 334-0302.

DATED this 15th day of November, 2004.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720, Boise, ID 83720-0074
Telephone: (208) 334-0338

IDAPA 31, TITLE 21, CHAPTER 01

CUSTOMER RELATIONS RULES FOR TELEPHONE CORPORATIONS PROVIDING LOCAL EXCHANGE OR INTRASTATE MTS/WATS SERVICE IN IDAHO SUBJECT TO CUSTOMER SERVICE REGULATION BY THE IDAHO PUBLIC UTILITIES COMMISSION UNDER THE PUBLIC UTILITIES LAW OR THE TELECOMMUNICATIONS ACT OF 1988 (THE TELEPHONE CUSTOMER RELATIONS RULES)

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 477 through 479.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 35 - STATE TAX COMMISSION

35.01.01 - INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 483 through 511.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd, at (208) 334-7530.

DATED this 17th day of November, 2004.

Janice Boyd
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 01

INCOME TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 483 through 511.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 35 - STATE TAX COMMISSION
35.01.01 - INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-0402
NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

Rule 325 is being amended from the proposed text to change the word “and” to “or” in Subsection 325.04. The text of the pending rule is being amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes differ from the proposed text printed in this bulletin.

The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 512 through 530.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd, at (208) 334-7530.

DATED this 17th day of November, 2004.

Janice Boyd
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 01
INCOME TAX ADMINISTRATIVE RULES

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 512 through 530.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET 35-0101-0402

Subsection 325.04

325. DEFINITIONS FOR PURPOSES OF MULTISTATE RULES (RULE 325).

Section 63-3027, Idaho Code. For purposes of computing the Idaho taxable income of a multistate corporation, the following definitions apply: (3-20-97)

04. Business Activity. Business activity refers to the transactions and activity occurring in the regular course of a particular trade or business of a taxpayer or to the acquisition, management, or disposition of property that constitute integral parts of the taxpayer's regular trade or business operations. (~~3-20-97~~)()

IDAPA 35 - STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 531 through 544.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact James Husted, at (208) 334-7530.

DATED this 17th day of November, 2004.

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 04-10, October 6, 2004, pages 531 through 544.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 35 - STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0402

NOTICE OF VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following summary of the reasons for vacating this rulemaking:

The proposed Rule 067 "Real Property," initiated under this docket, is being vacated to allow for further public comment. The Tax Commission concluded more work was required before moving forward with this proposed rule.

The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 545 through 546.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of proposed rulemaking, contact James Husted, at (208) 334-7530.

DATED this 17th day of November, 2004.

James Husted
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105A, Idaho Code.

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

Pursuant to Section 67-5228, a minor clerical correction to the table in Subsection 988.11.c.ii. - Example B is being made. In the proposed rule under the column header of the second column "Year Placed in Service," the year was listed as 2003. This is being corrected to the year 2005. The correction is being made in this notice only and no text is being reprinted here.

The pending rule is being adopted as proposed with the exception of the minor correction shown above. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 547 through 573.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Alan Dornfest, at (208) 334-7530.

DATED this 17th day of November, 2004.

Alan Dornfest, Tax Policy Supervisor
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 03

PROPERTY TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 547 through 573.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105A, Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 574 through 576.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Alan Dornfest, at (208) 334-7530.

DATED this 17th day of November, 2004.

Alan Dornfest
Tax Policy Supervisor
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 03

PROPERTY TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-10, October 6, 2004, pages 574 through 576.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 35 - STATE TAX COMMISSION

35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 577 through 586.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Randy Nilson, at (208) 334-7530.

DATED this 17th day of November, 2004.

Randy Nilson
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 05

IDAHO MOTOR FUELS 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 04-10, October 6, 2004, pages 577 through 586.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 35 - STATE TAX COMMISSION

35.01.06 - IDAHO HOTEL/MOTEL ROOM AND CAMPGROUND SALES TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0106-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the September 1, 2004, Idaho Administrative Bulletin, Vol. 04-9, pages 215 and 216.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact James Husted, at (208) 334-7530.

DATED this 17th day of November, 2004.

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 06

IDAHO HOTEL/MOTEL ROOM AND CAMPGROUND SALES 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 04-9, September 1, 2004, pages 215 and 216.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 35 - STATE TAX COMMISSION

35.01.10 - IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0110-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the September 1, 2004, Idaho Administrative Bulletin, Vol. 04-9, pages 217 and 218.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact James Husted, at (208) 334-7530.

DATED this 17th day of November, 2004.

James Husted
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 10

IDAHO CIGARETTE AND TOBACCO PRODUCTS 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 04-9, September 1, 2004, pages 217 and 218.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 35 - STATE TAX COMMISSION

35.01.11 - IDAHO UNCLAIMED PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0111-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the September 1, 2004, Idaho Administrative Bulletin, Vol. 04-9, pages 219 and 220.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact James Husted, at (208) 334-7530.

DATED this 17th day of November, 2004.

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 11

IDAHO UNCLAIMED PROPERTY 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 04-9, September 1, 2004, pages 219 and 220.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 35 - STATE TAX COMMISSION

35.02.01 - TAX COMMISSION RULES GOVERNING ADMINISTRATION AND ENFORCEMENT

DOCKET NO. 35-0201-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 587 through 591.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd, at (208) 334-7530.

DATED this 17th day of November, 2004.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 02, CHAPTER 01

TAX COMMISSION RULES GOVERNING ADMINISTRATION AND ENFORCEMENT

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 04-10, October 6, 2004, pages 587 through 591.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 36 - IDAHO BOARD OF TAX APPEALS

36.01.01 - IDAHO BOARD OF TAX APPEALS RULES

DOCKET NO. 36-0101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 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 63-3808, Idaho Code.

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

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 592 through 614.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Susan Renfro at 208/334-3354.

DATED this 10th day of November, 2004.

Susan Renfro
Director and Clerk to the Board
Board of Tax Appeals
3380 Americana Terrance, Suite 110
P.O. Box 83720
Boise, Idaho 83720-0088
Phone 208/334-3354 – Fax 208/334-4060

IDAPA 36, TITLE 01, CHAPTER 01

IDAHO BOARD OF TAX APPEALS 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 04-10, October 6, 2004, pages 592 through 614.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 57 - SEXUAL OFFENDER CLASSIFICATION BOARD

57.01.01 - RULES GOVERNING THE SEXUAL OFFENDER CLASSIFICATION BOARD

DOCKET NO. 57-0101-0401 (FEE RULE)

NOTICE OF RULEMAKING

PENDING FEE RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2004.

This pending rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective after the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 76-5224 and 67-5291, Idaho Code. After the pending rule is approved, rejected, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule, and amended the temporary rule. The action is authorized pursuant to Section 18-8314, Idaho Code.

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

The pending rule is being adopted to implement and effectuate legislation passed and signed into law during the 2003 legislative session.

In response to public comment, the temporary rule and the pending rule are being amended as follows: Sections 004 and 131 are amended to clarify the offender polygraph examination rule and add polygraph examiner standards. Subsection 040.06.a is amended to provide for on-line continuing education units.

Due to Board review, the temporary rule and the pending rule are being amended at Subsection 040.03 and Section 051 to emphasize the statutory requirement for Idaho licensure for certified sexual offender evaluators. Additional typographical, transcriptional, and/or clerical corrections have been made to the rule pursuant to Section 67-5228, Idaho Code, and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections with changes that differ from the proposed text are printed in this bulletin. The original text of the temporary and proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 660 through 674.

FEE SUMMARY: Pursuant to Section(s) 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed is justified and necessary to avoid immediate danger and the fee is described herein:

An application-processing fee is required for all qualified providers seeking sexual offender evaluator certification. The application fee for initial certification is \$75. The application fee for annual certification renewal is \$50.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the pending rule, contact Kathy Baird, Management Assistant, at (208) 658-2149.

DATED this 16th day of November, 2004.

Kathy Baird, Management Assistant
Sexual Offender Classification Board
1299 N. Orchard St., Suite 110, Boise, ID 83706
(208) 658-2149 phone; (208) 327-7102 fax

IDAPA 57, TITLE 01, CHAPTER 01

RULES GOVERNING THE SEXUAL OFFENDER CLASSIFICATION BOARD

There are substantive changes from the proposed rule text.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-10, October 6, 2004, pages 660 through 674.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 57-0101-0401

Section 004 (Entire Section)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into these rules: (10-1-04)T

01. “Association for the Treatment of Sexual Abusers Professional Code of Ethics, 2001 Edition.” This document is available from the Association for the Treatment of Sexual Abusers, 4900 SW Griffith Drive, Suite 274, Beaverton, Oregon 97005. (10-1-04)T

02. “Bylaws of the American Polygraph Association, 2004 Edition.” This document is available from the American Polygraph Association National Office, PO Box 8037, Chattanooga, Tennessee 37414. (10-1-04)T

023. “Practice Standards and Guidelines for Members of the Association for the Treatment of Sexual Abusers, 2001 Edition.” This document is available from the Association for the Treatment of Sexual Abusers, 4900 SW Griffith Drive, Suite 274, Beaverton, Oregon 97005. (10-1-04)T

034. The Sexual Offender Classification Board’s “Required Format for Psychosexual Evaluation Reports, ~~July~~ November 2004 Revision.” This document is available from the board, and is posted on the board’s website. (~~10-1-04)T~~(10-1-04)T

Subsections 040.03, and 040.06.a. through 040.06.c.

040. CERTIFIED EVALUATOR QUALIFICATIONS.

Each evaluator who performs an adult psychosexual evaluation pursuant to Sections 18-8316 and 18-8317, Idaho Code, must meet the qualifications as set forth in this section and be certified by the board. (10-1-04)T

03. **Licensure.** Idaho licensure is required pursuant to §18-8303, Idaho Code. A certified evaluator must maintain licensure by the appropriate Idaho licensing board for the duration of his evaluator certification. (10-1-04)T

034. **Specialized Training.** (10-1-04)T

a. For initial certification, the certified evaluator applicant must have attended forty (40) hours of formal conferences, symposia, or seminars in the following areas as relevant to the treatment and evaluation of adult sexual offenders, within the preceding two (2) years: (10-1-04)T

- i. Assessment and diagnosis of sexual offenders; (10-1-04)T
- ii. Psychometric and psychophysiological testing; (10-1-04)T
- iii. Psychopathology; (10-1-04)T
- iv. Sexual offender risk assessment; (10-1-04)T
- v. Counseling and psychotherapy; (10-1-04)T
- vi. Cognitive therapy; (10-1-04)T
- vii. Couples and family therapy; (10-1-04)T
- viii. Family reunification; (10-1-04)T
- ix. Pharmacological therapy; (10-1-04)T
- x. Relationship and social skills training; (10-1-04)T
- xi. Sexual offense relapse prevention; (10-1-04)T
- xii. Social support networks; and (10-1-04)T
- xiii. Victim awareness and empathy. (10-1-04)T

045. **Experience Qualifications.** For initial certification, the certified evaluator applicant shall have at least two thousand (2000) hours of adult sexual offender treatment and evaluation experience within the preceding ten (10) years. The two thousand (2000) hours must include: (10-1-04)T

- a.** At least two hundred fifty (250) hours of adult sexual offender evaluation experience; and (10-1-04)T
- b.** At least two hundred fifty (250) hours of adult sexual offender treatment experience. (10-1-04)T

056. **Continuing Education Requirement.** For certification renewal, the certified evaluator shall have attended forty (40) hours of formal conferences, symposia, or seminars relevant to the treatment and evaluation of adult sexual offenders within the preceding two (2) years. (10-1-04)T

a. No more than ten (10) hours of continuing education units may be obtained from on-line educational sources during a two (2) year period. (10-1-04)T

b. Any such on-line education must be from a recognized educational institution. (10-1-04)T

- c.** Verification of program completion must be provided with the certification renewal application. (10-1-04)T

067. Understanding. A certified evaluator shall have a thorough understanding of counter-transference issues and a broad knowledge of sexuality in the general population. A certified evaluator shall also have a good understanding of basic theories and typologies of sexual offenders and sexual assault victims. (10-1-04)T

Section 051 (Entire Section)

051. RECIPROCITY.

The board may consider reciprocity in certified evaluator qualification criteria, as outlined in Section 040 of these rules, for any applicant who has been licensed or certified to perform sexual offender evaluations in another state. ~~An applicant requesting consideration for reciprocity shall submit an initial certification application as outlined in Section 060 of these rules.~~ (10-1-04)T

01. Idaho License. Idaho licensure is required pursuant to Section 18-8303, Idaho Code. An applicant or certified evaluator who is licensed in another state must also be licensed or certified by the appropriate Idaho licensure board. An Idaho certified evaluator must maintain licensure by the appropriate Idaho licensing board for the duration of his evaluator certification. (10-1-04)T

02. Application. An applicant requesting initial consideration for reciprocity shall submit an initial certification application as outlined in Section 060 of these rules. Application for annual certification renewal shall follow the process outlined in Subsection 060.04 of these rules. (10-1-04)T

Section 131 (Entire Section)

131. POLYGRAPH EXAMINATION.

A full disclosure polygraph of an offender is highly recommended, as a further risk assessment component ~~for~~ of the psychosexual evaluation process. (10-1-04)T

01. Preparation. The offender must be prepared prior to being administered a post-conviction pre-sentence polygraph. Preparation is considered as: (10-1-04)T

- a.** Full clinical interview by the evaluator; (10-1-04)T
- b.** Completion of testing measures as outlined in Section 130 of these rules; and (10-1-04)T
- c.** Discussion between the evaluator and offender about the offender's instant offense and sexual history. (10-1-04)T

02. Consent. When a polygraph is conducted, the polygraph examiner shall obtain written consent to proceed from the offender being evaluated. (10-1-04)T

023. Offender Participation. If the offender refuses or declines to participate in a polygraph examination, such refusal or declination shall be documented in the psychosexual evaluation report. Further, a written statement indicating the offender's refusal or declination shall be signed by the offender and appended to the psychosexual evaluation report. (10-1-04)T

04. Polygraph Examiner. Polygraph examination shall be conducted only by an examiner who is certified by the American Polygraph Association to conduct Post Conviction Sex Offender Testing (PCSOT). The standards for PCSOT certification may be found in the "Bylaws of the American Polygraph Association, Division III: APA Standards of Practice, January 10, 1999 Revision," and will be complied with. (10-1-04)T

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 1, 2004, Vol. 04-9, pages 223 through 227. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440 or mbauer@deq.state.id.us.

DATED this 18th day of November, 2004.

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IDAPA 58, TITLE 01, CHAPTER 01

RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-9, September 1, 2004, pages 223 through 227.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 4, 2004, Vol. 04-8, pages 181 through 188. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440 or mbauer@deq.state.id.us.

DATED this 18th day of November, 2004.

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IDAPA 58, TITLE 01, CHAPTER 01

RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-8, August 4, 2004, pages 181 through 188.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0302

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 4, 2004, Vol. 04-8, pages 189 through 200. The Department of Environmental Quality (DEQ) held a public hearing in Boise, Coeur d'Alene, and Pocatello. DEQ received comments from the public. The proposed rule has been revised at Subsections 210.03.c.i. and 210.03.c.iv.(1). At Subsection 210.03.c.i., DEQ's proposal to remove the lower limitation on hardness dependent toxicity relations has been revised to keep the current 25 mg/l limit in place as the minimum hardness. At Subsection 210.03.c.iv.(1), the use of the Implementation Guidance for the Idaho Mercury Water Quality Criteria has been clarified. The remainder of the rule has been adopted as initially proposed. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised in the public comment and an explanation of the reasons for adopting the rule, is included in the rulemaking record. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: The water quality criteria for toxic compounds are not broader in scope or more stringent than federal law or regulations, and do not regulate an activity not regulated by the federal government. Where changes in criteria have been made, the resulting criteria are no more stringent than EPA's current 2002 national recommendations. EPA currently has no guidance on implementation of its recommended fish tissue criterion for methylmercury.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Don Essig at (208) 373-0119 or dessig@deq.state.id.us.

DATED this 18th day of November, 2004.

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IDAPA 58, TITLE 01, CHAPTER 02

WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

There are substantive changes from the proposed rule text.

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 04-8, August 4, 2004, pages 189 through 200.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0102-0302

Subsections 210.03.c.i., 210.03.c.iv.(1) and 210.03.c.iv.(2)

210. NUMERIC CRITERIA FOR TOXIC SUBSTANCES FOR WATERS DESIGNATED FOR AQUATIC LIFE, RECREATION, OR DOMESTIC WATER SUPPLY USE.

03. Applicability. The criteria established in Section 210 are subject to the general rules of applicability in the same way and to the same extent as are the other numeric chemical criteria when applied to the same use classifications including mixing zones, and low flow design discharge conditions below which numeric standards can be exceeded in flowing waters. (5-3-03)

c. Application of metals criteria. (5-3-03)

i. For purposes of calculating aquatic life criteria for metals from the equations in Subsection 210.02, the minimum hardness allowed for use in those equations shall not be less than twenty-five (25) mg/l, as calcium carbonate, even if the actual ambient hardness is less than twenty-five (25) mg/l as calcium carbonate. The maximum hardness allowed for use in those equations shall not be greater than four hundred (400) mg/l, as calcium carbonate, except as specified in Subsections 210.03.c.ii. and 210.03.c.iii., even if the actual ambient hardness is greater than four hundred (400) mg/l as calcium carbonate. (~~5-3-03~~)()

ii. The hardness values used for calculating aquatic life criteria for metals at design discharge conditions shall be representative of the ambient hardnesses for a receiving water that occur at the design discharge conditions given in Subsection 210.03.b. (5-3-03)

iii. Except as otherwise noted, the aquatic life criteria for metals (compounds #1 through #13 in the criteria table of Subsection 210.02) are expressed as dissolved metal concentrations. Unless otherwise specified by the Department, dissolved concentrations are considered to be concentrations recovered from a sample which has passed through a forty-five hundredths (0.45) micron filter. For the purposes of calculating aquatic life criteria for metals from the equations in footnotes e. and i. in the criteria table in Subsection 210.01, the water effect ratio is computed as a specific pollutant's acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. The water-effect ratio shall be assigned a value of one (1.0), except where the Department assigns a different value that protects the designated uses of the water body from the toxic effects of the pollutant, and is derived from suitable tests on sampled water representative of conditions in the affected water body, consistent with the design discharge conditions established in Subsection 210.03.b. For purposes of calculating water effects ratios, the term acute toxicity value is

the toxicity test results, such as the concentration lethal one-half (1/2) of the test organisms (i.e., LC50) after ninety-six (96) hours of exposure (e.g., fish toxicity tests) or the effect concentration to one-half of the test organisms, (i.e., EC50) after forty-eight (48) hours of exposure (e.g., daphnia toxicity tests). For purposes of calculating water effects ratios, the term chronic value is the result from appropriate hypothesis testing or regression analysis of measurements of growth, reproduction, or survival from life cycle, partial life cycle, or early life stage tests. The determination of acute and chronic values shall be according to current standard protocols (e.g., those published by the American Society for Testing and Materials (ASTM)) or other comparable methods. For calculation of criteria using site-specific values for both the hardness and the water effect ratio, the hardness used in the equations in Subsection 210.02 shall be as required in Subsection 210.03.c.ii. Water hardness shall be calculated from the measured calcium and magnesium ions present, and the ratio of calcium to magnesium shall be approximately the same in laboratory toxicity testing water as in the site water, or be similar to average ratios of laboratory waters used to derive the criteria. (10-24-03)T

iv. Implementation Guidance for the Idaho Mercury Water Quality Criteria. ()

(1) The “Implementation Guidance for the Idaho Mercury Water Quality Criteria” describes in detail suggested methods for discharge related monitoring requirements, calculation of reasonable potential to exceed (RPTE) water quality criteria in determining need for mercury effluent limits, and use of fish tissue mercury data in calculating mercury load reductions. This guidance, or its updates, will provide assistance to the Department and the public when implementing the methylmercury criterion. The “Implementation Guidance for the Idaho Mercury Water Quality Criteria” also provides basic background information on mercury in the environment, the novelty of a fish tissue criterion for water quality, the connection between human health and aquatic life protection, and the relation of environmental programs outside of Clean Water Act programs to reducing mercury contamination of the environment. The “Implementation Guidance for the Idaho Mercury Water Quality Criteria” is available at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, and www.deq.idaho.gov. ()

(2) The implementation of a fish tissue criterion in NPDES permits and TMDLs requires a non-traditional approach, as the basic criterion is not a concentration in water. In applying the methylmercury fish tissue criterion in the context of NPDES effluent limits and TMDL load reductions, the Department will assume change in fish tissue concentrations of methylmercury are proportional to change in water body loading of total mercury. Reasonable potential to exceed (RPTE) the fish tissue criterion for existing NPDES sources will be based on measured fish tissue concentrations potentially affected by the discharge exceeding a specified threshold value, based on uncertainty due to measurement variability. This threshold value is also used for TMDL decisions. Because measured fish tissue concentrations do not reflect the effect of proposed new or increased discharge of mercury, RPTE in these cases will be based upon an estimated fish tissue methylmercury concentration, using projected changes in waterbody loading of total mercury and a proportional response in fish tissue mercury. For the above purposes, mercury will be measured in the skinless filets of sport fish using techniques capable of detecting tissue concentrations down to point zero five (0.05) mg/kg. Total mercury analysis may be used, but will be assumed to be all methylmercury for purposes of implementing the criterion. ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107, and 39-3601 *et seq.*, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, July 7, 2004, Vol. 04-7, pages 92 through 111. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rulemaking removes a rule which regulates an activity not regulated by the federal government.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Nancy Bowser at (208) 373-0406 or nbowser@deq.state.id.us.

DATED this 18th day of November, 2004.

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IDAPA 58, TITLE 01, CHAPTER 02

WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

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 04-7, July 7, 2004, pages 92 through 111.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 1, 2004, Vol. 04-9, pages 228 through 263. DEQ received comments from the public. The proposed rule has been revised at Subsections 002.02.f. and 550.07.a. The remaining sections have been adopted as initially proposed. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised in the public comment and an explanation of the reasons for adopting the rule, is included in the rulemaking record. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: The engineering standards for design, construction, and operation of public water systems regulate activities that are not regulated by the federal government. These standards were promulgated to fulfill the requirements Idaho Code Section 39-118 and pre-date the Safe Drinking Water Act. This rulemaking updates and clarifies long-standing administrative rules. The rule revisions are no more stringent than the applicable federal regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Tom John at (208) 373-0191 or tjohn@deq.state.id.us.

DATED this 18th day of November, 2004.

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IDAPA 58, TITLE 01, CHAPTER 08

IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

There are substantive changes from the proposed rule text.

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 04-9, September 1, 2004, pages 228 through 263.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0108-0401

Subsection 002.02.f.

002. INCORPORATION BY REFERENCE.

Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of the Code of Federal Regulations (CFR), Title 40, Parts 141 and 143 shall constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules. Any reference in these rules to procedures, methods, standards, or construction criteria contained in a published technical manual shall constitute the full adoption by reference of the part of the technical manual that pertains to the procedure, method, standard, or construction criterion as it appears in the manual. (3-15-02)

02. Availability of Specific Referenced Material. Copies of specific documents adopted by reference throughout these rules are available in the following locations: (12-10-92)

f. Rules of the Idaho Water Resources Board, IDAPA 37.03.09, "Well Construction Standards Rules," July 1993, available at the Idaho Department of Water Resources, ~~1301 North Orchard~~ Idaho Water Center, 322 E. Front St., P.O. Box 83720, Boise, Idaho 83720-0098, Telephone (208) ~~327-7900~~ 287-4800. (7-1-97)()

Subsection 550.07.a.

550. DESIGN STANDARDS FOR PUBLIC DRINKING WATER SYSTEMS.

07. Cross Connection. There shall be no connection between the distribution system and any pipes, pumps, hydrants, or tanks whereby unsafe water or other contaminating materials may be discharged or drawn into a public water system. (5-3-03)

a. All suppliers of water for community water systems shall implement a cross connection control program to prevent the entrance of toxic or hazardous substances to the system. Reference should be made to the AWWA "Cross Connection Control Manual," as specified in Subsection 002.02.n. of these rules. The program will include: (5-3-03)()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, July 7, 2004, Vol. 04-7, pages 115 through 143. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rulemaking removes a rule which regulates an activity not regulated by the federal government.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Chris Lavelle at (208)373-0502 or clavelle@deq.state.id.us.

DATED this 18th day of November, 2004.

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IDAPA 58, TITLE 01, CHAPTER 08

IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

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 04-7, July 7, 2004, pages 115 through 143.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2005 Idaho State Legislature as a final rule.

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LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

IDAPA 11 - IDAHO STATE POLICE PO Box 1177, Meridian, ID 83680-1177

11-0201-0501, Rules of the Idaho State Brand Board. Raises the brand inspection fee from \$.75 to \$.84, and the livestock pasture fee from \$.38 to \$.42 to offset increased business costs. Comment by: 1/26/05.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES 1109 Main St., Suite 220, Boise, ID 83702

241801-0501, Rules of the Real Estate Appraiser Board. As mandated by federal requirements, the educational credit for classroom hours is being changed from the Appraisal Foundation to the Appraisal Qualifications Board. Comment by: 1/26/05.

Please refer to the Idaho Administrative Bulletin, **January 5, 2005, Volume 05-1** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact information.

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CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

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**This index tracks the history of all agency rulemakings from 1993 to the present.
It includes all rulemaking activities on each chapter of rules
and includes negotiated, temporary, proposed, pending
and final rules, public hearing notices
and vacated rulemaking notices.**

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