

IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

August 3, 2005 -- Volume 05-8

PREFACE	5
THE OFFICE OF THE GOVERNOR	
Executive Order No. 2005-05 Creating a Criminal Justice Grant Review Board for Awarding Federal Grant Funds.....	14
Executive Order No. 2005-06 Expanding Membership in the Criminal Justice Commission for Oversight of the State's Criminal Justice System Repealing And Replacing Executive Order 2005-01	15
Executive Order No. 2005-07 Deferred Compensation Program for Employees of the State of Idaho, Repealing And Replacing Executive Order No. 2001-03.....	17
Executive Order No. 2005-08 Creating the State of Idaho Citizen Corps Council	19
IDAPA 02 - DEPARTMENT OF AGRICULTURE	
02.06.01 - Rules Governing the Pure Seed Law Docket No. 02-0601-0501 (Fee Rule) Notice of Rulemaking - Temporary and Proposed Rule	21
IDAPA 07 - DIVISION OF BUILDING SAFETY	
07.01.06 - Rules Governing the Use of National Electrical Code Division of Building Safety Docket No. 07-0106-0501 Notice of Rulemaking - Pending Rule.....	31
07.02.06 - Rules Concerning Uniform Plumbing Code Division of Building Safety Docket No. 07-0206-0501 Notice of Rulemaking - Pending Rule.....	32
07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems Docket No. 07-0701-0501 Notice of Rulemaking - Pending Rule.....	33
IDAPA 08 - STATE BOARD OF EDUCATION	
08.02.03 - Rules Governing Thoroughness Docket No. 08-0203-0501 Notice of Rulemaking - Proposed Rule.....	34

Docket No. 08-0203-0502	
Notice of Rulemaking - Temporary and Proposed Rule	86
Docket No. 08-0203-0503	
Notice of Rulemaking - Proposed Rule.....	91
IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR	
09.01.04 - Rules of the Benefit Payment Control Bureau	
Docket No. 09-0104-0501	
Notice of Rulemaking - Proposed Rule.....	96
09.01.30 - Rules of the Benefits Bureau	
Docket No. 09-0130-0501	
Notice of Rulemaking - Proposed Rule.....	98
Docket No. 09-0130-0502	
Notice of Rulemaking - Proposed Rule.....	100
Docket No. 09-0130-0503	
Notice of Rulemaking - Temporary and Proposed Rule	107
Docket No. 09-0130-0504	
Notice of Rulemaking - Temporary and Proposed Rule	114
Docket No. 09-0130-0505	
Notice of Rulemaking - Temporary and Proposed Rule	119
Docket No. 09-0130-0506	
Notice of Rulemaking - Temporary and Proposed Rule	122
Docket No. 09-0130-0507	
Notice of Rulemaking - Temporary and Proposed Rule	129
09.01.35 - Rules of the Employer Accounts Bureau	
Docket No. 09-0135-0501	
Notice of Rulemaking - Temporary and Proposed Rule	133
Docket No. 09-0135-0502	
Notice of Rulemaking - Temporary and Proposed Rule	135
Docket No. 09-0135-0503	
Notice of Rulemaking - Proposed Rule.....	137
Docket No. 09-0135-0504	
Notice of Rulemaking - Temporary and Proposed Rule	144
Docket No. 09-0135-0505	
Notice of Rulemaking - Proposed Rule.....	146
Docket No. 09-0135-0506	
Notice of Rulemaking - Temporary and Proposed Rule	150
Docket No. 09-0135-0507	
Notice of Rulemaking - Temporary and Proposed Rule	152
Docket No. 09-0135-0508	
Notice of Rulemaking - Temporary and Proposed Rule	154
09.02.01 - Idaho Community Development Block Grant Program	
Docket No. 09-0201-0501	
Notice of Rulemaking - Temporary and Proposed Rule	156
09.02.03 - Rules of the Idaho Regional Travel and Convention Grant Program	

Docket No. <i>09-0203-0501</i>	
Notice of Rulemaking - Proposed Rule.....	183
IDAPA 12 - DEPARTMENT OF FINANCE	
12.01.10 - Rules Pursuant to the Idaho Residential Mortgage Practices Act	
Docket No. <i>12-0110-0501</i> (Fee Rule)	
Notice of Rulemaking - Proposed Rule.....	186
IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE	
16.02.03 - Rules Governing Emergency Medical Services	
Docket No. <i>16-0203-0501</i>	
Notice Of Rulemaking - Proposed Rule.....	198
16.03.09 - Rules Governing the Medical Assistance Program	
Docket No. <i>16-0309-0504</i>	
Notice of Rulemaking - Temporary and Proposed Rule	206
16.04.11 - Rules Governing Developmental Disabilities Agencies	
Docket No. <i>16-0411-0501</i> (Chapter Repeal)	
Notice of Rulemaking - Proposed Rule.....	211
Docket No. <i>16-0411-0502</i> (Chapter Rewrite)	
Notice of Rulemaking - Proposed Rule.....	212
16.05.05 - Criminal History and Background Checks in Long Term Care Settings	
Docket No. <i>16-0505-0501</i> (New Chapter)	
Notice of Rulemaking - Temporary and Proposed Rule	258
16.06.08 - Rules and Minimum Standards for DUI Evaluators	
Docket No. <i>16-0608-0501</i>	
Notice of Rulemaking - Proposed Rule.....	262
IDAPA 18 - DEPARTMENT OF INSURANCE	
18.01.09 - Senior Consumer Protection in Annuity Transactions	
Docket No. <i>18-0109-0501</i> (New Chapter)	
Notice of Rulemaking - Temporary and Proposed Rule	273
18.01.10 - Producers Handling of Fiduciary Funds	
Docket No. <i>18-0110-0501</i> (New Chapter)	
Notice of Rulemaking - Temporary and Proposed Rule	279
18.01.18 - Open Lines for Export - Surplus Lines	
Docket No. <i>18-0118-0501</i>	
Notice of Rulemaking - Temporary and Proposed Rule	285
IDAPA 35 - STATE TAX COMMISSION	
35.01.03 - Idaho Property Tax Administrative Rules	
Docket No. <i>35-0103-0501</i>	
Notice of Rulemaking - Temporary Rule.....	295
Docket No. <i>35-0103-0502</i>	
Notice of Rulemaking - Temporary and Proposed Rule	298

IDAPA 36 - IDAHO BOARD OF TAX APPEALS**36.01.01 - Idaho Board of Tax Appeals Rules**Docket No. **36-0101-0501**

Notice of Rulemaking - Proposed Rule.....304

IDAPA 54 - OFFICE OF THE STATE TREASURER**54.02.01 - Rules Governing the College Savings Program**Docket No. **54-0201-0501**

Notice of Rulemaking - Pending Rule.....306

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITYDocket No. **58-0000-0504**

Notice of Final Decision on the Beaver-Camas TMDL.....307

58.01.01 - Rules for the Control of Air Pollution in IdahoDocket No. **58-0101-0503**

Notice of Rulemaking - Proposed Rule.....308

Docket No. **58-0101-0505**

Notice of Rulemaking - Proposed Rule.....340

Docket No. **58-0101-0506**

Notice of Rulemaking - Proposed Rule.....350

58.01.05 - Rules and Standards for Hazardous WasteDocket No. **58-0105-0501**

Notice of Rulemaking - Proposed Rule362

58.01.13 - Rules for Ore Processing by CyanidationDocket No. **58-0113-0501**

Notice of Rulemaking - Temporary and Proposed Rule369

58.01.17 - Wastewater-Land Application Permit RulesDocket No. **58-0117-0501**

Notice of Rulemaking - Proposed Rule.....389

Docket No. **58-0117-0502**

Notice of Rulemaking - Proposed Rule.....411

SUBJECTS AFFECTED INDEX414**LEGAL NOTICE - SUMMARY OF PROPOSED RULEMAKINGS**424**ABRIDGED EDITION OF THE CUMULATIVE RULEMAKING
INDEX OF IDAHO ADMINISTRATIVE RULES**428**SUBJECT INDEX**436

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 04-1 refers to the first Bulletin issued in calendar year 2004; Bulletin 05-1 refers to the first Bulletin issued in calendar year 2005. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 04-1 refers to January 2004; Volume No. 05-2 refers to February 2005; and so forth. Example: The Bulletin published in January of 2005 is cited as Volume 05-1. The December 2004 Bulletin is cited as Volume 04-12.

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 "-", (38-0501-0501). 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. 38-0501-0501"

"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**).

"0501" denotes the year and sequential order of the docket received during the year; in this case the first rule-making action in calendar year 2005.

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
38.04.04, "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 4, 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.***

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBER AND THE CURRENT ADMINISTRATIVE CODE VOLUME NUMBERS		
IDAPA 01	Accountancy, Board of	VOLUME 1
IDAPA 38	Administration, Department of	VOLUME 8
IDAPA 44	Administrative Rules Coordinator, Office of the	VOULME 8
IDAPA 02	Agriculture, Idaho Department of	VOLUME 1
IDAPA 40	Arts, Idaho Commission on the	VOLUME 8
IDAPA 03	Athletic Commission	VOLUME 1
IDAPA 04	Attorney General, Office of the	VOLUME 1
IDAPA 53	Barley Commission, Idaho	VOLUME 9
IDAPA 51	Beef Council, Idaho	VOLUME 9
IDAPA 07	Building Safety, Division of Electrical Board Plumbing Board Building Code Advisory Board Public Works Contractors License Board HVAC Board	VOLUME 2
IDAPA 43	Canola and Rapeseed Commission, Idaho	VOLUME 8
IDAPA 09	Commerce and Labor, Idaho Department of	VOLUME 2
IDAPA 06	Correction, Board of	VOLUME 2
IDAPA 19	Dentistry, Board of	VOLUME 6
IDAPA 08	Education, Board of and Department of	VOLUME 2
IDAPA 10	Engineers and Land Surveyors, Board of Professional	VOLUME 2
IDAPA 58	Environmental Quality, Department of	VOLUME 9
IDAPA 12	Finance, Department of	VOLUME 3
IDAPA 13	Fish and Game, Department of	VOLUME 3
IDAPA 14	Geologists, Board of Registration of Professional	VOLUME 3

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBER AND THE CURRENT ADMINISTRATIVE CODE VOLUME NUMBERS		
IDAPA 15	Governor, Office of the Idaho Commission on Aging Idaho Commission for the Blind and Visually Impaired Idaho Forest Products Commission Division of Human Resources and Personnel Commission Idaho Liquor Dispensary Emergency Response Commission	VOLUME 3
IDAPA 16	Health and Welfare, Department of	VOLUMES 3, 4, & 5
IDAPA 45	Human Rights Commission	VOLUME 8
IDAPA 30	Idaho State Library	VOLUME 7
IDAPA 11	Idaho State Police	VOLUME 2 & 3
IDAPA 39	Idaho Transportation Department	VOLUME 8
IDAPA 17	Industrial Commission	VOLUME 5
IDAPA 18	Insurance, Department of	VOLUME 5 & 6
IDAPA 05	Juvenile Corrections, Department of	VOLUME 1
IDAPA 20	Lands, Department of	VOLUME 6
IDAPA 52	Lottery Commission, Idaho State	VOLUME 9
IDAPA 22	Medicine, Board of	VOLUME 6
IDAPA 23	Nursing, Board of	VOLUME 6
IDAPA 24	Occupational Licenses, Board of Board of Architectural Examiners Board of Barber Examiners Board of Chiropractic Physicians Board of Cosmetology Board of Drinking Water and Wastewater Specialists Board of Environmental Health Specialist Examiners Board of Hearing Aid Dealers and Fitters Board of Landscape Architects Board of Morticians Board of Examiners of Nursing Home Administrators Board of Optometry Board of Podiatry Board of Psychologist Examiners Board of Social Work Examiners Board of Professional Counselors and Marriage and Family Therapists Board of Dentistry Board of Acupuncture Real Estate Appraiser Board Board of Residential Care Facility Administrators	VOLUME 6

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBER AND THE CURRENT ADMINISTRATIVE CODE VOLUME NUMBERS		
IDAPA 25	Outfitters and Guides Licensing Board	VOLUME 6
IDAPA 50	Pardons and Parole, Commission for	VOLUME 9
IDAPA 26	Parks and Recreation, Department of	VOLUME 6 & 7
IDAPA 27	Pharmacy, Board of	VOLUME 7
IDAPA 29	Potato Commission, Idaho	VOLUME 7
IDAPA 59	Public Employee Retirement System of Idaho - PERSI	VOLUME 9
IDAPA 41	Public Health Districts	VOLUME 8
IDAPA 31	Public Utilities Commission	VOLUME 7
IDAPA 56	Rangeland Resources Commission, Idaho	VOLUME 9
IDAPA 33	Real Estate Commission, Idaho	VOLUME 7
IDAPA 34	Secretary of State, Office of the	VOLUME 7
IDAPA 49	Shorthand Reporters, Board of Certified	VOLUME 8
IDAPA 36	Tax Appeals, Board of	VOLUME 7
IDAPA 35	Tax Commission, State	VOLUME 7
IDAPA 54	Treasurer, Office of the State	VOLUME 8
IDAPA 21	Veterans Services, Division of	VOLUME 6
IDAPA 46	Veterinary Medical Examiners, Board of	VOLUME 8
IDAPA 55	Vocational and Technical Education, Division of	VOLUME 9
IDAPA 47	Vocational Rehabilitation, Division of	VOLUME 8
IDAPA 37	Water Resources, Department of	VOLUME 8
IDAPA 42	Wheat Commission	VOLUME 8

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2005-05

**CREATING A CRIMINAL JUSTICE GRANT REVIEW BOARD FOR AWARDING
FEDERAL GRANT FUNDS**

WHEREAS, combating crime and protecting citizens from criminal depredation is of vital concern to government: and

WHEREAS, it is in the best interests of the citizens of the State of Idaho that government promote efficiency and effectiveness of the criminal justice system and, where possible, create partnerships among criminal justice professionals to achieve this effectiveness and efficiency: and

WHEREAS, under the provisions of the Omnibus Crime Control and Safe Streets Act of 1968, the Violence Against Women Act of 1994, and the Crime Control Act of 2005, each state is encouraged to develop and implement a competitive mechanism for award of certain federal grant funds;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, do hereby establish the Idaho Criminal Justice Grant Review Board and charge this body with the responsibility to disburse such grant funding as may come within its purview with the overall mission of reducing crime in Idaho.

The Idaho Criminal Justice Grant Review Board shall consist of seventeen (17) members comprised of the following representatives (or their designees) who shall serve a one-year term at the pleasure of the Governor:

*The Attorney General of the State of Idaho
The Chief Justice of the Idaho Supreme Court
The Director of the Idaho Department of Correction
The Director of the Idaho Department of Law Enforcement
The Director of the Idaho Department of Juvenile Corrections
Two (2) Chiefs of Police
Two (2) Sheriffs
Two (2) Prosecuting Attorneys
One (1) representative of the Idaho Council on Domestic Violence
The State Appellate Public Defender
One (1) representative of the juvenile justice system
One (1) representative of private security organizations
Two (2) citizens-at-large*

The Governor shall appoint the Chair of the Criminal Justice Grant Review Board.

This Executive Order shall cease to be effective one year 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 2nd day of June in the year of our Lord two-thousand five, and 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**

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2005-06

**EXPANDING MEMBERSHIP IN THE CRIMINAL JUSTICE COMMISSION
FOR OVERSIGHT OF THE STATE'S CRIMINAL JUSTICE SYSTEM
REPEALING AND REPLACING EXECUTIVE ORDER 2005-01**

WHEREAS, it is in the best interests of the citizens of the State of Idaho that government promote efficiency and effectiveness of the criminal justice system and, where possible, encourage dialogue among the respective branches of government to achieve this effectiveness and efficiency; and

WHEREAS, combating crime and protecting citizens from criminal depredation is of vital concern to government; and

WHEREAS, communication and cooperation among the various facets of the community of criminal justice professionals is of utmost importance in promoting efficiency and effectiveness; and

WHEREAS, providing policy makers and criminal justice decision makers with accurate information results in better decisions which improves public safety and results in the efficient use of public resources; and

WHEREAS, the continued growth of the State's adult incarcerated offender population necessitates more in-depth analysis of the State's criminal justice system; and

WHEREAS, the manufacture, trafficking and abuse of methamphetamine is a critical issue that plagues communities across the state and is a drain on state and local resources; and

WHEREAS, we need to be increasingly vigilant in the adoption of a zero tolerance policy against emerging gang activity in Idaho;

WHEREAS, Idaho's current criminal justice efforts and initiatives require clear strategic planning and increased coordination;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me by the Constitution and laws of the State of Idaho, do hereby establish the Idaho Criminal Justice Commission.

1. *The Idaho Criminal Justice Commission (the "Commission") shall consist of 22 members. The Commission members representing the judiciary will serve in a non-voting, advisory capacity. The Commission's membership shall be as follows:*
 - a. *A representative from the Governor's Office;*
 - b. *The Attorney General or his or her designee;*
 - c. *The Chair and Ranking Minority member of the Senate Judiciary and Rules Committee;*
 - d. *The Chair and Ranking Minority member of the House Judiciary, Rules and Administration Committee;*
 - e. *The Director of the Idaho Department of Correction;*
 - f. *The Director of the Idaho State Police;*
 - g. *The Director of the Idaho Department of Juvenile Corrections;*
 - h. *The Executive Director of the Idaho Commission of Pardons and Parole;*
 - i. *The Director of the Idaho Department of Health and Welfare;*
 - j. *Four (4) representatives of the judiciary as designated by the Chief Justice, including a Supreme Court Justice, Court of Appeals Judge, District Judge and Magistrate Judge;*
 - k. *One (1) representative from the Idaho Prosecuting Attorneys Association;*
 - l. *One (1) representative from the Office of the Idaho State Appellate Public Defender;*
 - m. *One (1) representative from the Idaho Sheriffs' Association;*
 - n. *One (1) representative from the Idaho Chiefs of Police Association;*
 - o. *Three (3) citizens at large*
2. *The purpose of the Criminal Justice Commission shall be to provide policy- level direction and to promote efficient and effective use of resources for matters related to the State's criminal justice system. To that end it shall:*
 - a. *Identify critical problems within the criminal justice system and recommend strategies to solve*

these problems;

- i. Areas to be addressed include, but are not limited to:*
 - 1. Continued growth in the adult incarcerated offender population;*
 - 2. The manufacturing, trafficking and abuse of methamphetamine;*
 - 3. Gang violence;*
 - b. Advise and develop recommendations for the Governor and the Legislature, when appropriate, on public policy and strategies to improve the State's criminal justice system;*
 - c. Review and evaluate criminal justice policies and proposed legislation to determine impact on the State's adult and juvenile justice systems;*
 - d. Promote communication among criminal justice professionals and the respective branches of state government to improve professionalism, create partnerships, and to improve cooperation and coordination at all levels of the criminal justice system.*
 - e. Research best practices of other states;*
 - f. Analyze the long-range needs of the criminal justice system, including an assessment of the cost-effectiveness of the use of state and local funds in the criminal justice system;*
 - g. Partner with Idaho's colleges and universities to conduct research, planning and analysis activities, including, but not limited to, studies that analyze a variety of crime trends and criminal justice issues.*
- 3. The Criminal Justice Commission members shall be appointed and serve at the pleasure of the Governor.*
 - 4. The Commission members shall serve a term of 4 years, with the only exception being the inaugural membership being appointed to serve staggering two (2), three (3) and four (4) year terms.*
 - 5. The Chair of the Commission shall be appointed annually by the Governor. A Vice-Chair shall be selected annually by the members of the Commission. The term of office for the Chair and Vice-Chair shall be one year. The Chair and Vice-Chair may succeed themselves if approved by the Governor.*
 - 6. The Criminal Justice Commission shall receive administrative staff support from the state agencies represented on the Commission.*
 - 7. The Criminal Justice Commission will meet no less than four times annually.*
 - 8. The Criminal Justice Commission may appoint sub-committees consistent with the needs of the Commission to pertinent issues that merit more in-depth consideration.*
 - 9. Commission members will serve without compensation or reimbursement for expenses, including related travel and per diem to attend Commission meetings.*

This Executive Order repeals and replaces Executive Order 2005-01. 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 16th day of June in the year of our Lord two thousand and five, 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

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2005-07

**DEFERRED COMPENSATION PROGRAM FOR EMPLOYEES OF THE STATE OF IDAHO,
REPEALING AND REPLACING EXECUTIVE ORDER NO. 2001-03**

WHEREAS, the Idaho Legislature, by and through the implementation of section 59-513, Idaho Code, has provided for the establishment of a Deferred Compensation Program; and

WHEREAS, a Deferred Compensation Program has been presented to and approved by the Board of Examiners of the State of Idaho by the Deferred Compensation Committee; and

WHEREAS, administrative entities on the state level are necessary for proper implementation and maintenance of the plan;

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

1. *The Deferred Compensation Committee comprised of a representative appointed by the Governor, a representative from the Office of the Attorney General, a representative from the Office of the State Controller, and a representative from the Office of the Secretary of State is hereby named as the policymaking board for the Deferred Compensation Program subject to the authority vested in the Board of Examiners of the State of Idaho by law.*
2. *The Deferred Compensation Committee shall make the following decisions concerning the implementation and maintenance of a Deferred Compensation Program subject to the approval of the Board of Examiners.*
 - a. *Selection of a third-party administrator*
 - b. *Selection of product companies that sell or offer securities or other assets to the State of Idaho in accordance with the Deferred Compensation Program.*
 - c. *Approval and monitoring of the marketing program to introduce and explain the Deferred Compensation Program to state employees.*
 - d. *Review all summary reports produced by the office of the State Controller and the third-party administrator to insure proper accounting for all funds.*
 - e. *Review on a yearly basis the viability of all product companies associated with the Deferred Compensation Program and to determine if re-bidding is necessary.*
 - f. *Review all financial hardship cases and other unusual circumstances developing with employees enrolled in the Deferred Compensation Program.*
 - g. *Review and remove all plan documents, contracts bylaws, and rules and regulations.*
 - h. *Review the performance of the third-party administrator.*
 - i. *Review all audits of the Deferred Compensation Program.*
3. *The Deferred Compensation Committee through the third-party administrator shall:*

- a. *Insure that remittance to the product companies of deferred moneys is made form the periodic payroll.*
- b. *Review and sign all enrollments, change and claim requests.*
- c. *Keep or arrange to keep any necessary files concerning the Deferred Compensation Program.*
- d. *Communicate with state employees concerning routine matters.*

This Executive Order repeals and replaces Executive Order No. 2001-03. This Executive Order shall cease to be in effect 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 16th day of June in the year of our Lord two thousand and five, 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

THE OFFICE OF THE GOVERNOR

***EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE***

EXECUTIVE ORDER NO. 2005-08

CREATING THE STATE OF IDAHO CITIZEN CORPS COUNCIL

WHEREAS, enemies of the United States, through acts of terrorism, have already attacked this nation's citizens and critical infrastructure;

WHEREAS, state disaster planning is founded on the principle of self-help at every level of government, including its citizens;

WHEREAS, the health and safety of Idaho citizens are of primary importance;

WHEREAS, education and general awareness are at the core of any preparedness and prevention program;
and

WHEREAS, it is the policy of the State of Idaho to strategically prepare its citizens and local communities within the budgetary and legal constraints imposed by the Legislature to respond to and recover from the debilitating impact of both natural and man-caused disasters including hazardous material spills, severe weather, flooding, forest and range fires, earthquakes, acts of terrorism and the use of weapons of mass destruction;

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by the authority vested in me under the constitution and the laws of this state hereby establish the Idaho Citizen Corps Council.

It shall be the mission of the State of Idaho Citizen Corps Council to promote disaster preparedness education and training for all Idaho citizens, to support safety and disaster-related volunteer agencies and programs, and to encourage the formation of local Citizen Corps Councils through guidance, information and shared resources to make communities safer, stronger, and better prepared to respond to threats of terrorism, crime, public health issues and disasters of all kinds.

The council's responsibilities shall be:

- To provide opportunities for county, regional, and Citizen Corps Councils to collaborate and exchange information in order to accomplish the shared goals of the Citizen Corps program;
- To provide leadership through the development of standards, provision of technical assistance, monitoring, evaluating and reporting on the progress of the local councils;
- To promote cooperation among state, tribal, and local public safety agencies in addressing statewide community/citizen preparedness needs in Idaho; and
- To research the best practices of other states.

The Citizen Corps Council shall be comprised of representatives of any of the following statewide agencies and organizations:

- Elected officials and tribal government leaders;
- Emergency managers and first responders;
- Volunteer groups;
- Community service groups;
- Faith based groups;
- Business owners; and

- Other representatives from other organizations that provide services that support the Citizen Corps mission.

Nothing in this Executive Order changes practices established by existing laws or previously established Executive orders concerning preparedness for natural or man-caused disasters. Rather, this Executive Order establishes a central body to foster collaboration to promote preparedness-related education and training throughout the State of Idaho. This provides an avenue for input and information sharing for the purpose of improving the ability of the citizens of Idaho to be better prepared to respond to threats of terrorism, crime, public health issues, and disasters of all kinds.



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 23rd day of June in the year of our Lord two thousand and five, 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

02.06.01 - RULES GOVERNING THE PURE SEED LAW

DOCKET NO. 02-0601-0501 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 22-418(4) and 22-418(11), 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 August 17, 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:

In order to eliminate debt and secure a solid financial footing for the Idaho State Seed Lab, additional service fee revenues in the amount of approximately \$100,000 will be required. The proposed rule will increase the fees for germination, purity, and tetrazolium testing for basic classes of seed, increase the hourly fee, and increase the fee for the Out-of-State Seed Dealer's License.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Conferring a benefit; Without an increase in revenues, the Department may be forced to close or curtail the services of the Idaho State Seed Lab.

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:

Germination fees will increase by an average of \$3.85, purity fees by an average of \$5.05, and tetrazolium fees by an average of \$16.45. The rush fee will increase from \$20 to \$25. The hourly fee will increase from \$38.50 to \$40. The Out-of State Seed Dealer's License will increase from \$250 to \$350.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There will be no fiscal impact on the state general fund, but rather an anticipated positive impact to the Agriculture Department Inspection Account of approximately \$100,000 per year.

NEGOTIATED RULEMAKING: The Department conducted three informal negotiated rulemaking meetings with the seed industry. The Seed Lab Advisory Board and the Idaho-Eastern Oregon Seed Association have expressed their support for the proposed fee increases.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Thomas Dayley, Administrator, Plant Industries Division, or Nancy Stouffer, Bureau Chief, Idaho State Department of Agriculture, P. O. Box 790, Boise, Idaho, 83701. Phone: (208) 332-8620.

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 August 24, 2005.

DATED this 23rd day of June, 2005.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0601-0501

000. ~~(RESERVED)~~ LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 22, Chapter 4, Idaho Code, Sections 22-418(4) and 22-418(11). (8-1-05)T

(BREAK IN CONTINUITY OF SECTIONS)

002. ~~(RESERVED)~~ WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (8-1-05)T

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (8-1-05)T

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

01. Office Hours. Office hours are 8 a.m. to 5 p.m. Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (8-1-05)T

02. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P. O. Box 790, Boise, Idaho, 83701. (8-1-05)T

03. Street Address. The central office is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (8-1-05)T

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the Department and the State Law Library. (8-1-05)T

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

010. DEFINITIONS.

The Department adopts the definitions set forth in Title 22, Chapter 4, Idaho Code, Section 22-414. (8-1-05)T

011. (RESERVED).

~~012~~ METHODS OF SAMPLING -- GENERAL PROCEDURE.

01. Sample. In order to secure a representative sample, equal portions shall be taken from evenly distributed parts of the quantity of seed or screenings to be sampled. Access shall be had to all parts of that quantity. When more than one (1) trierful of seed is drawn from a bag, different paths shall be followed. When more than one (1) handful is taken from a bag, the handfuls shall be taken from well-separated points. (7-1-93)

02. Free Flowing Seed. For free-flowing seed in bags or bulk, a probe or trier shall be used. For small free-flowing seed in bags a probe or trier long enough to sample all portions of the bag shall be used. (7-1-93)

03. Non-Free Flowing Seed. Non-free-flowing seed, such as certain grass seed, uncleaned seed or screenings difficult to sample with a probe or trier, shall be sampled by thrusting the hand into the bulk and withdrawing representative portions. The hand is inserted in an open position and the fingers are held closely together while the hand is being inserted and the portion withdrawn. (7-1-93)

04. Composite Samples. Composite samples shall be obtained to determine the quality of a lot of seed (i.e., percentages of pure seed, other crop seed, weed seed, inert matter and germination). Individual bag samples may be obtained to determine if the lot of seed is uniform. (7-1-93)

a. To determine if there is an obvious lack of uniformity of seed from which a composite sample is being obtained, each portion shall be examined and the portions shall then be combined to form a composite sample or samples. (7-1-93)

b. If the lot is found not to be uniform when obtaining a composite sample to determine its quality then additional individual bag samples shall be taken for the purpose of testing for uniformity. (7-1-93)

c. Such individual bag samples may also be taken for the purpose of testing for uniformity even though a composite sample has not previously been obtained. The identity of each individual bag sample must be maintained. (7-1-93)

05. Bulk. Bulk seed or screenings shall be sampled by inserting a long probe or thrusting the hand into the bulk, as circumstances require, in at least seven uniformly distributed parts of the quantity being sampled. At least as many trierfuls or handfuls shall be taken as the minimum which would be required for the same quantity of seed or screenings in bags of a size customarily used for such seed or screenings. (7-1-93)

06. Bags. (7-1-93)

a. For lots of six (6) bags or less, each bag shall be sampled. A total of at least five (5) trierfuls shall be taken. (7-1-93)

b. For lots of more than six (6) bags, five (5) bags plus at least 10 percent (10%) of the number of bags in the lots shall be sampled. (Round off numbers with decimals to the nearest whole number, raising five tenths (.5) to the next whole number.) Regardless of the lot size it is not necessary that more than thirty (30) bags be sampled. (7-1-93)

c. Samples shall be drawn from unopened bags except under circumstances where the identity of the seed has been preserved. (7-1-93)

07. Packets. In sampling seed in packets, entire unopened packets shall be taken. (7-1-93)

08. Size of Sample. (7-1-93)

a. For composite sample to test for quality, the following are minimum weights for samples of seed to be submitted for analysis, test or examination (7-1-93)

i. Two (2) ounces (approximately fifty five (55) grams) of grass seed not otherwise mentioned, white or alsike clover, or seeds not larger than these. (7-1-93)

- ii. Five (5) ounces (approximately one hundred fifty (150) grams) of red or crimson clover, alfalfa, lespedezas, ryegrasses, bromegrasses, millet, flax, rape, or seeds of similar size. (7-1-93)
- iii. One (1) pound of Sudangrass, sorghum, proso, hemp seed, or seeds of similar size. (7-1-93)
- iv. Two (2) pounds (approximately one thousand (1,000) grams) of cereals, vetches, or seeds of similar or larger size. (7-1-93)
- b.** For individual bag samples to test for uniformity. (7-1-93)
 - i. The size of any individual bag sample to determine uniformity in a lot of seed shall be not less than the quantities set out in the "Rules and Regulations, under the Federal Seed Act" (53 Statute 1275) (Subsection 201.46). (7-1-93)
 - ii. If the sample drawn is larger than desired, it shall be thoroughly mixed before it is divided to the desired size. (7-1-93)

09. Forwarding and Receipt of Official Samples. Before being forwarded for analysis test or examination, the containers of official samples shall be properly sealed and identified. The containers of official samples shall be initialed and dated and the sample weighed by the person who breaks the seals. (7-1-93)

~~01113~~, -- 049. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

500. SERVICE TESTING FEES - PURITY, GERMINATION AND TETRAZOLIUM FEES.

~~01- Table 1. Purity, Germination and Tetrazolium Fees.~~

<i>Purity, Germination and Tetrazolium Fees</i>			
<i>Kind of Seeds:</i>	<i>Purity* \$/Unit</i>	<i>Germination** \$/Unit</i>	<i>Tetrazolium- \$/Unit</i>
<i>Alfalfa</i>	<i>16.00</i>	<i>14.00</i>	<i>24.50</i>
<i>Alkali grass</i>	<i>19.00</i>	<i>12.50</i>	<i>24.50</i>
<i>Asparagus</i>	<i>15.50</i>	<i>14.00</i>	<i>24.50</i>
<i>Beans:</i>			
<i>Field and Garden</i>	<i>13.00</i>	<i>14.00</i>	<i>22.00</i>
<i>Lima</i>	<i>12.50</i>	<i>19.00</i>	<i>22.00</i>
<i>Beardgrass (Bluestem)</i>	<i>42.00</i>	<i>22.00</i>	<i>27.50</i>
<i>Beets</i>	<i>19.50</i>	<i>22.00</i>	<i>30.00</i>
<i>Bentgrass and Red top</i>	<i>34.50</i>	<i>16.50</i>	<i>26.50</i>
<i>Bermuda grass</i>	<i>22.50</i>	<i>15.50</i>	<i>24.50</i>
<i>Blue Gama</i>	<i>26.00</i>	<i>19.00</i>	<i>24.50</i>
<i>Bluegrass</i>	<i>24.50</i>	<i>16.50</i>	<i>24.50</i>
<i>Brassica (Except Radish)</i>	<i>33.00</i>	<i>16.50</i>	<i>26.50</i>

<i>Purity, Germination and Tetrazolium Fees</i>			
<i>Kind of Seeds:</i>	<i>Purity* \$/Unit</i>	<i>Germination** \$/Unit</i>	<i>Tetrazolium- \$/Unit</i>
<i>Brittlebrush</i>	<i>84.00</i>	<i>20.00</i>	<i>24.50</i>
<i>Bromegrass</i>	<i>25.50</i>	<i>14.00</i>	<i>24.50</i>
<i>Canary grass</i>	<i>19.00</i>	<i>13.00</i>	<i>24.50</i>
<i>Cane-Bluestem</i>	<i>42.00</i>	<i>22.00</i>	<i>27.50</i>
<i>Canola/Rapeseed</i>	<i>36.00</i>	<i>16.50</i>	<i>26.50</i>
<i>Cantaloupe</i>	<i>15.00</i>	<i>13.50</i>	<i>24.50</i>
<i>Carrot</i>	<i>15.50</i>	<i>14.50</i>	<i>24.50</i>
<i>Celery</i>	<i>17.50</i>	<i>14.00</i>	<i>24.50</i>
<i>Cereals (Except Oats)</i>	<i>19.50</i>	<i>14.00</i>	<i>24.50</i>
<i>Clovers:</i>			
<i>Red Clover</i>	<i>16.50</i>	<i>14.00</i>	<i>24.50</i>
<i>Other Clovers</i>	<i>16.00</i>	<i>14.50</i>	<i>24.50</i>
<i>Corn</i>	<i>15.50</i>	<i>14.00</i>	<i>20.00</i>
<i>Creosotebush</i>	<i>70.00</i>	<i>20.00</i>	<i>27.50</i>
<i>Cucumbers</i>	<i>15.00</i>	<i>13.50</i>	<i>24.50</i>
<i>Eggplant</i>	<i>15.00</i>	<i>13.50</i>	<i>24.50</i>
<i>Endive</i>	<i>15.00</i>	<i>14.00</i>	<i>24.50</i>
<i>Fescue</i>	<i>24.00</i>	<i>14.00</i>	<i>24.50</i>
<i>Flax</i>	<i>22.50</i>	<i>15.50</i>	<i>24.50</i>
<i>Green Needlegrass</i>	<i>19.50</i>	<i>18.00</i>	<i>24.50</i>
<i>Indian Ricegrass</i>	<i>19.00</i>	<i>18.00</i>	<i>24.50</i>
<i>Kochia</i>	<i>24.50</i>	<i>14.00</i>	<i>24.50</i>
<i>Leek</i>	<i>19.00</i>	<i>16.50</i>	<i>24.50</i>
<i>Lentil</i>	<i>15.00</i>	<i>14.00</i>	<i>24.50</i>
<i>Lettuce</i>	<i>15.50</i>	<i>14.00</i>	<i>24.50</i>
<i>Little/Small Burnet</i>	<i>16.50</i>	<i>15.50</i>	<i>24.50</i>
<i>Meadow-Foxtail</i>	<i>31.50</i>	<i>15.00</i>	<i>24.50</i>
<i>New Zealand Spinach</i>	<i>15.00</i>	<i>23.50</i>	<i>30.00</i>
<i>Oats</i>	<i>21.00</i>	<i>14.00</i>	<i>24.50</i>
<i>Oatgrass</i>	<i>19.00</i>	<i>12.50</i>	<i>27.50</i>
<i>Okra</i>	<i>28.00</i>	<i>15.50</i>	<i>24.50</i>
<i>Onion</i>	<i>15.50</i>	<i>14.00</i>	<i>24.50</i>
<i>Orchardgrass</i>	<i>27.50</i>	<i>15.50</i>	<i>24.50</i>

<i>Purity, Germination and Tetrzolium Fees</i>			
<i>Kind of Seeds:</i>	<i>Purity* \$/Unit</i>	<i>Germination** \$/Unit</i>	<i>Tetrzolium- \$/Unit</i>
<i>Parsley</i>	16.00	14.00	24.50
<i>Parsnip</i>	16.00	14.00	24.50
<i>Peas:</i>			
<i>Field and Garden</i>	15.00	14.50	22.00
<i>Chickpeas / Garbanzo</i>	13.00	18.50	22.00
<i>Pepper</i>	15.50	14.50	24.50
<i>Pumpkin</i>	15.00	14.00	24.50
<i>Radish</i>	16.00	14.00	24.50
<i>Rubber Rabbitbush</i>	84.00	24.00	24.50
<i>Ryegrass</i>	24.00	13.50 26.50***	24.50
<i>Sagebrush</i>	84.00	17.50	27.50
<i>Sainfoin</i>	16.00	14.50	24.50
<i>Saltbush</i>	53.50	16.00	27.50
<i>Senna</i>	54.00	20.00	27.50
<i>Squash</i>	15.00	14.00	24.50
<i>Sudangrass/Sorghum</i>	18.50	15.50	24.50
<i>Sunflower</i>	23.50	14.00	24.50
<i>Swiss Chard</i>	19.50	22.00	30.00
<i>Timothy</i>	18.50	13.50	24.50
<i>Tomato</i>	15.50	13.50	24.50
<i>Trefoil</i>	16.00	14.50	24.50
<i>Vetches</i>	16.50	14.00	24.50
<i>Watermelon</i>	15.00	14.00	24.50
<i>Wheatgrasses</i>	36.50	16.50	24.50
<i>Wheatgrass, fairway-crested</i>	41.00	16.50	24.50
<i>Wild rye</i>	25.50	13.50	24.50
<i>Winterfat</i>	96.00	19.50	24.50

* All samples submitted for purity should contain a minimum of three thousand (3,000) seeds.
 ** All samples submitted for germination should contain a minimum of eight hundred (800) seeds.
 *** With Fluorescence.

Purity, Germination, and Tetrazolium Fees			
Kind of Seeds	Purity* \$/Unit	Germination \$/Unit	Tetrazolium** \$/Unit
<u>AGRICULTURAL GRASS SEED</u>			
Bluegrasses	\$45.00	\$25.00	\$40.00
Brome-grasses	\$38.00	\$24.00	\$40.00
Fescues	\$35.00	\$22.00	\$40.00
Orchardgrass	\$38.00	\$25.00	\$40.00
Ryegrasses	\$38.00	\$23.00 ***	\$40.00
Timothy	\$28.00	\$23.00	\$40.00
For all others the hourly rate will apply			
<u>FIELD SEED</u>			
Alfalfa, clovers and trefoils	\$20.00	\$17.00	\$40.00
Cereals (Barley, Oats, Rice, Rye, Triticale and Wheat)	\$25.00	\$17.00	\$40.00
Beans	\$18.00	\$16.00	\$40.00
Corn (all types)	\$20.00	\$17.00	\$40.00
Peas, and Lentils	\$18.00	\$17.50	\$40.00
For all others the hourly rate will apply			
<u>VEGETABLES, FLOWERS AND HERB SEED</u>			
Brassica (Canola, Cauliflower, Broccoli, Radish, etc.)	\$40.00	\$17.00	\$50.00
Beets and Swiss chard	\$29.00	\$32.00	\$40.00
Carrots, celery, dill and parsley	\$27.00	\$20.00	\$40.00
Curcubits (Squash, melons, etc.)	\$25.00	\$20.00	\$40.00
Flowers (Bachelors button, poppy, etc.)	\$40.00	\$25.00	\$50.00
Lettuce, tomato, and pepper	\$25.00	\$20.00	\$40.00
Onion and Chives	\$25.00	\$20.00	\$40.00
For all others the hourly rate will apply			
<u>TREE AND SHRUB SEED</u>			
Bitterbrush	\$40.00	\$30.00	\$50.00
Saltbush	\$60.00	\$30.00	\$50.00
Chokecherry and Woods' rose	\$25.00	\$60.00	\$60.00
Serviceberry, cliff-rose and mahogany	\$30.00	\$30.00	\$40.00

Purity, Germination, and Tetrazolium Fees			
<u>Kind of Seeds</u>	<u>Purity*</u> \$/Unit	<u>Germination</u> \$/Unit	<u>Tetrazolium**</u> \$/Unit
Trees (Firs, pines, spruces, etc.)	\$25.00	\$30.00	\$40.00
For all others the hourly rate will apply			
<u>RANGE AND NATIVE SEED</u>			
Bluestems and grammas	Hourly Rate	\$30.00	\$50.00
Globemallow and penstemons	\$40.00	\$30.00	\$50.00
Kochia and forage Kochia	\$30.00	\$30.00	\$40.00
Rushes and Sedges	Hourly Rate	\$30.00	\$50.00
Sagebrush and Rabbitbrush	Hourly Rate	\$30.00	\$40.00
Wheatgrasses, wildryes, and squirreltail	\$40.00	\$25.00	\$40.00
Winterfat	Hourly Rate	\$30.00	Hourly Rate
For all others the hourly rate will apply			

* Samples with high levels of impurities (i.e. other crops, weeds, multiple florets, inert materials) requiring more than one (1) hour analyst time for purity testing will be charged the standard hourly rate of forty dollars (\$40) for each additional hour.

** For all samples submitted for a TZ or Germination test requiring more than one (1) hour for cleaning and/or preparing will be charged at the standard hourly rate of forty dollars (\$40) for each additional hour.

*** With germination fluorescence testing thirty dollars (\$30).

(4-2-03)(8-1-05)T

501. SERVICE TESTING FEES - SPECIAL TESTS.

02. ~~Table 2. Special Testing Fees.~~

Table 2. Special Testing Fees	
Test Procedures:	Fees \$/Unit
All States Noxious	25.00
Ammonia Test	33.00
Canada:	
Purity	13.00 Added to purity fee
Germination	2.50 Added to germination fee
Cold Test	23.50
Crop & Weed Check	24.50
Cut Test	22.00
Dormancy Percentage	5.50 10.00 Minimum or Dormant % found x germination fee

Table 2. Special Testing Fees	
Test Procedures:	Fees \$/Unit
E.C. Norms	20.00
Foreign Material	12.00
Grading (beans)	18.00
Hay Pellet Germination	18.00
Identification	3.50 5.00 Minimum or hourly if necessary
Inventory Germinations (For Carryover Seed Only, when requested)	20% Discount of listed germination fee; Available only for the months of March through July.
ISTA:	
Purity	13.00 Added to purity fee
Germination	2.50 Added to germination fee
Mixtures:	
Purity	12.50 Added per kind exceeding 5%
Germination	12.50 Added per kind exceeding 5%
Tetrazolium	18.00 Added per kind exceeding 5%
Moisture Test	14.00
4,000 Seed Count	13.50
Pest, Disease, Soil & Ergot Check	13.50
<i>Quarantine (Poa annua & Poa trivialis)</i>	29.50
Sod Quality:	
Bentgrass	66.00
Bermudagrass	64.00
Bluegrass	64.00
Soil Germination	23.50
Species Test Exam	24.50
Sprout Check	42.00
Undesirable Grass Species	25.50

(4-2-03)(8-1-05)T

502. SERVICE TESTING FEES - MISCELLANEOUS FEES.

~~03.~~ **Table 3. Miscellaneous Fees.**

Table 3. Miscellaneous Fees	
Type of Service:	Fees \$/Unit
Administrative Charge per Test for Internet Access and Data Processing.	Not to exceed \$2.00 per test
FAX	\$ 3.00 per sheet

Table 3—Miscellaneous Fees	
Type of Service:	Fees \$/Unit
Hourly Charge <i>for Analysis</i>	\$ 38.50 <u>40.00</u>
<i>Preparation Time</i>	\$ 38.50/Hour : <i>When necessary on germination and tetrazolium samples.</i>
Reports:	
Copies	\$ 1.50
Merge Records	\$ 4.00
<i>Retyped</i>	\$ 4.50
Revised	\$ 7.00
Rush Service	\$ 20.00 <u>25.00</u>

(~~3-24-05~~)(8-1-05)T

501-503. -- 599. (RESERVED).

600. SEED DEALER'S LICENSE FEES.

Seed dealers shall obtain a seed dealer's license for each location in Idaho before they can sell, offer for sale, expose for sale or deliver agricultural seeds in packages of eight (8) ounces or more or bulk under contract within the state of Idaho. Seed dealers shall pay only for the service or services they render according to the following fee schedule:

(3-18-99)

- 01. In-State Seed Dealer's License Fees:** (4-2-03)
 - a.** License to condition or clean agricultural seeds in Idaho - one-hundred dollars (\$100). (4-2-03)
 - b.** License to label container or bulk agricultural seeds for sale in Idaho - fifty dollars (\$50). (4-2-03)
 - c.** License to sell, offer for sale, expose for sale, or deliver agricultural seeds in packages of eight (8) ounces or more or in bulk under a contract in Idaho: (4-2-03)
 - i.** For annual gross sales of five hundred dollars (\$500) or more, but less than one thousand dollars (\$1,000) - fifty dollars (\$50). (4-2-03)
 - ii.** For annual gross sales of one thousand dollars (\$1,000) or more - one hundred dollars (\$100). (4-2-03)
- 02. Out-of-State Seed Dealer's License Fee.** ~~Two~~ Three hundred fifty dollars (\$~~23~~50). (~~4-2-03~~)(8-1-05)T
- 03. Exemptions.** (3-24-05)
 - a.** Any person selling seed who has total annual gross seed sales not exceeding five hundred dollars (\$500) is exempt from Section 600. (3-24-05)
 - b.** An in-state dealer or out-of-state dealer who sells, offers for sale, exposes for sale or delivers seed only in packages of less than eight (8) ounces is exempt from Section 600. (3-24-05)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE DIVISION OF BUILDING SAFETY

DOCKET NO. 07-0106-0501

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 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 54-1001 and 54-1006(5), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 1, 2005 Idaho Administrative Bulletin, Volume 05-6, pages 17 and 18.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: This rulemaking will have no effect on the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Gary Malmen, Electrical Bureau Chief, at 208-332-7147.

DATED this 1st day of July, 2005.

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 01, CHAPTER 06

RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE DIVISION OF BUILDING SAFETY

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 05-6, June 1, 2005, pages 17 and 18.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2006 Idaho State Legislature as a final rule.

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.02.06 - RULES CONCERNING UNIFORM PLUMBING CODE
DIVISION OF BUILDING SAFETY

DOCKET NO. 07-0206-0501

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 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 54-2601 and 54-2605(1), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 1, 2005 Idaho Administrative Bulletin, Volume 05-6, pages 19 through 21.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: This rulemaking will have no effect on the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ted Hogander, Plumbing Bureau Chief, at 208-332-7154.

DATED this 1st day of July, 2005.

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 02, CHAPTER 06

RULES CONCERNING UNIFORM PLUMBING CODE
DIVISION OF BUILDING SAFETY

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 05-6, June 1, 2005, pages 19 through 21.](#)

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2006 Idaho State Legislature as a final rule.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.07.01 - RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS

DOCKET NO. 07-0701-0501

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 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 54-5004(1) and 54-5005(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 June 1, 2005 Idaho Administrative Bulletin, Volume 05-6, pages 23 through 29.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: This rulemaking will have no effect on the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ted Hogander, Plumbing Bureau Chief, at 208-332-7154.

DATED this 1st day of July, 2005.

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 07, CHAPTER 01

RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING 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 05-6, June 1, 2005, pages 23 through 29.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2006 Idaho State Legislature as a final rule.

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0501

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 33-105, 33-116, 33-118, and 33-1612, 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 August 17, 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:

In 1996, the State Board of Education rewrote all of its rules. At that time, and after discussions with legislative leadership and the Legislative Services Office, it was determined that the Achievement Standards should be placed in the rule rather than being incorporated by reference. That decision was made in part because the standards were new. It was also agreed that once the standards were adopted and understood by all school districts, the standards could then be removed from the rule and put into a manual that would be incorporated by reference. The State Board of Education feels that the standards are accepted and understood by school districts, teachers, students, and parents.

The cost to the State Board of Education for maintenance and publication of the standards as part of the rule by the Office of Administrative Rules is approximately \$10,000 per year. By incorporating the document by reference, the State Board of Education will be able to use those funds for other educational purposes. All of the achievement standards will be stricken from the text of the rule and put into a new manual entitled "Idaho Achievement Standards" that will then be adopted and incorporated by reference into the rule.

In an effort to save costs for publication, the Administrative Rules Coordinator has agreed to allow the State Board of Education to publish an abbreviated version of the actual text of the rule. The tables that include the Standards, Knowledge Content and Skills will not be published in this rulemaking but are being completely removed from the text of the rule. The text being removed from these tables will be included in the "Idaho Achievement Standards" manual that is proposed for incorporation by reference in this docket.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking is non controversial in nature. The rulemaking does not amend any of the assessment standards. It just moves them into a document that is incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Karen Echeverria at (208) 332-1567.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 16th day of June, 2005.

Karen L. Echeverria
Policy and Governmental Affairs Officer
State Board of Education
650 West State Street, Room 301
PO Box 83720, Boise, ID 83729-0037
(208) 334-2270, fax (208) 334-2632

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0203-0501

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into this rule. The following documents are incorporated into this rule: (3-15-02)()

01. The Idaho Achievement Standards. The Idaho Achievement Standards as adopted by the State Board of Education on October 17, 2005. Copies of the document can be found on the State Board of Education website at www.idahoboardofed.org. ()

(BREAK IN CONTINUITY OF SECTIONS)

217. -- ~~254999~~. (RESERVED).

~~**255. MATHEMATICS STANDARDS.**~~

~~*The language of mathematics is a powerful tool for exploring, explaining, and understanding the universe. Proficiency in using mathematics is vital to citizens of an increasingly technological society. When students exit high school they will be able to use mathematics to solve problems in real world situations. Students will apply mathematics across disciplines, using appropriate technology in applying and communicating their strategies and solutions. Appropriate technology may include paper and pencil, graph paper, simple calculators, graphing calculators, computers and spreadsheets, or specialized software. A glossary of mathematical terms can be found in Section 216.*~~ (3-15-02)

~~**256. MATHEMATICS STANDARDS—GRADE KINDERGARTEN, SECTIONS 257 THROUGH 263.**~~

~~**257. BASIC ARITHMETIC, ESTIMATION, AND ACCURATE COMPUTATIONS.**~~

~~*Rationale: An understanding of numbers and how they are used is necessary in the everyday world. Computational skills and procedures should be developed in context so the learner perceives them as tools for solving problems.*~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~**258. MATHEMATICAL REASONING AND PROBLEM SOLVING.**~~

~~*Rationale: These processes are essential to all mathematics and must be incorporated in all other mathematics standards.*~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~**259. CONCEPTS AND PRINCIPLES OF MEASUREMENT.**~~

~~*Rationale: The first step in scientific investigation is to understand the measurable attributes of objects.*~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~260. CONCEPTS AND LANGUAGE OF ALGEBRA.~~

~~Rationale: Algebra is the language of mathematics and science. Through the use of variables and operations, algebra allows students to form abstract models from contextual information.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~261. CONCEPTS AND PRINCIPLES OF GEOMETRY.~~

~~Rationale: The study of geometry helps students represent and make sense of the world by discovering relationships and developing spatial sense.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~262. DATA ANALYSIS, PROBABILITY, AND STATISTICS.~~

~~Rationale: With society's expanding use of data for prediction and decision making, it is important that students develop an understanding of the concepts and processes used in analyzing data.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~263. FUNCTIONS AND MATHEMATICAL MODELS.~~

~~Rationale: One (1) of the central themes of mathematics is the study of patterns, relationships, and functions. Exploring patterns helps students develop mathematical power.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~264.—265. (RESERVED).~~

~~266. MATHEMATICS STANDARDS—GRADE 1, SECTIONS 267 THROUGH 273.~~

~~267. BASIC ARITHMETIC, ESTIMATION, AND ACCURATE COMPUTATIONS.~~

~~Rationale: An understanding of numbers and how they are used is necessary in the everyday world. Computational skill and procedures should be developed in context so the learner perceives them as tools for solving problems.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~268. MATHEMATICAL REASONING AND PROBLEM SOLVING.~~

~~Rationale: These processes are essential to all mathematics and must be incorporated in all other mathematics standards.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~269. CONCEPTS AND PRINCIPLES OF MEASUREMENT.~~

~~Rationale: The first step in scientific investigation is to understand the measurable attributes of objects.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~270. CONCEPTS AND LANGUAGE OF ALGEBRA.~~

~~Rationale: Algebra is the language of mathematics and science. Through the use of variables and operations, algebra~~

~~allows students to form abstract models from contextual information.~~

(The Standards Table is being deleted in its entirety but is not being printed.)
(3-15-02)

~~271. CONCEPTS AND PRINCIPLES OF GEOMETRY.~~

~~Rationale: The study of geometry helps students represent and make sense of the world by discovering relationships and developing spatial sense.~~

(The Standards Table is being deleted in its entirety but is not being printed.)
(3-15-02)

~~272. DATA ANALYSIS, PROBABILITY, AND STATISTICS.~~

~~Rationale: With society's expanding use of data for prediction and decision making, it is important that students develop an understanding of the concepts and processes used in analyzing data.~~

(The Standards Table is being deleted in its entirety but is not being printed.)
(3-15-02)

~~273. FUNCTIONS AND MATHEMATICAL MODELS.~~

~~Rationale: One of the central themes of mathematics is the study of patterns, relationships, and functions. Exploring patterns helps students develop mathematical power.~~

(The Standards Table is being deleted in its entirety but is not being printed.)
(3-15-02)

~~274. 275. (RESERVED).~~

~~276. MATHEMATICS STANDARDS—GRADE 2, SECTIONS 277 THROUGH 283.~~

~~277. BASIC ARITHMETIC, ESTIMATION, AND ACCURATE COMPUTATIONS.~~

~~Rationale: An understanding of numbers and how they are used is necessary in the everyday world. Computational skills and procedures should be developed in context so the learner perceives them as tools for solving problems.~~

(The Standards Table is being deleted in its entirety but is not being printed.)
(3-15-02)

~~278. MATHEMATICAL REASONING AND PROBLEM SOLVING.~~

~~Rationale: These processes are essential to all mathematics and must be incorporated in all other mathematics standards.~~

(The Standards Table is being deleted in its entirety but is not being printed.)
(3-15-02)

~~279. CONCEPTS AND PRINCIPLES OF MEASUREMENT.~~

~~Rationale: The first step in scientific investigation is to understand the measurable attributes of objects.~~

(The Standards Table is being deleted in its entirety but is not being printed.)
(3-15-02)

~~280. CONCEPTS AND LANGUAGE OF ALGEBRA.~~

~~Rationale: Algebra is the language of mathematics and science. Through the use of variables and operations, algebra allows students to form abstract models from contextual information.~~

(The Standards Table is being deleted in its entirety but is not being printed.)
(3-15-02)

~~281. CONCEPTS AND PRINCIPLES OF GEOMETRY.~~

~~Rationale: The study of geometry helps students represent and make sense of the world by discovering relationships and developing spatial sense.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~282. DATA ANALYSIS, PROBABILITY, AND STATISTICS.~~

~~Rationale: With society's expanding use of data for prediction and decision making, it is important that students develop an understanding of the concepts and processes used in analyzing data.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~283. FUNCTIONS AND MATHEMATICAL MODELS.~~

~~Rationale: One (1) of the central themes of mathematics is the study of patterns, relationships, and functions. Exploring patterns helps students develop mathematical power.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~284.—285. (RESERVED).~~

~~286. MATHEMATICS STANDARDS—GRADE 3, SECTIONS 287 THROUGH 293.~~

~~287. BASIC ARITHMETIC, ESTIMATION, AND ACCURATE COMPUTATIONS.~~

~~Rationale: An understanding of numbers and how they are used is necessary in the everyday world. Computational skills and procedures should be developed in context so the learner perceives them as tools for solving problems.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~288. MATHEMATICAL REASONING AND PROBLEM SOLVING.~~

~~Rationale: These processes are essential to all mathematics and must be incorporated in all other mathematics standards.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~289. CONCEPTS AND PRINCIPLES OF MEASUREMENT.~~

~~Rationale: The first step in scientific investigation is to understand the measurable attributes of objects.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~290. CONCEPTS AND LANGUAGE OF ALGEBRA.~~

~~Rationale: Algebra is the language of mathematics and science. Through the use of variables and operations, algebra allows students to form abstract models from contextual information.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~291. CONCEPTS AND PRINCIPLES OF GEOMETRY.~~

~~Rationale: The study of geometry helps students represent and make sense of the world by discovering relationships and developing spatial sense.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~292. DATA ANALYSIS, PROBABILITY, AND STATISTICS.~~

Rationale: With society's expanding use of data for prediction and decision making, it is important that students develop an understanding of the concepts and processes used in analyzing data.

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~293. FUNCTIONS AND MATHEMATICAL MODELS.~~

Rationale: One (1) of the central themes of mathematics is the study of patterns, relationships, and functions. Exploring patterns helps students develop mathematical power.

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

294. -- 295. (RESERVED).

~~296. MATHEMATICS STANDARDS—GRADE 4, SECTIONS 297 THROUGH 303.~~

~~297. BASIC ARITHMETIC, ESTIMATION, AND ACCURATE COMPUTATIONS.~~

Rationale: An understanding of numbers and how they are used is necessary in the everyday world. Computational skills and procedures should be developed in context so the learner perceives them as tools for solving problems.

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~298. MATHEMATICAL REASONING AND PROBLEM SOLVING.~~

Rationale: These processes are essential to all mathematics and must be incorporated in all other mathematics standards.

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~299. CONCEPTS AND PRINCIPLES OF MEASUREMENT.~~

Rationale: The first step in scientific investigation is to understand the measurable attributes of objects.

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~300. CONCEPTS AND LANGUAGE OF ALGEBRA.~~

Rationale: Algebra is the language of mathematics and science. Through the use of variables and operations, algebra allows students to form abstract models from contextual information.

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~301. CONCEPTS AND PRINCIPLES OF GEOMETRY.~~

Rationale: The study of geometry helps students represent and make sense of the world by discovering relationships and developing spatial sense.

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~302. DATA ANALYSIS, PROBABILITY, AND STATISTICS.~~

Rationale: With society's expanding use of data for prediction and decision making, it is important that students

~~develop an understanding of the concepts and processes used in analyzing data.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~**303. FUNCTIONS AND MATHEMATICAL MODELS.**~~

~~Rationale: One (1) of the central themes of mathematics is the study of patterns, relationships, and functions. Exploring patterns helps students develop mathematical power.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~**304. -- 305. (RESERVED).**~~

~~**306. MATHEMATICS STANDARDS GRADE 5, SECTIONS 307 THROUGH 313.**~~

~~**307. BASIC ARITHMETIC, ESTIMATION, AND ACCURATE COMPUTATIONS.**~~

~~Rationale: An understanding of numbers and how they are used is necessary in the everyday world. Computational skills and procedures should be developed in context so the learner perceives them as tools for solving problems.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~**308. MATHEMATICAL REASONING AND PROBLEM SOLVING.**~~

~~Rationale: These processes are essential to all mathematics and must be incorporated in all other mathematics standards.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~**309. CONCEPTS AND PRINCIPLES OF MEASUREMENT.**~~

~~Rationale: The step in scientific investigation is understanding the measurable attributes of objects.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~**310. CONCEPTS AND LANGUAGE OF ALGEBRA.**~~

~~Rationale: Algebra is the language of mathematics and science. Through the use of variables and operations, algebra allows students to form abstract models from contextual information.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~**311. CONCEPTS AND PRINCIPLES OF GEOMETRY.**~~

~~Rationale: The study of geometry helps students represent and make sense of the world by discovering relationships and developing spatial sense.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~**312. DATA ANALYSIS, PROBABILITY AND STATISTICS.**~~

~~Rationale: With society's expanding use of data for prediction and decision-making, it is important that students develop an understanding of the concepts and processes used in analyzing data.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~313. FUNCTIONS AND MATHEMATICAL MODELS.~~

~~Rationale: One of the central themes of mathematics is the study of patterns, relationships, and functions. Exploring patterns helps students develop mathematical power.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~314.---315. (RESERVED).~~

~~316. MATHEMATICS STANDARDS—GRADE 6, SECTIONS 317 THROUGH 323.~~

~~317. BASIC ARITHMETIC, ESTIMATION, AND ACCURATE COMPUTATIONS.~~

~~Rationale: An understanding of numbers and how they are used is necessary in the everyday world. Computational skills and procedures should be developed in context so the learner perceives them as tools for solving problems.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~318. MATHEMATICAL REASONING AND PROBLEM SOLVING.~~

~~Rationale: These processes are essential to all mathematics and must be incorporated in all other mathematics standards.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~319. CONCEPTS AND PRINCIPLES OF MEASUREMENT.~~

~~Rationale: The first step in scientific investigation is understanding the measurable attributes of objects.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~320. CONCEPTS AND LANGUAGE OF ALGEBRA.~~

~~Rationale: Algebra is the language of mathematics and science. Through the use of variables and operations, algebra allows students to form abstract models from contextual information.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~321. CONCEPTS AND PRINCIPLES OF GEOMETRY.~~

~~Rationale: The study of geometry helps students represent and make sense of the world by discovering relationships and developing spatial sense.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~322. DATA ANALYSIS, PROBABILITY AND STATISTICS.~~

~~Rationale: With society's expanding use of data for prediction and decision making, it is important that students develop an understanding of the concepts and processes used in analyzing data.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~323. FUNCTIONS AND MATHEMATICAL MODELS.~~

~~Rationale: One of the central themes of mathematics is the study of patterns, relationships, and functions. Exploring patterns helps students develop mathematical power.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~324. — 325. (RESERVED).~~

~~326. MATHEMATICS STANDARDS — GRADE 7, SECTIONS 327 THROUGH 333.~~

~~327. BASIC ARITHMETIC, ESTIMATION, AND ACCURATE COMPUTATIONS.~~

~~Rationale: An understanding of numbers and how they are used is necessary in the everyday world. Computational skills and procedures should be developed in context so the learner perceives them as tools for solving problems.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~328. MATHEMATICAL REASONING AND PROBLEM SOLVING.~~

~~Rationale: These processes are essential to all mathematics and must be incorporated in all other mathematics standards.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~329. CONCEPTS AND PRINCIPLES OF MEASUREMENT.~~

~~Rationale: The first step in scientific investigation is understanding the measurable attributes of objects.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~330. CONCEPTS AND LANGUAGE OF ALGEBRA.~~

~~Rationale: Algebra is the language of mathematics and science. Through the use of variables and operations, algebra allows students to form abstract models from contextual information.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~331. CONCEPTS AND PRINCIPLES OF GEOMETRY.~~

~~Rationale: The study of geometry helps students represent and make sense of the world by discovering relationships and developing spatial sense.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~332. DATA ANALYSIS, PROBABILITY AND STATISTICS.~~

~~Rationale: With society's expanding use of data for prediction and decision-making, it is important that students develop an understanding of the concepts and processes used in analyzing data.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~333. FUNCTIONS AND MATHEMATICAL MODELS.~~

~~Rationale: One of the central themes of mathematics is the study of patterns, relationships, and functions. Exploring patterns helps students develop mathematical power.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~334. — 335. (RESERVED).~~

~~336. MATHEMATICS STANDARDS — GRADE 8, SECTIONS 337 THROUGH 343.~~

~~337. BASIC ARITHMETIC, ESTIMATION, AND ACCURATE COMPUTATIONS.~~

~~Rationale: An understanding of numbers and how they are used is necessary in the everyday world. Computational skills and procedures should be developed in context so the learner perceives them as tools for solving problems.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~338. MATHEMATICAL REASONING AND PROBLEM SOLVING.~~

~~Rationale: These processes are essential to all mathematics and must be incorporated in all other mathematics standards.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~339. CONCEPTS AND PRINCIPLES OF MEASUREMENT.~~

~~Rationale: The first step in scientific investigation is understanding the measurable attributes of objects.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~340. CONCEPTS AND LANGUAGE OF ALGEBRA.~~

~~Rationale: Algebra is the language of mathematics and science. Through the use of variables and operations, algebra allows students to form abstract models from contextual information.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~341. CONCEPTS AND PRINCIPLES OF GEOMETRY.~~

~~Rationale: The study of geometry helps students represent and make sense of the world by discovering relationships and developing spatial sense.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~342. DATA ANALYSIS, PROBABILITY AND STATISTICS.~~

~~Rationale: With society's expanding use of data for prediction and decision-making, it is important that students develop an understanding of the concepts and processes used in analyzing data.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~343. FUNCTIONS AND MATHEMATICAL MODELS.~~

~~Rationale: One of the central themes of mathematics is the study of patterns, relationships, and functions. Exploring patterns helps students develop mathematical power.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~344.—345. (RESERVED).~~

~~346. MATHEMATICS STANDARDS—GRADES 9 THROUGH 12, SECTIONS 347 THROUGH 353.~~

~~347. BASIC ARITHMETIC, ESTIMATION, AND ACCURATE COMPUTATIONS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

- ~~348. MATHEMATICAL REASONING AND PROBLEM SOLVING.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~349. CONCEPTS AND PRINCIPLES OF MEASUREMENT.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~350. CONCEPTS AND LANGUAGE OF ALGEBRA.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~351. CONCEPTS AND PRINCIPLES OF GEOMETRY.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~352. DATA ANALYSIS, PROBABILITY, AND STATISTICS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~353. FUNCTIONS AND MATHEMATICAL MODELS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (4-5-00)
- ~~354.—363. (RESERVED).~~
- ~~364. SOCIAL STUDIES STANDARDS.~~
Standards for Critical Thinking and Analytical Skills as well as standards for Evolution of Democracy are listed separately and intended to apply to all social studies courses. (3-15-02)
- ~~01. U.S. History. These United States History standards, organized thematically, are based on the assumption and expectation that knowledge of history is a precondition of political intelligence. Without historical literacy, our students have no understanding of the past as it relates to the present and shapes the future. The key skills and knowledge students must acquire and develop in U. S. History include: the understanding that history as a discipline in a democratic society is based on the Jeffersonian principle that the most effective means to prevent the perversion of power into tyranny is to maintain an educated population; an understanding that history is an interaction between the events of the past and the perspectives of the present; an understanding that history requires the critical analysis of cause and effect and the organization of events both chronologically and thematically; and an understanding that history is created by people making decisions in the face of a variety of factors including, but not limited to, considerations of geography, politics, economics, and culture. (3-15-02)~~
- ~~02. Government/Civics. The goal of education in government and civics is informed, responsible participation in political life by competent citizens committed to the fundamental values and principles upon which American society is based. Ultimately, a free society must rely on the knowledge, skills, and virtue of its citizens and those elected to public office. Civic education, therefore, is essential to the preservation and improvement of American representative government. (3-15-02)~~
- ~~“I know of no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion.” Thomas Jefferson (1820). (3-15-02)~~

~~03. **Economics.** The elements of economics transcend several disciplines of study. The analytical study of the unique issues of economics will enable students to understand and appreciate the forces that affect them every day -- at home, in the workplace, in the boardroom, and in the halls of government. The key skills students must develop in economics include: an ability to identify and analyze domestic and global economic problems and alternatives; collect, quantify and organize economic evidence; compare benefits and costs; recognize the essential structure of business; and investigate the consequences of change in economic conditions and public policies. The skills learned in economics will allow students to recognize their multiple roles as consumers, business people, and workers, enabling them to reason logically and to avoid the common errors made by individuals who do not understand sound economic principles and responsible personal financial management. (3-15-02)~~

~~365. **SOCIAL STUDIES STANDARDS--GRADE KINDERGARTEN, SECTIONS 366 THROUGH 378.**~~

~~366. **CRITICAL THINKING AND ANALYTICAL SKILLS.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~367. **EVOLUTION OF DEMOCRACY.**~~

Evolution of Democracy standards do not apply at this grade level.

(3-15-02)

~~368. **EXPLORATION AND EXPANSION.**~~

Exploration and Expansion standards do not apply at this grade level.

(3-15-02)

~~369. **MIGRATION AND IMMIGRATION.**~~

Migration and Immigration standards do not apply at this grade level.

(3-15-02)

~~370. **POLITICAL, SOCIAL, AND ECONOMIC RESPONSE TO INDUSTRIALIZATION AND TECHNOLOGICAL INNOVATION.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~371. **INTERNATIONAL RELATIONS AND CONFLICTS.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~372. **CULTURAL AND SOCIAL DEVELOPMENT.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~373. **FOUNDATIONS OF THE AMERICAN POLITICAL SYSTEM.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~374. **ORGANIZATION AND FORMATION OF THE AMERICAN SYSTEM OF GOVERNMENT.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~375. **CITIZEN RESPONSIBILITIES AND RIGHTS.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~376. **ECONOMIC FUNDAMENTALS.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~377. **ECONOMIC INFLUENCES.**~~

~~*Economic Influences standards do not apply at this grade level.*~~

~~378. **GEOGRAPHY.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~379.---380. **(RESERVED).**~~

~~381. **SOCIAL STUDIES STANDARDS--GRADE 1, SECTIONS 382 THROUGH 394.**~~

~~382. **CRITICAL THINKING AND ANALYTICAL SKILLS.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~383. **EVOLUTION OF DEMOCRACY.**~~

~~*Evolution of Democracy standards do not apply at this grade level.*~~

(3-15-02)

~~384. **EXPLORATION AND EXPANSION.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~385. **MIGRATION AND IMMIGRATION.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~386. **POLITICAL, SOCIAL, AND ECONOMIC RESPONSE TO INDUSTRIALIZATION AND TECHNOLOGICAL INNOVATION.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~387. **INTERNATIONAL RELATIONS AND CONFLICTS.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~388. **CULTURAL AND SOCIAL DEVELOPMENT.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~389. **FOUNDATIONS OF THE AMERICAN POLITICAL SYSTEM.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~390. **ORGANIZATION AND FORMATION OF THE AMERICAN SYSTEM OF GOVERNMENT.**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

- ~~(3-15-02)~~
- ~~391. CITIZEN RESPONSIBILITIES AND RIGHTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~392. ECONOMIC FUNDAMENTALS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~393. ECONOMIC INFLUENCES.~~
~~Economic Influences standards do not apply at this grade level.~~ ~~(3-15-02)~~
- ~~394. GEOGRAPHY.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~395.---396. (RESERVED).~~
- ~~397. SOCIAL STUDIES STANDARDS GRADE 2, SECTIONS 398 THROUGH 410.~~
- ~~398. CRITICAL THINKING AND ANALYTICAL SKILLS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~399. EVOLUTION OF DEMOCRACY.~~
~~Evolution of Democracy standards do not apply at this grade level.~~ ~~(3-15-02)~~
- ~~400. EXPLORATION AND EXPANSION.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~401. MIGRATION AND IMMIGRATION.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~402. POLITICAL, SOCIAL, AND ECONOMIC RESPONSE TO INDUSTRIALIZATION AND TECHNOLOGICAL INNOVATION.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~403. INTERNATIONAL RELATIONS AND CONFLICTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~404. CULTURAL AND SOCIAL DEVELOPMENT.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~

- ~~405. FOUNDATIONS OF THE AMERICAN POLITICAL SYSTEM.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~406. ORGANIZATION AND FORMATION OF THE AMERICAN SYSTEM OF GOVERNMENT.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~407. CITIZEN RESPONSIBILITIES AND RIGHTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~408. ECONOMIC FUNDAMENTALS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~409. ECONOMIC INFLUENCES.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~410. GEOGRAPHY.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~411.—412. (RESERVED).~~
413. SOCIAL STUDIES STANDARDS - GRADE 3, SECTIONS 414 THROUGH 426.
- ~~414. CRITICAL THINKING AND ANALYTICAL SKILLS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~415. EVOLUTION OF DEMOCRACY.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~416. EXPLORATION AND EXPANSION.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~417. MIGRATION AND IMMIGRATION.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~418. POLITICAL, SOCIAL, AND ECONOMIC RESPONSE TO INDUSTRIALIZATION AND TECHNOLOGICAL INNOVATION.~~

- (The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~419. INTERNATIONAL RELATIONS AND CONFLICTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~420. CULTURAL AND SOCIAL DEVELOPMENT.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~421. FOUNDATIONS OF THE AMERICAN POLITICAL SYSTEM.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~422. ORGANIZATION AND FORMATION OF THE AMERICAN SYSTEM OF GOVERNMENT.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~423. CITIZEN RESPONSIBILITIES AND RIGHTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~424. ECONOMIC FUNDAMENTALS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~425. ECONOMIC INFLUENCES.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~426. GEOGRAPHY.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~427. 428. (RESERVED).~~
- ~~429. SOCIAL STUDIES STANDARDS—GRADE 4, SECTIONS 430 THROUGH 442.~~
- ~~430. CRITICAL THINKING AND ANALYTICAL SKILLS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~431. EVOLUTION OF DEMOCRACY.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)

- ~~432. EXPLORATION AND EXPANSION.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~433. MIGRATION AND IMMIGRATION.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~434. POLITICAL, SOCIAL, AND ECONOMIC RESPONSE TO INDUSTRIALIZATION AND TECHNOLOGICAL INNOVATION.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~435. INTERNATIONAL RELATIONS AND CONFLICTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~436. CULTURAL AND SOCIAL DEVELOPMENT.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~437. FOUNDATIONS OF THE AMERICAN POLITICAL SYSTEM.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~438. ORGANIZATION AND FORMATION OF THE AMERICAN SYSTEM OF GOVERNMENT.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~439. CITIZEN RESPONSIBILITIES AND RIGHTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~440. ECONOMIC FUNDAMENTALS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~441. ECONOMIC INFLUENCES.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~442. GEOGRAPHY.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~443.—444. (RESERVED).~~

- ~~445. SOCIAL STUDIES STANDARDS – GRADE 5, SECTIONS 446 THROUGH 458.~~
- ~~446. CRITICAL THINKING AND ANALYTICAL SKILLS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~447. EVOLUTION OF DEMOCRACY.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~448. EXPLORATION AND EXPANSION.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~449. MIGRATION AND IMMIGRATION.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~450. POLITICAL, SOCIAL, AND ECONOMIC RESPONSE TO INDUSTRIALIZATION AND TECHNOLOGICAL INNOVATION.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~451. INTERNATIONAL RELATIONS AND CONFLICTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~452. CULTURAL AND SOCIAL DEVELOPMENT.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~453. FOUNDATIONS OF THE AMERICAN POLITICAL SYSTEM.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~454. ORGANIZATION AND FORMATION OF THE AMERICAN SYSTEM OF GOVERNMENT.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~455. CITIZEN RESPONSIBILITIES AND RIGHTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~456. ECONOMIC FUNDAMENTALS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)

~~457. ECONOMIC INFLUENCES.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~458. GEOGRAPHY.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~459-460. (RESERVED).~~

~~461. SOCIAL STUDIES STANDARDS—HISTORY OF HUMAN CIVILIZATION—MIDDLE GRADES (GRADES 6 THROUGH 8), SECTIONS 462 THROUGH 465.~~

~~462. HISTORY OF HUMAN CIVILIZATION.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~463. GEOGRAPHY.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~464. GOVERNMENT/CIVICS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~465. ECONOMICS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~466-467. (RESERVED).~~

~~468. SOCIAL STUDIES STANDARDS—GEOGRAPHY—MIDDLE GRADES, SECTION 469.~~

~~469. GEOGRAPHY.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~470-471. (RESERVED).~~

~~472. SOCIAL STUDIES STANDARDS—U.S. HISTORY—MIDDLE GRADES, SECTIONS 473 THROUGH 485.~~

~~473. CRITICAL THINKING AND ANALYTICAL SKILLS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~474. EVOLUTION OF DEMOCRACY.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

- ~~(3-15-02)~~
475. ~~EXPLORATION AND EXPANSION.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
476. ~~MIGRATION AND IMMIGRATION.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
477. ~~POLITICAL, SOCIAL, AND ECONOMIC RESPONSE TO INDUSTRIALIZATION AND TECHNOLOGICAL INNOVATION.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
478. ~~INTERNATIONAL RELATIONS AND CONFLICTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
479. ~~CULTURAL AND SOCIAL DEVELOPMENT.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
480. ~~FOUNDATIONS OF THE AMERICAN POLITICAL SYSTEM.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
481. ~~ORGANIZATION AND FORMATION OF THE AMERICAN SYSTEM OF GOVERNMENT.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
482. ~~CITIZEN RESPONSIBILITIES AND RIGHTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
483. ~~ECONOMIC FUNDAMENTALS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
484. ~~ECONOMIC INFLUENCES.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
485. ~~GEOGRAPHY.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~

~~486.---487. (RESERVED).~~

~~488. SOCIAL STUDIES STANDARDS—GRADES 9 THROUGH 12, SECTIONS 489 THROUGH 490.~~

~~The social studies standards are organized around the three (3) social studies courses currently required by the state of Idaho for high school graduation. These fields of study are economics (one (1) credit), U.S. History (two (2) credits), and government (two (2) credits).~~ (3-15-02)

~~489. CRITICAL THINKING AND ANALYTICAL SKILLS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~490. EVOLUTION OF DEMOCRACY.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~491.---492. (RESERVED).~~

~~493. UNITED STATES HISTORY, SECTIONS 494 THROUGH 498.~~

~~494. EXPLORATION AND EXPANSION.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~495. MIGRATION AND IMMIGRATION.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~496. POLITICAL, SOCIAL, AND ECONOMIC RESPONSE TO INDUSTRIALIZATION AND TECHNOLOGICAL INNOVATION.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~497. INTERNATIONAL RELATIONS AND CONFLICTS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~498. CULTURAL AND SOCIAL DEVELOPMENT.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~499.---500. (RESERVED).~~

~~501. GOVERNMENT/CIVICS, SECTIONS 502 THROUGH 506.~~

~~502. CIVIC LIFE, POLITICS AND GOVERNMENT.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~503. FOUNDATIONS OF THE AMERICAN POLITICAL SYSTEM.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~504. ORGANIZATION AND FORMATION OF THE AMERICAN SYSTEM OF GOVERNMENT.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~505. UNITED STATES FOREIGN AFFAIRS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~506. CITIZEN RESPONSIBILITIES AND RIGHTS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~507.—508. (RESERVED).~~

~~509. ECONOMICS, SECTIONS 510 THROUGH 514.~~

~~510. FUNDAMENTALS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~511. CONCEPT OF MONEY.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~512. INFLUENCES.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~513. ECONOMIC INSTITUTIONS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~514. PERSONAL FINANCE.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~515.—525. (RESERVED).~~

~~526. SCIENCE STANDARDS.~~

~~The members of the Idaho Science Achievement Standards Subcommittee reviewed a number of Achievement Standards including those developed at the national and state levels. The committee has chosen the National Science Education Standards developed by the National Research Council as a starting point for the Idaho Achievement Standards for science shown here. This approach ensures a common base for local development of strong science curriculums.~~

(3-15-02)

~~01. **Science.** Science is a human endeavor that seeks to understand the universe by observation, experimentation, and rational interpretation of observations. At its core, science is a method of asking questions, a method that may be extended to problem solving in many areas of life. An observation leads to a hypothesis. The hypothesis suggests experiments that might be done to further understand the phenomena. These observations and hypotheses are published in scientific literature whereupon they may be replicated, extended, or disproved by others. Hypotheses that prove capable of explaining observations and making predictions about additional phenomena are retained while those that fail this test are discarded. Only those hypotheses that have proven to be successful over considerable periods of time are referred to as "theories", and even these theories may be supplanted should they prove incapable of explaining new observations.~~ (3-15-02)

~~02. **Reviewing Science Achievement Standards.** It is essential to remember that while reviewing these Science Standards, all theories are subject to revision and that theories are not absolute fact.~~ (3-15-02)

~~527. **SCIENCE STANDARDS—GRADE KINDERGARTEN, SECTIONS 528 THROUGH 538:**~~

~~528. **UNIFYING CONCEPTS OF SCIENCE:**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~529. **CONCEPTS OF SCIENTIFIC INQUIRY:**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~530. **CONCEPTS OF PHYSICAL SCIENCE:**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~531. **CELLULAR AND MOLECULAR CONCEPTS:**~~

Cellular and Molecular Concepts standards do not apply at this grade level.

(3-15-02)

~~532. **INTERDEPENDENCE OF ORGANISMS AND BIOLOGICAL CHANGE:**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~533. **MATTER, ENERGY, AND ORGANIZATION IN LIVING SYSTEMS:**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~534. **EARTH AND SPACE SYSTEMS:**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~535. **TECHNOLOGY:**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~536. **PERSONAL AND SOCIAL PERSPECTIVES:**~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

- ~~537. HISTORY OF SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~538. INTERDISCIPLINARY CONCEPTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~539.—541. (RESERVED).~~
- ~~542. SCIENCE STANDARDS—GRADE 1, SECTIONS 543 THROUGH 553.~~
- ~~543. UNIFYING CONCEPTS OF SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~544. CONCEPTS OF SCIENTIFIC INQUIRY.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~545. CONCEPTS OF PHYSICAL SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~546. CELLULAR AND MOLECULAR CONCEPTS.~~
Cellular and Molecular Concepts standards do not apply at this grade level. (3-15-02)
- ~~547. INTERDEPENDENCE OF ORGANISMS AND BIOLOGICAL CHANGE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~548. MATTER, ENERGY, AND ORGANIZATION IN LIVING SYSTEMS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~549. EARTH AND SPACE SYSTEMS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~550. TECHNOLOGY.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~551. PERSONAL AND SOCIAL PERSPECTIVES.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)

- ~~552. HISTORY OF SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~553. INTERDISCIPLINARY CONCEPTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~554.—556. (RESERVED).~~
- ~~557. SCIENCE STANDARDS—GRADE 2, SECTIONS 558 THROUGH 568.~~
- ~~558. UNIFYING CONCEPTS OF SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~559. CONCEPTS OF SCIENTIFIC INQUIRY.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~560. CONCEPTS OF PHYSICAL SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~561. CELLULAR AND MOLECULAR CONCEPTS.~~
Cellular and Molecular Concepts standards do not apply at this grade level. (3-15-02)
- ~~562. INTERDEPENDENCE OF ORGANISMS AND BIOLOGICAL CHANGE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~563. MATTER, ENERGY, AND ORGANIZATION IN LIVING SYSTEMS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~564. EARTH AND SPACE SYSTEMS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~565. TECHNOLOGY.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~566. PERSONAL AND SOCIAL PERSPECTIVES.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)

- ~~567. HISTORY OF SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~568. INTERDISCIPLINARY CONCEPTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~569.—571. (RESERVED).~~
- ~~572. SCIENCE STANDARDS—GRADE 3, SECTIONS 573 THROUGH 583.~~
- ~~573. UNIFYING CONCEPTS OF SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~574. CONCEPTS OF SCIENTIFIC INQUIRY.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~575. CONCEPTS OF PHYSICAL SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~576. CELLULAR AND MOLECULAR CONCEPTS.~~
Cellular and Molecular Concepts standards do not apply at this grade level. (3-15-02)
- ~~577. INTERDEPENDENCE OF ORGANISMS AND BIOLOGICAL CHANGE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~578. MATTER, ENERGY, AND ORGANIZATION IN LIVING SYSTEMS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~579. EARTH AND SPACE SYSTEMS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~580. TECHNOLOGY.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~581. PERSONAL AND SOCIAL PERSPECTIVES.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)

- ~~582. HISTORY OF SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~583. INTERDISCIPLINARY CONCEPTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~584.—586. (RESERVED).~~
- ~~587. SCIENCE STANDARDS—GRADE 4, SECTIONS 588 THROUGH 598.~~
- ~~588. UNIFYING CONCEPTS OF SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~589. CONCEPTS OF SCIENTIFIC INQUIRY.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~590. CONCEPTS OF PHYSICAL SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~591. CELLULAR AND MOLECULAR CONCEPTS.~~
Cellular and Molecular Concepts standards do not apply at this grade level. (3-15-02)
- ~~592. INTERDEPENDENCE OF ORGANISMS AND BIOLOGICAL CHANGE.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~593. MATTER, ENERGY, AND ORGANIZATION IN LIVING SYSTEMS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~594. EARTH AND SPACE SYSTEMS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~595. TECHNOLOGY.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~596. PERSONAL AND SOCIAL PERSPECTIVES.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)

597. ~~HISTORY OF SCIENCE.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

598. ~~INTERDISCIPLINARY CONCEPTS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

599.—601. ~~(RESERVED).~~

602. ~~SCIENCE STANDARDS—GRADE 5, SECTIONS 603 THROUGH 613.~~

603. ~~UNIFYING CONCEPTS OF SCIENCE.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

604. ~~CONCEPTS OF SCIENTIFIC INQUIRY.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

605. ~~CONCEPTS OF PHYSICAL SCIENCE.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

606. ~~CELLULAR AND MOLECULAR CONCEPTS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

607. ~~INTERDEPENDENCE OF ORGANISMS AND BIOLOGICAL CHANGE.~~

Interdependence of Organisms and Biological Change standards do not apply at this grade level.

(3-15-02)

608. ~~MATTER, ENERGY, AND ORGANIZATION IN LIVING SYSTEMS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

609. ~~EARTH AND SPACE SYSTEMS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

610. ~~TECHNOLOGY.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

611. ~~PERSONAL AND SOCIAL PERSPECTIVES.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

- ~~(3-15-02)~~
- ~~612. HISTORY OF SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~613. INTERDISCIPLINARY CONCEPTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~614.—616. (RESERVED).~~
- ~~617. SCIENCE STANDARDS—GRADE 6, SECTIONS 618 THROUGH 628.~~
- ~~618. UNIFYING CONCEPTS OF SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~619. CONCEPTS OF SCIENTIFIC INQUIRY.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~620. CONCEPTS OF PHYSICAL SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~621. CELLULAR AND MOLECULAR CONCEPTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~622. INTERDEPENDENCE OR ORGANISMS AND BIOLOGICAL CHANGE.~~
No standards of Interdependence of Organisms and Biological Change apply at this grade level.
~~(3-15-02)~~
- ~~623. MATTER, ENERGY, AND ORGANIZATION IN LIVING SYSTEMS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~624. EARTH AND SPACE SYSTEMS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~625. TECHNOLOGY.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~626. PERSONAL AND SOCIAL PERSPECTIVES.~~
(The Standards Table is being deleted in its entirety but is not being printed.)

- ~~(3-15-02)~~
- ~~627. HISTORY OF SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~628. INTERDISCIPLINARY CONCEPTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~629.---631. (RESERVED).~~
- ~~632. SCIENCE STANDARDS--MIDDLE GRADES (GRADES 7-8), SECTIONS 633 THROUGH 643.~~
Based on the necessary math knowledge and skills, student maturation level, and the need for secondary level Physical Science exposure, it is recommended that Earth Science be scheduled at the middle school level. The standards reflect this recommendation.
~~(3-15-02)~~
- ~~633. UNIFYING CONCEPTS OF SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~634. CONCEPTS OF SCIENTIFIC INQUIRY.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~635. CONCEPTS OF PHYSICAL SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~636. CELLULAR AND MOLECULAR CONCEPTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~637. INTERDEPENDENCE OF ORGANISMS AND BIOLOGICAL CHANGE.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~638. MATTER, ENERGY, AND ORGANIZATION IN LIVING SYSTEMS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~639. EARTH AND SPACE SYSTEMS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~640. TECHNOLOGY.~~
(The Standards Table is being deleted in its entirety but is not being printed.)

- ~~(3-15-02)~~
- ~~641. PERSONAL AND SOCIAL PERSPECTIVES.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~642. HISTORY OF SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~643. INTERDISCIPLINARY CONCEPTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~644.—646. (RESERVED).~~
- ~~647. SCIENCE STANDARDS—GRADES 9 THROUGH 12, SECTIONS 648 THROUGH 658.~~
- ~~648. UNIFYING CONCEPTS OF SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~649. CONCEPTS OF SCIENTIFIC INQUIRY.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~650. CONCEPTS OF PHYSICAL SCIENCE.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~651. CELLULAR AND MOLECULAR CONCEPTS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~652. INTERDEPENDENCE OF ORGANISMS AND BIOLOGICAL CHANGE.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~653. MATTER, ENERGY, AND ORGANIZATION IN LIVING SYSTEMS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~654. EARTH AND SPACE SYSTEMS.~~
(The Standards Table is being deleted in its entirety but is not being printed.)
~~(3-15-02)~~
- ~~655. TECHNOLOGY.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

656. ~~PERSONAL AND SOCIAL PERSPECTIVES.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

657. ~~HISTORY OF SCIENCE.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

658. ~~INTERDISCIPLINARY CONCEPTS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

659. ~~668. (RESERVED).~~

669. ~~LANGUAGE ARTS/COMMUNICATIONS STANDARDS.~~

Language, the gateway to learning, provides our most powerful and readily available tool to represent the world to ourselves as well as ourselves to the world. Not only a means of communications, language serves as our primary instrument of thought, a defining feature of culture, and an unmistakable mark of personal identity. *(5-3-03)*

670. ~~LANGUAGE ARTS/COMMUNICATIONS STANDARDS — KINDERGARTEN, SECTIONS 671 THROUGH 675.~~

671. ~~READING.~~

Rationale: Read a variety of grade-level materials and apply strategies appropriate to various situations.

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

672. ~~WRITING.~~

Rationale: Write to demonstrate skill and conventions according to purpose and audience.

(3-15-02)

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

673. ~~LISTENING.~~

Rationale: Use skills of listening to effectively understand, comprehend, and critique oral and visual presentations.

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

674. ~~SPEAKING.~~

Rationale: Use skills of speaking to effectively present information and present analysis of critiques of written or viewed material.

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

675. ~~VIEWING.~~

Rationale: Use skills of viewing to effectively understand and comprehend visually-presented information and use visual elements to produce visual presentations.

(The Standards Table is being deleted in its entirety but is not being printed.)

(5-3-03)

~~676.---678. (RESERVED).~~

~~679. LANGUAGE ARTS/COMMUNICATIONS STANDARDS--GRADE 1, SECTIONS 680 THROUGH 684.~~

~~680. READING.~~

~~Rationale: Read a variety of grade-level materials and apply strategies appropriate to various situations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

~~681. WRITING.~~

~~Rationale: Write to demonstrate skill and conventions according to purpose and audience. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

~~682. LISTENING.~~

~~Rationale: Use skills of listening to effectively understand, comprehend, and critique oral and visual presentations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

~~683. SPEAKING.~~

~~Rationale: Use skills of speaking to effectively present information and present analysis of critiques of written or viewed material. Content knowledge and skills of prior grade level must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

~~684. VIEWING.~~

~~Rationale: Use skills of viewing to effectively understand and comprehend visually-presented information and use visual elements to produce visual presentations.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~685.---687. (RESERVED).~~

~~688. LANGUAGE ARTS/COMMUNICATIONS STANDARDS--GRADE 2, SECTIONS 689 THROUGH 693.~~

~~689. READING.~~

~~Rationale: Read a variety of grade-level materials and apply strategies appropriate to various situations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

~~690. WRITING.~~

~~Rationale: Write to demonstrate skill and conventions according to purpose and audience. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

~~691. LISTENING.~~

~~Rationale: Use skills of listening to effectively understand, comprehend, and critique oral and visual presentations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

~~692. SPEAKING.~~

~~Rationale: Use skills of speaking to effectively present information and present analysis of critiques of written or viewed material. Content knowledge and skills of prior grade level must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

~~693. VIEWING.~~

~~Rationale: Use skills of viewing to effectively understand and comprehend visually-presented information and use visual elements to produce visual presentations.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~694.—696. (RESERVED).~~

~~697. LANGUAGE ARTS/COMMUNICATIONS STANDARDS—GRADE 3, SECTIONS 698 THROUGH 702.~~

~~698. READING.~~

~~Rationale: Read a variety of grade level materials and apply strategies appropriate to various situations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

~~699. WRITING.~~

~~Rationale: Write to demonstrate skill and conventions according to purpose and audience. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

~~700. LISTENING.~~

~~Rationale: Use skills of listening to effectively understand, comprehend, and critique oral and visual presentations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

~~701. SPEAKING.~~

~~Rationale: Use skills of speaking to effectively present information and present analysis or critiques of written or viewed material. Content knowledge and skills of prior grade level must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

~~702. VIEWING.~~

~~Rationale: Use skills of viewing to effectively understand and comprehend visually presented information and use visual elements to produce visual presentations.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

~~(5-3-03)~~

~~703.---705. (RESERVED).~~

~~706. LANGUAGE ARTS/COMMUNICATIONS STANDARDS—GRADE 4, SECTIONS 707 THROUGH 711.~~

~~707. READING.~~

~~Rationale: Read a variety of grade-level materials and apply strategies appropriate to various situations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

~~(4-6-05)~~

~~708. WRITING.~~

~~Rationale: Students write to demonstrate skill and conventions according to purpose and audience. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

~~(4-6-05)~~

~~709. LISTENING.~~

~~Rationale: Use skills of listening to effectively understand, comprehend, and critique oral and visual presentations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

~~(4-6-05)~~

~~710. SPEAKING.~~

~~Rationale: Use skills of speaking to effectively present information and present analysis or critiques of written or viewed material. Content knowledge and skills of prior grade level must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

~~(4-6-05)~~

~~711. VIEWING.~~

~~Rationale: Use skills of viewing to effectively understand and comprehend visually presented information and use visual elements to produce visual presentations.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

~~(3-15-02)~~

~~712.---714. (RESERVED).~~

~~715. LANGUAGE ARTS/COMMUNICATIONS STANDARDS—GRADE 5, SECTIONS 716 THROUGH 720.~~

~~716. READING.~~

~~Rationale: Students read a variety of grade-level materials and apply strategies appropriate to various situations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

~~(4-6-05)~~

717. WRITING.

Rationale: Students write to demonstrate skill and conventions according to purpose and audience. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

718. LISTENING.

Rationale: Use skills of listening to effectively understand, comprehend, and critique oral and visual presentations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

719. SPEAKING.

Rationale: Use skills of speaking to effectively present information and present analyses or critiques of written or viewed material. Content knowledge and skills of prior grade level must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

720. VIEWING.

Rationale: Use viewing skills to understand and comprehend visually-presented information and use visual elements to produce visual presentations.

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~721. — 723. (RESERVED).~~

~~724. LANGUAGE ARTS/COMMUNICATIONS STANDARDS — GRADE 6, SECTIONS 725 THROUGH 729.~~

725. READING.

Rationale: Students read a variety of grade-level materials and apply strategies appropriate to various situations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

726. WRITING.

Rationale: Students write to demonstrate skills and conventions according to purpose and audience. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

727. LISTENING.

Rationale: Use skills of listening to effectively understand, comprehend, and critique oral and visual presentations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

728. SPEAKING.

Rationale: Use skills of speaking to effectively present information and present analyses or critiques of written or

viewed material. Content knowledge and skills of prior grade level must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.) (4-6-05)

729. VIEWING.

Rationale: Use skills of viewing to effectively understand and comprehend visually presented information and use visual elements to produce visual presentations.

(The Standards Table is being deleted in its entirety but is not being printed.) (5-3-03)

~~730. 732. (RESERVED).~~

~~733. LANGUAGE ARTS/COMMUNICATIONS STANDARDS GRADE 7, SECTIONS 734 THROUGH 738.~~

734. READING.

Rationale: Students read a variety of grade level materials and apply strategies appropriate to various situations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.) (4-6-05)

735. WRITING.

Rationale: Students write to demonstrate skill and conventions according to purpose and audience. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.) (4-6-05)

736. LISTENING.

Rationale: Use skills of listening to effectively understand, comprehend, and critique oral and visual presentations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.) (4-6-05)

737. SPEAKING.

Rationale: Use skills of speaking to effectively present information and present analysis or critiques of written or viewed material. Content knowledge and skills of prior grade level must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.) (4-6-05)

738. VIEWING.

Rationale: Use skills of viewing to effectively understand and comprehend visually presented information and use visual elements to produce visual presentations.

(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)

~~739. 741. (RESERVED).~~

~~742. LANGUAGE ARTS/COMMUNICATIONS STANDARDS GRADE 8, SECTIONS 743 THROUGH 747.~~

743. READING.

Rationale: Students read a variety of grade level materials and apply strategies appropriate to various situations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

744. WRITING.

Rationale: Write to demonstrate skill and conventions according to purpose and audience. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

745. LISTENING.

Rationale: Use skills of listening to effectively understand, comprehend, and critique oral and visual presentations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

746. SPEAKING.

Rationale: Use skills of speaking to effectively present information and present analysis or critiques of written and viewed material. Content knowledge and skills of prior grade level must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

747. VIEWING.

Rationale: Use skills of viewing to effectively understand and comprehend visually presented material and use visual elements to produce visual presentations.

(The Standards Table is being deleted in its entirety but is not being printed.)

(5-3-03)

748.—750. (RESERVED).

751. LANGUAGE ARTS/COMMUNICATIONS STANDARDS - GRADES 9 THROUGH 12, SECTIONS 752 THROUGH 756.

752. READING.

Rationale: Read a variety of grade level materials and apply strategies appropriate to various situations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

753. WRITING.

Rationale: Write to demonstrate skill and conventions according to purpose and audience. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.)

(4-6-05)

754. LISTENING.

Rationale: Use skills of listening to effectively understand, comprehend, and critique oral and visual presentations. Content knowledge and skills of prior grade levels must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.) (4-6-05)

755. ~~SPEAKING.~~

Rationale: Use skills of speaking to effectively present information and present analysis of critiques of written or viewed material. Content knowledge and skills of prior grade level must be acquired in addition to addressing current grade level.

(The Standards Table is being deleted in its entirety but is not being printed.) (4-6-05)

756. ~~VIEWING.~~

(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)

757. ~~766. (RESERVED).~~

767. ~~HEALTH STANDARDS.~~

01. ~~Health Education.~~ *Health education enables students to obtain, apply, and benefit from health information, services, and skills in ways that enhance the individual and society. Health knowledge and its applications enhance the ability to achieve life goals. Health is a dynamic process that includes emotional, mental, physical, social, environmental, and spiritual dimensions.* (3-15-02)

02. ~~Instruction in Human Sexuality.~~ *Instruction in the areas of human sexuality are ultimately governed by Sections 33-1608 through 33-1611, Idaho Code.* (3-15-02)

a. *Section 33-1608, Idaho Code—Family life and sex education—legislative policy.* (3-15-02)

b. *Section 33-1609, Idaho Code—“Sex education” defined.* (3-15-02)

c. *Section 33-1610, Idaho Code—Involvement of parents and community group.* (3-15-02)

d. *Section 33-1611, Idaho Code—Excusing children from instruction in sex education.* (3-15-02)

e. *Throughout the Health Standards section the term “STDs” (Sexually Transmitted Disease) includes HIV/AIDS (Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome).* (3-15-02)

768. ~~HEALTH STANDARDS—KINDERGARTEN, SECTIONS 769 THROUGH 773.~~

769. ~~HEALTHY LIFESTYLES.~~

(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)

770. ~~RISK-TAKING BEHAVIOR.~~

(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)

771. ~~COMMUNICATION SKILLS FOR HEALTHY RELATIONSHIPS.~~

(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)

772. **CONSUMER HEALTH.**
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
773. ~~**MENTAL AND EMOTIONAL WELLNESS.**~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~774.---776. (RESERVED).~~
777. ~~**HEALTH STANDARDS—GRADE 1, SECTIONS 778 THROUGH 782.**~~
778. ~~**HEALTHY LIFESTYLES.**~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
779. ~~**RISK TAKING BEHAVIOR.**~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
780. ~~**COMMUNICATION SKILLS FOR HEALTHY RELATIONSHIPS.**~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
781. ~~**CONSUMER HEALTH.**~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
782. ~~**MENTAL AND EMOTIONAL WELLNESS.**~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~783.---785. (RESERVED).~~
786. ~~**HEALTH STANDARDS—GRADE 2, SECTIONS 787 THROUGH 791.**~~
787. ~~**HEALTHY LIFESTYLES.**~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
788. ~~**RISK TAKING BEHAVIOR.**~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
789. ~~**COMMUNICATION SKILLS FOR HEALTHY RELATIONSHIPS.**~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)

- ~~790. CONSUMER HEALTH.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~791. MENTAL AND EMOTIONAL WELLNESS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~792.---794. (RESERVED).~~
- ~~795. HEALTH STANDARDS GRADE 3, SECTIONS 796 THROUGH 800.~~
- ~~796. HEALTHY LIFESTYLES.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~797. RISK TAKING BEHAVIOR.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~798. COMMUNICATION SKILLS FOR HEALTHY RELATIONSHIPS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~799. CONSUMER HEALTH.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~800. MENTAL AND EMOTIONAL WELLNESS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~801.---803. (RESERVED).~~
- ~~804. HEALTH STANDARDS GRADE 4, SECTIONS 805 THROUGH 809.~~
- ~~805. HEALTHY LIFESTYLES.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~806. RISK TAKING BEHAVIOR.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~807. COMMUNICATION SKILLS FOR HEALTHY RELATIONSHIPS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)

- ~~808. CONSUMER HEALTH.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~809. MENTAL AND EMOTIONAL WELLNESS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~810.---812. (RESERVED).~~
- ~~813. HEALTH STANDARDS GRADE 5, SECTIONS 814 THROUGH 818.~~
- ~~814. HEALTHY LIFESTYLES.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~815. RISK TAKING BEHAVIOR.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~816. COMMUNICATION SKILLS FOR HEALTHY RELATIONSHIPS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~817. CONSUMER HEALTH.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~818. MENTAL AND EMOTIONAL WELLNESS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~819.---821. (RESERVED).~~
- ~~822. HEALTH STANDARDS GRADE 6, SECTIONS 823 THROUGH 827.~~
- ~~823. HEALTHY LIFESTYLES.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~824. RISK TAKING BEHAVIOR.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~825. COMMUNICATION SKILLS FOR HEALTHY RELATIONSHIPS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)

- ~~826. CONSUMER HEALTH.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~827. MENTAL AND EMOTIONAL WELLNESS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~828.---830. (RESERVED).~~
- ~~831. HEALTH STANDARDS—MIDDLE GRADES (GRADES 7-8), SECTIONS 832 THROUGH 836.~~
~~832. HEALTHY LIFESTYLES.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~833. RISK-TAKING BEHAVIOR.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~834. COMMUNICATION SKILLS FOR HEALTHY RELATIONSHIPS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~835. CONSUMER HEALTH.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~836. MENTAL AND EMOTIONAL WELLNESS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~837.---839. (RESERVED).~~
- ~~840. HEALTH STANDARDS—GRADES 9 THROUGH 12, SECTIONS 841 THROUGH 845.~~
~~841. HEALTHY LIFESTYLES.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~842. RISK-TAKING BEHAVIOR.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)
- ~~843. COMMUNICATION SKILLS FOR HEALTHY RELATIONSHIPS.~~
(The Standards Table is being deleted in its entirety but is not being printed.) (3-15-02)

~~844. CONSUMER HEALTH.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~845. MENTAL AND EMOTIONAL WELLNESS.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~846.---855. (RESERVED).~~

~~856. GLOSSARY OF HUMANITIES TERMS.~~

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

(3-15-02)

~~01. **Aesthetics.** A branch of philosophy that deals with issues of beauty. The questions and ideas of aesthetics define what society considers art: the creation and response to art, the role of art in society, and the standards for judging and interpreting the significance of art.~~

(3-15-02)

~~02. **Application.** The practice of using one's knowledge, techniques, and skills to produce a product.~~

(3-15-02)

~~03. **Appreciation.** A sensitive awareness; in the context of the arts, a recognition of aesthetic values.~~

(3-15-02)

~~04. **Artifact.** A product of civilization, such as a tool or ornament, that shows human workmanship or modification.~~

(3-15-02)

~~05. **Authentic Materials and Resources.** Materials created by people living in their culture (such as a country's newspapers, magazines, or menus) or native speakers themselves.~~

(5-3-03)

~~06. **Creative Expression.** An imaginative response that exhibits both feeling and core knowledge of an art form.~~

(3-15-02)

~~07. **Culture/Cultures.** A group that influences ways of perceiving, valuing, behaving, and believing.~~

(5-3-03)

~~08. **Disciplines.** Specific fields of study within the arts and humanities such as visual art, music, theatre, dance, literature, philosophy.~~

(5-3-03)

~~09. **Diversity.** The condition of being different, inclusive of wide ethnic representation, varied viewpoints, and range of abilities.~~

(3-15-02)

~~10. **Ethical/Ethics.** Relating to moral action, motivation, conduct or character. The discipline dealing with what is good and bad and with moral duty and obligation.~~

(5-3-03)

~~11. **Expository Writing.** Writing that is neither descriptive nor narrative and whose primary function is to explain and/or define.~~

(3-15-02)

~~12. **Genre.** A category of artistic, musical, or literary composition characterized by a particular style, form, or content.~~

(3-15-02)

~~13. **Historical/Culture/Living Culture.** A culture, civilization that has existed in the past/one that is current and/or evolving.~~

(5-3-03)

~~14. **Integrate.** To incorporate into a larger unit.~~

(3-15-02)

- ~~15. **Interdisciplinary Humanities.** A study of two (2) or more related disciplines within the state-adopted list of humanities subjects. (3-15-02)~~
- ~~16. **Interrelationships.** Mutual or reciprocal relationships of arts and humanities disciplines. (3-15-02)~~
- ~~17. **Literary Work.** An example of writing that possesses the qualities or characteristics of letters, human learning, or literature. (3-15-02)~~
- ~~18. **Nationalism.** A sense of national consciousness, placing primary emphasis on the culture and interests of a particular nation. (3-15-02)~~
- ~~19. **Reasoned Dialogue.** The process of presenting a calculated discussion of ideas through logical means. (5-3-03)~~
- ~~20. **Replicate.** To repeat or duplicate a product or process. (3-15-02)~~
- ~~21. **Speculate.** To examine an idea or process and determine a logical outcome. (3-15-02)~~
- ~~22. **Style.** An accustomed manner or method of creating or performing as sanctioned by an accepted standard. (3-15-02)~~
- ~~23. **Translate.** To turn into one's own or another language; to change an activity or idea from one (1) form into another. (3-15-02)~~

857. IDAHO HUMANITIES STANDARDS.

~~In order to achieve success, a student of the humanities must gain content knowledge, practice critical thinking skills, and experience personal expression. These standards offer a framework for student's achievement in the arts and humanities and are organized into the three (3) categories of Interdisciplinary Humanities, Visual and Performing Arts, and Foreign Language. (5-3-03)~~

~~01. **Interdisciplinary Humanities.** The interdisciplinary humanities standards are based on the assumption that connections exist between the arts and humanities disciplines chronicled through history. Through interdisciplinary study, the student acquires knowledge and skills that promote understanding of these connections as they exist among two (2) or more of the following areas: (5-3-03)~~

- ~~a. Literature; (5-3-03)~~
- ~~b. History; (5-3-03)~~
- ~~c. Philosophy; (5-3-03)~~
- ~~d. Architecture; (5-3-03)~~
- ~~e. Music; (5-3-03)~~
- ~~f. Art; (5-3-03)~~
- ~~g. Drama; (5-3-03)~~
- ~~h. Dance; (5-3-03)~~
- ~~i. Foreign language; and (5-3-03)~~
- ~~j. Comparative world religion. (5-3-03)~~

~~02. **Visual and Performing Arts.** The visual and performing arts standards address four (4) arts disciplines—music, visual art, theatre, and dance. Their scope is K-12, and they address both content and~~

~~achievement. (5-3-03)~~

~~03. **Foreign Language.** The foreign language standards address basic language acquisition skills of speaking, listening, reading, writing, and observing. In addition, foreign language courses satisfying the humanities core requirement include instruction in cultural context, critical thinking, and performance. (5-3-03)~~

~~858. **INTERDISCIPLINARY HUMANITIES – KINDERGARTEN THROUGH GRADE 3.** Interdisciplinary Humanities standards do not apply at these grade levels. (3-15-02)~~

~~859. — 865. (RESERVED).~~

~~866. **VISUAL AND PERFORMING ARTS – KINDERGARTEN THROUGH GRADE 3, SECTIONS 867 THROUGH 872.**~~

~~867. **HISTORICAL AND CULTURAL CONTEXTS OF VISUAL AND PERFORMING ARTS DISCIPLINES.**~~

~~868. **STANDARD ONE.** Demonstrate an understanding of the cultural and historical contexts and interrelationships of the arts and humanities disciplines among various cultures.~~

(The Standards Table is being deleted in its entirety but is not being printed.)
(5-3-03)

~~869. **CRITICAL THINKING IN THE VISUAL AND PERFORMING ARTS.**~~

~~870. **STANDARD TWO.** Conduct analyses, engage in reasoned dialogue, and demonstrate informed judgment about philosophical, aesthetic, or ethical arts issues.~~

(The Standards Table is being deleted in its entirety but is not being printed.)
(5-3-03)

~~871. **ACQUISITION, APPLICATION, AND EXPRESSION OF SPECIFIC CONTENT KNOWLEDGE AND SKILLS IN THE VISUAL AND PERFORMING ARTS.**~~

~~872. **STANDARD THREE.** Communicate in the humanities disciplines through acquisition, application, and creative expression.~~

(The Standards Table is being deleted in its entirety but is not being printed.)
(5-3-03)

~~873. — 882. (RESERVED).~~

~~883. **FOREIGN LANGUAGE – KINDERGARTEN THROUGH GRADE 3, SECTIONS 884 THROUGH 889.**~~

~~884. **HISTORICAL AND CULTURAL CONTEXTS OF FOREIGN LANGUAGE STUDY.**~~

~~885. **STANDARD ONE.** Demonstrate an understanding of the cultural and historical contexts and interrelationships of the arts and humanities disciplines among various cultures.~~

(The Standards Table is being deleted in its entirety but is not being printed.)
(3-15-02)

~~886. **CRITICAL THINKING IN FOREIGN LANGUAGE STUDY.**~~

~~887. **STANDARD TWO.** Conduct structural analyses, engage in reasoned dialogue, and demonstrate informed judgment about philosophical,~~

~~aesthetic, or ethical arts issues.~~

(The Standards Table is being deleted in its entirety but is not being printed.)

~~(5-3-03)~~

~~888. ACQUISITION, APPLICATION, AND EXPRESSION OF SPECIFIC CONTENT KNOWLEDGE AND SKILLS IN FOREIGN LANGUAGE STUDY.~~

~~889. STANDARD THREE.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

~~(5-3-03)~~

~~890.---891. (RESERVED).~~

~~892. INTERDISCIPLINARY HUMANITIES GRADES 4 AND 5.~~

~~Interdisciplinary Humanities standards do not apply at these grade levels.~~

~~(3-15-02)~~

~~893.---899. (RESERVED).~~

~~900. VISUAL AND PERFORMING ARTS GRADES 4 AND 5, SECTIONS 901 THROUGH 906.~~

~~901. HISTORICAL AND CULTURAL CONTEXTS OF VISUAL AND PERFORMING ARTS DISCIPLINES.~~

~~902. STANDARD ONE.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

~~(5-3-03)~~

~~903. CRITICAL THINKING IN THE VISUAL AND PERFORMING ARTS.~~

~~904. STANDARD TWO.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

~~(5-3-03)~~

~~905. ACQUISITION, APPLICATION, AND EXPRESSION OF SPECIFIC CONTENT KNOWLEDGE AND SKILLS IN THE VISUAL AND PERFORMING ARTS.~~

~~906. STANDARD THREE.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

~~(5-3-03)~~

~~907.---916. (RESERVED).~~

~~917. FOREIGN LANGUAGE GRADES 4 AND 5, SECTIONS 918 THROUGH 923.~~

~~918. HISTORICAL AND CULTURAL CONTEXTS OF FOREIGN LANGUAGE STUDY.~~

~~919. STANDARD ONE.~~

~~Demonstrate an understanding of the cultural and historical contexts and interrelationships of the arts and~~

~~humanities disciplines among various cultures.~~

(The Standards Table is being deleted in its entirety but is not being printed.)
(3-15-02)

~~920. CRITICAL THINKING IN FOREIGN LANGUAGE STUDY.~~

~~921. STANDARD TWO.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)
(5-3-03)

~~922. ACQUISITION, APPLICATION, AND EXPRESSION OF SPECIFIC CONTENT KNOWLEDGE AND SKILLS IN FOREIGN LANGUAGE STUDY.~~

~~923. STANDARD THREE.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)
(3-15-02)

~~924.—925. (RESERVED).~~

~~926. INTERDISCIPLINARY HUMANITIES—GRADES 6 THROUGH 8.~~

~~Interdisciplinary Humanities standards do not apply at these grade levels.~~ (3-15-02)

~~927.—933. (RESERVED).~~

~~934. VISUAL AND PERFORMING ARTS—GRADES 6 THROUGH 8, SECTIONS 935 THROUGH 940.~~

~~935. HISTORICAL AND CULTURAL CONTEXTS OF VISUAL AND PERFORMING ARTS DISCIPLINES.~~

~~936. STANDARD ONE.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)
(3-15-02)

~~937. CRITICAL THINKING IN THE VISUAL AND PERFORMING ARTS.~~

~~938. STANDARD TWO.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)
(5-3-03)

~~939. ACQUISITION, APPLICATION, AND EXPRESSION OF SPECIFIC CONTENT KNOWLEDGE AND SKILLS IN THE VISUAL AND PERFORMING ARTS.~~

~~940. STANDARD THREE.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

(5-3-03)

~~941.—950. (RESERVED).~~

~~951. FOREIGN LANGUAGE—GRADES 6 THROUGH 8, SECTIONS 952 THROUGH 955.~~

~~952. HISTORICAL AND CULTURAL CONTEXTS OF FOREIGN LANGUAGE STUDY.~~

~~953. STANDARD ONE.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

(3-15-02)

~~954. CRITICAL THINKING IN FOREIGN LANGUAGE STUDY.~~

~~955. STANDARD TWO.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

(5-3-03)

~~956. ACQUISITION, APPLICATION, AND EXPRESSION OF SPECIFIC CONTENT KNOWLEDGE AND SKILLS IN FOREIGN LANGUAGE STUDY.~~

~~957. STANDARD THREE.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

(5-3-03)

~~958.—959. (RESERVED).~~

~~960. INTERDISCIPLINARY HUMANITIES—GRADES 9 THROUGH 12, SECTIONS 961 THROUGH 966.~~

~~961. HISTORICAL AND CULTURAL CONTEXTS OF INTERDISCIPLINARY HUMANITIES.~~

~~962. STANDARD ONE.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

(5-3-03)

~~963. CRITICAL THINKING IN INTERDISCIPLINARY HUMANITIES.~~

~~964. STANDARD TWO.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

(5-3-03)

~~965. ACQUISITION, APPLICATION, AND EXPRESSION OF SPECIFIC CONTENT KNOWLEDGE AND SKILLS IN THE INTERDISCIPLINARY HUMANITIES.~~

~~966. STANDARD THREE.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

(5-3-03)

~~967.---968. (RESERVED).~~

~~969. VISUAL AND PERFORMING ARTS-- GRADES 9 THROUGH 12, SECTIONS 970 THROUGH 975.~~

~~970. HISTORICAL AND CULTURAL CONTEXTS OF VISUAL AND PERFORMING ARTS DISCIPLINES.~~

~~971. STANDARD ONE.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

(5-3-03)

~~972. CRITICAL THINKING IN THE VISUAL AND PERFORMING ARTS.~~

~~973. STANDARD TWO.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

(5-3-03)

~~974. ACQUISITION, APPLICATION, AND EXPRESSION OF SPECIFIC CONTENT KNOWLEDGE AND SKILLS IN THE VISUAL AND PERFORMING ARTS.~~

~~975. STANDARD THREE.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

(5-3-03)

~~976.---986. (RESERVED).~~

~~987. FOREIGN LANGUAGE-- GRADES 9 THROUGH 12, SECTIONS 988 THROUGH 993.~~

~~988. HISTORICAL AND CULTURAL CONTEXTS OF FOREIGN LANGUAGE STUDY.~~

~~989. STANDARD ONE.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

(5-3-03)

~~990. CRITICAL THINKING IN FOREIGN LANGUAGE STUDY.~~

~~991. STANDARD TWO.~~

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

(The Standards Table is being deleted in its entirety but is not being printed.)

(5-3-03)

~~992. ACQUISITION, APPLICATION, AND EXPRESSION OF SPECIFIC CONTENT KNOWLEDGE AND SKILLS IN FOREIGN LANGUAGE STUDY.~~

~~993. STANDARD THREE.~~

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

~~(The Standards Table is being deleted in its entirety but is not being printed.)~~

(5-3-03)

~~994.—998. (RESERVED).~~

~~999. GIFTED AND TALENTED PROGRAMS.~~

~~01. Definitions. The following definitions apply only to Section 999 of these rules. (3-15-02)~~

~~a. Department. State Department of Education. (3-30-01)~~

~~b. District. Local school district. (3-30-01)~~

~~e. Gifted/talented children. Those students who are identified as possessing demonstrated or potential abilities that give evidence of high performing capabilities in intellectual, creative, specific academic or leadership areas, or ability in the performing or visual arts and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities Section 33-2001, Idaho Code. (3-30-01)~~

~~d. Governing gifted and talented educational requirements. Sections 33-201, 33-2001, 33-2003, Idaho Code. (3-30-01)~~

~~02. Legal Compliance. The State Department of Education and districts shall comply with all governing gifted and talented education requirements. (3-30-01)~~

~~03. District Plan. Each school district shall develop and write a plan for its gifted and talented program. The plan shall be submitted to the Department no later than October 15, 2001. The plan shall be updated and submitted every three (3) years thereafter and shall include: (3-30-01)~~

~~a. Philosophy statement. (3-30-01)~~

~~b. Definition of giftedness. (3-30-01)~~

~~c. Program goals. (3-30-01)~~

~~d. Program options. (3-30-01)~~

~~e. Identification procedures. (3-30-01)~~

~~f. Program evaluation. (3-30-01)~~

~~04. Screening. The district's process for identifying gifted and talented students shall include the following steps: (3-30-01)~~

~~a. The district shall screen all potentially gifted and talented students to ensure they have an opportunity to be considered; and (3-30-01)~~

~~b. The district shall assess those students meeting the screening criteria and gather additional information concerning their specific aptitudes and educational needs; and (3-30-01)~~

~~e. The district shall match student needs with appropriate program options. (3-30-01)~~

~~05. Assessment. Placement decisions shall not be determined by a single criterion (for instance, test scores, other measurement, teacher recommendation, or nomination). The district's identification process shall use multiple indicators of giftedness with information obtained through the following methods and sources: (3-30-01)~~

~~**a.** Procedures for obtaining information about students shall include formal assessment methods, such as group and individual tests of achievement, general ability, specific aptitudes and creativity. (3-30-01)~~

~~**b.** Procedures for obtaining information about students shall also include informal assessment methods, such as checklists, rating scales, pupil product evaluations, observations, nominations, biographical data, questionnaires, interviews and grades. (3-30-01)~~

~~**c.** Information about students shall be obtained from multiple sources, such as teachers, counselors, peers, parents, community members, subject area experts, and the students themselves. (3-30-01)~~

~~**06. Administration.** The district shall designate a certificated staff person to be responsible for development, supervision, and implementation of the gifted and talented program. (3-30-01)~~

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0502

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 16, 2005.

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 33-105, Idaho Code and Public Law 107-110 ("No Child Left Behind") Section 1111.b.3.C.ix.III.

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 August 17, 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:

The year determination for Limited English Proficient (LEP) students set forth in Title I of No Child Left Behind is for LEP students to take an alternate Standard Achievement Test. This alternate assessment would be a native language version of the ISAT, which Idaho has decided to not implement. Federal regulations allow an LEP student to take the ISAT with accommodations and adaptations until they test proficient on a language proficiency test and exit the program. In addition, the Office of Civil Rights (OCR) and the Idaho Consent decree state that an LEP student may be in a program until they are proficient in English.

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:

To protect the public health, safety, or welfare. The rule was inappropriately interpreted and is being rewritten to add clarification and to keep in compliance with the requirements of No Child Left Behind.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

The rule change would potentially alter the allocation of Limited English Proficiency (LEP) dollars to individual school districts, but would not have an impact on the total amount distributed among all districts.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Learning English Proficient Committee of the State Board of Education discussed the rule modifications at two open meetings. The Committee approved the proposed amendments.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Wendy Verity at (208) 332-1586.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 16th day of June, 2005.

Karen L. Echeverria
Policy and Governmental Affairs Officer
State Board of Education
650 West State Street, Room 301
PO Box 83720
Boise, ID 83729-0037
(208) 334-2270, fax (208) 334-2632

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0203-0502

111. ASSESSMENT IN THE PUBLIC SCHOOLS.

01. Philosophy. Acquiring the basic skills is essential to realization of full educational, vocational and personal/social development. Since Idaho schools are responsible for instruction in the basic scholastic skills, the State Board of Education has a vested interest in regularly surveying student skill acquisition as an index of the effectiveness of the educational program. This information can best be secured through objective assessment of student growth. A statewide student assessment program consisting of standardized achievement testing and performance appraisal activities in the fundamental basic skills will be conducted annually. The State Board of Education will provide oversight for all components of the comprehensive assessment program. The State Department of Education will be responsible for the administration of assessment efforts as provided for by the State Board of Education. (3-15-02)

- 02. Purposes.** The purpose of assessment in the public schools is to: (3-15-02)
- a.** Measure and improve student achievement; (3-15-02)
 - b.** Assist classroom teachers in designing lessons; (3-15-02)
 - c.** Identify areas needing intervention and remediation, and acceleration; (3-15-02)
 - d.** Assist school districts in evaluating local curriculum and instructional practices in order to make needed curriculum adjustments; (3-15-02)
 - e.** Inform parents and guardians of their child's progress; (3-15-02)
 - f.** Provide comparative local, state and national data regarding the achievement of students in essential skill areas; (3-15-02)
 - g.** Identify performance trends in student achievement across grade levels tested and student growth over time; and (3-15-02)
 - h.** Help determine technical assistance/consultation priorities for the State Department of Education. (3-15-02)

03. Content. The comprehensive assessment program will consist of multiple assessments, including, the Idaho Reading Indicator (IRI), the Direct Writing Assessment (DWA), the Direct Mathematics Assessment (DMA), the National Assessment of Educational Progress (NAEP), and the Idaho Standards Achievement Tests (ISAT). (3-20-04)

04. Testing Population. All students in Idaho public schools, grades kindergarten through ten (K-10), are required to participate in the comprehensive assessment program approved by the State Board of Education and

funded. (4-6-05)

a. All students who are eligible for special education shall participate in the statewide assessment program. (4-6-05)

b. Each student's individualized education program team shall determine whether the student shall participate in the regular assessment without accommodations, the regular assessment with accommodations or adaptations, or whether the student qualifies for and shall participate in the alternate assessment. (4-6-05)

c. Limited English Proficient (LEP) students, as defined in Subsection 112.03.d.iv., who receive a score in the low range on the State Board of Education approved language acquisition proficiency test and have an Education Learning Plan (ELP), shall be given the ISAT with accommodations or adaptations ~~for three (3) consecutive years. A further extension of two (2) consecutive years may be granted by the local district or local education agency, provided the language proficiency test score is still in the low range as outlined in the ELP.~~ Students can be categorized as LEP students for two (2) years after testing proficient on the language proficiency test and exiting the LEP program. ~~Students cannot exceed a total of seven (7) years as an LEP student.~~ LEP students who do not have an ELP or a language acquisition score will be given the regular ISAT without accommodations or adaptations. LEP students who are enrolled in their first year of school in the United States may take an English Proficiency test approved by the Board in lieu of the reading/language usage ISAT, but will still be required to take the math ISAT with accommodations or adaptations as determined by the language proficiency score and ELP. Such LEP students will be counted as participants for the ninety-five percent (95%) participation target, as described in Subsection 112.03. However, such LEP students are not required to be counted for AYP purposes in determining proficiency, as described in Subsection 112.02. ~~(4-6-05)~~(6-16-05)T

05. Scoring and Report Formats. Scores will be provided for each subject area assessed and reported in standard scores, benchmark scores, or holistic scores. Test results will be presented in a class list report of student scores, building/district summaries, content area criterion reports by skill, disaggregated group reports, and pressure sensitive labels as appropriate. Information about the number of students who are eligible for special education who participate in regular and alternate assessments, and their performance results, shall be included in reports to the public if it is statistically sound to do so and would not disclose performance results identifiable to individual students. (5-3-03)

06. Comprehensive Assessment Program. The State approved comprehensive assessment program is outlined in Subsections 111.06.a. through 111.06.l. Each assessment will be comprehensive of and aligned to the Idaho State Achievement Standards it is intended to assess. In addition, districts are responsible for writing and implementing assessments in those standards not assessed by the state assessment program. (4-6-05)

- a. Kindergarten - Idaho Reading Indicator. (3-15-02)
- b. Grade 1 - Idaho Reading Indicator. (3-15-02)
- c. Grade 2 - Idaho Reading Indicator, Grade 2 Idaho Standards Achievement Tests. (3-20-04)
- d. Grade 3 - Idaho Reading Indicator, Grade 3 Idaho Standards Achievement Tests. (3-20-04)
- e. Grade 4 - Direct Math Assessment, National Assessment of Educational Progress, Grade 4 Idaho Standards Achievement Tests. (3-20-04)
- f. Grade 5 - Direct Writing Assessment, Grade 5 Idaho Standards Achievement Tests. (3-20-04)
- g. Grade 6 - Direct Math Assessment, Grade 6 Idaho Standards Achievement Tests. (3-20-04)
- h. Grade 7 - Direct Writing Assessment, Grade 7 Idaho Standards Achievement Tests. (3-20-04)
- i. Grade 8 - Direct Math Assessment, National Assessment of Educational Progress, Grade 8 Idaho Standards Achievement Tests. (3-20-04)

- j.** Grade 9 - Direct Writing Assessment, Grade 9 Idaho Standards Achievement Tests. (3-20-04)
- k.** Grade 10 - High School Idaho Standards Achievement Tests. (3-20-04)
- l.** *Students who achieve a proficient or advanced score on a portion or portions of the ISAT offered in the Spring of their tenth grade year or later are not required to continue taking that portion or portions. (3-20-04)
- 07. Comprehensive Assessment Program Schedule.** (5-3-03)

 - a.** The Idaho Reading Indicator will be administered in accordance with Section 33-1614, Idaho Code. (3-15-02)
 - b.** The Direct Math Assessment and the Direct Writing Assessment will be administered in December in a time period specified by the State Department of Education. (3-15-02)
 - c.** The National Assessment of Educational Progress will be administered in timeframe specified by the U.S. Department of Education. (3-15-02)
 - d.** The Idaho Standards Achievement Tests will be administered twice annually in the Fall and Spring in a time period specified by the State Board of Education. (5-3-03)
- 08. Costs Paid by the State.** Costs for the following testing activities will be paid by the state: (4-1-97)

 - a.** All consumable and non-consumable materials needed to conduct the prescribed statewide comprehensive assessment program; (3-15-02)
 - b.** Statewide distribution of all assessment materials; (3-15-02)
 - c.** Processing and scoring student response forms, distribution of prescribed reports for the statewide comprehensive assessment program; and (3-15-02)
 - d.** Implementation, processing, scoring and distribution of prescribed reports for the Direct Writing Assessment and the Direct Mathematics Assessment. (3-15-02)
- 09. Costs of Additional Services.** Costs for any additional administrations or scoring services not included in the prescribed statewide comprehensive assessment program will be paid by the participating school districts. (3-15-02)
- 10. Services.** The comprehensive assessment program should be scheduled so that a minimum of instructional time is invested. Student time spent in testing will not be charged against attendance requirements. (3-15-02)
- 11. Test Security, Validity and Reliability.** Test security is of the utmost importance. School districts will employ the same security measures in protecting statewide assessment materials from compromise as they use to safeguard other formal assessments. (3-20-04)

 - a.** All ISAT paper and pencil test booklets will be boxed and shipped to the test vendor to be counted no later than two (2) weeks after the end of the testing window. (3-20-04)
 - b.** The ISAT will be refreshed each year to provide additional security beginning with grades four (4) eight (8) and ten (10) in 2007. Items will be refreshed for grades three (3) and seven (7) in 2008; grades five (5) and six (6) in 2009; and grades two (2) and nine (9) in 2010. (3-20-04)
 - c.** Any assessment used for federal reporting shall be independently reviewed for reliability, validity, and alignment with the Idaho Achievement Standards. (3-20-04)

12. Demographic Information. Demographic information will be required to assist in interpreting test results. It may include but not be limited to race, sex, ethnicity, and special programs, (Title I, English proficiency, migrant status, special education status, gifted and talented status, and socio-economic status). (5-3-03)

13. Dual Enrollment. For the purpose of non-public school student participation in non-academic public school activities as outlined in Section 33-203, Idaho Code, the Idaho State Board of Education recognizes the following: (3-15-02)

a. The Idaho Standards Achievement Tests (grades 2-9 and High School). (5-3-03)

b. A portfolio demonstrating grade level proficiency in at least five (5) of the subject areas listed in Subsections 111.13.b.i. through 111.13.b.vi. Portfolios are to be judged and confirmed by a committee comprised of at least one (1) teacher from each subject area presented in the portfolio and the building principal at the school where dual enrollment is desired. (4-6-05)

i. Language Arts/Communications. (3-15-02)

ii. Math. (3-15-02)

iii. Science. (3-15-02)

iv. Social Studies. (3-15-02)

v. Health. (3-15-02)

vi. Humanities. (3-15-02)

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0503

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-105, Idaho Code and Public Law 107-110 ("No Child Left Behind") Section 1111.b.3.C.ix.III.

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 August 17, 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 National Assessment Governing Board (NAGB) currently administers a national 12th grade National Assessment of Educational Progress (NAEP) test in a variety of subjects (reading, writing, math, social studies, arts, etc.). Schools around the country are randomly selected to participate and provide information for the national report. The 12th grade NAEP at the state level could be introduced by 2007 in reading, math, and science. Idaho's districts currently volunteer to participate in NAEP at the 12th grade level. The State of Idaho realizes the importance of participating in the NAEP and the data it provides and believes it is important to require participation by any student selected. Idaho currently requires students in grades 4 and 8 to participate in the NAEP assessments and sees the equal importance of requiring 12th grade students to participate, if selected.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rulemaking is non controversial in nature. School districts are already voluntarily participating in the program and have expressed no concerns with placing the requirement in rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Carissa Moffat Miller at (208) 332-1573.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 16th day of June, 2005.

Karen L. Echeverria
Policy and Governmental Affairs Officer
State Board of Education
650 West State Street, Room 301
PO Box 83720
Boise, ID 83729-0037
(208) 334-2270, fax (208) 334-2632

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0203-0503

111. ASSESSMENT IN THE PUBLIC SCHOOLS.

01. Philosophy. Acquiring the basic skills is essential to realization of full educational, vocational and personal/social development. Since Idaho schools are responsible for instruction in the basic scholastic skills, the State Board of Education has a vested interest in regularly surveying student skill acquisition as an index of the effectiveness of the educational program. This information can best be secured through objective assessment of student growth. A statewide student assessment program consisting of standardized achievement testing and performance appraisal activities in the fundamental basic skills will be conducted annually. The State Board of Education will provide oversight for all components of the comprehensive assessment program. The State Department of Education will be responsible for the administration of assessment efforts as provided for by the State Board of Education. (3-15-02)

- 02. Purposes.** The purpose of assessment in the public schools is to: (3-15-02)
- a.** Measure and improve student achievement; (3-15-02)
 - b.** Assist classroom teachers in designing lessons; (3-15-02)
 - c.** Identify areas needing intervention and remediation, and acceleration; (3-15-02)
 - d.** Assist school districts in evaluating local curriculum and instructional practices in order to make needed curriculum adjustments; (3-15-02)
 - e.** Inform parents and guardians of their child's progress; (3-15-02)
 - f.** Provide comparative local, state and national data regarding the achievement of students in essential skill areas; (3-15-02)
 - g.** Identify performance trends in student achievement across grade levels tested and student growth over time; and (3-15-02)
 - h.** Help determine technical assistance/consultation priorities for the State Department of Education. (3-15-02)

03. Content. The comprehensive assessment program will consist of multiple assessments, including, the Idaho Reading Indicator (IRI), the Direct Writing Assessment (DWA), the Direct Mathematics Assessment (DMA), the National Assessment of Educational Progress (NAEP), and the Idaho Standards Achievement Tests (ISAT). (3-20-04)

04. Testing Population. All students in Idaho public schools, grades kindergarten through ten (K-10), are required to participate in the comprehensive assessment program approved by the State Board of Education and funded. (4-6-05)

- a.** All students who are eligible for special education shall participate in the statewide assessment program. (4-6-05)
- b.** Each student's individualized education program team shall determine whether the student shall participate in the regular assessment without accommodations, the regular assessment with accommodations or adaptations, or whether the student qualifies for and shall participate in the alternate assessment. (4-6-05)
- c.** Limited English Proficient (LEP) students, as defined in Subsection 112.03.d.iv., who receive a score in the low range on the State Board of Education approved language acquisition proficiency test and have an Education Learning Plan (ELP), shall be given the ISAT with accommodations or adaptations for three (3)

consecutive years. A further extension of two (2) consecutive years may be granted by the local district or local education agency, provided the language proficiency test score is still in the low range. Students can be categorized as LEP students for two (2) years after testing proficient on the language proficiency test. Students cannot exceed a total of seven (7) years as an LEP student. LEP students who do not have an ELP or a language acquisition score will be given the regular ISAT without accommodations or adaptations. LEP students who are enrolled in their first year of school in the United States may take an English Proficiency test approved by the Board in lieu of the reading/language usage ISAT, but will still be required to take the math ISAT with accommodations or adaptations as determined by the language proficiency score and ELP. Such LEP students will be counted as participants for the ninety-five percent (95%) participation target, as described in Subsection 112.03. However, such LEP students are not required to be counted for AYP purposes in determining proficiency, as described in Subsection 112.02.

(4-6-05)

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

(5-3-03)

06. Comprehensive Assessment Program. The State approved comprehensive assessment program is outlined in Subsections 111.06.a. through 111.06.l. Each assessment will be comprehensive of and aligned to the Idaho State Achievement Standards it is intended to assess. In addition, districts are responsible for writing and implementing assessments in those standards not assessed by the state assessment program.

(4-6-05)

- a. Kindergarten - Idaho Reading Indicator. (3-15-02)
- b. Grade 1 - Idaho Reading Indicator. (3-15-02)
- c. Grade 2 - Idaho Reading Indicator, Grade 2 Idaho Standards Achievement Tests. (3-20-04)
- d. Grade 3 - Idaho Reading Indicator, Grade 3 Idaho Standards Achievement Tests. (3-20-04)
- e. Grade 4 - Direct Math Assessment, National Assessment of Educational Progress, Grade 4 Idaho Standards Achievement Tests. (3-20-04)
- f. Grade 5 - Direct Writing Assessment, Grade 5 Idaho Standards Achievement Tests. (3-20-04)
- g. Grade 6 - Direct Math Assessment, Grade 6 Idaho Standards Achievement Tests. (3-20-04)
- h. Grade 7 - Direct Writing Assessment, Grade 7 Idaho Standards Achievement Tests. (3-20-04)
- i. Grade 8 - Direct Math Assessment, National Assessment of Educational Progress, Grade 8 Idaho Standards Achievement Tests. (3-20-04)
- j. Grade 9 - Direct Writing Assessment, Grade 9 Idaho Standards Achievement Tests. (3-20-04)
- k. Grade 10 - High School Idaho Standards Achievement Tests. (3-20-04)
- l. Grade 12 - National Assessment of Educational Progress. ()
- ~~lm.~~ *Students who achieve a proficient or advanced score on a portion or portions of the ISAT offered in the Spring of their tenth grade year or later are not required to continue taking that portion or portions. (3-20-04)

07. Comprehensive Assessment Program Schedule. (5-3-03)

- a. The Idaho Reading Indicator will be administered in accordance with Section 33-1614, Idaho

- Code. (3-15-02)
- b.** The Direct Math Assessment and the Direct Writing Assessment will be administered in December in a time period specified by the State Department of Education. (3-15-02)
- c.** The National Assessment of Educational Progress will be administered in timeframe specified by the U.S. Department of Education. (3-15-02)
- d.** The Idaho Standards Achievement Tests will be administered twice annually in the Fall and Spring in a time period specified by the State Board of Education. (5-3-03)
- 08. Costs Paid by the State.** Costs for the following testing activities will be paid by the state: (4-1-97)
- a.** All consumable and non-consumable materials needed to conduct the prescribed statewide comprehensive assessment program; (3-15-02)
- b.** Statewide distribution of all assessment materials; (3-15-02)
- c.** Processing and scoring student response forms, distribution of prescribed reports for the statewide comprehensive assessment program; and (3-15-02)
- d.** Implementation, processing, scoring and distribution of prescribed reports for the Direct Writing Assessment and the Direct Mathematics Assessment. (3-15-02)
- 09. Costs of Additional Services.** Costs for any additional administrations or scoring services not included in the prescribed statewide comprehensive assessment program will be paid by the participating school districts. (3-15-02)
- 10. Services.** The comprehensive assessment program should be scheduled so that a minimum of instructional time is invested. Student time spent in testing will not be charged against attendance requirements. (3-15-02)
- 11. Test Security, Validity and Reliability.** Test security is of the utmost importance. School districts will employ the same security measures in protecting statewide assessment materials from compromise as they use to safeguard other formal assessments. (3-20-04)
- a.** All ISAT paper and pencil test booklets will be boxed and shipped to the test vendor to be counted no later than two (2) weeks after the end of the testing window. (3-20-04)
- b.** The ISAT will be refreshed each year to provide additional security beginning with grades four (4) eight (8) and ten (10) in 2007. Items will be refreshed for grades three (3) and seven (7) in 2008; grades five (5) and six (6) in 2009; and grades two (2) and nine (9) in 2010. (3-20-04)
- c.** Any assessment used for federal reporting shall be independently reviewed for reliability, validity, and alignment with the Idaho Achievement Standards. (3-20-04)
- 12. Demographic Information.** Demographic information will be required to assist in interpreting test results. It may include but not be limited to race, sex, ethnicity, and special programs, (Title I, English proficiency, migrant status, special education status, gifted and talented status, and socio-economic status). (5-3-03)
- 13. Dual Enrollment.** For the purpose of non-public school student participation in non-academic public school activities as outlined in Section 33-203, Idaho Code, the Idaho State Board of Education recognizes the following: (3-15-02)
- a.** The Idaho Standards Achievement Tests (grades 2-9 and High School). (5-3-03)

b. A portfolio demonstrating grade level proficiency in at least five (5) of the subject areas listed in Subsections 111.13.b.i. through 111.13.b.vi. Portfolios are to be judged and confirmed by a committee comprised of at least one (1) teacher from each subject area presented in the portfolio and the building principal at the school where dual enrollment is desired. (4-6-05)

- i. Language Arts/Communications. (3-15-02)
- ii. Math. (3-15-02)
- iii. Science. (3-15-02)
- iv. Social Studies. (3-15-02)
- v. Health. (3-15-02)
- vi. Humanities. (3-15-02)

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.04 - RULES OF THE BENEFIT PAYMENT CONTROL BUREAU

DOCKET NO. 09-0104-0501

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 67-4702 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 August 17, 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 proposed changes reflect housekeeping changes and name changes in response to the reorganization of the department's tax and benefit overpayment bureaus.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Don Arnold, Tax & Benefit Control Bureau Chief, 332-3570 x 3258.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Don Arnold
Tax & Benefit Control Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3258
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0104-0501

**IDAPA 09
TITLE 01
CHAPTER 04**

09.01.04 - ~~RULES OF THE BENEFIT PAYMENT CONTROL BUREAU~~ UNEMPLOYMENT
INSURANCE BENEFIT FRAUD AND OVERPAYMENT RULES

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Section ~~72-1333(2)~~ 67-4702, Idaho Code.

~~(3-19-99)~~()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 09.01.04, "~~Rules of the Benefit Payment Control Bureau~~ Unemployment Insurance Benefit Fraud and Overpayment Rules". ()

02. Scope. With respect to the Idaho Department of Commerce and Labor's administration of the Unemployment Insurance Program, these rules address fraud prevention measures, collection of overpayments, and waivers of overpayments. ~~(3-19-99)~~()

002. WRITTEN INTERPRETATIONS.

Explanations for rule changes are available for public inspection at the Idaho Department of Commerce and Labor, 317 W. Main Street, Boise, Idaho, 83735. Brochures explaining various programs administered by the Department are also available at the above address. ~~(3-19-99)~~()

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.30 - RULES OF THE BENEFITS BUREAU

DOCKET NO. 09-0130-0501

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 67-4702, 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 August 17, 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 proposed change is a housekeeping change to rename this chapter of the Department's rules to "Unemployment Insurance Benefits Administration Rules".

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Roger Holmes, UI Benefits Bureau Chief, 332-3570 x 3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Roger Holmes
UI Benefits Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3233
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-0501

**09.01.30 - ~~RULES OF THE BENEFITS BUREAU~~
UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES**

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 09.01.30, "~~Rules of the Benefits Bureau~~ Unemployment Insurance Benefits Administration Rules". ~~(3-19-99)~~()

02. Scope. These rules govern claims for unemployment insurance benefits. (3-19-99)

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.30 - RULES OF THE BENEFITS BUREAU

DOCKET NO. 09-0130-0502

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 67-4702, 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 August 17, 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: IDAPA 09.01.30.425.06 would be amended to provide that interstate claimants must register for work in the State in which they reside. IDAPA 09.01.30.575.07 would be amended to clearly state that claimants must register for work and report on work-seeking activity.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rules are being amended to clarify work-seeking and reporting provisions in existing rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Roger Holmes, UI Benefits Bureau Chief, 332-3570 x 3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Roger Holmes
UI Benefits Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3233
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-0502

425. NEW CLAIMS/ADDITIONAL CLAIMS.
Ref. Sec. 72-1308, Idaho Code.

(3-19-99)

01. Claims for Benefits, Delayed Filing. When any claims taking office has reason to believe there will be more claimants than can be served on any given day, an appointment slip must be used to adjust the claims load for the filing of initial claims. Appointment slips shall be issued to potential claimants who cannot be served on the date they first make contact with the office. A claimant who receives an appointment slip does not forfeit any benefit rights provided, however, that he subsequently files his claim on the day assigned. When any claims taking office has determined that a claimant's attempt to file an initial claim was delayed due to problems with the Department's telephone or electronic filing system, the claim may be backdated if the claimant reported the access problem to a local office within seven (7) days of the date the problem occurred. When a claim is backdated, the continued claim report for the period of time involved will be considered timely if filed during the same week or the next week after the claim is filed. (3-30-01)

02. Effective Date of Backdated Claims. When the filing of an initial claim for benefits is backdated due to local office scheduling problems or a Department system malfunction, the effective date shall be the Sunday of the week in which the claimant first reported to the local office to file the claim or attempted to access the telephone or electronic claim filing system and there were problems with the system. (3-30-01)

03. Filing of New Claims. New intrastate and interstate claims may be filed electronically, in person at a local office or at an itinerant location, or by mail if permitted by a claims examiner. New interstate claims may also be filed by telephone. (3-30-01)

a. Electronically Filed Claims. Claimants may file claims electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the application process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. A claim filed electronically will automatically be assigned to the local office that services the zip code for the mailing address provided by the claimant. (3-30-01)

b. In-person Filing. A claimant may file a claim in person at the local Job Service office serving the claimant's area of residence. Job Service offices are open Monday through Friday, 8 a.m. until 5 p.m., except on state holidays. When a claimant reports to a local office to file a claim during regular business hours, the claim shall be effective as of the Sunday of that week. (3-30-01)

c. Interstate Claims. Any claim filed by an interstate claimant shall be accepted in the same manner and under the same conditions for which claims are accepted from intrastate claimants. Interstate claimants may also file claims by calling the Department's interstate claims unit. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the interstate claims unit to initiate the claim. (3-30-01)

d. Itinerant Locations. Claims may be filed at itinerant points established by the Department for the taking of claims. A claim filed at an itinerant point on the first regular itinerant visit after the claimant's separation will be effective as of the Sunday preceding the first business day of the period of unemployment. If the claimant has filed the claim on a date later than the first regular itinerant visit, the claim shall be effective as of the Sunday preceding the date the claim is actually filed. (3-30-01)

e. Mailed Claims. A claims examiner may allow a claimant to file a claim by mail when in-person filing or other methods of filing would cause undue hardship. If a claimant who has been granted permission to file a claim by mail completes and returns the claim form to the local office within seven (7) days of the date the form was mailed to the claimant by the Department, the claim will be effective as of the Sunday preceding the date the claimant requested permission to file the claim by mail. If the claimant fails to return the claim form within the seven (7) day period, and mail facilities were available for such mailing within the period, the claim will be effective as of the Sunday preceding the date the claimant mails the claim form, as determined by the postmark. (3-30-01)

04. Itinerant Claims. Itinerant points for the taking of unemployment insurance claims may be established, changed, or discontinued at administrative discretion. Where itinerant service is being inaugurated, changed, or discontinued for a particular community, public notice of such inauguration, change, or discontinuance shall be conspicuously posted and public notification placed in a daily or weekly newspaper of general distribution for the affected community two (2) weeks prior to such inauguration, change or discontinuance. Ref. Sec. 72-1368(1),

Idaho Code. (3-19-99)

05. Registration for Work. All claimants who cannot demonstrate a firm attachment to an employer, industry, or union will be required to register for employment. Unless otherwise requested by the claimant, such registration should apply only to the days or parts of the days that the claimant is in fact unemployed and available for employment. The work history of each claimant shall be recorded, and a work application completed and filed. Ref. Sec. 72-1366(2), Idaho Code. (3-19-99)

06. Registration/Reporting Requirements - Interstate Claimants. Interstate claimants shall be required to register for work in the ~~same manner~~ State in which they reside and to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants. Ref. Sec. 72-1366(1), (2), Idaho Code.

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

07. Requirement to Provide Information. If a claimant fails to provide the Department with all necessary information pertinent to eligibility, the claimant may be denied benefits until the information is provided. Any individual making a claim for benefits shall provide the Department with: (3-15-02)

- a. The claimant's legal name; (3-15-02)
- b. The claimant's Social Security Number; (3-15-02)
- c. The address where the claimant's mail is delivered; (3-15-02)
- d. The claimant's place of last employment; (3-15-02)
- e. The name, correct mailing address, and the reason for separation from all of the claimant's most recent and base-period employers; (3-15-02)
- f. If requested by the Department, a list of all other employment in the past twenty-four (24) months; (3-15-02)
- g. The claimant's plans for finding other employment at the earliest possible time; and (3-15-02)
- h. Other information necessary for the proper processing of the claim. (3-15-02)
- i. Once a claim has been established, the claimant must provide, upon request, a record of the claimant's work search, in order for the Department to assess the claimant's compliance with personal eligibility requirements. (3-15-02)

08. Right to Claim Benefits. In no instance, under any circumstances or conditions, shall an individual be denied the right to file a claim and to receive in writing a decision regarding his eligibility. Ref. Sec. 72-1366(1), Idaho Code. (3-19-99)

09. Separation Information. Unless separation information has been provided by other means, such as a mass layoff list, a notice of the filing of a claim and a request for separation information must be completed and mailed to the claimant's last employer and each next preceding employer until the wages received by the claimant equal or exceed twelve (12) times his weekly benefit amount. For all such employers, the claimant must provide the Department with the employer's name and correct mailing address, the claimant's dates of employment, the type of employment performed, and the claimant's gross earnings from each employment. Ref. Sec. 72-1366 (1), (5) and (14), Idaho Code. (3-19-99)

10. Separation Notice. (3-19-99)

a. Request for Separation Information. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), after receiving a request for separation information from the Department because an individual has filed a claim for benefits, shall submit to the Department a report of the reasons for the separation whenever such claimant: (4-5-00)

- i. Left his employment voluntarily; (3-19-99)
- ii. Was discharged from his employment due to misconduct; (3-19-99)
- iii. Is unemployed due to a strike, lockout, or other labor dispute; or (3-19-99)
- iv. Was separated for any other reason except lack of available work. (3-19-99)

b. Employer Response. The employer's response shall be completed in accordance with instructions printed on the Department's request for separation information and shall be completed by the employer or on the employer's behalf by someone having personal knowledge of the facts therein stated. (3-15-02)

11. Filing of an Additional Claim or Reopening a Claim. A claim series may be reestablished, electronically, in person at a local office or at an itinerant location, by telephone, or by mail. The additional or reopened claim (AC/RO) must be filed during a week in which the claimant becomes unemployed and/or wants to reestablish the claim. (3-30-01)

a. In-person Filing. When a claimant reports to a local office to file an AC/RO during regular business hours, the claim shall be effective as of the Sunday of that week. (3-30-01)

b. Mailing. A claimant may file an AC/RO by mailing the completed AC/RO documents to a local office. The claim shall be effective as of the Sunday preceding the date the claimant mails the documents, as determined by the postmark. (3-30-01)

c. Electronic Filing. A claimant may file an AC/RO electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the AC/RO process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. (3-30-01)

d. Telephone Filing. A claimant may file an AC/RO by telephone by calling a local office. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the local office to initiate the claim. (3-30-01)

e. Reestablished Claim. A claim must be reestablished after a claimant has failed to report or has reported excessive earnings for two (2) or more consecutive weeks. Claims shall be reestablished as follows: (3-19-99)

i. If the break in the claim series is two (2) weeks or longer, the claim must be reestablished by filing a reopen or additional claim; or (3-19-99)

ii. If the claimant is reporting excessive earnings for no more than two (2) consecutive weeks, the claim may be automatically reestablished if the claimant notifies the local office at the time of or prior to filing the report for the second week that he has become unemployed. Otherwise, the claim must be reestablished by filing a reopen/additional claim. (3-19-99)

12. Use of Wage Credits. All unemployment insurance wage credits from any source which are assignable to the state of Idaho shall be used in establishing a claim and determining the claimant's monetary eligibility. Ref. Sec. 72-1367(1), Idaho Code. (3-19-99)

13. Valid Claim. To be a valid claim for benefits, a claim must be filed during a week of no work, a week of less than full-time work in which the total wages payable to the claimant for work performed in such week amount to less than one and one-half (1-1/2) times the claimant's weekly benefit amount, or a week in which the claimant is separated from employment. Ref. Sec. 72-1327A, Idaho Code. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

575. SEEKING WORK.

Ref. Sec. 72-1366(4), (6), Idaho Code. (3-19-99)

01. Attitude and Behavior. A claimant's attitude and behavior must be conducive to a positive reaction by employers to his job search. (3-19-99)

02. Effort to Secure Employment. A claimant will be expected to do what is normally done by unemployed persons that are seeking work. (3-19-99)

03. Employer's Hiring Practices. An employer's reluctance to hire a claimant because of his appearance or physical condition is not a determining factor in ruling on the claimant's eligibility. (3-19-99)

04. Job Attachment Classifications. For the purpose of administering the work search requirements of Section 72-1366(4) and (6), Idaho Code, claimants will be classified according to their attachment to an employer or industry, as follows: (3-19-99)

a. Code R-Recall, U-Union or X-Both. Claimants who have a firm attachment to an employer, industry or union, or who are temporarily or seasonally unemployed, and expect to return to their former jobs or employers in a reasonable length of time. (3-19-99)

b. Code B. Claimants who possess marketable skills in an occupation, but have no immediate prospects for reemployment, and whose employment expectations (i.e., wages, hours, etc.) are realistic in relation to the normal labor market supply and demand in their areas of availability. (3-19-99)

c. Code C. Claimants who have no marketable skills or whose skills have become obsolete and who are unable to return to their former occupations, or who have a special need for employment-related services. (3-19-99)

d. Code D. Claimants who are assigned to a training course under the provisions of Section 72-1366(8), Idaho Code. (3-19-99)

05. Jobs Availability. A claimant will not be required to make useless employer contacts if there are no jobs available in the area due to seasonal factors. (3-19-99)

06. No Employment Prospects. A claimant shall apply for and accept a lower or beginning pay rate for employment if he has no prospects for a better paying job in the locality. (3-19-99)

07. Registering ~~for~~ and Reporting on Work-Seeking Activity. A claimant must register for work and report as required to be eligible for benefits. Ref. Sec. 72-1366(1), (2), Idaho Code. ~~(3-19-99)~~(____)

08. Seasonal Availability. A claimant who is regularly employed on a seasonal basis shall be available for other types of work in the off-season to be eligible for benefits. (3-19-99)

09. Work-Seeking Requirement Categories. Claimants shall seek work in accordance with the following categories of work-seeking activity, as instructed by a Department representative or as notified by the Department via electronic claims messaging. A claimant must meet the requirements of the code to which the claimant is assigned. A claimant's category of work-seeking activity will be determined and modified based on the claimant's length of unemployment, the prevailing local labor market conditions, and/or the average county unemployment rates. Claimants that are required to secure employment must register with Job Service within two (2) weeks of filing an initial claim for benefits. Failure to comply with work-seeking requirements may result in a denial of benefits. (3-15-02)

- a.** Code O claimants must: (3-15-02)
- i. Maintain regular contact with their employer(s) or union. Code O claimants may also be required to engage in one (1) or more of the following activities to increase their prospects of returning to work or securing employment: (3-15-02)
- ii. Make local inquiries; (3-19-99)
- iii. Maintain contact with the local Job Service office; (3-15-02)
- iv. Check “help-wanted” ads in newspapers or trade publications; (3-15-02)
- v. Attend a Job Search Workshop; or (3-15-02)
- vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Job Service representative. (3-15-02)
- b.** Code 1 claimants will be required to engage in one (1) or more of the following activities to increase their prospects of securing employment: (3-15-02)
- i. Make at least one (1) employer contact each week in the manner prescribed by the local Job Service office; (3-15-02)
- ii. Attend a Job Search Workshop; (3-15-02)
- iii. Expand work search efforts to surrounding areas or states; (3-15-02)
- iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)
- v. Enroll in and attend a specific training program to meet the requirements of the claimant’s employment plan; or (3-15-02)
- vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Job Service representative. (3-15-02)
- c.** Code 2 claimants will be required to engage in one (1) or more of the following activities to increase their prospects of securing employment: (3-15-02)
- i. Make at least two (2) employer contacts per week in the manner prescribed by the local Job Service office; (3-15-02)
- ii. Attend a Job Search Workshop; (3-15-02)
- iii. Expand work search efforts to surrounding areas or states; (3-15-02)
- iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)
- v. Enroll in and attend a specific training program to meet the requirements of the claimant’s employment plan; or (3-15-02)
- vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Job Service representative. (3-15-02)
- d.** Code 3 claimants will be required to engage in one (1) or more of the following activities to increase their prospects of securing employment: (3-15-02)
- i. Make at least three (3) employer contacts per week in the manner prescribed by the local Job

- Service office; (3-15-02)
- ii. Attend a Job Search Workshop; (3-15-02)
 - iii. Expand work search efforts to surrounding areas or states; (3-15-02)
 - iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)
 - v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-15-02)
 - vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Job Service representative. (3-15-02)

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.30 - RULES OF THE BENEFITS BUREAU

DOCKET NO. 09-0130-0503

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702 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 August 17, 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: IDAPA 09.01.30.000 would be amended to cite Section 67-4702, Idaho Code, as the source of the Department's rule making authority. The references to "Job Service" in IDAPA 09.01.30.425.03.b. and 09.01.30.575.09 would be changed to "local office or "Department." IDAPA 09.01.30.575.09 would also be amended to require only those claimants who have not yet registered to register for work with a local office, and "length of unemployment" would be deleted as one of the criteria for determining a claimant's category of work-seeking activity.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with amendments to governing law and because it confers a benefit to unemployment insurance claimants.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule making was not conducted because the Department needed to adopt a temporary rule and it was determined that it was not feasible to enter into negotiated rulemaking at this time.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Roger Holmes, UI Benefits Bureau Chief, 332-3570 x 3233.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Roger Holmes
UI Benefits Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3233
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-0503

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Section ~~72-1333(2)~~ 67-4702, Idaho Code.

~~(3-19-99)~~(7-1-05)T

(BREAK IN CONTINUITY OF SECTIONS)

425. NEW CLAIMS/ADDITIONAL CLAIMS.

Ref. Sec. 72-1308, Idaho Code.

(3-19-99)

01. Claims for Benefits, Delayed Filing. When any claims taking office has reason to believe there will be more claimants than can be served on any given day, an appointment slip must be used to adjust the claims load for the filing of initial claims. Appointment slips shall be issued to potential claimants who cannot be served on the date they first make contact with the office. A claimant who receives an appointment slip does not forfeit any benefit rights provided, however, that he subsequently files his claim on the day assigned. When any claims taking office has determined that a claimant's attempt to file an initial claim was delayed due to problems with the Department's telephone or electronic filing system, the claim may be backdated if the claimant reported the access problem to a local office within seven (7) days of the date the problem occurred. When a claim is backdated, the continued claim report for the period of time involved will be considered timely if filed during the same week or the next week after the claim is filed. (3-30-01)

02. Effective Date of Backdated Claims. When the filing of an initial claim for benefits is backdated due to local office scheduling problems or a Department system malfunction, the effective date shall be the Sunday of the week in which the claimant first reported to the local office to file the claim or attempted to access the telephone or electronic claim filing system and there were problems with the system. (3-30-01)

03. Filing of New Claims. New intrastate and interstate claims may be filed electronically, in person at a local office or at an itinerant location, or by mail if permitted by a claims examiner. New interstate claims may also be filed by telephone. (3-30-01)

a. Electronically Filed Claims. Claimants may file claims electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the application process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. A claim filed electronically will automatically be assigned to the local office that services the zip code for the mailing address provided by the claimant. (3-30-01)

b. In-person Filing. A claimant may file a claim in person at the local ~~Job Service~~ office serving the claimant's area of residence. ~~Job Service~~ Local offices are open Monday through Friday, 8 a.m. until 5 p.m., except on state holidays. When a claimant reports to a local office to file a claim during regular business hours, the claim shall be effective as of the Sunday of that week. ~~(3-30-01)~~(7-1-05)T

c. Interstate Claims. Any claim filed by an interstate claimant shall be accepted in the same manner and under the same conditions for which claims are accepted from intrastate claimants. Interstate claimants may also file claims by calling the Department's interstate claims unit. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the interstate claims unit to initiate the claim. (3-30-01)

d. Itinerant Locations. Claims may be filed at itinerant points established by the Department for the taking of claims. A claim filed at an itinerant point on the first regular itinerant visit after the claimant's separation will be effective as of the Sunday preceding the first business day of the period of unemployment. If the claimant has

filed the claim on a date later than the first regular itinerant visit, the claim shall be effective as of the Sunday preceding the date the claim is actually filed. (3-30-01)

e. Mailed Claims. A claims examiner may allow a claimant to file a claim by mail when in-person filing or other methods of filing would cause undue hardship. If a claimant who has been granted permission to file a claim by mail completes and returns the claim form to the local office within seven (7) days of the date the form was mailed to the claimant by the Department, the claim will be effective as of the Sunday preceding the date the claimant requested permission to file the claim by mail. If the claimant fails to return the claim form within the seven (7) day period, and mail facilities were available for such mailing within the period, the claim will be effective as of the Sunday preceding the date the claimant mails the claim form, as determined by the postmark. (3-30-01)

04. Itinerant Claims. Itinerant points for the taking of unemployment insurance claims may be established, changed, or discontinued at administrative discretion. Where itinerant service is being inaugurated, changed, or discontinued for a particular community, public notice of such inauguration, change, or discontinuance shall be conspicuously posted and public notification placed in a daily or weekly newspaper of general distribution for the affected community two (2) weeks prior to such inauguration, change or discontinuance. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

05. Registration for Work. All claimants who cannot demonstrate a firm attachment to an employer, industry, or union will be required to register for employment. Unless otherwise requested by the claimant, such registration should apply only to the days or parts of the days that the claimant is in fact unemployed and available for employment. The work history of each claimant shall be recorded, and a work application completed and filed. Ref. Sec. 72-1366(2), Idaho Code. (3-19-99)

06. Registration/Reporting Requirements – Interstate Claimants. Interstate claimants shall be required to register for work in the same manner and to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants. Ref. Sec. 72-1366(1), (2), Idaho Code. (3-30-01)

07. Requirement to Provide Information. If a claimant fails to provide the Department with all necessary information pertinent to eligibility, the claimant may be denied benefits until the information is provided. Any individual making a claim for benefits shall provide the Department with: (3-15-02)

- a.** The claimant's legal name; (3-15-02)
- b.** The claimant's Social Security Number; (3-15-02)
- c.** The address where the claimant's mail is delivered; (3-15-02)
- d.** The claimant's place of last employment; (3-15-02)
- e.** The name, correct mailing address, and the reason for separation from all of the claimant's most recent and base-period employers; (3-15-02)
- f.** If requested by the Department, a list of all other employment in the past twenty-four (24) months; (3-15-02)
- g.** The claimant's plans for finding other employment at the earliest possible time; and (3-15-02)
- h.** Other information necessary for the proper processing of the claim. (3-15-02)
- i.** Once a claim has been established, the claimant must provide, upon request, a record of the claimant's work search, in order for the Department to assess the claimant's compliance with personal eligibility requirements. (3-15-02)

08. Right to Claim Benefits. In no instance, under any circumstances or conditions, shall an individual be denied the right to file a claim and to receive in writing a decision regarding his eligibility. Ref. Sec. 72-1366(1), Idaho Code. (3-19-99)

09. Separation Information. Unless separation information has been provided by other means, such as a mass layoff list, a notice of the filing of a claim and a request for separation information must be completed and mailed to the claimant's last employer and each next preceding employer until the wages received by the claimant equal or exceed twelve (12) times his weekly benefit amount. For all such employers, the claimant must provide the Department with the employer's name and correct mailing address, the claimant's dates of employment, the type of employment performed, and the claimant's gross earnings from each employment. Ref. Sec. 72-1366 (1), (5) and (14), Idaho Code. (3-19-99)

10. Separation Notice. (3-19-99)

a. Request for Separation Information. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), after receiving a request for separation information from the Department because an individual has filed a claim for benefits, shall submit to the Department a report of the reasons for the separation whenever such claimant: (4-5-00)

i. Left his employment voluntarily; (3-19-99)

ii. Was discharged from his employment due to misconduct; (3-19-99)

iii. Is unemployed due to a strike, lockout, or other labor dispute; or (3-19-99)

iv. Was separated for any other reason except lack of available work. (3-19-99)

b. Employer Response. The employer's response shall be completed in accordance with instructions printed on the Department's request for separation information and shall be completed by the employer or on the employer's behalf by someone having personal knowledge of the facts therein stated. (3-15-02)

11. Filing of an Additional Claim or Reopening a Claim. A claim series may be reestablished, electronically, in person at a local office or at an itinerant location, by telephone, or by mail. The additional or reopened claim (AC/RO) must be filed during a week in which the claimant becomes unemployed and/or wants to reestablish the claim. (3-30-01)

a. In-person Filing. When a claimant reports to a local office to file an AC/RO during regular business hours, the claim shall be effective as of the Sunday of that week. (3-30-01)

b. Mailing. A claimant may file an AC/RO by mailing the completed AC/RO documents to a local office. The claim shall be effective as of the Sunday preceding the date the claimant mails the documents, as determined by the postmark. (3-30-01)

c. Electronic Filing. A claimant may file an AC/RO electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the AC/RO process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. (3-30-01)

d. Telephone Filing. A claimant may file an AC/RO by telephone by calling a local office. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the local office to initiate the claim. (3-30-01)

e. Reestablished Claim. A claim must be reestablished after a claimant has failed to report or has reported excessive earnings for two (2) or more consecutive weeks. Claims shall be reestablished as follows: (3-19-99)

i. If the break in the claim series is two (2) weeks or longer, the claim must be reestablished by filing a reopen or additional claim; or (3-19-99)

ii. If the claimant is reporting excessive earnings for no more than two (2) consecutive weeks, the claim may be automatically reestablished if the claimant notifies the local office at the time of or prior to filing the report for the second week that he has become unemployed. Otherwise, the claim must be reestablished by filing a reopen/additional claim. (3-19-99)

12. Use of Wage Credits. All unemployment insurance wage credits from any source which are assignable to the state of Idaho shall be used in establishing a claim and determining the claimant's monetary eligibility. Ref. Sec. 72-1367(1), Idaho Code. (3-19-99)

13. Valid Claim. To be a valid claim for benefits, a claim must be filed during a week of no work, a week of less than full-time work in which the total wages payable to the claimant for work performed in such week amount to less than one and one-half (1-1/2) times the claimant's weekly benefit amount, or a week in which the claimant is separated from employment. Ref. Sec. 72-1327A, Idaho Code. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

575. SEEKING WORK.

Ref. Sec. 72-1366(4), (6), Idaho Code. (3-19-99)

01. Attitude and Behavior. A claimant's attitude and behavior must be conducive to a positive reaction by employers to his job search. (3-19-99)

02. Effort to Secure Employment. A claimant will be expected to do what is normally done by unemployed persons that are seeking work. (3-19-99)

03. Employer's Hiring Practices. An employer's reluctance to hire a claimant because of his appearance or physical condition is not a determining factor in ruling on the claimant's eligibility. (3-19-99)

04. Job Attachment Classifications. For the purpose of administering the work search requirements of Section 72-1366(4) and (6), Idaho Code, claimants will be classified according to their attachment to an employer or industry, as follows: (3-19-99)

a. Code R-Recall, U-Union or X-Both. Claimants who have a firm attachment to an employer, industry or union, or who are temporarily or seasonally unemployed, and expect to return to their former jobs or employers in a reasonable length of time. (3-19-99)

b. Code B. Claimants who possess marketable skills in an occupation, but have no immediate prospects for reemployment, and whose employment expectations (i.e., wages, hours, etc.) are realistic in relation to the normal labor market supply and demand in their areas of availability. (3-19-99)

c. Code C. Claimants who have no marketable skills or whose skills have become obsolete and who are unable to return to their former occupations, or who have a special need for employment-related services. (3-19-99)

d. Code D. Claimants who are assigned to a training course under the provisions of Section 72-1366(8), Idaho Code. (3-19-99)

05. Jobs Availability. A claimant will not be required to make useless employer contacts if there are no jobs available in the area due to seasonal factors. (3-19-99)

06. No Employment Prospects. A claimant shall apply for and accept a lower or beginning pay rate for employment if he has no prospects for a better paying job in the locality. (3-19-99)

07. Register for Work. A claimant must register for work and report as required to be eligible for benefits. Ref. Sec. 72-1366(1), (2), Idaho Code. (3-19-99)

08. Seasonal Availability. A claimant who is regularly employed on a seasonal basis shall be available for other types of work in the off-season to be eligible for benefits. (3-19-99)

09. Work-Seeking Requirement Categories. Claimants shall seek work in accordance with the following categories of work-seeking activity, as instructed by a Department representative or as notified by the Department via electronic claims messaging. A claimant must meet the requirements of the code to which the claimant is assigned. A claimant's category of work-seeking activity will be determined and modified based on the claimant's ~~length of unemployment, the~~ prevailing local labor market conditions; and/or the average county unemployment rates. Claimants that have not registered for work when filing their claims and that are required to secure employment must register with ~~Job Service~~ the local office within two (2) weeks of filing an initial claim for benefits. Failure to comply with work-seeking requirements may result in a denial of benefits. ~~(3-15-02)(7-1-05)T~~

a. Code O claimants must: (3-15-02)

i. Maintain regular contact with their employer(s) or union. Code O claimants may also be required to engage in one (1) or more of the following activities to increase their prospects of returning to work or securing employment: (3-15-02)

ii. Make local inquiries; (3-19-99)

iii. Maintain contact with the local ~~Job Service~~ office; ~~(3-15-02)(7-1-05)T~~

iv. Check "help-wanted" ads in newspapers or trade publications; (3-15-02)

v. Attend a Job Search Workshop; or (3-15-02)

vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a ~~Job Service~~ Department representative. ~~(3-15-02)(7-1-05)T~~

b. Code 1 claimants will be required to engage in one (1) or more of the following activities to increase their prospects of securing employment: (3-15-02)

i. Make at least one (1) employer contact each week in the manner prescribed by the local ~~Job Service~~ office; ~~(3-15-02)(7-1-05)T~~

ii. Attend a Job Search Workshop; (3-15-02)

iii. Expand work search efforts to surrounding areas or states; (3-15-02)

iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)

v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-15-02)

vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a ~~Job Service~~ Department representative. ~~(3-15-02)(7-1-05)T~~

c. Code 2 claimants will be required to engage in one (1) or more of the following activities to increase their prospects of securing employment: (3-15-02)

i. Make at least two (2) employer contacts per week in the manner prescribed by the local ~~Job Service~~ office; ~~(3-15-02)(7-1-05)T~~

ii. Attend a Job Search Workshop; (3-15-02)

- iii. Expand work search efforts to surrounding areas or states; (3-15-02)
 - iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)
 - v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-15-02)
 - vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a ~~Job Service~~ Department representative. (~~3-15-02~~)(7-1-05)T
- d.** Code 3 claimants will be required to engage in one (1) or more of the following activities to increase their prospects of securing employment: (3-15-02)
- i. Make at least three (3) employer contacts per week in the manner prescribed by the local ~~Job Service~~ office; (~~3-15-02~~)(7-1-05)T
 - ii. Attend a Job Search Workshop; (3-15-02)
 - iii. Expand work search efforts to surrounding areas or states; (3-15-02)
 - iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)
 - v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-15-02)
 - vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a ~~Job Service~~ Department representative. (~~3-15-02~~)(7-1-05)T

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.30 - RULES OF THE BENEFITS BUREAU

DOCKET NO. 09-0130-0504

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, 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 August 17, 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: IDAPA 09.01.30.425.07 would be amended by the addition of a paragraph providing that if a claimant's identifying data does not match data provided by another public entity for identity verification purposes, the claimant will have 2 business days if notified by phone or 5 business days if notified by mail to provide proof of identity before benefits may be denied.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with federal program standards and conferring a benefit.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule making was not conducted because the rule change is in response to federal program standards.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Roger Holmes, UI Benefits Bureau Chief, 332-3570 x 3233.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Roger Holmes
UI Benefits Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3233
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-0504

425. NEW CLAIMS/ADDITIONAL CLAIMS.

Ref. Sec. 72-1308, Idaho Code.

(3-19-99)

01. Claims for Benefits, Delayed Filing. When any claims taking office has reason to believe there will be more claimants than can be served on any given day, an appointment slip must be used to adjust the claims load for the filing of initial claims. Appointment slips shall be issued to potential claimants who cannot be served on the date they first make contact with the office. A claimant who receives an appointment slip does not forfeit any benefit rights provided, however, that he subsequently files his claim on the day assigned. When any claims taking office has determined that a claimant's attempt to file an initial claim was delayed due to problems with the Department's telephone or electronic filing system, the claim may be backdated if the claimant reported the access problem to a local office within seven (7) days of the date the problem occurred. When a claim is backdated, the continued claim report for the period of time involved will be considered timely if filed during the same week or the next week after the claim is filed. (3-30-01)

02. Effective Date of Backdated Claims. When the filing of an initial claim for benefits is backdated due to local office scheduling problems or a Department system malfunction, the effective date shall be the Sunday of the week in which the claimant first reported to the local office to file the claim or attempted to access the telephone or electronic claim filing system and there were problems with the system. (3-30-01)

03. Filing of New Claims. New intrastate and interstate claims may be filed electronically, in person at a local office or at an itinerant location, or by mail if permitted by a claims examiner. New interstate claims may also be filed by telephone. (3-30-01)

a. Electronically Filed Claims. Claimants may file claims electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the application process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. A claim filed electronically will automatically be assigned to the local office that services the zip code for the mailing address provided by the claimant. (3-30-01)

b. In-person Filing. A claimant may file a claim in person at the local Job Service office serving the claimant's area of residence. Job Service offices are open Monday through Friday, 8 a.m. until 5 p.m., except on state holidays. When a claimant reports to a local office to file a claim during regular business hours, the claim shall be effective as of the Sunday of that week. (3-30-01)

c. Interstate Claims. Any claim filed by an interstate claimant shall be accepted in the same manner and under the same conditions for which claims are accepted from intrastate claimants. Interstate claimants may also file claims by calling the Department's interstate claims unit. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the interstate claims unit to initiate the claim. (3-30-01)

d. Itinerant Locations. Claims may be filed at itinerant points established by the Department for the taking of claims. A claim filed at an itinerant point on the first regular itinerant visit after the claimant's separation will be effective as of the Sunday preceding the first business day of the period of unemployment. If the claimant has filed the claim on a date later than the first regular itinerant visit, the claim shall be effective as of the Sunday preceding the date the claim is actually filed. (3-30-01)

e. Mailed Claims. A claims examiner may allow a claimant to file a claim by mail when in-person filing or other methods of filing would cause undue hardship. If a claimant who has been granted permission to file a claim by mail completes and returns the claim form to the local office within seven (7) days of the date the form was mailed to the claimant by the Department, the claim will be effective as of the Sunday preceding the date the claimant requested permission to file the claim by mail. If the claimant fails to return the claim form within the seven (7) day period, and mail facilities were available for such mailing within the period, the claim will be effective as of the

Sunday preceding the date the claimant mails the claim form, as determined by the postmark. (3-30-01)

04. Itinerant Claims. Itinerant points for the taking of unemployment insurance claims may be established, changed, or discontinued at administrative discretion. Where itinerant service is being inaugurated, changed, or discontinued for a particular community, public notice of such inauguration, change, or discontinuance shall be conspicuously posted and public notification placed in a daily or weekly newspaper of general distribution for the affected community two (2) weeks prior to such inauguration, change or discontinuance. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

05. Registration for Work. All claimants who cannot demonstrate a firm attachment to an employer, industry, or union will be required to register for employment. Unless otherwise requested by the claimant, such registration should apply only to the days or parts of the days that the claimant is in fact unemployed and available for employment. The work history of each claimant shall be recorded, and a work application completed and filed. Ref. Sec. 72-1366(2), Idaho Code. (3-19-99)

06. Registration/Reporting Requirements – Interstate Claimants. Interstate claimants shall be required to register for work in the same manner and to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants. Ref. Sec. 72-1366(1), (2), Idaho Code. (3-30-01)

07. Requirement to Provide Information. If a claimant fails to provide the Department with all necessary information pertinent to eligibility, the claimant may be denied benefits until the information is provided. Any individual making a claim for benefits shall provide the Department with: (3-15-02)

- a. The claimant's legal name; (3-15-02)
- b. The claimant's Social Security Number; (3-15-02)
- c. The address where the claimant's mail is delivered; (3-15-02)
- d. The claimant's place of last employment; (3-15-02)
- e. The name, correct mailing address, and the reason for separation from all of the claimant's most recent and base-period employers; (3-15-02)
- f. If requested by the Department, a list of all other employment in the past twenty-four (24) months; (3-15-02)
- g. The claimant's plans for finding other employment at the earliest possible time; and (3-15-02)
- h. Other information necessary for the proper processing of the claim. (3-15-02)
- i. Once a claim has been established, the claimant must provide, upon request, a record of the claimant's work search, in order for the Department to assess the claimant's compliance with personal eligibility requirements. (3-15-02)

j. If the claimant's identifying information does not match with data provided by the Social Security Administration, the Division of Motor Vehicles, or other public entities for identity verification purposes, the claimant will be provided notice and an opportunity to provide proof of identity before benefits may be denied for failure to provide proof of identity. A claimant notified by telephone of the need to provide proof of identity must provide the information to the Department within two (2) business days. A claimant notified by mail of the need to provide proof of identity must provide the information to the Department within five (5) business days of the date of mailing of the notice. (7-1-05)T

08. Right to Claim Benefits. In no instance, under any circumstances or conditions, shall an individual be denied the right to file a claim and to receive in writing a decision regarding his eligibility. Ref. Sec. 72-1366(1), Idaho Code. (3-19-99)

09. Separation Information. Unless separation information has been provided by other means, such as a mass layoff list, a notice of the filing of a claim and a request for separation information must be completed and mailed to the claimant's last employer and each next preceding employer until the wages received by the claimant equal or exceed twelve (12) times his weekly benefit amount. For all such employers, the claimant must provide the Department with the employer's name and correct mailing address, the claimant's dates of employment, the type of employment performed, and the claimant's gross earnings from each employment. Ref. Sec. 72-1366 (1), (5) and (14), Idaho Code. (3-19-99)

10. Separation Notice. (3-19-99)

a. Request for Separation Information. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), after receiving a request for separation information from the Department because an individual has filed a claim for benefits, shall submit to the Department a report of the reasons for the separation whenever such claimant: (4-5-00)

i. Left his employment voluntarily; (3-19-99)

ii. Was discharged from his employment due to misconduct; (3-19-99)

iii. Is unemployed due to a strike, lockout, or other labor dispute; or (3-19-99)

iv. Was separated for any other reason except lack of available work. (3-19-99)

b. Employer Response. The employer's response shall be completed in accordance with instructions printed on the Department's request for separation information and shall be completed by the employer or on the employer's behalf by someone having personal knowledge of the facts therein stated. (3-15-02)

11. Filing of an Additional Claim or Reopening a Claim. A claim series may be reestablished, electronically, in person at a local office or at an itinerant location, by telephone, or by mail. The additional or reopened claim (AC/RO) must be filed during a week in which the claimant becomes unemployed and/or wants to reestablish the claim. (3-30-01)

a. In-person Filing. When a claimant reports to a local office to file an AC/RO during regular business hours, the claim shall be effective as of the Sunday of that week. (3-30-01)

b. Mailing. A claimant may file an AC/RO by mailing the completed AC/RO documents to a local office. The claim shall be effective as of the Sunday preceding the date the claimant mails the documents, as determined by the postmark. (3-30-01)

c. Electronic Filing. A claimant may file an AC/RO electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the AC/RO process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. (3-30-01)

d. Telephone Filing. A claimant may file an AC/RO by telephone by calling a local office. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the local office to initiate the claim. (3-30-01)

e. Reestablished Claim. A claim must be reestablished after a claimant has failed to report or has reported excessive earnings for two (2) or more consecutive weeks. Claims shall be reestablished as follows: (3-19-99)

i. If the break in the claim series is two (2) weeks or longer, the claim must be reestablished by filing a reopen or additional claim; or (3-19-99)

ii. If the claimant is reporting excessive earnings for no more than two (2) consecutive weeks, the claim may be automatically reestablished if the claimant notifies the local office at the time of or prior to filing the report for the second week that he has become unemployed. Otherwise, the claim must be reestablished by filing a reopen/additional claim. (3-19-99)

12. Use of Wage Credits. All unemployment insurance wage credits from any source which are assignable to the state of Idaho shall be used in establishing a claim and determining the claimant's monetary eligibility. Ref. Sec. 72-1367(1), Idaho Code. (3-19-99)

13. Valid Claim. To be a valid claim for benefits, a claim must be filed during a week of no work, a week of less than full-time work in which the total wages payable to the claimant for work performed in such week amount to less than one and one-half (1-1/2) times the claimant's weekly benefit amount, or a week in which the claimant is separated from employment. Ref. Sec. 72-1327A, Idaho Code. (3-19-99)

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.30 - RULES OF THE BENEFITS BUREAU

DOCKET NO. 09-0130-0505

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, 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 August 17, 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: IDAPA 09.01.30.010.05 would be amended to clarify that State government and cost reimbursement employers are included in the total wages paid in covered employment.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with amendments to governing law.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule making was not conducted because the change is in response to legislative changes during the last legislative session and to clarify an existing rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Roger Holmes, UI Benefits Bureau Chief, 332-3570 x 3233.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Roger Holmes
UI Benefits Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3233
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-0505

010. DEFINITIONS.

Unless the context clearly requires otherwise, these terms shall have the following meanings when used in these Rules, in interpretations, in forms, and in other official documents issued by the Director of the Department of Commerce and Labor. (3-19-99)

01. Additional Claim. An initial claim made after a period of employment subsequent to a new claim in the same benefit year. (3-19-99)

02. Administrative Office. The main office in Boise, Idaho, wherein the administrative functions of the Department of Commerce and Labor are performed. (3-19-99)

03. Appealed Claim. An interested party's appeal to the Appeals Bureau of a claims examiner's decision on a claim or a request for review by the Industrial Commission of a decision made by an appeals examiner. (3-19-99)

04. Average Annual Wage. For the purpose of determining the taxable wage base, under Section 72-1350(1), Idaho Code, the average annual wage shall be computed by dividing that calendar year's total wages in covered employment, excluding State government and cost reimbursement employers, by the average number of workers in covered employment for that calendar year as derived from data reported to the Department of Commerce and Labor by covered employers. (3-19-99)

05. Average Weekly Wage. For the purpose of establishing the maximum weekly benefit amount, under Section 72-1367(2)(a), Idaho Code, the average weekly wage shall be computed by dividing the total wages paid in covered employment (including State government ~~employment and cost reimbursement employers~~) for the preceding calendar year, as computed from data reported to the Department of Commerce and Labor by covered employers, by the monthly average number of workers in covered employment for the ~~preceding~~ calendar year and then dividing the resulting figure by fifty-two (52). ~~(3-19-99)~~(7-1-05)T

06. Benefit Balance. The unpaid portion of the total benefits payable with respect to a claimant's unemployment during a given benefit year. (3-19-99)

07. Chargeability Determination. A determination issued by the Director or his authorized agent with respect to whether a covered employer's account shall be charged for benefits paid on a claim. (3-19-99)

08. Claim. An application for unemployment insurance or "benefits". (3-19-99)

09. Combined Wage Claim. A claim filed under any interstate agreement whereby an unemployed worker with covered wages in more than one (1) state may combine such wages. (3-19-99)

10. Compensable Claim. An application for benefits which certifies to the completion of a benefit period (one (1) or more weeks). (3-19-99)

11. Contested Claim. A claim in which an interested party disputes the claimant's right to benefits. (3-19-99)

12. Continued Claim. An application for waiting-week credit or for benefits for specific compensable weeks. (3-19-99)

13. Employment. For the purpose of the personal eligibility conditions of Section 72-1366(5), Idaho Code, "employment" means that employment subsequent to which a claimant has not earned twelve (12) times his weekly benefit amount. (3-19-99)

14. Full-Time Employment. A week of full-time employment for a claimant is one in which he has

worked what are customarily considered full-time hours for the industry in which he has been employed that week or in which the earnings are more than one and one-half (1-1/2) times his weekly benefit amount. (4-5-00)

15. Initial Claim. The first claim for benefits made by an unemployed individual during a continuous period of unemployment. An initial claim may be either new or additional. (3-19-99)

16. Interstate Claim. A claim filed by a worker who resides in a state other than the state (or states) in which he has earned wages in covered employment. (3-19-99)

17. Intrastate Claim. A claim filed by a worker who has earned wages within that state or who has federal wages assigned to that state. (3-19-99)

18. Itinerant Point. A place where claims-taking services are regularly provided for less than four (4) days a week by a local office which carries on its primary operations at another point. (3-19-99)

19. Liability Determination. A determination issued by the Director or his authorized agent with respect to whether a cost reimbursement employer shall be charged for benefits paid on a claim. (3-19-99)

20. Local Office. A community office of the Department of Commerce and Labor at which claims are taken and job placement services are provided to applicants and employers. (3-19-99)

21. Mail Claim. A claim filed by mail rather than in person at a local office. (3-19-99)

22. Monetary Determination. A determination of eligibility which lists a claimant's base period employer(s) and wages and establishes, if the claimant is eligible, his benefit year, his weekly benefit amount, and his total benefit amount. (3-19-99)

23. New Claim. The first initial claim made in a benefit year. (3-19-99)

24. Non-Monetary Determination. A determination issued by a claims examiner with respect to the personal eligibility conditions of a claimant. (3-19-99)

25. Personal Identification Number (PIN). A confidential number or other electronic method of verification unique to a claimant or an employer that is required for such persons to perform certain transactions with the Department by electronic or telephonic means. A PIN has the same force and effect as a manual signature. (4-6-05)

26. Regular Claim. A claim based on wages earned during a base period, excluding extended benefit claims. (3-19-99)

27. Signature, Signed. The Personal Identification Number (PIN) is considered the same as a manual signature and has the same force and effect when a claimant or an employer uses Department-approved electronic or telephonic means to submit information to or engage in transactions with the Department. (4-6-05)

28. Telephone Claim. A claim filed by telephone rather than in person at a local office. (3-19-99)

29. Total Benefit Amount. The full amount of benefits to which a claimant may be entitled during a benefit year on his regular claim. (3-19-99)

30. Unemployment. An individual shall be deemed "unemployed" in any week during which he performs no services and with respect to which no wages are allocable, or in any week in which the total wages payable to him for less than full-time work performed in such week amounted to less than one and one-half (1-1/2) times his weekly benefit amount. (3-19-99)

31. Weekly Benefit Amount. The full amount of benefits to which a claimant may be entitled for one (1) week of total unemployment. (3-19-99)

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.30 - RULES OF THE BENEFITS BUREAU

DOCKET NO. 09-0130-0506

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, 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 August 17, 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 part of HB 4, Section 72-1366(14), Idaho Code, was amended to provide that a claimant who has been found ineligible for benefits must reestablish eligibility by receiving wages for bona fide work of at least 14 times the weekly benefit amount, rather than 12 times the weekly benefit amount. The references to this requalification requirement in IDAPA 09.01.30.010.13, 09.01.30.250.06, and 09.01.30.425.09 would be changed from 12 times to 14 times the weekly benefit amount.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with amendments to governing law.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule making was not conducted because it is in response to legislative changes to governing law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Roger Holmes, UI Benefits Bureau Chief, 332-3570 x 3233.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Roger Holmes
UI Benefits Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3233
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-0506

010. DEFINITIONS.

Unless the context clearly requires otherwise, these terms shall have the following meanings when used in these Rules, in interpretations, in forms, and in other official documents issued by the Director of the Department of Commerce and Labor. (3-19-99)

01. Additional Claim. An initial claim made after a period of employment subsequent to a new claim in the same benefit year. (3-19-99)

02. Administrative Office. The main office in Boise, Idaho, wherein the administrative functions of the Department of Commerce and Labor are performed. (3-19-99)

03. Appealed Claim. An interested party's appeal to the Appeals Bureau of a claims examiner's decision on a claim or a request for review by the Industrial Commission of a decision made by an appeals examiner. (3-19-99)

04. Average Annual Wage. For the purpose of determining the taxable wage base, under Section 72-1350(1), Idaho Code, the average annual wage shall be computed by dividing that calendar year's total wages in covered employment, excluding State government and cost reimbursement employers, by the average number of workers in covered employment for that calendar year as derived from data reported to the Department of Commerce and Labor by covered employers. (3-19-99)

05. Average Weekly Wage. For the purpose of establishing the maximum weekly benefit amount, under Section 72-1367(2)(a), Idaho Code, the average weekly wage shall be computed by dividing the total wages paid in covered employment (including State government employment) for the preceding calendar year, as computed from data reported to the Department of Commerce and Labor by covered employers, by the monthly average number of workers in covered employment for the calendar year and then dividing the resulting figure by fifty-two (52). (3-19-99)

06. Benefit Balance. The unpaid portion of the total benefits payable with respect to a claimant's unemployment during a given benefit year. (3-19-99)

07. Chargeability Determination. A determination issued by the Director or his authorized agent with respect to whether a covered employer's account shall be charged for benefits paid on a claim. (3-19-99)

08. Claim. An application for unemployment insurance or "benefits". (3-19-99)

09. Combined Wage Claim. A claim filed under any interstate agreement whereby an unemployed worker with covered wages in more than one (1) state may combine such wages. (3-19-99)

10. Compensable Claim. An application for benefits which certifies to the completion of a benefit period (one (1) or more weeks). (3-19-99)

11. Contested Claim. A claim in which an interested party disputes the claimant's right to benefits. (3-19-99)

12. Continued Claim. An application for waiting-week credit or for benefits for specific compensable weeks. (3-19-99)

13. Employment. For the purpose of the personal eligibility conditions of Section 72-1366(5), Idaho Code, "employment" means that employment subsequent to which a claimant has not earned ~~more than~~ fourteen (14) times his weekly benefit amount. ~~(3-19-99)~~ (7-1-05)T

14. Full-Time Employment. A week of full-time employment for a claimant is one in which he has

worked what are customarily considered full-time hours for the industry in which he has been employed that week or in which the earnings are more than one and one-half (1-1/2) times his weekly benefit amount. (4-5-00)

15. Initial Claim. The first claim for benefits made by an unemployed individual during a continuous period of unemployment. An initial claim may be either new or additional. (3-19-99)

16. Interstate Claim. A claim filed by a worker who resides in a state other than the state (or states) in which he has earned wages in covered employment. (3-19-99)

17. Intrastate Claim. A claim filed by a worker who has earned wages within that state or who has federal wages assigned to that state. (3-19-99)

18. Itinerant Point. A place where claims-taking services are regularly provided for less than four (4) days a week by a local office which carries on its primary operations at another point. (3-19-99)

19. Liability Determination. A determination issued by the Director or his authorized agent with respect to whether a cost reimbursement employer shall be charged for benefits paid on a claim. (3-19-99)

20. Local Office. A community office of the Department of Commerce and Labor at which claims are taken and job placement services are provided to applicants and employers. (3-19-99)

21. Mail Claim. A claim filed by mail rather than in person at a local office. (3-19-99)

22. Monetary Determination. A determination of eligibility which lists a claimant's base period employer(s) and wages and establishes, if the claimant is eligible, his benefit year, his weekly benefit amount, and his total benefit amount. (3-19-99)

23. New Claim. The first initial claim made in a benefit year. (3-19-99)

24. Non-Monetary Determination. A determination issued by a claims examiner with respect to the personal eligibility conditions of a claimant. (3-19-99)

25. Personal Identification Number (PIN). A confidential number or other electronic method of verification unique to a claimant or an employer that is required for such persons to perform certain transactions with the Department by electronic or telephonic means. A PIN has the same force and effect as a manual signature. (4-6-05)

26. Regular Claim. A claim based on wages earned during a base period, excluding extended benefit claims. (3-19-99)

27. Signature, Signed. The Personal Identification Number (PIN) is considered the same as a manual signature and has the same force and effect when a claimant or an employer uses Department-approved electronic or telephonic means to submit information to or engage in transactions with the Department. (4-6-05)

28. Telephone Claim. A claim filed by telephone rather than in person at a local office. (3-19-99)

29. Total Benefit Amount. The full amount of benefits to which a claimant may be entitled during a benefit year on his regular claim. (3-19-99)

30. Unemployment. An individual shall be deemed "unemployed" in any week during which he performs no services and with respect to which no wages are allocable, or in any week in which the total wages payable to him for less than full-time work performed in such week amounted to less than one and one-half (1-1/2) times his weekly benefit amount. (3-19-99)

31. Weekly Benefit Amount. The full amount of benefits to which a claimant may be entitled for one (1) week of total unemployment. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

250. DETERMINATIONS/APPELLATE PROCESSES.

01. Chargeability Determination. The Department will issue a determination of chargeability to the major base period employer and include the right to protest the determination within fourteen (14) days of the date of service. Ref. Sec. 72-1351(2), Idaho Code. (3-19-99)

02. Continuing a Claim During Appellate Procedures. While a decision concerning eligibility on a claim is pending at any appellate stage of review, claimants shall be advised to continue the regular filing of claims during any week in which they may be eligible to receive benefits. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

03. Corrected Monetary Determination. The Department shall issue a corrected monetary determination when there is a change in base period wages which occurs within a year from the date of the last monetary determination based on such base period wages. Ref. Sec. 72-1367, 72-1368(4), Idaho Code. (3-19-99)

04. Non-Monetary Determination. A non-monetary determination shall be made in writing and served on the interested parties when there is an issue as to whether a claimant meets the personal eligibility conditions of Section 72-1366, Idaho Code. Ref. Sec. 72-1368(3), Idaho Code. (3-19-99)

05. Rebuttal Procedure. Whenever any information is provided in response to a claim, and the information contradicts a statement made previously, all interested parties shall be given an opportunity for rebuttal. Ref. Sec. 72-1368(3), Idaho Code. (3-19-99)

06. Reestablishing Eligibility After A Determination Of Ineligibility. An individual who previously was found ineligible for benefits has the burden of proving he has reestablished his eligibility by having obtained bona fide work and received wages therefor in an amount of at least ~~twelve~~ fourteen (124) times his weekly benefit amount. Evidence of requalifying wages includes, but is not limited to, the name of the employer, the mailing address, the dates of employment, the type of employment performed, and the claimant's gross earnings. Ref. Sec 72-1366(14), Idaho Code. ~~(3-19-99)~~(7-1-05)T

(BREAK IN CONTINUITY OF SECTIONS)

425. NEW CLAIMS/ADDITIONAL CLAIMS.

Ref. Sec. 72-1308, Idaho Code. (3-19-99)

01. Claims for Benefits, Delayed Filing. When any claims taking office has reason to believe there will be more claimants than can be served on any given day, an appointment slip must be used to adjust the claims load for the filing of initial claims. Appointment slips shall be issued to potential claimants who cannot be served on the date they first make contact with the office. A claimant who receives an appointment slip does not forfeit any benefit rights provided, however, that he subsequently files his claim on the day assigned. When any claims taking office has determined that a claimant's attempt to file an initial claim was delayed due to problems with the Department's telephone or electronic filing system, the claim may be backdated if the claimant reported the access problem to a local office within seven (7) days of the date the problem occurred. When a claim is backdated, the continued claim report for the period of time involved will be considered timely if filed during the same week or the next week after the claim is filed. (3-30-01)

02. Effective Date of Backdated Claims. When the filing of an initial claim for benefits is backdated due to local office scheduling problems or a Department system malfunction, the effective date shall be the Sunday of the week in which the claimant first reported to the local office to file the claim or attempted to access the telephone or electronic claim filing system and there were problems with the system. (3-30-01)

03. Filing of New Claims. New intrastate and interstate claims may be filed electronically, in person at a local office or at an itinerant location, or by mail if permitted by a claims examiner. New interstate claims may also be filed by telephone. (3-30-01)

a. Electronically Filed Claims. Claimants may file claims electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the application process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. A claim filed electronically will automatically be assigned to the local office that services the zip code for the mailing address provided by the claimant. (3-30-01)

b. In-person Filing. A claimant may file a claim in person at the local Job Service office serving the claimant's area of residence. Job Service offices are open Monday through Friday, 8 a.m. until 5 p.m., except on state holidays. When a claimant reports to a local office to file a claim during regular business hours, the claim shall be effective as of the Sunday of that week. (3-30-01)

c. Interstate Claims. Any claim filed by an interstate claimant shall be accepted in the same manner and under the same conditions for which claims are accepted from intrastate claimants. Interstate claimants may also file claims by calling the Department's interstate claims unit. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the interstate claims unit to initiate the claim. (3-30-01)

d. Itinerant Locations. Claims may be filed at itinerant points established by the Department for the taking of claims. A claim filed at an itinerant point on the first regular itinerant visit after the claimant's separation will be effective as of the Sunday preceding the first business day of the period of unemployment. If the claimant has filed the claim on a date later than the first regular itinerant visit, the claim shall be effective as of the Sunday preceding the date the claim is actually filed. (3-30-01)

e. Mailed Claims. A claims examiner may allow a claimant to file a claim by mail when in-person filing or other methods of filing would cause undue hardship. If a claimant who has been granted permission to file a claim by mail completes and returns the claim form to the local office within seven (7) days of the date the form was mailed to the claimant by the Department, the claim will be effective as of the Sunday preceding the date the claimant requested permission to file the claim by mail. If the claimant fails to return the claim form within the seven (7) day period, and mail facilities were available for such mailing within the period, the claim will be effective as of the Sunday preceding the date the claimant mails the claim form, as determined by the postmark. (3-30-01)

04. Itinerant Claims. Itinerant points for the taking of unemployment insurance claims may be established, changed, or discontinued at administrative discretion. Where itinerant service is being inaugurated, changed, or discontinued for a particular community, public notice of such inauguration, change, or discontinuance shall be conspicuously posted and public notification placed in a daily or weekly newspaper of general distribution for the affected community two (2) weeks prior to such inauguration, change or discontinuance. Ref. Sec. 72-1368(1), Idaho Code. (3-19-99)

05. Registration for Work. All claimants who cannot demonstrate a firm attachment to an employer, industry, or union will be required to register for employment. Unless otherwise requested by the claimant, such registration should apply only to the days or parts of the days that the claimant is in fact unemployed and available for employment. The work history of each claimant shall be recorded, and a work application completed and filed. Ref. Sec. 72-1366(2), Idaho Code. (3-19-99)

06. Registration/Reporting Requirements – Interstate Claimants. Interstate claimants shall be required to register for work in the same manner and to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants. Ref. Sec. 72-1366(1), (2), Idaho Code. (3-30-01)

07. Requirement to Provide Information. If a claimant fails to provide the Department with all necessary information pertinent to eligibility, the claimant may be denied benefits until the information is provided. Any individual making a claim for benefits shall provide the Department with: (3-15-02)

- a. The claimant's legal name; (3-15-02)
- b. The claimant's Social Security Number; (3-15-02)
- c. The address where the claimant's mail is delivered; (3-15-02)
- d. The claimant's place of last employment; (3-15-02)
- e. The name, correct mailing address, and the reason for separation from all of the claimant's most recent and base-period employers; (3-15-02)
- f. If requested by the Department, a list of all other employment in the past twenty-four (24) months; (3-15-02)
- g. The claimant's plans for finding other employment at the earliest possible time; and (3-15-02)
- h. Other information necessary for the proper processing of the claim. (3-15-02)
- i. Once a claim has been established, the claimant must provide, upon request, a record of the claimant's work search, in order for the Department to assess the claimant's compliance with personal eligibility requirements. (3-15-02)

08. Right to Claim Benefits. In no instance, under any circumstances or conditions, shall an individual be denied the right to file a claim and to receive in writing a decision regarding his eligibility. Ref. Sec. 72-1366(1), Idaho Code. (3-19-99)

09. Separation Information. Unless separation information has been provided by other means, such as a mass layoff list, a notice of the filing of a claim and a request for separation information must be completed and mailed to the claimant's last employer and each next preceding employer until the wages received by the claimant equal or exceed ~~twelve~~ fourteen (12~~4~~) times his weekly benefit amount. For all such employers, the claimant must provide the Department with the employer's name and correct mailing address, the claimant's dates of employment, the type of employment performed, and the claimant's gross earnings from each employment. Ref. Sec. 72-1366 (1), (5) and (14), Idaho Code. (~~3-19-99~~)(7-1-05)T

10. Separation Notice. (3-19-99)

a. Request for Separation Information. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), after receiving a request for separation information from the Department because an individual has filed a claim for benefits, shall submit to the Department a report of the reasons for the separation whenever such claimant: (4-5-00)

- i. Left his employment voluntarily; (3-19-99)
- ii. Was discharged from his employment due to misconduct; (3-19-99)
- iii. Is unemployed due to a strike, lockout, or other labor dispute; or (3-19-99)
- iv. Was separated for any other reason except lack of available work. (3-19-99)

b. Employer Response. The employer's response shall be completed in accordance with instructions printed on the Department's request for separation information and shall be completed by the employer or on the employer's behalf by someone having personal knowledge of the facts therein stated. (3-15-02)

11. Filing of an Additional Claim or Reopening a Claim. A claim series may be reestablished, electronically, in person at a local office or at an itinerant location, by telephone, or by mail. The additional or reopened claim (AC/RO) must be filed during a week in which the claimant becomes unemployed and/or wants to reestablish the claim. (3-30-01)

a. In-person Filing. When a claimant reports to a local office to file an AC/RO during regular business hours, the claim shall be effective as of the Sunday of that week. (3-30-01)

b. Mailing. A claimant may file an AC/RO by mailing the completed AC/RO documents to a local office. The claim shall be effective as of the Sunday preceding the date the claimant mails the documents, as determined by the postmark. (3-30-01)

c. Electronic Filing. A claimant may file an AC/RO electronically by accessing Idaho's Internet claim system through the Internet or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant begins the AC/RO process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location shall be effective as of the Sunday of the week of the date shown on the date/time stamp. (3-30-01)

d. Telephone Filing. A claimant may file an AC/RO by telephone by calling a local office. A claim filed via telephone shall be effective as of the Sunday of the week in which the claimant first calls the local office to initiate the claim. (3-30-01)

e. Reestablished Claim. A claim must be reestablished after a claimant has failed to report or has reported excessive earnings for two (2) or more consecutive weeks. Claims shall be reestablished as follows: (3-19-99)

i. If the break in the claim series is two (2) weeks or longer, the claim must be reestablished by filing a reopen or additional claim; or (3-19-99)

ii. If the claimant is reporting excessive earnings for no more than two (2) consecutive weeks, the claim may be automatically reestablished if the claimant notifies the local office at the time of or prior to filing the report for the second week that he has become unemployed. Otherwise, the claim must be reestablished by filing a reopen/additional claim. (3-19-99)

12. Use of Wage Credits. All unemployment insurance wage credits from any source which are assignable to the state of Idaho shall be used in establishing a claim and determining the claimant's monetary eligibility. Ref. Sec. 72-1367(1), Idaho Code. (3-19-99)

13. Valid Claim. To be a valid claim for benefits, a claim must be filed during a week of no work, a week of less than full-time work in which the total wages payable to the claimant for work performed in such week amount to less than one and one-half (1-1/2) times the claimant's weekly benefit amount, or a week in which the claimant is separated from employment. Ref. Sec. 72-1327A, Idaho Code. (3-19-99)

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.30 - RULES OF THE BENEFITS BUREAU

DOCKET NO. 09-0130-0507

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, 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 August 17, 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 part of HB 4, the exception to the personal eligibility conditions for a benefit claimant in Section 72-1366(4)(a), Idaho Code, concerning compelling personal circumstances was changed. The rule concerning compelling personal circumstances need to be changed to be consistent with the statute, plus the term needed to be more clearly defined to provide guidance in interpretation. IDAPA 09.01.30.175.04 would be amended to incorporate the changes in the statute and the term "compelling personal circumstances" would be more clearly defined.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with amendments to governing law.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule making was not conducted because it is in response to legislative changes to governing law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Roger Holmes, UI Benefits Bureau Chief, 332-3570 x 3233.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Roger Holmes
UI Benefits Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3233
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-0507

175. AVAILABLE FOR WORK.

The phrase "available for work" is defined as a state of mind which involves a readiness and willingness to work, and a desire to find a job, including the possibility of marketing one's services in the claimant's area of availability. There must remain a reasonable possibility of a claimant finding and obtaining, or being referred and hired for, suitable work. Ref. Sec. 72-1366(4), Idaho Code. (3-19-99)

01. Alternate Permanent Work. A claimant laid off from regular employment for a short period and who expects to be called back at any moment does not need to be available for alternate permanent work to be eligible for benefits. (3-19-99)

02. Availability Requirements. The type of work for which the claimant is available must exist in the claimant's area to the extent that a normal unemployed person would generally find work within a reasonable period of time. (3-19-99)

03. Child Care. Child care must be arranged so as not to restrict a claimant's availability for work or for seeking work. (3-19-99)

04. Compelling Personal Circumstances. A claimant must be available for the whole of the workweek for which he claims benefits except if he is ~~out of his normal labor market area~~ unavailable due to compelling personal circumstances, ~~and the absence~~ his unavailability does not exceed a minor portion of ~~the~~ his workweek, and during which time he does not refuse or miss suitable work that would have provided wages greater than one-half (1/2) of his weekly benefit amount. To be "compelling", the circumstances must be caused by factors over which the claimant has no control. For the purposes of this rule, compelling personal circumstances are defined as: ~~(3-19-99)~~(7-1-05)T

- a.** A situation in which the claimant required the assistance of emergency response personnel; (7-1-05)T
- b.** The serious illness or death or funeral of an immediate family member; or (7-1-05)T
- c.** The wedding of the claimant or an immediate family member. (7-1-05)T
- d.** For the purposes of this rule, "immediate family member" is defined as a claimant's spouse, child, foster child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage. (7-1-05)T

05. Conscientious Objection. No person shall be held to be unavailable for work solely because of religious convictions not permitting work on a certain day. (3-19-99)

06. Contract Obligation. A person who is bound by a contract which prevents him from accepting other employment shall not be eligible for benefits. (3-19-99)

07. Distance to Work. A claimant seeking work must be willing to travel the distance normally traveled by other workers in his area and occupation. (3-19-99)

08. Domestic Circumstances. A claimant is not eligible for benefits if domestic circumstances take precedence over the claimant's availability for work or for seeking work. (3-19-99)

09. Equipment. Claimants will be required to provide necessary tools or equipment in certain occupations. The lack of these tools or equipment will directly affect a claimant's availability for work, unless he will accept other work. (3-19-99)

10. Evidence. A claimant is responsible for providing proof of his availability for work and for seeking work if his availability is questioned or proof is required by these rules. (3-19-99)

- 11. Experience or Training.** A claimant is expected to be available for work consistent with his past experience or training, provided there is no change in his ability to perform that work. (3-19-99)
- 12. Full-Time/Part-Time Work.** A claimant must be available for a full workweek and a full, normal workday to be eligible for benefits. A claimant restricting his availability to only part-time work shall be ineligible for benefits. This rule does not apply to claimants who establish eligibility under the Americans with Disabilities Act. Ref. Sec. 72-1366(6), Idaho Code. (3-19-99)
- 13. Incarceration/Work Release.** A claimant who is incarcerated for any part of the claimant's normal workweek is not eligible for benefits for that week, unless the claimant can establish he has work release privileges which would provide him a reasonable opportunity to meet his work search requirements and obtain full-time employment. (3-19-99)
- 14. Jury Duty/Subpoenas.** A claimant serving on jury duty or subpoenaed is excused from the availability and work-seeking requirements of the law for that time period. A claimant is not ineligible if he must refuse work because of the jury duty or subpoena. (3-19-99)
- 15. Licensing or Government Restrictions.** A claimant prohibited by law from engaging in certain work must be available for other employment to be eligible for benefits. (3-19-99)
- 16. Moving to Remote Area.** A claimant who moves to a remote locality where there is very little possibility of obtaining work will be ineligible for benefits. (3-19-99)
- 17. Prospects for Work.** A claimant who is unemployed for a long period of time is expected to lower his expectations for employment and become available for work which may not have been previously considered suitable. (3-19-99)
- 18. Public Official.** A public official who receives pay and performs "full-time" service is not unemployed or eligible for benefits. Part-time officials, even though receiving pay, may be considered available for work the same as any other individual employed on a part-time basis. Ref. Sec. 72-1312(1). (3-19-99)
- 19. Public Service.** Performing public service, including voluntary non-remunerated service, does not disqualify an individual for benefits as long as he is meeting the availability and work-seeking requirements. (3-19-99)
- 20. Questionable Availability.** A claimant must be notified of his questionable availability status and given an opportunity to provide proof of his availability before a determination is made on the issue. (3-19-99)
- 21. Restricting Work to Within the Home.** A claimant who restricts his availability to only work done within the home which severely limits the work available to him is ineligible for benefits. (3-19-99)
- 22. School Attendance or a Training Course.** A person who is attending school or a training course may be eligible for benefits if the attendance does not conflict in any way with that person's availability for work or for seeking work and if he will discontinue attendance upon receipt of an offer of employment if there is a conflict between employment and the schooling or training. (3-19-99)
- 23. Temporary Absence From Local Labor Market to Seek Work.** All claimants, regardless of their attachment to an industry or employer, must meet the same standard of remaining within their local labor market area during the workweek in order to be considered available for work, unless the primary purpose of a temporary absence is to seek work in another labor market. (3-19-99)
- 24. Time.** (3-19-99)
- a. Time Restrictions.** A claimant shall not impose restrictions on his time, including either hours of the day or days of the week, which will limit his availability to seek or accept suitable work. (3-19-99)

b. Shift Restrictions. A claimant who restricts his availability to a single shift may not be fully available for work if the restriction significantly reduces his chances of becoming employed. (3-19-99)

25. Transportation Difficulties. Lack of transportation is not a bona fide reason for a claimant to fail to be available for or to seek work. Transportation is the responsibility of the claimant. (3-19-99)

26. Unreasonable Restrictions on Working Conditions. A claimant who places unreasonable restrictions on working conditions so as to seriously hinder his availability and search for work is ineligible for benefits. (3-19-99)

27. Vacation. A person on a vacation approved by his employer during time when work is available is not considered available for work nor eligible for benefits. (3-19-99)

28. Wages. A claimant shall not be ineligible for benefits if the wages or other conditions of available work are substantially less favorable to the claimant than those prevailing for similar work in the local area. Ref. Sec. 72-1366(7)(b), Idaho Code. (3-19-99)

a. Demanding Higher Wages. A claimant shall be ineligible for benefits if he unduly restricts his availability for work by insisting on a wage rate that is higher than the prevailing wage for similar work in that area. (3-19-99)

b. Prior Earnings. The claimant's prior earnings and past experience shall be considered in determining whether he is available for suitable work. (3-19-99)

29. Waiver of One-Year Training Limitation. For purposes of approving a waiver of the one (1) year limitation on school or training courses, specified by Idaho Code Section 72-1366(8)(c)(ii), for claimants who lack skills to compete in the labor market, the following criteria must be met: (3-19-99)

a. Financial Plan. The claimant must demonstrate a workable financial plan for completing the school or training course after his benefits have been exhausted. (3-19-99)

b. Demand for Occupation. The claimant must establish there is a demand for the occupation in which the claimant will be trained. A "demand occupation" is one in which work opportunities are available and there is not a surplus of qualified applicants. (3-19-99)

c. Duration of Training. At the time that the claimant applies for the waiver, the duration of the school or training course is no longer than two (2) years to completion. (3-19-99)

d. Denial. No claimant shall be denied a waiver of the one (1) year limitation on school or training because the claimant is already enrolled or participating in the school or training at the time he requests the waiver. (3-19-99)

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

DOCKET NO. 09-0135-0501

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, 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 August 17, 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: The proposed change to IDAPA 09.01.35.040 is intended to include the ability to compromise the civil penalty provisions of Section 72-1372, Idaho Code, which is effective July 1, 2005. Without this change there would be no ability to compromise civil penalties or provide waivers for employers who otherwise meet the criteria for waiver or compromise of penalty. This change will provide uniformity in the application of the compromise provision.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The proposed change to IDAPA 09.01.35.040 is intended to include the ability to compromise the civil penalty provisions of Section 72-1372, Idaho Code, which is effective July 1, 2005.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the change is in response to legislative changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Arnold, Tax & Benefit Control Bureau Chief, 332-3570 x 3258.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Don Arnold
Tax & Benefit Control Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3258
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0501

040. COMPROMISE OF PENALTY AND CIVIL PENALTY.

Pursuant to Section 72-1354, Idaho Code, the Director or his authorized representative may, for good cause shown, compromise the amount of penalties owed on an employer account. An employer shall submit a request in writing for compromise of penalties, setting forth the reason(s) for the delinquency, and attaching any available evidence supporting the request. ~~(3-19-99)~~(7-1-05)T

01. Good Cause. An employer has good cause for the failure to timely pay contributions or for compromise of civil penalties when, in the opinion of the Director or his authorized representative, the employer has established that one (1) of the following criteria has been met: ~~(3-19-99)~~(7-1-05)T

a. The reason for the delinquency was beyond the reasonable control of the employer. Examples of circumstances that are beyond the reasonable control of the employer include, but are not limited to, the following: (3-19-99)

i. Departmental error, including but not limited to providing incorrect information to the employer or not furnishing proper forms in sufficient time to permit timely payment of contributions; (3-19-99)

ii. Death or serious illness or injury of the employer or the employer's accountant or members of their immediate families; (3-19-99)

iii. Destruction by fire or other casualty of the employer's place of business or business records; or (3-19-99)

iv. Postal service delays. (3-19-99)

b. The delinquency was due to circumstances for which the imposition of penalties would be inequitable. (3-19-99)

c. Good cause is also established in the case of an employer who has never received a status determination, who has never paid any contributions to the director, who voluntarily approaches the Department to inquire as to whether workers are engaged in covered employment, and the failure to pay contributions was due to the employer's good faith belief that the employer was not a covered employer pursuant to the provisions of Idaho Employment Security Law. Ref. Sec. 72-1354, Idaho Code. (7-1-05)

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

DOCKET NO. 09-0135-0502

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, 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 August 17, 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: The proposed change to IDAPA 09.01.35.134 will change the catchline of the subsection to better reflect the subject matter of the rule and establish the time restrictions for PEOs to apply for experience rate transfers from their clients. Without the change professional employer organizations (PEOs) might be unaware that the time frame for experience rate transfer applications of 180 days applies to them. This change will bring PEOs under the same guidelines already established for other entities.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with the recently-enacted Section 72-1351A, Idaho Code, which proscribes SUTA-dumping by employers and generally requires an employer's tax rate to reflect that individual employer's prior experience with the UI system. The change to the rule requires the PEO and the employer/client jointly to apply for the employer/client to be included within the PEO's blended experience rate, giving the Department an opportunity to evaluate each request to ensure that it is consistent with the requirements of Section 72-1351A, Idaho Code.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the change is intended to clarify an existing rule related to the time frame for experience rate transfers for PEOs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Arnold, Tax & Benefit Control Bureau Chief, 332-3570 x 3258.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Don Arnold
Tax & Benefit Control Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3258
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0502

134. PROFESSIONAL EMPLOYER ORGANIZATIONS.

A professional employer organization shall fully comply with the requirements of the Professional Employer Recognition Act, Chapter 24, Title 44, Idaho Code in order to be eligible for any transfers of experience rating as allowed by Section 72-1349B, Idaho Code. (3-15-02)

01. Methods of Reporting. To report the wages and employees covered by the professional employer arrangement between a professional employer and client, professional employers and their clients shall make reports to the Department in one (1) of the following ways, subject to the conditions in Subsections 134.02 through 134.06 of this rule: (3-15-02)

a. Report the workers included in the professional employer arrangement under the employer account number of the professional employer and transfer the rate of the client to the professional employer; or (3-15-02)

b. Report the workers included in the professional employer arrangement under the employer account number of the client without an experience rate transfer. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

02. Joint Transfer of Experience Rate. In order to effect a transfer of a client's experience rate into the experience rate of a professional employer organization, both the client and the professional employer organization shall jointly apply for the transfer of the experience rate within the same timeframes as required of employers by Section 72-1351(4), Idaho Code, from the date of the contract entered into between the professional employer organization and the client required by Section 44-2405, Idaho Code. Failure to submit a timely joint request for transfer of experience rate shall result in the professional employer organization reporting wages for the client under the employer account number of the client. Ref. Sec. 72-1351(4), Idaho Code. (7-1-05)

03. Partial Transfers of Experience Rate Prohibited. In the event that a client and a professional employer organization jointly apply to transfer the experience rate of the client into that of the professional employer, the client's entire experience rate and factors of experience rate shall be transferred into that of the professional employer, and no partial transfers of experience factors or the experience rate shall be allowed. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

04. ~~Mandatory Transfer of Experience Rate~~ Joint Application. If the professional employer organization elects to report the workers assigned to ~~the~~ a client under the experience rate account of the professional employer, ~~and the client employer has a deficit experience rate, the experience rate transfer shall be mandatory a joint application signed by the professional employer organization and the client employer must be submitted within one hundred eighty (180) days of the contract between the professional employer organization and the client. If the application is not received within this time frame, the workers assigned to the client employer must be reported under the experience rate account of the client without an experience rate transfer.~~ Ref. Sec. 72-1351, and 72-1349B, Idaho Code. ~~(3-15-02)~~(7-1-05)T

05. Partial Reporting of Workers. If some of the client's workers are included in the professional employer arrangement and some are not included, and the professional employer organization and the client elect to report the workers included in the professional employer arrangement under the employer account number of the client, then only one (1) quarterly report shall be remitted to the Department, which shall list or include all the client's workers whether or not included in the professional employer arrangement. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

06. Combined Wages or Services for Purposes of Coverage. If a client employer has employees or employment, or both, that does not independently meet the coverage or threshold requirements necessary to constitute covered employment, such employees, services or employment shall nonetheless be deemed to meet the coverage requirements of the Employment Security Law if, in combination with other employees, employment or services of such other employees of the professional employer organization or any of its clients, such wages, services or employees do jointly meet coverage requirements. (3-15-02)

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

DOCKET NO. 09-0135-0503

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 67-4702, 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 August 17, 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 proposed changes reflect housekeeping changes and name changes in response to the reorganization of the Department's tax and benefit overpayment bureaus. The changes are needed to reflect the name change for the tax and benefit overpayment bureaus, changes to statutory references which are no longer valid and non-substantive housekeeping changes.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Don Arnold, Tax & Benefit Control Bureau Chief, 332-3570 x 3258.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Don Arnold
Tax & Benefit Control Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3258
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0503

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU
UNEMPLOYMENT INSURANCE TAX ADMINISTRATION RULES

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Section ~~72-1333(2)~~ 67-4702, Idaho Code. ~~(3-19-99)~~(____)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 09.01.35, "~~Rules of the Employer Accounts Bureau Unemployment Insurance Tax Administration Rules~~". ~~(3-19-99)~~(____)

02. Scope. These rules govern Department procedures and the rights and duties of employers under the Unemployment Insurance Program. (3-19-99)

002. WRITTEN INTERPRETATIONS.

Explanations for rule changes are available for public inspection at the Idaho Department of Commerce and Labor, 317 W. Main Street, Boise, Idaho, 83735. Brochures explaining various provisions of Idaho's Employment Security Law are also available at the above address. ~~(3-19-99)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

011. GENERAL PROVISIONS.

The following ~~Rules for Employer Contributions Unemployment Insurance Tax Administration Rules~~ are adopted pursuant to Section ~~72-1333(2)~~ 67-4702, Idaho Code. ~~(3-19-99)~~(____)

01. Quarterly Reporting. Subject employers shall report all wages paid for services in covered employment each calendar quarter. Ref. Sec. 72-1337, Idaho Code. (3-19-99)

02. Contribution Due Date. Contributions are due on or before the last day of the month following the calendar quarter except if the last day of the month falls on a weekend or holiday, in which case the next workday is the due date. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

03. Penalties and Interest on Bankruptcy. Penalty and/or interest shall not be assessed on amounts covered in the Department's Proof of Claim with the Bankruptcy Court for the period after the filing date of the Bankruptcy Petition and ending with the conclusion of bankruptcy proceedings and distribution of assets. Post petition penalty and interest shall be compromised, provided the amount due is paid in full by a date established after the termination of the bankruptcy proceedings. Ref. Sec. 72-1356, Idaho Code. (3-19-99)

04. Lien Interest. Lien interest on a delinquent account shall be assessed against the remaining unpaid balance computed from the day following the recording of a tax lien, at a rate established by law. (See Section 056). Ref. Sec. 72-1360, Idaho Code. (3-19-99)

05. Penalty and Interest During Controversy. Penalty and/or interest shall be compromised for periods when a valid controversy exists if amounts determined to be due are paid in full by a date established at the conclusion of the issue. Ref. Sec. 72-1354 and 72-1360, Idaho Code. (3-19-99)

06. Confidential Information. Information obtained from an employer shall be held as confidential and shall not be released without the consent of the employer except as provided in IDAPA 09.01.08, "Rules on Disclosure of Information," Section 011 or when disclosure is necessary for collection of any amount due under the employment security law, or as otherwise provided by law or these rules. Ref. Sec. 9-340 and 72-1342, Idaho Code. (3-19-99)

07. Filing of an Employer Appeal. (3-30-01)

a. An appeal shall be in writing, signed by an interested party or representative, and shall contain words that, by fair interpretation, request the appeal process for a specific determination or redetermination of the Department. The appeal may be filed by delivering it, or faxing it, to any ~~Job Service~~ Idaho Commerce & Labor local office or to the ~~Employer Accounts~~ Tax and Benefit Control Bureau of the Idaho Department of Commerce and

Labor, 317 W. Main Street, Boise, Idaho 83735. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. A faxed appeal that is received by a ~~Job Service~~ Idaho Commerce & Labor local office or the ~~Employer Accounts Tax and Benefit Control~~ Bureau by 5 p.m. (as of the time zone of the office receiving the appeal) on a business day shall be deemed filed on that date. A faxed appeal that is received by a ~~Job Service~~ Idaho Commerce & Labor local office or the ~~Employer Accounts Tax and Benefit Control~~ Bureau on a weekend or holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. An appeal may also be filed by mailing it to any ~~Job Service~~ Idaho Commerce & Labor local office or to the ~~Employer Accounts Tax and Benefit Control~~ Bureau, Idaho Department of Commerce and Labor, 317 W. Main Street, Boise, Idaho 83735. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark on the request. Ref. Sec. 72-1361, Idaho Code. (~~3-30-01~~)(____)

b. An appeal should be accompanied by a specific statement, information or evidence which provides an explanation as to why the original determination is erroneous. (3-30-01)

c. In cases where a determination of amounts due is made by the Department pursuant to Section 72-1358, Idaho Code, the reports shall replace the determination and will be used to establish the employer's liability if (i) the employer files reports for the periods covered by the determination before the determination becomes final, and (ii) the Department determines that the reports are accurate and complete. If the Department determines the reports are not accurate or complete, the reports shall be treated as an appeal of the determination. (3-30-01)

08. Determinations. Determinations shall be in writing, signed by an authorized representative of the director, and shall contain provisions which advise the interested parties of their right to appeal the determination within fourteen (14) days from the date of mailing of the determination in accordance with Section 72-1361, Idaho Code. (3-30-01)

09. Determination of Payment Date. Each amount shall be deemed to have been paid on the date that the Department receives payment thereof in cash or by check or other order for the payment of money honored by the drawer on presentment; provided, that if sent through the mail, it shall be deemed to have been paid as of the date mailed as determined by the postmark on the envelope containing same, or the date of the check in lieu of a postmark. Provided further, that in the case of payments received by means of garnishment, execution, or levy, the amount received shall be deemed to have been paid as of the date that the order of garnishment, execution, or levy is served. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

10. Release of Lien Upon Payment in Full. An amount secured by a lien shall be deemed to be satisfied when payment in full is received by the Department in the form of cash, money order, or other certified funds, or proof presented that a check or other negotiable instrument has been honored by its drawer upon presentment. Ref. Sec. 45-1908, Idaho Code. (3-19-99)

11. Contribution Reports. Each contribution shall be accompanied by an employer's contribution report in a form or medium prescribed and furnished or approved for such purpose, giving such information as may be required, including number of individuals employed and wages paid or payable to each, which must be signed or furnished by the covered employer or, on ~~his~~ their behalf by someone having personal knowledge of the facts therein stated, and who has been authorized by the covered employer to submit the information. Ref. Sec. 72-1349, Idaho Code. (~~3-19-99~~)(____)

(BREAK IN CONTINUITY OF SECTIONS)

106. CLAIMS OF EXEMPTION.

Any employer claiming that services performed for ~~him~~ the employer or remuneration paid by ~~him~~ the employer does not constitute covered employment or covered wages, as defined in Section 72-1316 and 72-1328, Idaho Code, shall make a report to the Department of Commerce and Labor of all pertinent facts upon which said claim is based, which report shall be signed by the person making the claim, if he ~~be~~ is the employer, or on behalf of the employer by an authorized representative. Ref. Sec. 72-1337, Idaho Code. (~~3-19-99~~)(____)

(BREAK IN CONTINUITY OF SECTIONS)

132. STATUS.

01. Status Information Required. To determine the taxable status of an employer, detailed information regarding the business activities of any person engaged in business in Idaho shall be submitted as required, including articles of incorporation, articles of organization, minutes of boards of directors, financial reports, partnership agreements, number of employees, wages paid, employment contracts, income tax records, and any other records or other information which may tend to establish such person's status. Ref. Sec. 72-1337, Idaho Code. (3-19-99)

02. Notification to Liable Employers. Employers who are determined liable for contributions shall be notified by letter of their status as a covered employer. The employer's appeals rights to the determination shall also be explained in the letter. Ref. Sec. 72-1353 and 72-1361, Idaho Code. (3-19-99)

03. Status Determination. A formal determination of status shall be prepared if an employer questions ~~his~~ their liability. This status determination shall state the received facts and arrive at a logical conclusion based on these facts and precedent appeals decisions or legal opinions. Ref. Sec. 72-1353, Idaho Code. (~~3-19-99~~)()

04. Employer Quarterly Report Forms. Employers who are liable to pay tax contributions, or who have elected a cost reimbursement option in lieu of tax contributions, shall submit quarterly report forms in any form or medium designated by the director or his authorized representative. Ref. Sec. ~~72-1333~~ 67-4702, Idaho Code. (~~3-19-99~~)()

05. Update Requirements. Covered employers shall furnish the Department with pertinent status data when new or additional information is available. Ref. Sec. 72-1337, Idaho Code. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

166. FIELD OPERATIONS CONTROL.

When circumstances dictate, and as a result of nonpayment of liabilities, the employer shall be notified by mail to ~~his~~ the last known address of lien proceedings against ~~his~~ the employer's interests, with an explanation of the amounts due, and the accrual of interest at the proper rate until the lien is satisfied. Ref. Sec. 72-1360, Idaho Code. (~~3-19-99~~)()

01. Statute of Limitations for Audits and Inspections of Employer Records. In the absence of fraudulent practices, the Department shall not audit an employer's records for a period greater than three (3) years for purposes of establishing a tax liability. The three (3) year period shall be determined by, and extend three (3) years back from, the date that the employer is notified, orally or in writing by any representative of the Department, of an intent to perform an audit of the records, and shall be deemed to include every quarter which, in whole or in part, falls within the three (3) year period. This statute of limitations shall not apply in any case in which an employer has engaged in fraudulent practices. (3-30-01)

02. Tolling of Statute of Limitations. The three (3) year statute of limitations is tolled for any period in which the employer does not reside within the state. (3-30-01)

03. Notification of Audits. Employers shall be notified as soon as practicable of an impending payroll records audit for tax liability purposes. This shall allow time in which to agree as to a convenient time and place for audit. Ref. Sec. 72-1337, Idaho Code. (3-19-99)

04. Frequency of Audits. The frequency of audits or inspections of an employer's records to ensure compliance with the law and Department rules shall be based on the following criteria: (3-30-01)

a. On the basis of random selection and other selection criteria in accordance with federal requirements; (3-30-01)

b. As a result of information received from any source, provided that the information received is of such a nature that it would be reasonable to conduct an audit or inspection of records as a result of that information; or (3-30-01)

c. As a result of a previous audit, if the business practices or records of the employer are of such a nature that it would be reasonable for a Department employee to re-inspect or re-audit the records to ensure future compliance with the law. Ref. Sec. 72-1337, Idaho Code. (3-30-01)

05. Statute of Limitations for Collections of Contributions, Penalty and Interest. Administrative proceedings for collection of taxes from subject employers shall be instituted within five (5) years from the date of a final determination, decision or order establishing the employer's liability. (3-30-01)

a. The time limits contained in Subsection 166.05 shall not apply once a tax liability is recorded as a lien against the property of an employer. (3-30-01)

b. If the employer or his representative acknowledges the indebtedness or makes a partial payment thereon, the statute of limitations for collection shall be extended an additional three (3) years from the date of such payment or acknowledgement. (3-30-01)

06. Execution Against Assets. The Department of Commerce and Labor, when the situation warrants, shall levy upon or execute against any real or personal property, both tangible and intangible, in which an indebted person has an interest, including any offsets as allowed by Section 67-1026, Idaho Code. Ref. Sec. 72-1360, Idaho Code. (3-30-01)

07. Relief of Indebtedness. Neither the full running of the statute of limitations nor the writing off of the account as uncollectible relieves an employer of tax indebtedness. Ref. Sec. 72-1364, Idaho Code. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

186. ACCOUNTING AND DELINQUENCY CONTROL.

Overpayments on employer accounts may be refunded without written application by the employer. Credits resulting from overpayments or adjustments to an employer's account shall be refunded periodically unless such credit is applied to a subsequent balance due. Ref. Sec. 72-1357, Idaho Code. (3-19-99)

01. Erroneous Wage Reports. An employer submitting an erroneous report of employee wages resulting in payment of unearned unemployment insurance benefits shall have said benefit payments subtracted from any refund due that employer, if such employer benefited from the unearned benefit payments. Ref. Sec. ~~72-1333~~ 67-4702 and 72-1372, Idaho Code. (~~3-19-99~~)()

02. Notification of Underpayments. Employers shall be notified periodically of any taxes, penalties, or lien interest due on their tax account. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

03. Cancellation of Refund Warrants. Refund warrants, outstanding after the validity date, shall be canceled, stop-payment procedures initiated, and then reissued only upon completion of an affidavit for the replacement of the lost or destroyed warrant. Ref. Sec. ~~72-1333~~ 67-4702, Idaho Code. (~~3-19-99~~)()

(BREAK IN CONTINUITY OF SECTIONS)

231. EXPERIENCE RATING - QUALIFYING PERIOD.

When an eligible employer ceases to have covered employment for a period of six (6) consecutive quarters or more, ~~he~~ they must complete another qualifying period in order to again be eligible for consideration for a reduced contribution rate. Ref. Sec. 72-1319, Idaho Code. ~~(3-19-99)~~(____)

232. -- 240. (RESERVED).

241. BOARD, LODGING, MEALS.

When board, lodging, meals, or any other payment in kind considered as payment for services performed by an employee constitute a part of wages or wholly comprise an employee's wages, the value of such board, lodging, or other payment shall be determined as follows: (3-19-99)

01. Cash Value. If a cash value for such board, lodging, or other payment is agreed upon in any contract of hire, the amount so agreed upon shall be used provided it is a reasonable, fair market value. If there is no agreement, or if the contract of hire states an amount less than a reasonable, fair market value, the Department of Commerce and Labor shall determine the reasonable or fair market value to be used. Ref. Sec. 72-1328, Idaho Code. (3-30-01)

02. Meals and Lodging Not Included in Gross Wages. The value of meals and lodging furnished by an employer to ~~his~~ the employee will not be included in the employee's gross income if it meets the following tests: ~~(3-19-99)~~(____)

a. The meals or lodging are furnished on the employer's business premises; (3-19-99)

b. The meals or lodging are furnished for the employer's convenience; and (3-19-99)

c. In the case of lodging (but not meals), the employees must be required to accept the lodging as a condition of their employment. This means that they must accept the lodging to allow them to properly perform their duties. In addition, in order to exclude the value of lodging from an employee's gross wages, the employer must show that the wages paid to the employee for services performed meets the prevailing wage for those services. If the employer's records do not show or establish that the employee received the prevailing wage for services performed, then the reasonable or fair market value of the lodging will be included in the employee's gross income as wages. Ref. Sec. 72-1328, Idaho Code. (3-19-99)

03. Meals or Lodging for Employer Convenience. Meals or lodging furnished will be considered for the employer's convenience if the employer has a substantial business reason other than providing additional pay to the worker. A statement that the meals or lodging are not intended as pay is not enough to prove that either meals or lodging are furnished for the employer's convenience. Ref. Sec. 72-1328, Idaho Code. (3-19-99)

04. Subsistence Remuneration. In the case of employees who receive remuneration in the form of subsistence, such as groceries, staples, and fundamental shelter, the fair value of such subsistence will be determined by the Director. Ref. Sec. 72-1328, Idaho Code. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

275. UI DELIVERY SYSTEMS.

The Department of Commerce and Labor shall be responsible for analyzing, designing, testing, and assisting in implementing new and improved UI delivery systems for claimants and employers. Ref. Sec. ~~72-1333~~ 67-4702, Idaho Code. ~~(3-19-99)~~(____)

01. Testing. The testing of new or improved UI delivery systems in Idaho shall be accomplished at various selected locations with selected claimants and/or employers as pilot projects. Ref. Sec. ~~72-1333~~ 67-4702, Idaho Code. ~~(3-19-99)~~(____)

02. Inclusion in Testing or Development. The development or testing of a UI delivery system shall not necessarily include all claimants or employers at a location or at all locations serving the public. Ref. Sec. ~~72-1333~~ 67-4702, Idaho Code. ~~(3-19-99)~~(____)

03. Advisement of Changes. All claimants and employers included in a test system shall be advised of any changes which may occur and which may affect their eligibility for benefits or the amount of taxes which they must pay. Ref. Sec. ~~72-1333~~ 67-4702, Idaho Code. ~~(3-19-99)~~(____)

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

DOCKET NO. 09-0135-0504

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, 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 August 17, 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: The proposed change to IDAPA 09.01.35.056 clarifies that interest on civil penalties and civil penalties imposed will be paid after tax interest, tax penalty and tax have been paid for each calendar quarter.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The rule is being changed to provide guidance and notice to the public regarding the order in which payments received by the Department will be applied to taxes owed, tax interest, tax penalty and civil penalties assessed. The rule is being changed in response to Section 72-1372, Idaho Code, which is effective July 1, 2005.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it is being amended to clarify the payment order for interest, civil penalties and penalties in an existing rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Arnold, Tax & Benefit Control Bureau Chief, 332-3570 x 3258.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Don Arnold
Tax & Benefit Control Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3258
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0504

056. APPLICATION OF PAYMENTS ON DELINQUENT ACCOUNTS.

Whenever and if a delinquency exists in the account of an employer, and payment in an amount less than the total delinquency is submitted to the Department upon said account, the Department shall, unless other arrangements have been made and approved by the Department, apply payment as follows: (3-19-99)

01. First Application. First, credit such payment in satisfaction of interest due for the calendar quarter or period most delinquent in point of time; (3-19-99)

02. Second Application. Next, credit the remainder of such payment in satisfaction of penalty due for such calendar quarter or period most delinquent in point of time; (3-19-99)

03. Third Application. Next, credit the remainder of such payment in satisfaction of contributions due for the calendar quarter or period most delinquent in point of time; (3-19-99)

04. Subsequent Applications. Such applications shall be applied in a like manner for each remaining delinquent quarter. Any remaining credit shall be applied to interest on civil penalties then to civil penalty due until the amount of payment is exhausted. Ref. Sec. 72-1354, Idaho Code. ~~(3-19-99)~~(7-1-05)T

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

DOCKET NO. 09-0135-0505

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 67-4702, 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 August 17, 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 proposed change to IDAPA 09.01.35.061 adds a definition for casual labor and clarifies the application of the casual labor exemption. The definition is being added to conform to federal unemployment tax provisions which exclude corporations from the unemployment tax exemption for casual labor.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the change is being made to be consistent with federal law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Don Arnold, Tax & Benefit Control Bureau Chief, 332-3570 x 3258.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Don Arnold
Tax & Benefit Control Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3258
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0505

061. DEFINITIONS.

The definitions listed in IDAPA 09.01.35, "~~Rules of the Employer Accounts Bureau~~ Unemployment Insurance Tax Administration Rules," Section 011, and the following are applicable to ~~this~~ the Tax and Benefit Control Bureau.

~~(3-19-99)~~()

01. Tolerance Amount. A tolerance of four dollars and ninety-nine cents (\$4.99) is established in connection with collection of amounts due; and under normal circumstances, no delinquency or credit will be issued or carried on the books of accounts for this amount or less. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

02. Wages. The term “wages” includes all remuneration from whatever source, paid or given in exchange for services performed or to be performed, including the cash value of remuneration in any medium other than cash. “Wages” in covered employment, and subject to unemployment insurance reporting, include, but are not limited to: (3-19-99)

a. Commissions, bonuses, draws, distributions, dividends and any other forms or types of payments made by corporations or other similar entities if paid in exchange for services; (4-5-00)

b. Bonuses, prizes, and gifts given to an employee in recognition of services, sales, or production; (3-19-99)

c. Commissions for past services in covered employment; (3-19-99)

d. Remuneration paid to corporate officers which is paid in exchange for services performed or to be performed for or on behalf of the corporation; (4-5-00)

e. Salary advances against commissions; (3-19-99)

f. All forms of profit sharing for services rendered unless specifically exempt under Section 72-1328, Idaho Code; (3-19-99)

g. Excess travel or employer business allowances over actual expense, or over the federal allowance per diem rate for the area of travel, unless returned to the employer; (3-19-99)

h. Vacation or “idle-time” pay, no matter when paid; (3-19-99)

i. Personal expense reimbursement, not gifts, i.e., clothing, family expenses, rent. (3-19-99)

j. The director or his authorized representative shall determine the fair market value of any other remuneration, regardless of its classification, form, or label, which is paid to a worker in exchange for services. In making such determination, consideration will be given to the prevailing wage for similar services. Ref. Sec. 72-1328, Idaho Code. (3-19-99)

k. Noncash payments for farm work, if such payments would be classified as wages for federal tax purposes. Ref. Sec. 72-1328, Idaho Code. (3-15-02)

03. Exclusions From Wages. The term “wages” described in Section 72-1328, Idaho Code, does not include the following: (3-19-99)

a. Prizes or gifts for special occasions which are expressions of good will; (3-19-99)

b. Bonuses paid for signing a contract; (3-19-99)

c. Fees paid to participate periodically in meetings of boards of directors unless exceedingly high; i.e., amounts comparable to other employers in the same industry, of relatively the same size; (3-19-99)

d. Drawings or advances by partners of a partnership, or by members of a limited liability company treated for federal tax purposes as a partnership or sole proprietorship; (4-5-00)

e. Rental charge for personal equipment provided by the employee on the job: if (3-19-99)

- i. There is a rental agreement; and (3-19-99)
- ii. The worker has received a reasonable wage for services performed; and (3-19-99)
- iii. The fees are held separately on the employer's records. (3-19-99)
- f.** Stock or membership interests issued for purposes other than services performed or to be performed; (3-19-99)
- g.** Reimbursement for actual employee expense, or business allowance arrangements with employees that requires them: (3-19-99)
 - i. To have paid or incurred reasonable job related expenses while performing services as employees; and (3-19-99)
 - ii. To account adequately to the employer for these expenses; and (3-19-99)
 - iii. To return any excess reimbursement or allowance. (3-19-99)
- h.** Payments for employee travel expenses, provided: (3-19-99)
 - i. Payments are job related expenses while performing services; and (3-19-99)
 - ii. Payments do not exceed actual expenses or the federal allowance per diem rate for the area of travel; and (3-19-99)
 - iii. Records for days of travel pertaining to per diem payments are verifiable. (3-19-99)
- i.** Employee fringe benefits as set forth in Section 132 of the Internal Revenue Code, which are excluded from an employee's gross income and which are not subject to federal unemployment taxes. (3-19-99)
- j.** Noncash payment to farmworkers. Noncash payments for farm work will be excluded from wages if they are "de minimis" in relation to the amount of cash wages paid to the farmworkers, or are not intended to be treated as the cash equivalent of wages, or as the cash payment of wages. Ref. Sec. 72-1328, Idaho Code. (3-15-02)

04. Treatment of Limited Liability Companies. For purposes of state unemployment tax coverage, a limited liability company will have the same status as it may have elected for federal tax purposes, or as that status may be determined or required by the federal government, subject to the provisions of Subsections 061.02 and 061.03. (4-5-00)

05. Domestic Employment. Domestic employment is defined as work performed in the operation or maintenance of a private home, local college club, or local chapter of a college fraternity or sorority, as distinguished from services as an employee in pursuit of an employer's trade, occupation, profession, enterprise, or vocation. In general, domestic employment "in the operation or maintenance of a private home, local college club, or local chapter of a college fraternity or sorority" includes, but is not limited to, services rendered by: (3-15-02)

- a.** Cooks; (3-15-02)
- b.** Waiters; (3-15-02)
- c.** Butlers; (3-15-02)
- d.** Maids; (3-15-02)
- e.** Janitors; (3-15-02)
- f.** Laundresses; (3-15-02)

- g.** Furnacemen; (3-15-02)
- h.** Handymen; (3-15-02)
- i.** Gardeners; (3-15-02)
- j.** Housekeepers; (3-15-02)
- k.** Housemothers; and (3-15-02)
- l.** In-home caregivers. Ref. Sec. 72-1315, Idaho Code. (3-15-02)

06. Casual Labor. Services performed by an individual not in the course of the employer's trade or business who earns less than fifty dollars (\$50) per calendar quarter per service provided and is not regularly employed by that employer to perform such service, are exempt from unemployment insurance coverage. Ref. Sec. 72-1316A(19), Idaho Code. Domestic employment exempt as casual labor may not be exempt if the employer is covered for such service under Section 72-1315(8), Idaho Code. The term, "services not in the course of the employer's trade or business", refers to services that do not promote or advance the trade or business of the employer. The casual labor exemption found under Section 72-1316A(19), Idaho Code, does not apply to services performed for corporations because all services performed for a corporation are considered to be in the course of the trade or business of the corporation. ()

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

DOCKET NO. 09-0135-0506

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, 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 August 17, 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: IDAPA 09.01.35.096 is being amended to include online registration as an additional method for employer business registration reporting.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The online Idaho Business Registration system was deployed in 2004 as an efficient and alternative method for businesses to register with the Department. This change reflects this additional method of registration of benefit to Idaho employers.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Arnold, Tax & Benefit Control Bureau Chief, 332-3570 x 3258.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Don Arnold
Tax & Benefit Control Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3258
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0506

096. EMPLOYER STATUS REPORT.

01. Status Report. Each employer shall report on such form or ~~forms~~ any online system as may be prescribed and furnished, such information as may be necessary to make an initial or subsequent determination of ~~his~~ status under the Idaho Code. Said reports shall be signed by ~~the person making the same if he is~~ the employer, or on behalf of the employer by ~~his~~ a duly authorized representative for such purpose. Ref. Sec. 72-1337, Idaho Code.

~~(3-19-99)~~(7-1-05)T

02. Exceptions. The provisions of this Rule shall not apply to any employer for whom the services performed do not, by virtue of the provisions of Section 72-1316, Idaho Code, constitute covered employment, except that the director reserves the right, in his discretion, to require any such employer at any time to make the reports mentioned in Section 096 of this rule. Ref. Sec. 72-1337, Idaho Code.

(3-19-99)

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

DOCKET NO. 09-0135-0507

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, 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 August 17, 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: The proposed changes to IDAPA 09.01.35.081 are intended to provide clear authority for the Department's request for employer records for a variety of statutorily required investigations, including new federal requirements to perform SUTA dumping investigations.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This change is in response to new federal requirements for the Department to perform investigations to determine if SUTA dumping has occurred.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is in response to federal requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Arnold, Tax & Benefit Control Bureau Chief, 332-3570 x 3258.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Don Arnold
Tax & Benefit Control Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3258
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0507

081. EMPLOYER RECORDS.

Each person hiring one (1) or more individuals, whether or not such employment is sufficient to create the status of a covered employer, shall establish and maintain records to show the information hereinafter indicated. Such records shall be kept for a period of three (3) years after the calendar year in which the remuneration was due. Ref. Sec. 72-1337, Idaho Code. (3-19-99)

01. Required Information. Such records shall show with respect to each employee unless the Department has ruled that ~~his~~ the services do not constitute covered employment: (~~3-19-99~~)(7-1-05)T

- a. Full name and home address of worker; (3-19-99)
- b. Social Security account number; (3-19-99)
- c. ~~His~~ The place of work within this State; (~~3-19-99~~)(7-1-05)T
- d. Date on which employee was hired, rehired, or returned to work after temporary or partial layoff; (3-19-99)
- e. Date employment was terminated; whether the termination occurred by voluntary action of the individual and the reason given, or by discharge or death, and the reason for discharge; (3-19-99)
- f. Wages paid for employment in each pay period and total wages for all pay periods ending in each quarter of the year, showing separately: (3-19-99)
 - i. Money wages; (3-19-99)
 - ii. The cash value of other remuneration; and (3-19-99)
 - iii. The amount of all bonuses or special commissions. (3-19-99)

02. Special Remuneration. Any special remuneration paid for services performed in more than one quarter (1/4) of the year, such as annual commissions or bonuses, gifts and prizes, showing separately: (3-19-99)

- a. Money payments; and (3-19-99)
- b. The cash value of other remuneration and the nature thereof. (3-19-99)

03. Travel or Employee Business Expenses. Amounts paid to employees as allowances or reimbursement for travel and employee business expenses and the amounts of such expenditures actually incurred and accounted for by them. (3-19-99)

04. Records to be Made Available. The records to be made available to the director or his authorized representative, in accordance with the provisions of Section 72-1337, Idaho Code, shall include all of the business records, such as journals, ledgers, time books, minute books, or any other records or information which would tend to establish the existence of and/or amounts paid for services performed, whether or not in covered employment, and for information necessary to assist in or enable collection efforts or any other investigations conducted by the department. (~~3-19-99~~)(7-1-05)T

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

DOCKET NO. 09-0135-0508

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, 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 August 17, 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 proposed changes to IDAPA 09.01.35.221 will substitute a notice provision for all interested parties in lieu of the issuance of a status determination when a request for experience rate transfer is requested. The method that is used to compute partial experience rate transfers. Removal of the quantitative explanation of what constitutes substantially the same ownership, management or control in a predecessor business to reflect current federal regulations. The quantitative explanation will be replaced with examples of factors that will be considered when determining whether the successor business is substantially the same as the predecessor business.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Current federal regulations object to quantitative requirements for determining a continuation of ownership, management or control from predecessor to successor businesses when transferring an experience rating. The change is being made to comply with requirements in the federal SUTA Dumping Act.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is in response to federal requirements.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Arnold, Tax & Benefit Control Bureau Chief, 332-3570 x 3258.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Don Arnold
Tax & Benefit Control Bureau Chief
Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
332-3570 x 3258
334-6301 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0508

221. TRANSFER OF EXPERIENCE RATING.

Upon request, employers shall be informed of the requirements for transferring an experience rating record. ~~A status determination~~ Notification shall be issued to interested parties when an experience rating record transfer request is made. Ref. Sec. 72-1351, Idaho Code. ~~(3-15-02)(7-1-05)T~~

01. Mandatory Transfer of Rate. An experience rating record transfer shall be mandatory if there is a continuity of business activity and ownership or management or control is substantially the same between the predecessor and successor. The parties in interest shall be notified of such transfer of experience as determined from the facts applicable to the case. Such determination may be appealed as provided in Ref. Sec. 72-1351, 72-1361, Idaho Code. ~~(3-20-04)(7-1-05)T~~

02. Partial Experience Rate Transfers. The following method is used to compute the pro-rata share of the experience rate account that is to be transferred from the predecessor to a successor. The pro-rata share is determined by dividing the gross payroll associated with the portion of the business acquired by the total gross payroll for the entire business operations for the same time period. The time period upon which this computation is based is the four (4) most recently completed quarters as reported by the predecessor prior to the date of acquisition or change in entity. ~~(7-1-05)T~~

023. Continued Predecessor Employment for Liquidation. When a total transfer of experience rating record has been completed and it is found that the predecessor employer continues to have employment in connection with the liquidation of his business, such employer shall continue to pay contributions at the assigned rate for the period of liquidation but not to extend beyond the balance of the rate year. Ref. Sec. 72-1351, Idaho Code. (3-19-99)

034. Management or Ownership ~~Unchanged~~ or Control Substantially the Same. For the purposes of Sections 72-1351(45)(a) and (b), Idaho Code, ~~management and/or ownership shall be considered substantially the same if at least fifty percent (50%) of the business enterprise of the successor is owned or controlled by individuals who, immediately preceding the change in the legal entity, owned or controlled fifty percent (50%) or more of the enterprise. Ref. Sec. 72-1351, Idaho Code~~ in determining whether the ownership or management or control of a successor is substantially the same as the ownership or management or control of the predecessor factors to be considered include, but are not limited to, the extent of policy making authority, the involvement in daily management of operations, the supervision over the workforce, the percentage of ownership of shares or assets, and the involvement on boards of directors or other controlling bodies. ~~(3-15-02)(7-1-05)T~~

045. Wage Paid by Predecessor. The successor employer may use wages paid by the predecessor employer to arrive at the wage base for purposes of calculating taxable wages only when the experience rate of a predecessor employer has been transferred to a successor employer. Ref. Sec. 72-1349(1), 72-1351(45), and 72-1350(8), Idaho Code. ~~(3-15-02)(7-1-05)T~~

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR
09.02.01 - IDAHO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

DOCKET NO. 09-0201-0501

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is effective September 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-4702, Idaho Code.

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

Date & Time:	Tuesday, August 23, 2005, at 5:00 p.m.
Location:	A and B Conference Room Idaho Commerce and Labor 700 W. State St. Boise, ID 83702

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

DESCRIPTIVE SUMMARY: The following is 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: These proposed changes to IDAPA 09.02.01 eliminate inaccurate or redundant language and application requirements, change the point values for ranking applications, remove biases against some types of project applications, encourage applications for preferred types of projects, allow for teleconferencing and the electronic submission of information, and require applicants to follow state and federal procurement standards.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This rule will take effect at the beginning of the new grant application period. The changes to these rules confer benefits to applicants by allowing electronic submissions of materials thereby reducing the cost to these applicants and the changes allow smaller cities and counties to more effectively compete when applying for grants.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule making was not conducted because the Department needed to adopt a temporary rule and it was determined that it was not feasible to enter into negotiated rulemaking at this time.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dianna Clough, Community Development Manager, (208) 334-2650 ext. 2140.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 3rd day of August, 2005.

Dianna Clough
Community Development Manager
Department of Commerce and Labor
State Street Office
700 W. State Street
Boise, ID 83720-0093
334-2650 ext. 2140
334-2631 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0201-0501

016. BENEFIT TO LOW AND MODERATE INCOME PERSONS.

01. Definition. Members of a family having an income within family income standards established by HUD for housing and community development programs. Unrelated individuals are considered one (1) person families. Low income is defined as families with income of fifty percent (50%) or less of the county median income. Moderate income is defined as families with income of eighty percent (80%) or less of the county median income. HUD established that county median income is the greater of either the county median income or the median income of the "non-entitlement" area of the state. Activities considered to benefit LMI persons are divided into four (4) categories: area benefit activity, limited clientele activity, housing activity, and job creation or retention activity.

(7-6-94)

02. Area Benefit Activity. A grant project which meets the needs of LMI persons residing in an area where at least fifty-one percent (51%) of the residents are LMI persons. The benefits of this project are available to all persons in the area regardless of income. Such an area need not have the same boundaries as census tracts or other officially recognized boundaries but must be the entire area served by the project. A project that serves an area that is not primarily residential in character (i.e. street construction in an industrial park) shall not qualify under this category.

(7-6-94)

03. Limited Clientele Activity. A grant project which benefits a specific group of people, at least fifty-one percent (51%) of whom are LMI persons. Limited clientele activities also include special projects to remove material and architectural barriers which restrict the mobility and accessibility of elderly or persons with disabilities to publicly-owned and privately-owned non-residential buildings. To qualify in limited clientele activity, the activity must meet one (1) of the following tests:

(7-6-94)

a. Benefits a clientele group who are generally presumed to be principally LMI persons. Currently, the following groups are presumed by HUD to meet this criterion: elderly persons, homeless persons, persons with disabilities, migrant farm workers, abused children, battered spouses, illiterate persons; or

(7-6-94)

b. Information on family size and income proves that at least fifty-one percent (51%) of the clientele are persons whose family income does not exceed the LMI limit; or

(7-6-94)

c. Income eligibility requirements limit the activity exclusively to LMI persons; or

(7-6-94)

d. By the nature and location it may be concluded that the clientele will primarily be LMI persons; or

(7-6-94)

e. A special project directed to removal of material and architectural barriers which restrict the mobility and accessibility of elderly or persons with disabilities to publicly owned and privately owned non-residential buildings, facilities and improvements, and the common areas of residential structures containing more than one dwelling unit.

(7-6-94)

04. Housing Activity. A grant project which adds to or improves permanent, residential structures which, upon completion, will be occupied by LMI households. This project may include, but not necessarily be limited to, the acquisition or rehabilitation of property, conversion of non-residential structures, and new housing construction. (7-6-94)

a. The housing may be either one (1) family or multifamily structures. If the structure contains two (2) dwelling units, at least one (1) must be so occupied, and if the structure contains more than two (2) dwelling units, at least fifty-one percent (51%) of the units must be so occupied. Where two (2) or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. For rental housing, occupancy by low and moderate income households must be at affordable rents to qualify under this criterion. The unit of general local government shall adopt and make public its standards for determining "affordable rents" for this purpose. (7-6-94)

b. The following shall also qualify under this criterion. When less than fifty-one percent (51%) of the units in a structure will be occupied by low and moderate income households, ICDBG assistance may be provided in the following limited circumstances: the assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project; not less than twenty percent (20%) of the units will be occupied by low and moderate income households at affordable rents; and the proportion of the total cost of developing the project to be borne by ICDBG funds is no greater than the proportion of units in the project that will be occupied by low and moderate income households. (7-6-94)

05. Job Creation or Retention Activity. A grant project which creates or retains permanent jobs, at least fifty-one percent (51%) of which are either taken by LMI persons or considered to be available to LMI persons. (7-6-94)

a. Acceptable documentation on applicant/employee family income includes any of the following: (3-20-97)

i. Notice that employee/applicant is a referral from state, county, or local employment agency or other entity that agrees to refer individuals who they determine to be low or moderate income based on HUD's criteria. These entities must maintain documentation which is to be available for grantee, Department, or federal inspection; or (3-20-97)

ii. Written certification signed by the employee/applicant of family income and size to establish income status showing either: The actual income of the family; or, a statement that the family income is below that required by CDBG standards. These forms must include a statement that they are subject to verification by the local or federal government; or (3-20-97)

iii. Evidence that employee/applicant qualifies for assistance under another program with income qualification criteria at least as restrictive as those used by HUD (e.g., referrals from the *Joint Training Partnership Act (JTPA) Program* Workforce Investment Act (WIA) program), except for referrals under the *JTPA Title III WIA* (~~3-20-97~~)(9-1-05)T program for dislocated workers. (3-20-97)

b. For an activity designed to create permanent jobs where at least fifty-one percent (51%) of the jobs, computed on a full time equivalent basis, involve the employment of low and moderate income persons. For an activity that creates jobs, the unit of general local government must document that at least fifty-one percent (51%) of the jobs will be "held by", or will be made "available to", low and moderate income persons. The unit of local government and the business must determine at the time of pre-application whether they will use "held by" or the "available to" criteria as their method of documenting LMI jobs. The option chosen cannot be changed at a later date (3-20-97)

c. For an activity that retains jobs, the unit of general local government must document that the jobs would actually be lost without the ICDBG assistance and that either or both of the following conditions apply with respect to at least fifty-one percent (51%) of the jobs at the time the ICDBG assistance is provided: The job is known to be held by a low or moderate income person; or the job can reasonably be expected to turn over within the following two (2) years and that it will be filled by, or that steps will be taken to ensure that it is made available to, a

low or moderate income person upon turnover.

(7-6-94)

d. Jobs will be considered to be “available to” low and moderate income persons for these purposes only if: special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and the unit of general local government and the assisted business take actions to ensure that low and moderate income persons receive first consideration for filling such jobs. First consideration shall consist of the business using a hiring practices that in all likelihood will result in over fifty-one percent (51%) of persons hired being LMI persons, the business must seriously consider/interview an adequate number of LMI applicants, the availability of transportation must be considered to allow LMI persons to commute to the job site. The hiring practice used to make jobs available to LMI persons shall be identified in the pre-application and approved by the Department. (3-20-97)

e. As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under this paragraph, except: in certain cases, such as where ICDBG funds are used to acquire, develop or improve a real property (e.g., a business incubator or an industrial park), the requirement may be met by measuring jobs in the aggregate for all the businesses that locate on the property, provided the businesses are not otherwise assisted by ICDBG funds; and where ICDBG funds are used to pay for the staff and overhead costs of a subrecipient specified in Section 105(a)(15) of the Act making loans to businesses from non-ICDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during any one (1) year period. (7-6-94)

f. In any case where ICDBG funds are used for public improvement (e.g., water, sewer and road) and the national objective is to be met by job creation or retention as a result of the public improvement, the requirement shall be met as follows: the assistance must be reasonable in relation to the number of jobs expected to be created or retained by the affected business(es) within two (2) years from the completion of the public improvement. If the ICDBG assistance is under ten thousand dollars (\$10,000) per job created or retained, then only businesses applying for ICDBG assistance need to be assessed for low and moderate income job creation or retention. If the ICDBG equals ten thousand dollars (\$10,000) per job then any business benefiting by the public improvement, for a period of up to one (1) year after the physical completion of the public improvement, must be assessed for low and moderate income job creation or retention. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

053. GRANT APPLICATION PROCESS.

01. Grant Application. The Grant Application generally consists of a Notice of Intent to apply, the Application, and an Addendum. These are submitted to the Department at different times in the application process. (7-6-94)

a. Notice of Intent. A one (1) page letter sent to the Department as soon as a community decides to submit a grant application. This is an optional, but strongly recommended, step. It allows the Department to assist the community with eligibility and structuring of the proposed project. (7-6-94)

b. Application. The major required document which describes and documents the applicant’s proposed project. It contains the information required to document that the proposed project will meet a national objective and consists of eligible activity(ies). The Application is the basis of the Department’s and the EAC’s review and ranking of the project. (7-6-94)

c. Addendum. Additional information required by the Department to further document the project or to fulfill additional federal requirements once the Application has been selected by the Economic Advisory Council. (7-6-94)

02. Project. A project shall address a single need and may consist of one (1) or more eligible activities which are to be undertaken with the ICDBG funds and any other funds committed to the project. A project also

includes all the benefits which are to result from the related activities and from compliance with all federal and state laws and regulations which are conditions of the grant. The principal activity which directly addresses the problem area shall represent a majority of funds requested; other activities must be incidental to, and in support of, the principal activity. For example, a program which addresses a housing need might include housing rehabilitation as the principal activity. Support activities such as street improvements or demolition must be incidental and clearly in support of the principal activity. (7-6-94)

03. Funding. In addition to ICDBG funds, the other funds committed to a project are divided into other government funds, local matching funds, and private funds. Other government funds are from state, federal, or foundation sources provided to the grantee for the project. Local matching funds are defined as cash donations, capital reserves, program income (Section 171), cash resulting from debt financing, local improvement districts, general obligation or revenue bonds, tax levies, land sales or miscellaneous revenue. Local matching funds are generally those funds and contributions raised by the residents of the grantee. ~~Local cash the community has raised prior to submittal of the application, i.e. cash reserves, cash donations, program income and capital improvement funds, which is not debt financing, will be calculated at a higher rate than other contributions of local match.~~ Also to be considered as local matching funds are; the fair market value of the time of local government crews (force account) working on the project, donations of land, materials, and equipment for the project, waiver of local fees, and volunteer labor. Private funds are from individuals, businesses, or corporations which are spent on private property, but are necessary to the completion of the project and the generation of the benefits. Direct loans to individuals on housing projects will not be considered local match. (3-30-01)(9-1-05)T

04. Documentation. Firm evidence of in-kind contributions of equipment or materials will be considered as cash. The value of land may be considered as local match if the value of the real estate is documented. Architectural or engineering estimates of labor, materials and equipment should be prepared to determine value of these items. Other documentation such as Bills of Sale, catalogue price lists, retail prices, etc. should be used. The value of a donation or a commitment of land should be documented by appraisals or fair market value. Volunteer labor should be estimated by man hour, types of skills needed and wage rates. Documentation of insurance coverage for volunteers should be included in the application. This documentation should be a letter from the insurance agent of the community or civic group. (7-6-94)

(BREAK IN CONTINUITY OF SECTIONS)

065. PRESENTATION TO ECONOMIC ADVISORY COUNCIL.

The applicant's presentation to the Advisory Council shall be optional and may be done through teleconferencing. The presentation shall be made by an elected official of the local government applying for a grant. These elected officials include the mayor or council members or county commissioners. Others may be involved in the presentation to present additional information. The presentation should briefly review the project, the local commitment to the project, the local effort on the project, the degree of local economic impact from the project and the degree to which the project improves the community as a place to live. (7-6-94)(9-1-05)T

066. INVITATION TO SUBMIT APPLICATION ADDENDA.

~~After the presentations~~ For public facility and economic development applications, the Council will ~~then~~ review the staff recommendation and the information presented. The Council will assign their points and will direct the Department to invite the highest rated applicants to submit application Addenda, if required and if funding is available. (7-6-94)(9-1-05)T

067. ECONOMIC ADVISORY COUNCIL POINTS.

The Council, in assigning these points to the Applications and Addenda, shall consider the degree of impact from the project upon the community and shall compare similar type projects with each other. Consideration may include local ability to finance the project, local effort and commitment to the project, and local and regional economic impact of the project. These points shall be assigned to Applications based upon the Council's review of the information contained in the Application and the staff's review and recommendations. These points shall be assigned to the Addendum by the Economic Advisory Council after their review of the Applications and Addenda ~~and after hearing the presentations from applicants.~~ The Council shall decide on the amount of points to be assigned to each

Application in the Council's regular meeting for reviewing Applications or at a special meeting according to Subsection 094.04. (7-6-94)(9-1-05)T

(BREAK IN CONTINUITY OF SECTIONS)

072. FORMAT.

An Application shall be submitted on eight and one-half inch (8-1/2") by eleven inch (11") white paper. It may be printed on both sides of the paper. Maps and larger sheets shall be folded to eight and one-half inch (8-1/2") by eleven inch (11") size. Left and right margins shall be one (1) inch. The text shall be typed single-spaced with double spaces between paragraphs. Pages shall be numbered. The types of headings and numbering systems are optional to the applicant. Supporting documents should be noted and placed in an appendix. All Applications shall be bound. Type of binding is optional to the applicant. The original and ~~one (1) copy of~~ an electronic Application shall be submitted to the Department of Commerce and Labor as prescribed in the ICDBG Application Handbook. ~~The applicant shall also submit one (1) copy to its regional representative on the Idaho Economic Advisory Council.~~ (7-6-94)(9-1-05)T

073. LENGTH (RESERVED).

~~The Economic Development project Application shall consist of no more than twenty (20) pages, plus attachments. PFH and SR Applications shall be on forms prepared by the Department and shall not exceed fifteen (15) pages, plus attachments. The forms, the narrative, and appended information shall comprise the Application. All applications shall be authorized by the chief elected official of the applying city/county.~~ (7-6-94)

074. SECTIONS.

The Application shall consist of the following sections: (7-6-94)

01. Cover. The cover shall contain "An application for an Idaho Community Development Block Grant by the _____ (City/County) of _____ (Name) _____ Date: _____". (one (1) page) (7-6-94)

02. Cover Letter. A cover letter signed by the Mayor or the Chairman of the Board of County Commissioners on official stationery. This is the official letter of application for a grant. (one (1) page) (7-6-94)

03. Table of Contents. (one (1) page) (7-6-94)

04. ICDBG Application Information Form. Fully completed and signed by the applicant. (one (1) page) (7-6-94)

05. Threshold Factors. The first four (4) factors must all be answered in the affirmative before an Application is to be reviewed and ranked. An Application shall include only Subsections 074.05.a. through 074.05.d. An Addendum shall include Subsections 074.05.e. through 074.05.g. (3-19-99)

a. The applicant must be an eligible applicant (Section 012). Describe how the applicant meets the eligibility criteria. If this is a joint or in-behalf-of application, describe agreements and arrangements for managing the grant and the project. (7-6-94)

b. The project shall be an eligible activity(ies). Describe why the project and the various activities are eligible according to the rules in Section 022. (7-6-94)

c. The applicant shall adopt a citizen participation plan and shall conduct a public participation process. Applicants shall submit a copy of the Citizen Participation Plan and results of citizen involvement in developing the project. A copy of the Citizen Participation Plan must be submitted with the Application. An ICDBG may be awarded only if the grantee certifies that it is following a detailed citizen participation plan which: provides for and encourages citizen participation, with particular emphasis on participation of persons of low and moderate income who are residents of slum and blight areas or provides for participation of residents in low and moderate income neighborhoods as defined by the applicant; provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds; provides for public hearings to

obtain citizen views and to respond to proposals and questions at all stages of the community development program, including, at least, the development of needs, the review of proposed activities, and review of program performance. Hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for persons with disabilities; provides for a timely written answer to written complaints and grievances, within fifteen (15) working days where practicable; and identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate. (3-19-99)

d. At least one (1) public hearing is required to permit public examination and appraisal of the Application. Public hearings shall be scheduled in ways and at times to provide for full participation of citizens. The building or facility must be accessible to persons with disabilities. All information presented in the hearings shall also be available, upon request, in a form usable by persons with disabilities. Proper notification shall be given by a public advertisement in a local newspaper no less than seven (7) days prior to the meeting date. The seven (7) days shall be counted beginning the date the advertisement appears and ending the day before the date of the hearing. The notice shall include: a brief description of the proposed project; the amount of funds being requested; the time and place of the public hearing, including a statement that the hearing will be held in a handicapped accessible facility; notification that both written and verbal comments will be accepted; and a description of the availability of services for persons with disabilities, upon request. It is recommended the applicant also post notification of the public hearing at various public locations and use other media notices of the hearing. At a minimum, applicants shall provide in the minutes of the meeting, evidence the following occurred at the public hearing: The Application and Application Handbook were available for review; the amount of funds available for local community development and housing activities was discussed; the range of activities to be undertaken was presented including community impact and benefit to low and moderate income (LMI) persons; verification that citizen's comments and views on the proposed Application were considered prior to submittal and, if determined appropriate, a description of how the Application was modified; a copy of the public notice, minutes and a list of those attending the public hearing(s); a description of any plans for the project regarding citizen participation, i.e., the formation of a citizen's advisory committee; and a description of any assistance for persons with disabilities requested and provided. (3-20-97)

e. The applicant shall have the administrative capacity to administer the grant. This means having completed the procurement process for a Department-approved grant manager in accordance with the Section 212. The grant manager shall be included in project development and Application writing efforts. (3-20-97)

f. The applicant shall have adopted a Fair Housing Ordinance or resolution. This ordinance or resolution must have been adopted and publicly advertised within the twelve (12) month period preceding the Addendum deadline date. Once the Fair Housing Resolution or Ordinance has been adopted, applicants do not have to re-adopt the Resolution or Ordinance. The applicant will be required to show documentation the Resolution or Ordinance was published within the previous twelve (12) month period. (3-19-99)

g. The applicant shall either certify it will follow the Idaho Department of Commerce and Labor's Anti-displacement Plan or have adopted an Anti-Displacement and Relocation Plan. ~~This~~ If the applicant adopts its own plan, the ordinance or resolution must have been publicly advertised within the twelve (12) month period preceding the Addendum deadline date. Once the Anti-Displacement and Relocation Plan has been adopted, applicants do not have to re-adopt the Plan. The applicant will only be required to show documentation the Plan was published within the previous twelve (12) month period. (~~3-19-99~~)(9-1-05)T

06. General Project Description. This is the critical section of the Application. It should include enough information for the reviewer to clearly understand the community, its needs, the project, and how the grant will help to solve the community problem. The information in each ranking section should substantively expand upon the project description. The narrative should, in three (3) pages, succinctly describe the following items: a description of the community as to size, location and economy; a thorough assessment of all the community's needs and how the proposed project is a priority in comparison with the other needs addressed. The applicant should also include a description which discusses how the existing condition came about, the number of people affected, and the seriousness of the problem(s); the particular project that is being proposed shall be described in detail. Describe the project, the various components, anticipated costs, schedule of activities, maps showing the location of the project to the community (detailed enough to locate it by car) and a map of the boundaries of the project area. This description shall be detailed enough that it can be used to write a contract scope of work; describe the benefits of the project, how it solves the identified need, and how it will enhance the community and its economy. Provide a demographic profile

of the persons to benefit. This shall include gender, minority status, persons with disabilities, and female head of household. Describe how the project meets the state objectives of the ICDBG program (see Sections 000, 010, and 011); and if program income is expected to be generated, a re-use plan must be developed according to Section 175. (3-19-99)

07. ICDBG Budget Form Fully Completed by the Applicant. (one (1) page) (7-6-94)

08. Assurances. The applicant shall sign the Assurances Form certifying that it will comply with the following federal laws and regulations: National Environmental Policy Act of 1969; Civil Rights Act of 1964 Pub.L 88-352; Civil Rights Act of 1968 Pub.L 90-284; Age Discrimination Act of 1975; Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 as amended and the implementing regulations at 49 CFR Part 24; Rehabilitation Act of 1973, Section 504 "Handicapped Accessibility"; Housing and Community Development Act of 1974 as amended Pub. L 93-383; Davis-Bacon Act (40-USC 276a--5); Historic Preservation Act; Anti-Lobbying Certification; Excessive Force Certification; and Section 106 of the Housing and Urban Recovery Act of 1983, certifying they will: minimize displacement and follow a residential anti-displacement and relocation assistance plan, affirmatively further fair housing, provide citizen participation, not use assessments or fees on low and moderate income owner occupants to recover capital costs of ICDBG-funded public improvements; Prohibition of Use of Assistance For Employment Relocation, Section 588 of the Quality Housing and Work Responsibility Act of 1998 Pub. L 105-276. (one (1) page). (3-30-01)

09. Review and Ranking Narrative. The applicant shall address each point category in the order given in the review and ranking section of the applicable grant category, referenced below. If a particular point category is not applicable or not selected, it should be indicated. (7-6-94)

- a.** Economic Development Grants: ~~(ten (10) pages)~~ (7-6-94)(9-1-05)T
- i.** Infrastructure (Section 096). (7-6-94)
- ii.** Downtown Revitalization (Section 097). (7-6-94)
- b.** PFH (Sections 083 through 087) and SR (Section 101) Grants: (7-6-94)
- i.** Program Impact and Eligible Activity Point Form. ~~(two (2) pages)~~ (7-6-94)(9-1-05)T
- ii.** National Objectives. ~~(one (1) page)~~ (7-6-94)(9-1-05)T
- iii.** Project Categories. ~~(one (1) page)~~ (7-6-94)(9-1-05)T
- iv.** Advisory Council Points Narrative. ~~(one (1) page)~~ (7-6-94)(9-1-05)T

10. Additional Information From Applicant (Appendix). Maps, letters of support, technical studies and appropriate background documentation should be placed in this section and bound into the Application (no page limit). (7-6-94)

(BREAK IN CONTINUITY OF SECTIONS)

084. PROGRAM IMPACT.

Three hundred twenty (320) points. Some or all of the points may be granted in each subcategory. The local financing factors, which represents the largest portion of the total number of points each applicant may receive, is intended to ensure that the best overall proposals are selected for funding. The score on this factor is determined by evaluating how effectively local funds are used in comparison with other applicants. The Department may require an applicant to provide supplemental financial information to clarify the local ability to finance all or a portion of a proposed ICDBG project. The applicant should provide evidence or documentation of the nature, amount and/or value of match committed to the project. Housing projects should (if match is not committed) provide the names of the agency, staff

person and program(s) which may provide match, a description of the program and a time table for the match approval process. (7-6-94)

01. Percentage of ICDBG Dollars in Total Project (fifty (50) points). All Applications will be ranked by percentage of Community Development funds requested divided by total project costs. Total project costs are the total funds committed from all sources - federal, state, local and private funds. The applicant must clearly identify the other funding sources with dollar amounts from each. The rankings shall be divided into four (4) equal categories. The lowest ICDBG percent (%) receives the most points and the highest ICDBG percent (%) receives the least points. Points will be assigned according to the following schedule: (3-19-99)

- a. First Quartile - fifty (50) points. (3-19-99)
- b. Second Quartile - thirty (30) points. (3-19-99)
- c. Third Quartile - fifteen (15) points. (3-19-99)
- d. Fourth Quartile - zero (0) points. (7-6-94)

02. Percentage of Local Matching Funds (sixty (60) points). All Applications will be ranked by the percentage of local matching funds divided by the total of local match and ICDBG funds. The highest percentage of local dollars will receive the highest points. See Subsection 053.03 for definition of local match. The rankings shall be divided into four (4) equal categories. The highest local match percentage (%) receives the most points and the lowest local match percentage (%) receives the least points. ~~A one dollar and fifty cent (\$1.50) cash value shall be calculated for every one dollar (\$1) of local cash match committed to the project.~~ Points will be assigned according to the following schedule: ~~(3-30-01)~~(9-1-05)T

- a. First Quartile - sixty (60) points. (7-6-94)
- b. Second Quartile - forty (40) points. (7-6-94)
- c. Third Quartile - twenty (20) points. (7-6-94)
- d. Fourth Quartile - zero (0) points. (7-6-94)

03. ICDBG Dollars Per Person (fifty (50) points). The ratio of total persons directly benefited by the project, compared to ICDBG funds requested (ICDBG dollars per person) shall be ranked and divided into quartiles. The lowest ICDBG dollars receives the most points and the highest ICDBG dollars receives the least points. The points shall be assigned to the ratio of ICDBG dollars per person as follows: (7-6-94)

- a. First Quartile - fifty (50) points. (7-6-94)
- b. Second Quartile - thirty (30) points. (7-6-94)
- c. Third Quartile - fifteen (15) points. (7-6-94)
- d. Fourth Quartile - zero (0) points. (7-6-94)

04. Local Matching Funds Per Person (sixty (60) points). The ratio of total persons directly benefited by the project, compared to local matching funds shall be ranked and divided into quartiles. The Department may request supplemental financial data from any applicant to determine local ability to finance a proposed project or clarify a community's financial situation. The Department may take into consideration a community's ability to contribute local matching funds in determining all rating and ranking points. The highest local funds per person receives the most points and the lowest local funds per person receives the least points. ~~A one dollar and fifty cent (\$1.50) cash value shall be calculated for every one dollar (\$1) of local cash match committed to the project.~~ The points shall be assigned to the ratio of local matching funds per person as follows: ~~(3-30-01)~~(9-1-05)T

- a. First Quartile - sixty (60) points. (3-19-99)

- b. Second Quartile - forty (40) points. (3-19-99)
- c. Third Quartile - twenty (20) points. (3-19-99)
- d. Fourth Quartile - zero (0) points. (7-6-94)

05. Eligible Activity Priority Ranking (one hundred (100) points). Each eligible activity (Sections 022 through 051) is assigned a priority point factor. The applicant should list the activities and the ICDBG funds budgeted to each. These points shall be assigned to an Application based upon the percentage of the total ICDBG funds committed to each activity and multiplied by the priority points assigned to each. The total of the priority points so calculated is the total of the priority points for the Application. Health and safety-related projects are defined as sewer, water, fire protection facilities, medical facilities, nursing homes, streets, and other similar projects. Social service facilities are defined to include community centers, senior centers, libraries, assisted housing, shelter care, senior housing, auditoriums, cultural facilities, recreation facilities, and parks. (7-6-94)

Acquisition of Real Property	Twenty-five <u>One hundred</u> (25 <u>100</u>) points
Acquisition of Real Property for Housing Projects	Fifty (50) points
Public Facilities and Improvements - Health and Safety Related	One hundred (100) points
Public Facilities and Improvements - Housing Related	Seventy-five (75) points
Public Facilities and Improvements - Social Service Related	Fifty (50) points
Engineering - Architectural	Seventy-five <u>One hundred</u> (75 <u>100</u>) points
Code Enforcement	Fifty (50) points
Clearance and Demolition	Ten (10) points
Removal of Architectural Barriers	Fifty (50) points
Rental Income Payments	Zero (0) points
Disposition of Property	Ten (10) points
Public Services	Zero (0) points
Completion of Urban Renewal Projects	Zero (0) points
Relocation Payments	Twenty-five (25) points
Planning Activities	Zero (0) points
Administration Activities	One hundred (100) points
Grants to Nonprofit Community Organizations	Zero (0) Points
Grants to Nonprofit Community Organizations for Housing Projects	Seventy-five (75) points
Energy Planning	Zero (0) points
Housing Rehabilitation	Seventy-five (75) points

(~~3-30-01~~)(9-1-05)T

(BREAK IN CONTINUITY OF SECTIONS)

090. PROJECT CATEGORIES.

Two hundred and twenty (220) points. PFH Applications shall address each of the categories below. The project description and its benefits should be discussed in previous sections. This section is a measure of the preparedness of the project and the community to undertake the project. To earn points, the applicant must demonstrate that the appropriate actions, procedures, agencies, permits, financing and inspections to initiate and complete the project were discovered and show how much has been completed. The object is to have well thought out projects which will then be quickly executed if funded. The items identified in the following categories must be related to each other.

(3-30-01)

01. Planning, Previous Actions and Schedule (one hundred and ~~sixty eight~~ sixty eight (1680) points).

According to the categories listed below, ~~the~~ applicant shall describe and document the process used to plan the project and describe the components of the project. The completeness of the process and project detail earn more points. ~~Describe the problem identification process, the public involvement, the appropriate agency(s) involvement. Describe the steps and actions necessary to implement or construct the project, including, but not limited to, permits, approvals, easements and property acquisition, demolition, relocation, other funding needed and the process to secure it, zoning, environmental problems, historic preservation, preliminary architectural or engineering, construction period, service hookups, fees and special assessments, program income, grant administration, accounting and audits by completing the schedule in Appendix II, pages 231 and 232 of the application form. All activities needed to successfully administer and construct a project are carefully scheduled to advance the project to completion rapidly and smoothly. All activities that have not yet been accomplished are considered planning. These activities shall receive one (1) point each. Activities that have been accomplished are considered previous actions. These activities shall receive three (3) points each.~~

~~(3-30-01)(9-1-05)T~~

a. ~~For street and street related projects, applicants shall also provide a maintenance record for the project area for eighteen (18) months, prior to submittal of the application or addendum and a method of how the project was prioritized over other needs.~~ Design Professional (twenty (20) points). A maximum of twenty (20) points will be awarded if the applicant has issued an RFP and completed a design professional selection process. The process must have met state and federal procurement requirements as described in the most recent ICDBG Administration manual. A copy of the RFP, proof of published notice if over twenty-five thousand dollars (\$25,000), and completed evaluation rating sheets must be submitted to receive full points.

~~(3-30-01)(9-1-05)T~~

b. ~~Applicants for water and sewer projects shall conduct a rate study and complete the Financial Viability Profile included in Exhibit II of the Application Handbook.~~ Grant Administration (twenty (20) points). A maximum of twenty (20) points will be awarded if the applicant has issued an RFP and completed the administrator selection process. The process must have met state and federal procurement requirements as described in the most recent ICDBG Administration manual. A copy of the RFP, solicitation process, and completed evaluation rating sheets must be submitted to receive full points.

~~(3-30-01)(9-1-05)T~~

c. ~~Applicants for fire safety projects must show efforts to comply with fire code fire insurance rating factors, maintenance personnel training and incident reporting. Bonus points are available for fire inspector certification and community education. (See Subsections 085.01.d. and 085.01.e. Plan/Studies (twenty (20) points). A maximum of twenty (20) points will be awarded in this category if the applicant documents a plan or a study has been completed which includes a survey of the existing condition of the system or facility, develops and screens alternatives to enable the system to meet future needs, selects a recommended alternative, and evaluates the potential impact of the project on the environment. For pre-fab buildings, provide a letter from local building officials that the building meets state of Idaho building, electrical, and plumbing codes. Include additional information by project type:~~

~~(3-30-01)(9-1-05)T~~

i. Water and sewer system projects. A conditional approval issued by DEQ on the facilities study or the project's specification and drawings.

~~(9-1-05)T~~

ii. Health care facility projects. A letter of intent submitted to the Idaho Bureau of Facilities Standards describing the proposed scope of work. Provide a copy of the letter and any response from the Bureau of Facilities Standards.

~~(9-1-05)T~~

iii. Road and transportation system projects. Conditional approval of construction plans by the Idaho Transportation Department or local highway district. (9-1-05)T

iv. Housing projects. Project meets the community's comprehensive plan and zoning ordinance. Also, completed a financial performance and management plan. (9-1-05)T

v. Fire or EMT station projects. A public works or design professional facilities review. The review shall include survey of existing condition of the building (if applicable), an analysis of costs including rehabilitation costs versus new construction, site location consideration including environmental issues, existing building problems, and the need for the size of the facility. (9-1-05)T

d. ~~Youth center projects shall be modeled after the Boys and Girls Club of America in that they shall provide services and programs for at risk youth, ages six (6) to eighteen (18). These programs shall assist disadvantaged youth in developing the skills to overcome challenges and become responsible leaders by focusing on character and leadership, education and career, health and life styles, the arts, fitness and recreation and other specialized programs such as family support and intervention. Applicants shall provide information on the management and operation of the center and community outreach activities. Applicants requesting ICDBG funds for new construction must show the cost of rehabilitation exceed new construction costs, or the construction of a youth center facility will be in a community where no facility now exists, and if local operating funds are committed.~~ Environmental Scoping (ten (10) points). A maximum of ten (10) points will be awarded if the applicant or sub-recipient has completed a Field Notes Checklist as prescribed in the ICDBG Application Handbook and mailed out environmental information request letters before submission of application. (~~3-30-01~~)(9-1-05)T

e. Agency Viability (thirty (30) points). A maximum of thirty (30) points will be awarded in this category if the applicant documents the following per project type: (9-1-05)T

i. Sewer or water projects. Completion of ICDBG financial viability worksheet with the utility rate reviewed by at least one (1) of the following: The USDA Rural Development, Boise State University Environmental Finance Center, the Rural Community Assistance Corporation, or the Idaho Rural Water Association. (9-1-05)T

ii. Health care, transportation, housing, fire/EMT, or other projects. The applicant's or sub-recipient's viability will be based on having the following components: A lawful governing body, completion of ICDBG financial viability profile, a stable funding source and positive cash flow, and capital improvement and facility management plans. (9-1-05)T

iii. Youth center projects. Projects must be modeled after the Boys and Girls Club of America and assist youth ages six (6) to eighteen (18) in developing skills to overcome challenges and become responsible leaders. The applicant or sub-recipient must provide information on management and operation of the center, outreach activities, a cost analysis of rehabilitation versus new construction and document that local operating funds are committed. (9-1-05)T

f. Property Acquisition (twenty (20) points). A maximum of twenty (20) points shall be awarded if the applicant or sub-recipient has achieved project site control. (9-1-05)T

i. The applicant or sub-recipient has ownership of the property including easements or right of way permits. Identify if there are existing buildings on the property and whether or not businesses, individuals, or farms will be displaced and provide documentation of site control; or (9-1-05)T

ii. If property (land, buildings, rights of way, easements) is not secured but is identified on a plat map five (5) points will be awarded. Identify if individuals or businesses, including farms will be displaced. (9-1-05)T

g. Funding Commitments (forty (40) points). A maximum of forty (40) points will be awarded if one hundred percent (100%) of match funds are committed to the project. A commitment letter must be included with the application addendum. A support letter is not a commitment. If match is a bond, provide documentation the bond has passed and identify who will buy it. (9-1-05)T

h. Schedule (five (5) points). A maximum of five (5) points will be awarded in this category if the dates to start and complete construction have taken into account weather conditions, other funding availability, environmental mitigation issues, real estate site control, and bidding time frame. (9-1-05)T

i. Administrative Capacity (fifteen (15) points). A maximum of fifteen (15) points will be awarded in this category. (9-1-05)T

i. ICDBG project track record and general stability of applicant and sub-recipient. Review may include financial audit reports, board make-up, staff turnover and recall elections (five (5) points). (9-1-05)T

ii. Completion of Section 504 Self Evaluation and Transition plan. Submit the transition plan and the name of the ADA coordinator to certify which elements have been completed (five (5) points). (9-1-05)T

iii. Document that Fair Housing Accessibility Standards have been adopted either separately or inclusively with the most current building code utilized by the applicant (five (5) points). (9-1-05)T

02. Cost Analysis (forty (40) points). Cost estimates for the project should be an accurate and realistic analysis of the administrative, legal, accounting, engineering or architectural services, property acquisition, construction and closeout costs. The various sources of funding should be assigned to the appropriate parts of the project. *The source of the cost estimate should be described and documented.* In order to receive points, construction costs will need to be: (3-19-99)(9-1-05)T

a. Identified by a licensed design professional's cost estimate within four (4) weeks of the application due date; (9-1-05)T

b. Completed Project Cost Estimate. Estimate should reflect: (9-1-05)T

i. Acquisition costs including appraisals, land, relocation, and closing costs; (9-1-05)T

ii. Construction costs including divisions 1 - 16 as described in the most recent MASTERFORMAT, Davis Bacon wage rate, overhead, profit, contingency, bonding, permits; (9-1-05)T

iii. Design professional fees including design fees, construction administration, and reimbursable fees; (9-1-05)T

iv. Grant administration fees including writing and administration; (9-1-05)T

v. Soft costs including soil studies, market study, environmental; and (9-1-05)T

vi. Financing expenses. (9-1-05)T

~~**03. Certified Gem Communities (twenty (20) points).** Applicants which are "Certified Gem Communities" will receive twenty (20) points. A Certified Gem Community is one which has been certified for the first time or recertified, according to the Department's records as of the deadline date for Application or Addendum submission and is actively involved in the Gem Community Program. To receive Gem Community points, applicants shall make certain the most current Gem Community Action Plan is filed with the Department. At a minimum, the action plan shall include planned priorities, a completion schedule and responsible key Gem Community team members. Applicants must also provide a brief description of Gem Community activities accomplished six (6) months prior to the application deadline. If the applicant community is not active, but located in an active county, the community is not entitled to Gem Community points. (3-30-01)~~

091. ECONOMIC ADVISORY COUNCIL POINTS.

(Two hundred (200) points). The Council, in assigning these points to the Applications and Addenda, shall consider the degree of impact from the project upon the community and shall compare similar type projects with each other. Consideration may include local ability to finance the project, local effort and commitment to the project, and local and regional economic impact of the project. These points shall be assigned to Applications based upon the Council's review of the information contained in the Application and the staff's review and recommendations. These points

shall be assigned to Application and Addendum by the Economic Advisory Council after their review of the Applications and Addenda ~~and after hearing the presentations from applicants~~. The Council shall decide on the amount of points to be assigned to each Application in the Council's regular meeting for reviewing Applications.

(7-6-94)(9-1-05)T

092. AWARD PROCESS.

The Applications will be submitted, reviewed, ranked and recommended by the Department to the Economic Advisory Council. The Council will review the Applications, the staff review process, assign the Economic Advisory Council points, then rank and invite the top ranked applicants to submit an Addenda to their Applications. If the Department receives additional funding, to ensure the process remains competitive and that several projects may be selected for standby projects, the Council shall invite at least two (2) more projects than the amount of PFH set-aside amount. The Council may invite Addendums totaling up to one hundred fifty percent (150%) of the PFH set aside. Applicants may then prepare and submit their Addenda. The Addenda shall be reviewed, ranked and recommended to the Economic Advisory Council. The Council shall review the recommendations, ~~hear presentations from the applicants~~, assign the Economic Advisory Council points, rank the Applications and recommend to the Governor the top-ranked projects for which funds are available. Several standby projects may also be recommended. The Governor may review the recommendations and then announce the award of grants to the applicants. Once the Governor's announcement has been made, the Department will contact the grantees to begin the process to develop and execute a grant contract.

(7-6-94)(9-1-05)T

(BREAK IN CONTINUITY OF SECTIONS)

094. APPLICATION.

Preparation and filing of the Application and Addendum will be assisted by the Department Staff. (7-6-94)

01. Notice of Intent. Accepted continuously. To be submitted following an applicant's decision to prepare an Application (see Section 061). (7-6-94)

02. Information to be Included. The Application shall contain the information required by Sections 072 through 074. The Application shall be reviewed and ranked according to the criteria contained in Section 096 or Section 097. The Application may be rejected at any time that, in the opinion of the Department, the evaluation process indicates the project is unable to meet the minimum requirements or that the project will receive a point ranking below the minimum required for approval. (7-6-94)

03. Deadline. ED Applications for job creation projects will be due in on the third Monday of the month prior to a quarterly Economic Advisory Council (EAC) meetings held in January, April, July and October. Applications received after this date will not be presented to the Council at that quarterly meeting. ED Applications for slum and blight downtown revitalization projects will be due in November and if invited to submit an Addendum, in March. (3-19-99)

04. Deadline Exception. The EAC may hold a special public meeting, which may be done through teleconferencing, to consider projects when, in the opinion of the Chairperson, a project's urgency will not permit a delay in processing an Application. (7-6-94)(9-1-05)T

05. Restrictions. If an applicant has a currently funded ED grant(s), they may apply for an additional ED grant(s) if additional administrative capacity is demonstrated, and, if all previous ED grant(s) are under contract. Only one (1) Ed application for job creation projects is allowed in any quarterly funding cycle with the conditions noted above. (3-19-99)

06. Presentation. If the project passes the threshold point total it will be recommended by the staff to the EAC where the applicant may make a presentation, according to Section 065. (7-6-94)

(BREAK IN CONTINUITY OF SECTIONS)

096. REVIEW AND RANKING NARRATIVE FOR BUSINESS EXPANSION PROJECTS.

The following are the review and ranking narrative requirements for those projects which assist business expansion through the provision of infrastructure and creation of jobs. The following minimum criteria must be included in the application by the application deadline in order for staff to review and rank the project and recommend it to the Economic Advisory Council for consideration. (3-30-01)

01. Minimum Criteria. (7-6-94)

a. The project must meet the national objective of benefiting LMI persons through job creation. Fifty-one percent (51%) of all the new jobs created or retained must be held by or made available to a member of a low and moderate income family. (LMI as defined in Section 016). Family income must be certified by the employee at time of hire and must be able to be verified or may be documented through a Department of Commerce and Labor screening referral agency. (3-19-99)

b. The applicant ~~and the business~~ must certify compliance with applicable federal circulars A-87, ~~A-102~~, A-110, and A-122 and meet the necessary assurances as listed in Subsection 074.08 as applicable. ~~(7-6-94)~~(9-1-05)T

c. A public hearing shall be held on the Application in accordance with Subsection 074.05.d. (7-6-94)

d. The project may qualify as a Special Economic Development Project under Subsection 040.02.a. If the project qualifies under Subsection 040.02.b., a determination of Necessary or Appropriate is required. (7-6-94)

e. Attach an eight and one-half inch (8-1/2") by eleven inch (11") map showing the location of the proposed project in the community. Attach a site plan of the proposed project showing existing and proposed improvements both business and infrastructure; existing and proposed land uses in the surrounding area and natural features and conditions on the site and nearby. (3-20-97)

f. ~~(Attachment) A~~ Attach a brief analysis of the business to be assisted, including the market for the product/services to be produced, the business' position in the market, and the financial and managerial capabilities of the business(es) to be assisted. This should also include financial statements and balance sheets for the business(es) to be assisted indicating sales, income, and net position for the prior three (3) years, and the names and experience of senior managers of the business. ~~(3-20-97)~~(9-1-05)T

g. ~~(Attachment) A~~ Attach a letter of commitment from the business(es) stating their agreement to be part of the grant project, their ability to accomplish their expansion, their understanding of and compliance with all applicable federal regulations, their understanding of and compliance with the payback liability if the jobs creation does not meet federal standards; and their willingness to make available all records and information necessary to document all jobs created by completing and signing the Grant Assistance Agreement and Certification of Compliance with Grant Conditions. ~~(3-30-01)~~(9-1-05)T

h. ~~(Attachment) A~~ Attach a description of the type and number of all the jobs to be created, a calculation of fulltime equivalents (FTE), and a beginning payroll of the business(es) at the location of the proposed project, a detailed description of the hiring process and any training to be provided. The information should include both current job information and the job creation projected for two (2) years beyond the completion of the grant funded construction. If training is necessary, a training plan and schedule outlining the responsibilities must be included in the application. A description of the quality of new and retained jobs shall be included. A description of the median annual income and fringe benefits package for new or retained jobs shall be provided. ~~(3-19-99)~~(9-1-05)T

02. Ranking Criteria (one thousand (1,000) points possible). (7-6-94)

a. Direct new or retained jobs, in fulltime equivalents (FTE's), created within two (2) years of grant construction completion. *Direct new jobs are those jobs created as a result of the ICDBG grant, over and above employment at the project site prior to the grant, and which do not displace any other employment in the same labor*

market area. Net new jobs are those created as a result of the ICDBG, over and above employment at the business site prior to the grant, and which do not include relocated jobs from the assisted business in the same labor market area. Retained jobs are those that would be lost without the ICDBG assistance. A job creation cost of more than ten thousand dollars (\$10,000) ICDBG per job will not be considered. Points are assigned by the formula: (Number of jobs) X (two hundred fifty thousand dollars (\$250,000)) divided by (the requested ICDBG funds), up to ninety (90) points. If jobs are not being created or retained, a project cannot be funded. (3-19-99)(9-1-05)T

b. Quality of New or Retained Jobs (~~ninety one hundred~~ (9100) points). Points in this category are assigned based upon a comparison of the full time equivalent (FTE) wages or salaries created (excluding benefits, and the average county salary as determined by the most recent quarterly Idaho Department of Commerce and Labor survey. To convert part time or seasonal positions, take the total number of hours of employment created for a given pay rate and divide by one thousand five hundred sixty (1,560). If the average county wage exceeds the state average wage; comparison with the state average will be used. The grantee will be awarded points based upon the percentage of FTE's exceeding the state or county average salary. The formula is: Percentage of jobs above state or county average salary x ~~ninety one hundred~~ (9100) = Wage Quality Points. (3-30-01)(9-1-05)T

c. Fringe Benefits (~~twenty one hundred~~ (2100) points). The businesses creating or retaining jobs as a result of ICDBG assistance shall document their fringe benefit plans ~~for low and moderate income employees. Ten (10) points will be given for a comprehensive employer paid health program and ten (10) points for an employer paid pension program, 401 K matching program, or equivalent. If health or pension benefits are not offered, applicants may receive ten (10) points in this category if the employer provides training or education courses, daycare and paid vacation and sick leave are offered. All three (3) benefits must be available to receive the ten (10) points. Points will be given as follows: fifty (50) points for an employer funded health plan and fifty (50) points for an employer funded pension plan. The business must provide both to receive full points.~~ (3-19-99)(9-1-05)T

d. Business Risk and Management (~~zero (0) to one hundred twenty-five (125)~~ points). The probability of achieving the projected jobs and payroll within one (1) and two (2) years, as determined by the Department. The determination may be made on the basis of: the business plan and schedule, the financial position and a credit analysis of the business; the performance record of senior management of the business project; and other criteria reasonably required by the Department. Projects receiving less than seventy-five (75) points in this category will be eliminated from further consideration. (~~zero (0) to one hundred (100) points~~). (3-20-97)(9-1-05)T

e. Planning, Schedule and Cost (one hundred and ~~fifty seventy~~ (1570) points possible). Describe planning efforts to enhance economic development. A detailed and reliable cost estimate and a project construction schedule is required of all Applications. Cost analysis and schedule will receive equal emphasis. Because of the priority the Department and Economic Advisory Council places on project costs and schedule, applicants are advised to seek experienced construction management counsel for their Application. (~~Subsection 090.04~~) (3-19-99)(9-1-05)T

i. Planning: (~~F~~ifty (50) points). Describe planning efforts to identify and detail all steps related to the implementation of the entire project. Identify all participants in the process. Describe all the partnerships and relationships involved in implementing the project. This will include local government actions, the business actions, other agency and utility actions, real estate, environmental, legal, financial and grant considerations. (3-19-99)(9-1-05)T

ii. Schedule: (~~F~~ifty (50) points). A detailed and reliable schedule of all actions identified in the plan. Also a separate grant funded project construction schedule is required of all Applications. (3-19-99)(9-1-05)T

iii. Cost: (~~F~~ifty (50) points). Detailed cost estimates of all actions, permits, construction, real estate, etc. should be prepared by an engineer or architect. Because of the priority the Department and Economic Advisory Council places on project costs and schedule, applicants are advised to seek experienced construction management counsel for their Application. (~~Subsection 090.04~~) (3-19-99)(9-1-05)T

iv. Environmental Scoping (twenty (20) points). A maximum of twenty (20) points will be awarded if the applicant has completed a Field Notes Checklist as prescribed in the ICDBG Application Handbook. (9-1-05)T

f. Minority Benefit (~~F~~ifteen (15) points). Applicants for job creation projects that are for business expansion or retention shall receive minority points if the business documents minority hiring on their current

payrolls. If the percentage of minority participation is equal to or greater than the county in which they are locating, they shall receive full points. ~~(3-30-01)(9-1-05)T~~

g. Local Investment Leverage: (maximum of one hundred (100) points). ~~The amount of local cash match shall be multiplied by one point five (1.5) to determine a total for local cash match. This total local cash match will then be added to other local match, i.e. revenue bonds, in-kind match, etc.~~ The total of all local match will then be divided by the total of all local match plus the ICDBG amount requested to determine the percentage of local match in the project. This percentage will then be multiplied by one hundred (100) to determine the point value. Applicants shall state if there is a Revolving Loan Fund (RLF) available in their region and, if so, describe what attempts have been made to secure funds from the RLF for the project. Program Income from previous grants to be used in this project may be considered as local match. ~~(one hundred (100) minus ICDBG percentage)~~. ~~(3-30-01)(9-1-05)T~~

h. Distressed Areas (twenty (20) points). ~~A maximum of thirty (30) points will be given to distressed areas: Fifteen (15) points if the project is located in a county which has an average annual unemployment that is one and one-half percent (1.5%) above the state average and fifteen (15) points if the per capita income is below the statewide average.~~ Maximum points will be given if the project is located in a historically underutilized business (HUB) zone. ~~(3-19-99)(9-1-05)T~~

i. Rural Impact. Jobs created in smaller communities have a greater stabilizing influence than in larger communities. The points shall be assigned as follows: Existing Idaho Business (twenty (20) points). To qualify for points, a business must have a significant Idaho presence.

TABLE 4 – “Rural Impact On Jobs” Community Population	
Population (latest census estimates)	Points 25 Total
0 – 1,000	25
1,001 – 3,000	15
3,001 – 10,000	5
10,001 – 50,000	0

~~(7-6-94)(9-1-05)T~~

j. ~~Gem Community. Applicants which are “Certified Gem Communities” will receive thirty (30) points. Certified Communities must be currently certified or recertified and actively participating in the Gem Community Program as of the quarterly deadline date to be eligible for these points. To receive Gem Community points, applicants must make certain the most current Gem Community Action Plan is filed with the department. At a minimum, the Action Plan shall include planned priorities, a completion schedule and responsible Gem Community team members. Applicants must also provide a brief description of Gem Community activities and accomplishments six (6) months prior to the application deadline. If the applicant community is not active, but located in an active county, the community is not entitled to Gem Community points.~~ ~~(3-30-01)~~

kj. Private Leverage: (one hundred (100) points). This is the percentage of ICDBG funds in the sum of total private investment plus ICDBG funds in the project. This includes ~~†~~ The points in this category will be calculated by dividing the total of all private investment provided by the business in the project by the ICDBG amount requested and multiply it by one hundred (100). The business’ private investment ~~is~~ is the capital facilities, real estate and site development costs. Applicants shall provide documentation on the status of private investment, i.e. financing approvals. Payroll and start-up costs are not included in this calculation. ~~(one hundred (100) minus ICDBG percentage)~~. ~~(3-30-01)(9-1-05)T~~

lk. Activities (twenty-five (25) points). Points will only be awarded for the percentage of ICDBG dollars committed to the acquisition, construction, or reconstruction of public infrastructure (Section 024); and for publicly-owned commercial building acquisition and/or rehabilitation for the purpose of assisting a business or businesses. ~~(Percentage of twenty-five (25) points)~~. ~~(7-6-94)(9-1-05)T~~

~~m~~**l.** Grant Management (twenty-five (25) points). If the grant funded activities are managed by the grantee, twenty-five (25) points will be awarded. Grantee management includes management under contract with a Department approved Grant Manager. ~~(3-20-97)(9-1-05)T~~

~~m~~**m.** Economic Advisory Council Evaluation (two hundred (200) points). The EAC will evaluate each Application on the basis of overall value, including its ability to make a significant impact on the Idaho economy and the commitment of the community to the project. ~~This shall be done by providing a one (1) page narrative of project benefits. (two hundred (200) points).~~ The EAC evaluation process shall be prescribed in the ICDBG Application Handbook. ~~(3-30-01)(9-1-05)T~~

097. REVIEW AND RANKING OF DOWNTOWN REVITALIZATION.

01. Introduction. Downtown Revitalization occurs only as merchants and landowners and other community representatives implement a series of actions which take advantage of community strengths and the economic and market forces operating in their community. An Idaho Community Development Block Grant program is only one (1) of the resources which can assist a downtown revitalization process. Therefore, the grant Application must be reviewed against the background of the total revitalization efforts. The following areas are reviewed by staff to evaluate the project. (3-19-99)

02. Organization (~~one hundred seventy-five (10075) points~~). This is a measure of the strength and depth of the local commitment to downtown revitalization. Obvious problems and lack of cooperation will detract from the points. The Application should describe how the community is actively organized to plan and implement a downtown revitalization process. At the center of the process there should be a take-charge steering committee representing the major community actors, such as merchants, city officials, local economic development organizations, utilities, and banks. Active subcommittees shall undertake components of the process in promotion, design, and economic restructuring. Other areas include infrastructure, finance, historic preservation, architecture, and various regulations. The process will be unsuccessful without the participation of, communication with, and cooperation from, various local, state and federal governmental agencies, such as the Department of Transportation, Health and Welfare, Post Office, BLM, Forest Service, City Hall, County Courthouse, School Board, Highway Districts, Sewer, Water, and Fire Districts and Irrigation Districts. Participation of major companies, particularly those which drive the local economy, along with the utilities and banks, is also critical to the process. ~~(3-19-99)(9-1-05)T~~

03. Assessments (~~one hundred seventy-five (10075) points~~). This is a measure of the accuracy, completeness and comprehensiveness of each of the assessments which underlie the implementation plan. Knowing and understanding the market forces which support a community's downtown is the foundation of any revitalization effort. Consequently, an analysis of the local economy's market or trade area is critical to determine the effort's direction. Only with this information can plans be made to select the mix of goods and services that can be supported and to decide the nature of the improvements to infrastructure, regulations, buildings, and promotional campaigns. The downtown area may no longer be a retail center and maybe some other use is appropriate. This should be identified and the plans accordingly developed around this activity. Therefore, the Application must contain the background studies that were conducted to assess the local economic forces, market conditions, demographics, and sales volumes; the present conditions of streets and sidewalks, sewers, water and storm drain systems, and traffic patterns; the mix of land uses, conditions of buildings and vacancy rates, physical design, including accessibility for persons with disabilities, and environmental conditions. To receive full points, a community assessment must include market analysis which includes a survey of the primary trade areas, customer market and business and property owner information. ~~(3-19-99)(9-1-05)T~~

04. Implementation (two hundred (200) points). The Implementation Plan, by its very nature, needs to be action-oriented, with resources, time frames, and assigned responsibilities for each activity. The Plan should begin with an estimate of the economic potential of the downtown and the effect that revitalization will have upon the businesses and services. Next should be the goal statement(s) of the revitalization effort. Goals should be stated in general terms with implementation activities in specific, measurable terms. Suggested goal statements include marketing, promotion, regulatory, cleanup, and infrastructure. The Implementation Activities should be set out in detail with the responsible party(ies) identified, a completion time frame established, and the needed resources identified. Since revitalization will take a partnership of the public and private sectors to accomplish the goals, the

activities may be divided into public and private categories. Points will be assigned to the Implementation Plan as follows: (7-6-94)

a. Action Plan (fifty (50) points). This is a measure of the detail of the implementation plan. The detail should include specific actions with assigned responsibilities and time frames for completion. (7-6-94)

b. Architectural/Engineering Plans (fifty (50) points). This will measure the extent of architectural design or engineering undertaken to determine the scope of the grant project and estimate costs. (7-6-94)

c. Implementation Time Frame (fifty (50) points). This will measure whether reasonable time frames have been determined for the grant project and that all the major actions and accomplishments have been identified, including those necessary for the implementation of the grant. (7-6-94)

d. Previous Amount Accomplished (fifty (50) points). This is a measure of all other action items in the implementation plan, how many have been started, and the progress towards completion. (7-6-94)

05. Slum and Blight (two hundred (200) points). This is a threshold which shall be met for the Application to be eligible for review. An Application will be disqualified if, in the opinion of the Department, the project does not meet the definition of Slum and Blight, (Section 020) or does not receive more than one hundred twenty-five (125) points in this category. The geographic boundaries of the downtown area shall be reasonable and officially designated. The conditions within the area shall be described and shall include the condition of all the infrastructure, the conditions of buildings and structures, and the economic forces which are causing the conditions of slum and blight. The Application shall describe the need for the proposed ICDBG project and the impact the project will have on the conditions of slum and blight. This will include the overall impact on the downtown revitalization efforts and the long-term impact on the community. Some project activities may, more appropriately, meet another national objective. If so, it should be described in detail and documented according to the standards for that national objective. (7-6-94)

a. Need and impact (one hundred (100) points). This is a measure of the proposed area's need to prevent or eliminate conditions of slum and blight. It is also a determination of the project's impact on the conditions of slum and blight. A project must address the critical need of the slum and blighted area, have an impact on the economics of the downtown area, and have a measurable impact. The criteria for measuring the impact of the project on the conditions of slum and blight must be described in measurable terms, such as increase in private investment, establishment of new businesses or business expansions, sales growth, improvement in the appearance and value of property, reduction in vacancy rates and increase in housing units. This includes the economic impact and community impact. (7-6-94)

b. Relationship to overall plan (one hundred (100) points). This is a measure of: how the proposed grant project is related to the other actions and needs of the Implementation Plan; whether it is foundational to the revitalization of the downtown economy or it is peripheral to the needs of the economy; and how logically sequenced the activities being proposed are in relation to the other activities. If another national objective is included in the justification for some of the activities, include the description here and it will be judged upon its need and impact as described in this section. (7-6-94)

06. The ICDBG Project (three hundred ~~fifty~~ (3050) points). The Application shall generally describe the eligible activities being proposed for funding. Any combination of eligible activities may be considered in designing the project. The eligible activity(ies) should be located on a detailed map. The relationship of the block grant project to the other implementation activities must be clear. Any matching funds shall be committed with the sources and schedules identified. All the other collateral implementation activities should be discussed and the funds expended documented. The Application shall describe the following items: ~~(7-6-94)~~(9-1-05)T

a. Project Local Match (~~seventy-five one hundred~~ (75100) points). The amount and percentage of "local match" firmly committed to the grant project shall be described. Evidence of commitment shall be provided by letter or agreements. Applicants shall state if there is a Revolving Loan Fund (RLF) available in their region and, if so describe what attempts have been made to secure funds from the RLF for the project. Program income from previous grants to be used in this project may be considered as local match. ~~The amount of local cash match shall be multiplied by one point five (1.5) to determine a total for local cash match.~~ This total local cash match will then be added to

other local match i.e. revenue bonds, in-kind match, etc. The total of all local match will then be divided by the total of all local match plus the ICDBG amount requested to determine the percentage of local match in the project. This percentage will then be multiplied by one hundred (100) to determine the point value. The percentage times the points (~~seventy-five~~ one hundred (~~75~~100)) will determine the amount of points assigned. (~~3-30-01~~)(9-1-05)T

b. Project Other Match (seventy-five (75) points). The percentage of other funds committed to the proposed ICDBG project from private and other state and federal sources. The percentage shall be calculated by dividing the total of the other sources by the sum of total project costs which is all match plus the ICDBG request. The percentage times the points (seventy-five (75)) will determine the amount of points assigned. (3-19-99)

c. ~~Gem Community (fifty (50) points). In order to promote the ongoing planning process and to more directly relate the grant funding to local economic development efforts, a proposed project should be identified as a priority in the One (1) Year Gem Community Plan. Certified Communities which generally include the proposed project in their One (1) Year Gem Community plan are awarded the full fifty (50) points. The proposed project must be identified in the current one (1) year plan on file with the Department at the date of application. The project must also be related to the goals and objectives of the plan. Applicants which are "Certified Gem Communities" will receive fifty (50) points. Certified communities must be currently certified or re-certified and active in the program as of the quarterly deadline date to be eligible for these points. If the applicant community is not active, but located in an active county, the community is not entitled to claim Gem Community points. BID/LID Commitment (fifty (50) points). A maximum of fifty (50) points will be awarded to communities who have established a formal business improvement district or local improvement district prior to submission of the application addendum.~~ (~~3-30-01~~)(9-1-05)T

d. Related Implementation Expenditures (~~fifty sixty~~ (560) points). The percentage of private investment or ~~other funds related expenditures~~ spent on the other implementation plan action items compared to the ICDBG funds being requested. Amounts spent within one (1) year prior to the grant Application submittal and those committed to be spent during the year following the submittal of the Application may be counted for this section. The percentage shall be calculated by dividing the total of the other funds by the sum of other funds plus the ICDBG request. The percentage multiplied by the points (~~fifty sixty~~ (560)) will determine the amount of points assigned. (~~7-6-94~~)(9-1-05)T

e. Long-term Program Involved (~~fifty sixty-five~~ (565) points). The use of grant funds to leverage a payback mechanism so that funds will sustain the downtown redevelopment efforts over the long term. For example, this can be done through various types of loans, fees, bonds and tax increment financing. The pool of funds is to be dedicated to the downtown area. (~~7-6-94~~)(9-1-05)T

07. Economic Advisory Council Points (one hundred (100) points). The ~~Economic Advisory Council EAC~~, after ~~hearing the community's presentation and~~ reviewing the staff's ranking and recommendation, shall award its points based upon both the information presented and the Application. The ~~Council EAC~~ may award all or some of the points depending upon its opinion that the grant will promote the revitalization of the downtown economy. Projects which only fix a problem but do not leave the downtown in a better economic condition would receive fewer points. (~~7-6-94~~)(9-1-05)T

098. AWARD PROCESS.

01. Evaluation of Proposal. Upon receipt of an Application, Department staff shall conduct an evaluation of the proposal and verify the information contained therein. Such evaluation and investigation will ensure the availability of all information necessary for rating the Application. The review will also establish a high probability that the project is viable, the business is committed, and that a national objective can be met. The Applications will be submitted, reviewed, ranked, and recommended by the Department to the ~~Economic Advisory Council EAC~~ to make a presentation according to Section 065. (~~7-6-94~~)(9-1-05)T

02. Ranking. The ~~Council EAC~~ will review the Applications, ~~presentations, and~~ staff review process, assign the ~~Economic Advisory Council EAC~~ points, and rank the Applications. The top-ranked applicants will be invited to submit their Addenda to the Department. The ~~Addendum Addenda~~ shall amend and expand upon the Application. Department staff shall inform the applicant as to additional information, documents and actions necessary to complete full application. The staff will review and rank the Addenda, checking that all requirements are

met. Applications will be recommended to the Governor for funding if submitted before the next ~~Council~~ EAC quarterly meeting, and if the Application and ~~Addendum~~ Addenda contain sufficient assurances and commitment.
 (7-6-94)(9-1-05)T

(BREAK IN CONTINUITY OF SECTIONS)

101. REVIEW AND RANKING PROCESS.

The Application shall be reviewed according to the following point categories and shall be based upon the information submitted and any additional information requested by the Department. (one thousand (1,000) points possible). (7-6-94)

01. Physical Conditions (three hundred fifty (350) points). Points will be assigned to the needs of the center based upon the number of needs and the urgency of the needs. Department staff shall, upon review of the documentation and descriptions in the application, determine a rating from one (1) to three (3) based upon the criticalness and urgency of each of the following problems. The ratings will be totaled and ranked. Those Applications ranking the highest will receive the most points. (The number of Applications divided into three hundred fifty (350) points equals the points per rank.)

TABLE 5 -- "CRITICALNESS AND URGENCY OF PROBLEMS"				
		Problem or Need Rating		
		Violation of Laws/ Bldg. Codes/Health and Safety Concerns	Health and Safety Problems	No Violations or Health and Safety Concerns
Identified in Project Description Narrative	Identification of Problem	Critical 1	Urgent 2	Nice to Have 3
	Physical Conditions:			
	Structural Problems			
	Roof			
	Walls			
	Foundation			
	Floors			
	Weatherization			
	Expansion for adult day care			
	New Center			
	Other			
	Interior Problems:			
	Asbestos/lead based paint			
	Bathrooms			
	Access for persons with Disabilities			
	Electrical/plumbing/lighting			

TABLE 5 -- "CRITICALNESS AND URGENCY OF PROBLEMS"				
Identified in Project Description Narrative	Identification of Problem	Problem or Need Rating		
		Violation of Laws/ Bldg. Codes/Health and Safety Concerns	Health and Safety Problems	No Violations or Health and Safety Concerns
		Critical 1	Urgent 2	Nice to Have 3
	Heating/air conditioning			
	Fire safety			
	Unusable space			
	New Center			
	Unusable space			
	Other			
	Kitchen and Food Storage:			
	Health inspection			
	Capacity of dry storage			
	Capacity of cold storage			
	Equipment			
	New Center			
	Other			
	Access for Persons with Disabilities			
	Parking			
	Entry			
	Bathrooms			
	New Center			
	Other			
	TOTALS:			
		ASSIGNED RANKING		

(3-30-01)

02. Planning and Schedule (two hundred (200) points). Points will be assigned according to the apparent effort made to determine the needs of the center, the nature of the problems, the solutions, and the costs of the project and a realistic schedule for implementing the project. (7-6-94)

a. Pre-Planning (fifty (50) points). This is a measure of the effort made to quantify the problems through building code inspections, health inspections, and architectural and engineering review. (7-6-94)

b. Project Planning (fifty (50) points). This is a measure of the effort made to coordinate all of the various agencies that may be involved in funding and planning the project. Also included is all relevant information

that all grant responsibilities and requirements have been included in the planning. (7-6-94)

c. Schedule (fifty (50) points). This is a measure of the effort to schedule all the project activities, including the different grant requirements and contractors that may be involved. (7-6-94)

d. Costs (fifty (50) points). This is a measure of the effort to determine reasonable cost estimates for the various elements of the project. (7-6-94)

03. Benefits (one hundred fifty (150) points). (7-6-94)

a. Activities Provided (one hundred (100) points). This is a measure of how well the center is meeting the needs of its members, neighborhood, or community. It is based upon the number and quality of activities and services the center is providing on an annual basis. Service days will be calculated by taking the number of days an activity or service is offered during the course of the month multiplied by twelve (12). Activities can include health, recreational, social, educational, and transportation services. Quartile points will be assigned to this area.

Highest Quartile	One hundred (100) points
Second Quartile	Sixty (60) points
Third Quartile	Thirty (30) points
Fourth Quartile	zero (0) points

(3-30-01)

b. Low and Moderate Income and Minority Outreach Activities (fifty (50) points). This is a measure of existing or proposed efforts made to include low and moderate income and minority participation in the center's activities. (7-1-98)

04. Match (one hundred (100) points). Cash and in-kind donations which are committed to the project shall receive points according to the percentage committed up to the total points in the category of match. ~~A one dollar and fifty cent (\$1.50) value shall be calculated for every one dollar (\$1) of local cash committed to the project.~~ (3-30-01)(9-1-05)T

a. The sixty (60) points for cash match shall be assigned on a quartile basis by taking the percentage resulting from the division of cash match by the total project. Quartile points will be assigned to this area in a descending order based upon the percentage of cash match in the project. (3-30-01)

i. First Quartile - sixty (60) points. (3-30-01)

ii. Second Quartile - thirty (30) points. (3-30-01)

ii. Third Quartile - fifteen (15) points. (3-30-01)

iv. Fourth Quartile - zero (0) points. (3-30-01)

b. The forty (40) points for in-kind match shall be assigned on a quartile basis by taking the percentage in-kind match divided by the total project. Quartile points will be assigned to this area in a descending order based upon the percentage of in-kind match in the project. (3-30-01)

i. First Quartile - forty (40) points. (3-30-01)

ii. Second Quartile - twenty (20) points. (3-30-01)

iii. Third Quartile - ten (10) points. (3-30-01)

- iv. Fourth Quartile - zero (0) points. (3-30-01)

102. -- 105. (RESERVED).

106. ECONOMIC ADVISORY COUNCIL POINTS.

(Two hundred (200) points). The ~~Council~~ EAC, in assigning these points to the Applications, shall consider the degree of impact from the project upon the community and shall compare similar type projects with each other. Consideration may include local ability to finance the project, local effort and commitment to the project, and local impact of the project. These points shall be assigned to Applications by the ~~Economic Advisory Council~~ EAC after their review of the Applications ~~and after hearing the presentations from applicants~~. The ~~Council~~ EAC shall decide on the amount of points to be assigned to each Application in the ~~Council's~~ EAC's regular meeting for reviewing Applications. (7-6-94)(9-1-05)T

107. AWARD PROCESS.

The Department shall review the Applications submitted ~~and select the top ranked Applications using a sum of one hundred thirty percent (130%) of the funds, plus one (1) more Application. These applicants shall be invited to submit their Addenda, then present their projects to~~ with the Economic Advisory Council EAC during its March meeting. The EAC, after reviewing the Applications, ~~Addenda, and staff recommendations, and presentations,~~ will assign the points and recommend Applications to the Governor for funding and standby status. (7-6-94)(9-1-05)T

(BREAK IN CONTINUITY OF SECTIONS)

118. TECHNICAL ASSISTANCE ~~GRANTS~~.

To assist communities ~~and applicants~~ in their planning efforts and discourage uncoordinated piecemeal approaches to solving community problems, one percent (1%) of the annual Community Development allocation shall be set aside for technical assistance ~~grants~~. (3-20-97)(9-1-05)T

~~**119. STATEWIDE TECHNICAL ASSISTANCE GRANT.**~~

~~**01. Purpose.** To create a statewide information base which all communities can use in their economic development, community development, growth management, housing activities, and grant compliance. (3-20-97)~~

~~**02. Contract for Services.** The Department may contract for these services. (3-20-97)~~

~~**03. Technical Assistance Program.** Shall collect, develop, and provide information and materials including, but not limited to, "how to" information and "boiler plate" ordinances on capital improvement planning and budgeting; tax increment financing; impact fees; zoning; subdivisions; housing information; housing plans; community development and economic development plans; other ordinances and information on development as may be appropriate. (3-20-97)~~

~~**120**~~**119. -- 134. (RESERVED).**

(BREAK IN CONTINUITY OF SECTIONS)

153. PROCUREMENT.

~~Service needed by local governments to complete ICDBG projects typically include professional grant managers, engineers, architects, construction contractors, and materials and equipment. The city or county may choose to perform these services with their own staff and equipment or contract for these services. If the city or county chooses to obtain these services from outside sources, then formal procurement procedures must be followed. However, city or county staff doing grant management must be certified by the Department (according to Section 213.) Grantees and sub-recipients will follow state and federal procurement law as outlined in the most recent ICDBG Grant Administrator's Manual.~~ (7-6-94)(9-1-05)T

~~**01. ICDBG Funds.** If an applicant chooses to use ICDBG funds to pay for part or all of a contract, the applicant shall use the procedures outline in this rule. (7-6-94)~~

~~02. **Other Funds.** If an applicant chooses to use its own funds to pay all of a contract amount, the applicant may use its own procurement procedures. However, the applicant shall not at a later time use ICDBG grant funds to pay any contract costs not procured by the ICDBG procurement rules. (7-6-94)~~

~~03. **Provisions.** Applicants are still required to follow applicable provisions of state law for procurement of goods and services. An applicant may accept proposals or bids from companies, non-profits and persons which have provided guidance and technical assistance in establishing the applicants procurement process as long as the process is open and competitive; the procurement standards are not unreasonably restrictive and no conflict of interest (as defined by Section 191) exists. (7-6-94)~~

154. -- ~~160~~163. (RESERVED).

~~161. **PROFESSIONAL SERVICES:**~~

~~01. **Small Purchase Procurement.** If the cost of the grant management, does not exceed one hundred thousand dollars (\$100,000), or twenty five thousand dollars (\$25,000) for engineering or architectural services, then a "small purchase" method or informal method of procurement can be used. The grantee should write or call two (2) or more potentially qualified professionals and request written qualifications. Verbal requests for qualifications must be clearly documented in the grantee's file. This documentation shall, at a minimum, be date, person's name, company name, services discussed, dollar amounts or basis of rates quoted. Once qualifications have been reviewed, the grantee shall inform the proposers of the selection and provide the reasons the professional was selected or rejected. (3-19-99)~~

~~02. **Competitive Negotiation Procurement.** If the amount of grant management, exceeds one hundred thousand dollars (\$100,000) or twenty five thousand (\$25,000) for engineering or architectural services, then a formal competitive negotiation method of procurement shall be utilized. The appropriate procedures for the competitive negotiation procurement method are as follows: (3-19-99)~~

~~a. **Prepare request for proposals (RFP).** RFP must include all factors that will be used to evaluate submissions. Evaluation factors must be outlined and the weight of each factor must be identified. (7-6-94)~~

~~b. **Cities must publish the RFP in local newspaper of general circulation. The RFP must be published at least twice. The proposal due date must be at least two (2) weeks after the first publication. Counties must publish the RFP in a newspaper of general circulation. The RFP must be published at least twice, not less than three (3) weeks apart. The proposal due date must be at least thirty (30) days from the first publication date. The RFP must also be sent to the Disadvantaged Resource Center. It is advisable to send a copy of the Request to local and area firms that may be qualified to respond. (3-30-01)**~~

~~c. **Establish a selection committee. This may be the governing body, a citizen review committee, or a combination of members of both. (7-6-94)**~~

~~d. **Evaluate all submitted RFPs for completeness and appropriateness. Review and rank the proposals according to the review criteria. All grant managers selected must be certified by the Department. Check with the Department for certification before awarding grant management contracts. Notify, in writing, all proposers about the decision and the reasons for the committee's selection or rejection. (7-6-94)**~~

~~e. **Draft a services contract and send the draft, a copy of the RFP, the minutes of the selection committee decision, and a sample of the ranking document to the Department for approval. Do not execute the contract until Department approval is received. All contracts for professional services must be submitted to the Department for review and approval thirty (30) days before the intended effective date. (7-6-94)**~~

~~162. **CONSTRUCTION SERVICES:**~~

~~01. **Costs Under Five Thousand Dollars.** If the cost of the construction is under five thousand dollars (\$5,000), then the "small purchase" method of procurement may be used. The grantee should write or call two (2) or more potentially qualified contractors and request written or verbal quotations for the construction needed. The documentation of this transaction shall include, at a minimum, the date of communication, the person's name, the~~

~~company name, the services discussed, the dollar amounts, and the basis of rates quoted. Once a contractor has been selected, the grantee shall inform the contractors of the selection and the reasons they were selected or rejected.~~

~~(7-6-94)~~

~~a. Price quotes—when an expenditure exceeds five thousand dollars (\$5,000) and is less than twenty-five thousand dollars (\$25,000) three (3) price quotes are required to be obtained from registered vendors having a significant economic presence in Idaho.~~

~~(3-20-97)~~

~~b. Responsible vendor—when a city finds it impractical or impossible to obtain three (3) quotations for the proposed transaction then the city may procure the goods or services from the lowest responsible bidder/vendor.~~

~~(3-20-97)~~

~~c. Bid security—cities are no longer required to obtain bid security but may at its discretion require bid security when it is in the best interest of the city.~~

~~(3-20-97)~~

~~d. Competitive bids—when an expenditure exceeds twenty-five thousand dollars (\$25,000) it shall be contracted for and let to the lowest responsible bidder. Where both bids and quality of property offered are the same, preference shall be given to property of local and domestic production and manufacture or from bidders having a significant Idaho economic presence as defined in Section 67-2349, Idaho Code.~~

~~(3-20-97)~~

~~e. Check with the Department ten (10) days prior to bid opening to update Davis-Bacon wage rates.~~

~~(7-6-94)~~

~~f. Open and read bids publicly at the time and place specified in the newspaper publication. Document the bid opening proceedings with official minutes.~~

~~(7-6-94)~~

~~g. Choose a responsible, apparent low bidder. If two (2) bids are the same, preference shall be given to the bidder that has significant Idaho economic presence as defined in Section 69-2349, Idaho Code.~~

~~(3-20-97)~~

~~h. Check with the Department for clearance of the successful bidder against the Federal Debarred List. This needs to be done prior to the Notice of Award being sent to the apparent low bidder.~~

~~(7-6-94)~~

~~i. Award the contract.~~

~~(7-6-94)~~

~~02. **Costs in Excess of Twenty-Five Thousand Dollars.** If the cost of the construction is over twenty-five thousand dollars (\$25,000), then the competitive sealed bid procedure must be followed. In most cases the grant manager and the project engineer will prepare the bid documents for review. The steps required to award construction contracts through the competitive sealed bid process are as follows:~~

~~(7-6-94)~~

~~a. Prepare bid documents.~~

~~(3-20-97)~~

~~b. Contact the Department for most current wage decision to be included in the bid documents.~~

~~(3-20-97)~~

~~c. Submit the bid documents to the Department for review and approval. Bid documents shall be submitted to the Department thirty (30) days prior to the proposed bid opening. Failure to meet the thirty (30) day time frame may result in the city/county and grant manager being liable for lacking or wrong information.~~

~~(3-20-97)~~

~~d. Publicly advertise bids in local newspaper of general circulation (minimum two (2) weeks for cities, thirty (30) days for counties). Cities shall publish twice, not less than one (1) week apart, two (2) weeks before the bid opening, and counties need to publish twice, at least one (1) week apart, with first publication thirty (30) days before bid opening.~~

~~(3-20-97)~~

~~e. Check with the Department ten (10) days prior to bid opening to update Davis-Bacon wage rates.~~

~~(3-20-97)~~

~~f. Open and read bids publicly at the time and place specified in the newspaper publication. Document the bid opening proceedings with official minutes.~~

~~(3-20-97)~~

~~g.~~ Choose a responsible, apparent low bidder. If two (2) bids are the same, preference shall be given to the bidder that has significant Idaho economic presence as defined in Section 69-2349 Idaho Code. (3-20-97)

~~h.~~ Check with the Department for clearance of the successful bidder against the Federal Debarred List. This needs to be done prior to the Notice of Award being sent to the apparent low bidder. (3-20-97)

~~i.~~ Award the contract. (3-20-97)

~~163. MATERIAL AND EQUIPMENT.~~

~~The guidelines in these rules for construction services also regulate the procurement process of materials and equipment, with the one (1) exception that ten thousand dollars (\$10,000) is the limit, rather than five thousand dollars (\$5,000). (7-6-94)~~

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

**09.02.03 - RULES OF THE IDAHO REGIONAL TRAVEL
AND CONVENTION GRANT PROGRAM**

DOCKET NO. 09-0203-0501

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given of this agency proposed rulemaking. This action is authorized pursuant to Section(s) 67-4702, 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 August 17, 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: A change is being made to the website address listed in IDAPA 09.02.03.204.08.f. to the new website address for this grant program and correction of clerical errors.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact ReNea Nelson, Grant Analyst, (208)334-2650 ext. 2153.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

ReNea Nelson
Grant Analyst
Idaho Department of Commerce and Labor
State Street Office
700 West State Street
Boise, ID 83720-0093
(208)334-2650 ext. 2153
(208)334-2631 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0203-0501

204. PLAN REQUIREMENTS.

Applicants must follow these requirements:

(2-22-93)

01. Goals/Objectives. The needs of the plan must be consistent with the ITC Strategic Objectives.

(2-22-93)

02. Adequate Management. The applicant must show his/her ability to properly operate and maintain the management and accounting system for the plan. (7-1-98)

03. Previous Grant Versus New Application. The ITC encourages successful applicants to complete all grants in a timely fashion. When considering applicants for funding, the ITC will scrutinize the applicant's historic grant record in terms of timeliness and effectiveness of implementation. (2-22-93)

04. Application Completeness. The applicant must submit applications to the Department of Commerce and Labor on the appropriate forms which will be provided by the department. The application must include a complete plan, grant summary sheet signed by the grantee, a detailed scope of work and a budget which includes sufficient funds for sales tax and an audit. (7-1-98)

05. Application Amendments/Withdraws. Amendments to either the scope of work or the budget on grant applications will be allowed only if changes are submitted to the Department of Commerce and Labor ten (10) working days prior to the grant awards utilizing the same format as the application submittal. Any other changes must occur on the floor during awards by the Council and can only be amended by a member of the Council. Applicants wishing to withdraw applications must provide written notice to the Department of Commerce and Labor ten (10) working days prior to grant awards. (3-20-04)

06. Plan Duration. Applicants are encouraged to limit the duration of their plan to fourteen (14) months or less. (2-22-93)

07. Local/Regional Support. Applicants may show local/regional support of the plan by submitting up to three (3) letters of support. One (1) letter summarizing local match must be submitted with the application. (2-22-93)

08. Credit Logo and Printing Identification. All plans funded by the Idaho Regional Travel and Convention Grant Program shall credit said program. (5-3-03)

a. A logo, as determined and provided by the ITC, with the following guidelines, will be placed on all ITC funded brochures. Special permission to adjust the size of the approved ITC logo, except where specified in these rules, must be granted by the state. (5-3-03)

i. The approved ITC logo will be used in all publications in a color in keeping with the design of the piece and must be pre-approved by ITC staff before final printing. (5-3-03)

b. Eight and one-half by eleven inch (8 1/2" x 11") or larger brochures will incorporate the use of a one-half inch (1/2") logo; eight by ten inch (8" x 10") or smaller brochures, will incorporate the use of a one-fourth inch (1/4") logo. (5-3-03)

c. Printing Identification: ITC grant year, assigned ITC grant number, printed quantity. (5-3-03)

d. State 800 Telemarketing Number: "For additional information on Idaho, call 1-800-VISIT-ID." (2-22-93)

e. The word "IDAHO" shall appear prominently on the front of the brochure. The ITC approved logo will appear on either the front cover, the inside front cover, or the back cover of the brochure. (5-3-03)

f. Other printed materials, websites, and print advertising shall include the approved ITC logo. Size of logo to be proportional to the size of the website or publication. See ~~www.idoe.state.id.us~~ www.tourism.idaho.gov/grants for current downloadable graphic elements. (5-3-03)()

i. Slide shows, videos, films, TV productions or commercials will include the approved ITC logo. Size to be proportional to the size of the grantee approved content. (5-3-03)

ii. Radio advertisements will include the following ITC acknowledgement: "Visit Scenic Idaho". (3-20-04)

- iii. Billboards will include the approved ITC logo. Size to be proportional to the size of the display. (5-3-03)
 - iv. Trade show booths will display the approved ITC logo in a size and location easily viewable by the public. (5-3-03)
 - g. FAMS funded by the Idaho Regional Travel and Convention Grant Program will credit that program with the approved ITC logo in materials appropriate to the event. (5-3-03)
 - h. Failure to comply with crediting the ITC for project funding could jeopardize payment for that project and future plan funding. (2-22-93)
- 09. Consultants.** Indirect personnel costs are inherently eligible when applying for a specific project to be subcontracted to a consultant. The following regulations apply to hiring a consultant: (7-1-98)
- a. The contract between the consultant and the grantee must be approved by the Department of Commerce and Labor and shall include language stating the contractor has sufficient Workmen's Compensation or liability insurance. Payment will not be reimbursed until the Department of Commerce and Labor has approved the contract. (2-22-93)
 - b. Consultant's billing must be itemized. Lump sum billings will not be eligible for payment. (2-22-93)
 - c. The Council will not fund retainers or other regular ongoing fees for consultant services or pay a consultant to administer a grant. (2-22-93)

IDAPA 12 - DEPARTMENT OF FINANCE

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-0501 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency initiated proposed rulemaking procedures. This action is authorized pursuant to Sections 26-3105(5) and 26-3110(4)(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 August 17, 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 non-technical explanation of the substance and purpose of the proposed rulemaking:

The proposed rulemaking is necessary to establish continuing education requirements for mortgage loan originator licensees and the criteria for approval of continuing education courses, as set forth in Sections 26-3110(4)(b) and (c), Idaho Code.

The proposed rulemaking is also necessary to delete provisions of existing rules related to trust accounts; the financial condition of licensees; and, provisions related to entities exempt from licensure under the Idaho Residential Mortgage Practices Act, in order to remain consistent with statutory changes to Title 26, Chapter 31, Idaho Code.

The proposed rulemaking will also amend provisions related to written disclosures required in residential mortgage loan transactions and add provisions related to procedures and prohibited practices associated with such transactions.

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

In accordance with Section 26-3110(4)(c), Idaho Code, the proposed rule will impose a fee of \$250, per course, for the review of applications submitted by prospective continuing education providers for the accreditation of course material.

In accordance with Section 26-3112(1), Idaho Code, the proposed rule will also impose a fee of \$25 for the examination of records which evidence the completion of continuing professional education courses provided by presumptively accredited continuing education providers.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the June 1, 2005 Idaho Administrative Bulletin, Volume 05-6, page 30.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions or for further information regarding this proposed rule, contact Anthony Polidori at (208)-332-8084.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 30th day of June, 2005.

Michael Larsen
Consumer Finance Bureau Chief
Idaho Department of Finance
700 West State Street, 2nd Floor
P.O. Box 83720
Boise, ID 83720-0031
(208)-332-8000 Phone
(208)-332-8099 Fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 12-0110-0501

002. WRITTEN INTERPRETATIONS -- AGENCY ACCESS -- FILINGS (RULE 2).

Written interpretations of these rules are available by mail from the Department of Finance, P.O. Box 83720, Boise, Idaho 83720-0031. The street address of the agency is Department of Finance, Joe R. Williams Building, 700 West State Street, Boise, Idaho, ~~83720-0031~~. The telephone numbers of the agency include (208) 332-8000 - Administration; and (208) 332-8004~~2~~ - Residential Mortgage. The telephone number of the facsimile machine is (208) 332-8099. All filings with the agency in connection with rule-making or contested cases shall be made with the Director of the Department of Finance, and shall include an original and one (1) copy. ~~(11-1-98)~~()

(BREAK IN CONTINUITY OF SECTIONS)

005. INCORPORATION BY REFERENCE (RULE 5).

IDAPA 12.01.10, "Rules Pursuant to the Idaho Residential Mortgage Practices Act," incorporates by reference the full text of the following federal laws and regulations as defined in these rules: the Real Estate Settlement Procedures Act, *as amended, 12 USCA 2601, et seq., 88 Stat. 1724, Pub. L. 93-533; Department of Housing and Urban Development's Regulation X, Real Estate Settlement Procedures Act, 24 CFR 3500, as amended; Regulation Z, Truth in Lending, 12 CFR 226, as amended; and*, the Truth in Lending Act, and Regulation Z as amended, 15 USCA 1601, et seq., 82 Stat. 146, Pub. L. 90-321. ~~(11-1-98)~~()

006. DEFINITIONS (RULE 6).

Except where otherwise stated, terms used in these rules which are defined in the Idaho Residential Mortgage Practices Act shall have the same meaning as set forth in that Act. As used in these rules: ~~(11-1-98)~~()

01. Accredited Instruction. Means a course, video, motion picture, sound recording, or dissemination through electronic means of instructional material, which has been approved by the director for continuing professional education credit. ()

02. Act. Means the Idaho Residential Mortgage Practices Act, Title 26, Chapter 31, Idaho Code. ()

03. Certificate of Completion. Means written documentation issued by an education provider to a participant, in a manner approved by the director, evidencing the completion of a specific amount of credit hours of accredited instruction. ()

04. Closing. Means the process of executing legally binding documents regarding a lien on property that is subject to a residential mortgage loan and includes the day agreed upon by a borrower and a licensee to complete such process. ~~(11-1-98)~~()

05. Credit Hour. Means sixty (60) minutes of accredited instruction attained through actual attendance of a course or an allotted increment of time of accredited instruction through independent study, as predetermined by the director. ()

06. Director. Means the director of the Idaho Department of Finance. ()

07. Education Provider. Means a provider of accredited instruction. ()

08. Participant. Means a person who attends accredited instruction for the purpose of accruing credit hours. ()

029. Real Estate Settlement Procedures Act. Means the *Real Estate Settlement Procedure Act, as amended, set forth in 12 USCA 2601, et seq., 88 Stat. 1724, Pub. L. 93-533* as amended to and including January 1, 2006. (11-1-98)()

0310. Regulation X. Means Regulation X as promulgated by the Department of Housing and Urban Development's Regulation X, Real Estate Settlement Procedure Act, and codified in 24 CFR 3500 et seq., as amended to and including January 1, 2006. (11-1-98)()

0411. Regulation Z. Means Regulation Z, Truth in Lending, as promulgated by the Board of Governors of the Federal Reserve System and codified in 12 CFR 226 et seq., as amended to and including January 1, 2006. (11-1-98)()

12. Reporting Period. Means a two (2) year period of time commencing on November 1st and ending on October 31st unless otherwise specified by order of the director. ()

0513. Truth in Lending Act. Means the *Truth in Lending Act, as amended, set forth in 15 USCA 1601, et seq., 82 Stat. 146, Pub. L. 90-321* as amended to and including January 1, 2006. (11-1-98)()

007. -- 009. (RESERVED).

010. TRUST ACCOUNT REQUIREMENTS FOR CONTINUING PROFESSIONAL EDUCATION (RULE 10).

01. Establishment of Trust Account. *Each licensee shall, as trustee, hold all borrower funds received prior to closing in a trust account established at a financial institution located in this state. The funds may not be used for the benefit of the licensee or any person not entitled to such benefit. Each licensee is responsible for depositing, holding, disbursing, accounting for, and otherwise dealing with the funds, in accordance with these rules.* (11-1-98)

02. Designation of Trust Account(s). *Each account holding borrower funds must be designated as a trust account in the name of the licensee as it appears on its license. All checks must be prenumbered by the supplier (printer) and bear upon the front of the check the identifying words, "trust account".* (11-1-98)

03. Required Trust Account Records and Procedures. *Each licensee shall maintain as part of its books and records:* (11-1-98)

a. *A trust account deposit register that includes a copy of each check deposited into the trust account and the corresponding deposit slip for each deposit to the trust account;* (11-1-98)

b. *A ledger for the trust account. Licensees may maintain either one (1) ledger for the entire trust account or an individual subaccount ledger sheet for each borrower. A trust account ledger must identify each borrower from whom funds deposited to the trust account are received. Each receipt and disbursement pertaining to such funds must be posted to the ledger sheet at the time the receipt or disbursement occurs. Entries to the ledger sheet must show the date of deposit, identifying check or instrument number, amount and name of remitter. Offsetting entries to the ledger sheet must show the date of check, check number, amount of check, name of payee and invoice number if any;* (11-1-98)

- ~~e. A trust account check register that includes either a copy of each check written on the trust account or the canceled checks provided by the licensee's financial institution; and (11-1-98)~~
- ~~d. Trust account bank statements. (11-1-98)~~
- ~~**04. Trust Account Deposit Requirements. (11-1-98)**~~
- ~~a. All funds received from borrowers or on behalf of borrowers prior to closing must be deposited in the trust account prior to the end of the third business day following receipt. Each check or money order shall be endorsed "for deposit only" with the licensee's trust account number. (11-1-98)~~
- ~~b. All deposits to the trust account(s) must be documented by a bank deposit slip which has been validated by bank imprint, or by an attached deposit receipt which bears the signature of an authorized representative of the licensee indicating that the funds were actually deposited into the proper account(s). (11-1-98)~~
- ~~e. Receipt of funds by wire transfer or any means other than cash, check or money order, must be posted in the same manner as other receipts. Any such transfer of funds must include a traceable identifying name or number supplied by the financial institution or transferring entity. The licensee must also retain a receipt for the deposit of the funds which must contain the traceable identifying name or number supplied by the financial institution or transferring entity. (11-1-98)~~
- ~~**05. Trust Account Disbursement Requirements. (11-1-98)**~~
- ~~a. Each licensee is responsible for the disbursement of all trust account funds, whether disbursed by personal signature, signature plate, or signature of another person authorized to act on the licensee's behalf. (11-1-98)~~
- ~~b. All disbursements of trust funds must be made by check, drawn on the trust account, and identified on the check as pertaining to a specific third-party provider transaction or borrower refund. The number of each check, amount, date, and payee must be shown in the trust account(s) check ledger as written on the check. (11-1-98)~~
- ~~e. Disbursements may be made from the trust account(s) for the payment of bona fide third-party providers' services rendered in the course of the borrower's loan origination, if the borrower has consented in writing to the payment. Such consent may be given at any time during the application process and in any written form, provided that it contains sufficient detail to verify the borrower's consent to the use of trust funds. (11-1-98)~~
- ~~d. There shall be no erasures or white-out corrections in any of the trust account records (checks, deposits, ledgers, subledgers, bank statements or reconcilements). All corrections shall be done by drawing a single line through the erroneous entry, leaving it legible, and making an entirely new entry to replace it. (11-1-98)~~
- ~~e. Borrower funds held by the licensee must be remitted to the borrower within thirty (30) business days of the determination that all payments to third-party providers owed by the borrower have been satisfied. (11-1-98)~~
- ~~f. Any trust funds held by the licensee for a borrower who cannot be located must be remitted in compliance with Section 14-506, Idaho Code. (11-1-98)~~
- ~~**06. Computerized Accounting System Requirements. The following additional requirements apply to computerized accounting systems: (11-1-98)**~~
- ~~a. The system must provide the capability to back-up data files; and (11-1-98)~~
- ~~b. All checks written must be included within the computer accounting system. (11-1-98)~~
- ~~**01. Licensee. For purposes of the "Requirements for Continuing Professional Education" provisions of**~~

this rule, the term “licensee” means a person: ()

a. Who is a loan originator licensed under the Act; or ()

b. Who is designated pursuant to Section 26-3108, Idaho Code, as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act. ()

02. Minimum Requirements. ()

a. A loan originator licensed under the Act shall attain sixteen (16) credit hours within each reporting period. ()

b. Persons designated in the director’s files, as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act shall attain sixteen (16) credit hours within each reporting period. ()

c. Credit hours accrued in excess of the required sixteen (16) credit hours in any reporting period shall not carry over nor be credited to any subsequent reporting period. ()

03. Accrual of Credit Hours. ()

a. For the purpose of accruing credit hours within any reporting period, a licensee shall attain no less than two (2) credit hours directly related to the Act and these rules. ()

b. For the purpose of accruing credit hours within any reporting period, a licensee shall attain no less than fourteen (14) credit hours related to the following: ()

i. Basics of home purchase and ownership; ()

ii. The mortgage industry generally; ()

iii. Loan evaluation and documentation; ()

iv. Features of various loan products; ()

v. State and federally required disclosures; ()

vi. Ethical considerations; ()

vii. The Idaho Credit Code; ()

viii. The Idaho Mortgage Company Act; ()

ix. The Idaho Escrow Act; ()

x. The Uniform Commercial Credit Code; ()

xi. Law related to mortgages, deeds of trust, liens, and pledges; ()

xii. Real estate and appraisal law; ()

xiii. Principal and agency law; ()

xiv. Contract law; ()

xv. The Real Estate Settlement Procedures Act; or ()

xvi. Truth in Lending and the federal Consumer Credit Protection Act. ()

c. Accredited instruction shall be of a minimum duration of one (1) credit hour and shall contribute to the goal of maintaining or increasing the knowledge, skill and competence of licensees. The principal focus of accredited instruction shall not be sales, marketing, commercial lending or commercial loan brokering, motivational, or skills pertaining to running a business. ()

d. A participant who successfully completes a course of accredited instruction may not repeat that course for credit hours with the same education provider within the same reporting period. ()

e. A participant may accrue credit hours within ninety (90) days prior to initial submission of an application for a loan originator license under the Act. Such credit hours shall not accrue to the participant unless the initial license application is subsequently approved by the director and a license is issued. Credit hours shall not be granted to a participant under this provision unless the participant provides the director with a copy of the certificate of completion for such accredited instruction within sixty (60) days of initial licensure. ()

f. Persons designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act may accrue credit hours for accredited instruction attended within ninety (90) days prior to the date of approval by the director of such designation. ()

g. Persons who, as of January 1, 2006, are designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act may accrue credit hours for accredited instruction completed on or after October 1, 2005. ()

04. Recordkeeping and Reporting of Accrued Credit Hours. ()

a. Every licensee shall maintain copies of certificates of completion for a period of no less than three (3) years following completion of the accredited instruction. ()

b. The initial reporting period for a loan originator licensed under the Act shall commence on November 1st immediately succeeding his initial licensure. ()

c. The initial reporting period for persons who are not loan originators, but who have been designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act shall commence: ()

i. On November 1, 2006, if the person has been so designated prior to November 1, 2006; or ()

ii. On November 1st immediately following the director's approval of the person's designation, if the person is so designated on or after November 1, 2006. ()

d. Within thirty (30) days following the expiration of each reporting period a licensee shall deliver copies of certificates of completion to the director demonstrating the licensee's completion of the credit hours required under these rules. ()

e. A licensee who fails to attain the credit hours required by these rules, or fails to maintain records as required in Section 010 of these rules, or fails to timely report compliance with the credit hour requirements of these rules shall be subject to license revocation or suspension as prescribed in Section 26-3109, Idaho Code. ()

f. Upon revocation or suspension of a license issued under the Act for failure to complete or report credit hour requirements, no person shall obtain a new license or a reinstated license in the case of a license suspension, as a loan originator, mortgage broker or mortgage lender without first satisfying the credit hour requirements, which, having been previously incomplete or not reported, were the cause of the license revocation or suspension. ()

011. EDUCATION PROVIDERS AND CONTENT OF CONTINUING PROFESSIONAL EDUCATION (RULE 11).

01. Submission of Continuing Professional Education Courses for Accreditation by the Director.

Education provider applicants shall submit an application, in a form provided by the director, for accreditation of continuing professional education for each instructional course proposed to be offered by the education provider applicant. The application shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250) and shall include, but not be limited to, the following information: ()

a. The name and address of the education provider and date(s) on and locations at which the program is to be offered; ()

b. The qualifications and experience of the education provider's principal officers, staff, and instructor(s); ()

c. The costs of all programs for which approval is sought; ()

d. A copy of the proposed course materials together with a description of each course for which approval is sought; and ()

e. A sample of what is provided to participants to verify course completion. ()

02. Granting of Accreditation of Professional Education Courses. The director shall grant accreditation to continuing professional education courses if he finds: ()

a. That the course constitutes an organized program of learning which provides instruction on subject matter as described in Subsection 010.03 of these rules; ()

b. That course materials are prepared, and instruction conducted, by an individual or group qualified by practical or academic experience in the subject or subjects to be presented; ()

c. That the course shall be presented in a setting physically suited to the educational activity or in a manner which allows for participant interaction and comprehension of course materials. Training facilities for live class settings shall be easily accessible and comply with all applicable state and federal laws, including, but not limited to, the Americans With Disabilities Act of 1990; ()

d. That course outlines, syllabi, workbooks, examinations, study-guides, or other instructional material are of a high quality, readable, and carefully prepared and relevant to the course of study offered; and()

e. That the prospective education provider's application is complete and truthful. ()

03. Review of Accredited Instruction. ()

a. An education provider shall designate one (1) person as its contact person who shall be available to the director, or to his designated representative, during ordinary business hours and shall be knowledgeable and have authority to act with regard to all administrative matters concerning instructors, scheduling, advertising, recordkeeping, and supervising all programs offered by the education provider. ()

b. The director may periodically review the content and facilitation of accredited instruction for the purposes of verifying that such accredited instruction continues to meet the requirements of these rules. ()

c. The education provider shall be required to permit the director, or the director's representative, to audit the accredited instruction and course material at no cost to the director or to the director's representative. The audit shall evaluate whether the accredited instruction meets the requirements of these rules. The education provider shall permit the director or the director's representative to review records appropriate to selected course offerings. Upon a finding that accredited instruction no longer meets the requirements of these rules, the director may suspend or revoke the approval of the accredited instruction. The education provider shall be responsible for payment of audits conducted under Section 011 of these rules. ()

d. Education providers shall notify the director of any material changes which have been made to accredited instruction within thirty (30) days of such changes. Material changes include changes materially affecting the content or facilitation of accredited instruction as it applies to the requirements of Subsection 011.02 of these rules. ()

e. Within thirty (30) days of conclusion of a course of accredited instruction, an education provider shall submit to the director an attendance roster in a form prescribed by the director. Education providers shall maintain records related to participant attendance and completion of accredited instruction for a period of no less than three (3) years. ()

04. Suspension of Accreditation. The accreditation of a continued professional education course may be suspended if the director determines that: ()

a. The accredited instruction teaching method or program content no longer meets the standards of these rules, or have been materially changed without notice to the director as required; or ()

b. The education provider granted a certificate of completion when in fact the participant had not satisfactorily completed the accredited instruction; or ()

c. The education provider failed to grant a certificate of completion to a participant when in fact the participant had satisfactorily completed the accredited instruction; or ()

d. The education provider or any of its instructors have had a mortgage license revoked or suspended in any jurisdiction; or ()

e. There is other good cause why accreditation should be suspended. ()

05. Reinstatement of Accreditation. Reinstatement of a suspended accreditation will be made upon the furnishing of proof satisfactory to the director that the conditions responsible for the suspension have been corrected. ()

06. Renewal of Approval of Accredited Instruction. The director's accreditation of a continuing professional education course shall expire two (2) years from the date of issuance and thereafter on each subsequent two (2) year anniversary of the renewal date. Application for renewal of accreditation shall be filed by not later than sixty (60) days prior to each such expiration date and shall be accompanied by a non-refundable renewal fee of one hundred fifty dollars (\$150). Applications for renewal of accreditation shall be in a form prescribed by the director and shall include documentation demonstrating that the accredited instruction continues to meet the requirements of Subsection 011.03 of these rules. ()

07. Prohibited Practices. ()

a. No person shall represent, in any manner that an instructional course has received approval or accreditation from the director or, that participants will receive credit hours for attendance and completion of an instructional course, unless such course has been approved by the director. ()

b. No person shall misrepresent, circumvent or conceal, through whatever subterfuge or device, any of the material particulars of the status, content, or facilitation of an instructional course offered to participants for the purposes of meeting the continuing professional education requirements of these rules. ()

012. PRESUMPTIVE ACCREDITATION (RULE 12).

01. Instructional Courses Presumptively Accredited. Instructional courses that cover subject matter set forth in Subsection 010.03 of these rules, that are provided by the following listed organizations, or by such other organizations as may be determined by the director, are presumptively accredited and no request for accreditation of an instructional course offered by these organizations is required, unless the director determines otherwise. ()

a. The Idaho Department of Finance. ()

- b.** The National Association of Mortgage Brokers. ()
- c.** The Mortgage Bankers Association. ()
- d.** The National Association of Professional Mortgage Women. ()
- e.** The Idaho Housing and Finance Association. ()
- f.** Federal National Mortgage Association. ()
- g.** Federal Home Loan Mortgage Corporation. ()
- h.** The American Bankers Association. ()
- i.** Regulatory agencies of any state or of the United States that have regulatory authority over mortgage related activity. ()
- j.** Institutions of higher education accredited by the Idaho State Board of Education or by similar accrediting agencies of any other state. ()
- k.** The Conference of State Bank Supervisors. ()
- l.** The American Association of Residential Mortgage Regulators. ()
- 02.** Acceptance of Credit Hours for Presumptively Accredited Instruction. Credit hours for presumptively accredited instruction may be credited to participants in the following manner: ()
 - a.** Upon timely submission of a copy of a certificate of completion as set forth in Subsection 010.04 of these rules; or ()
 - b.** By written application by the participant, in a form prescribed by the director, within thirty (30) days of successful course completion. The application shall be accompanied by a non-refundable fee of twenty-five dollars (\$25). ()

~~01013~~. -- 039. (RESERVED).

040. DECEPTIVE ADVERTISING (RULE 40).

01. Advertising. Advertising means making or permitting to be made any oral, written, graphic or pictorial statements, in any manner, in the course of the solicitation of business. Deceptive advertising is defined to include the following practices by a licensee, or a person required to be licensed under the Act: ~~(11-1-98)~~()

a. Making a representation or statement of fact in an advertisement if the representation or statement is false or misleading, or if the licensee does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based. (11-1-98)

b. Advertising without clearly and conspicuously disclosing the licensee's business name. (11-1-98)

c. Engaging in bait advertising or misrepresenting, directly or indirectly the terms, conditions or charges incident to the mortgage loan being advertised. Bait advertising, for these purposes, means an alluring, but insincere offer to procure, arrange, or otherwise assist a borrower in obtaining a mortgage loan on terms which the licensee cannot, does not intend, or want to provide, or which the licensee knows cannot be reasonably provided. Its purpose is to switch borrowers from ~~buying~~ obtaining the advertised mortgage loan product to ~~buying~~ obtaining a different mortgage loan product, usually at a higher rate or on a basis more advantageous to the licensee. ~~(11-1-98)~~()

d. Advertising an address at which the licensee conducts no mortgage brokering or ~~banking~~ lending activities ~~or for which the licensee does not hold a license.~~ (11-1-98)(____)

e. Advertising in a manner that has the effect of misleading a person to believe that the advertisement or solicitation is from a person's current mortgage holder, a government agency, or that an offer is a limited opportunity when such is not the case. (____)

041. -- 049. (RESERVED).

050. WRITTEN DISCLOSURES (RULE 50).

01. **Upon Receipt of a Residential Mortgage Loan Application.** Upon receipt of a residential mortgage loan application, and before receipt of any moneys from a borrower, a licensee shall disclose to each borrower, in a form acceptable to the Director, information about the licensee, the services that a licensee may provide and the services that the licensee will provide. (11-1-98)(____)

02. **Information Provided Within Three Days.** Within three (3) business days after receipt of a residential mortgage loan application, ~~the following information a licensee shall be provided~~ to the borrower the following disclosures specific to the residential mortgage loan application: (11-1-98)(____)

a. Disclosures in compliance with the requirements of the federal Truth-in-Lending Act and Regulation Z. These include the annual percentage rate, finance charge, amount to be financed, total of all payments, number of payments, amount of each payment, amount of points or prepaid interest; and if a variable rate loan, the circumstances under which the rate may increase, any limitation on the increase, the effect of an increase on the monthly payment amount and total interest to be paid, and an example of the payment terms resulting from an increase for a loan in the approximate amount of the loan that is being requested. (11-1-98)

b. Disclosures through good faith estimates of settlement services in compliance with the requirements of the federal Real Estate Settlement Procedures Act and Regulation X. These disclosures include the itemized costs of any credit report, appraisal, title report, title insurance policy, mortgage insurance, premium pricing, escrow fee, loan closing fee, property tax, insurance premium, structural or pest inspection and any mortgage broker or mortgage banker fees associated with the residential mortgage loan. (11-1-98)

03. **Interest Rate Lock-In Agreement Not Entered.** If, at the time of application, an interest rate lock-in agreement has not been entered, disclosure ~~must shall~~ be made to the borrower, in a form approved by the director, that the disclosed interest rate and terms are subject to change. ~~Such disclosure A licensee shall be provided such disclosure to the borrower at the same time the Federal Truth-in-Lending disclosure is delivered within three (3) business days of the licensee's receipt of an application for a residential mortgage loan.~~ (11-1-98)(____)

04. **Licensee Enters into a Lock-In Agreement.** If a licensee enters into an interest rate lock-in agreement with a lender or represents to the borrower that the licensee has entered into a lock-in agreement, then within no more than three (3) business days thereafter, including Saturdays, the licensee shall deliver or send by first-class mail to the borrower, ~~for the borrower's signature,~~ a written confirmation of the term of the lock-in agreement. (11-1-98)(____)

05. **In Addition to Disclosures Required.** In addition to the disclosures required under ~~the federal Truth-in-Lending Act Subsection 050.02 of these rules,~~ if a prepayment penalty may be a condition of ~~the~~ a residential mortgage loan offered ~~to a borrower~~ by a licensee, that fact shall be separately disclosed in writing to the borrower ~~and the borrower must agree in writing to accept that condition by the licensee.~~ The disclosure shall state that a prepayment penalty provision imposes a charge if the borrower refinances or pays off the mortgage loan before the date for repayment stated in the loan agreement. This written disclosure shall be in a form approved by the director, and shall be delivered ~~at the same time to the borrower is given the federal Truth-in-Lending disclosure within three (3) business days of the licensee's receipt of an application for a residential mortgage loan.~~ (11-1-98)(____)

051. -- 059. (RESERVED).

060. PROHIBITED PRACTICES (RULE 60).

01. Prohibited Practices. It shall be a prohibited practice for any licensee, or person required to be licensed under the Act to: (11-1-98)(____)

a. Make any representation or statement of fact, or omit to state a material fact, if the representation, statement or omission is false or misleading or has the tendency or capacity to be misleading, or if the licensee or lender does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based. Such claims or omissions include but are not limited to the availability of funds, terms, conditions, or changes incident to the mortgage transaction, prepayment penalties and the possibility of refinancing. (11-1-98)

b. Fail to disburse funds in a timely manner, in accordance with any commitment or agreement with the borrower, either directly or through a broker: (11-1-98)

i. Either immediately upon closing of the loan in the case of a purchase/sale transaction; or (11-1-98)

ii. Immediately upon expiration of the three (3) day rescission period in the case of a refinancing, or taking of a junior mortgage on the existing residence of the borrower. (11-1-98)(____)

iii. For the purposes of this paragraph, the term “immediately” represents a period of time no greater than seventy-two (72) hours. (____)

c. Fail to give the borrower, upon the borrower’s verbal or written request, a reasonable opportunity ~~(of at least *one (1) day*)~~ twenty-four (24) hours prior to closing to review every document to be signed or acknowledged by the borrower for the purpose of obtaining a residential mortgage loan, and every document which is required pursuant to these ~~regulations~~ rules, and other applicable laws, rules or regulations, *prior to closing.* (11-1-98)(____)

d. Require a borrower to obtain or maintain fire insurance or other hazard insurance in an amount that exceeds the replacement value of the improvements to the real estate. (11-1-98)(____)

e. Engage in any deceptive advertising as set forth in Section 040 (Rule 40). (11-1-98)

f. Provide or offer to provide any services, for compensation or gain, such as credit repair, credit or debt counseling, investment advising, real estate brokerage services, tax or legal advice, unless the person offering such services has first obtained a license or approval required by the appropriate licensing authority to engage in the offering of such services. (____)

~~061. -- 069. (RESERVED).~~

~~070. FINANCIAL CONDITION (RULE 70).~~

~~Each licensee shall submit with the license application, and subsequent requests for renewals, a complete financial statement as of the most recent fiscal year end or fiscal quarter, that is prepared in accordance with Generally Accepted Accounting Principals (GAAP). The licensee shall submit a financial statement in one (1) of the following forms:~~ (11-1-98)

~~01- CPA Statement. Compiled, reviewed, or audited by a certified public accountant; (11-1-98)~~

~~02- IRS Schedule L. Internal Revenue Service Schedule L for the most recent tax year and either the accompanying tax return or a certification signed by the licensee that the Schedule L is a true and correct copy of the Schedule L submitted to the Internal Revenue Service; or (11-1-98)~~

~~03- Other Approved Form. Any other form approved by the Director. (11-1-98)~~

~~071-061. -- 089. (RESERVED).~~

090. BORROWERS UNABLE TO OBTAIN LOANS (RULE 90).

If, for any reason, a licensee ~~is unable to~~ does not obtain a residential mortgage loan for a borrower, that is satisfactory to the borrower, and the borrower has paid for an appraisal, the licensee shall give a copy of the appraisal to the borrower and transmit ~~the~~ and assign original appraisal reports, along with any other documents provided by the borrower, to any other licensee or person exempt from licensure to whom the borrower directs that the documents be transmitted. The licensee ~~must~~ shall provide the copies or transmit the documents within three (3) business days after the borrower makes the request in writing. (H-1-98)(____)

~~091. -- 099. (RESERVED).~~

~~100. EXEMPT ENTITIES (RULE 100).~~

~~The terms "bank," "savings and loan association" and "credit union" shall include any first tier wholly owned subsidiary of such organization, industrial loan company or wholly owned subsidiary of an industrial loan company, provided that the subsidiary is regularly examined by the chartering state or federal agency for consumer compliance purposes.~~ (H-1-98)

~~101091. -- 999. (RESERVED).~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.03 - RULES GOVERNING EMERGENCY MEDICAL SERVICES

DOCKET NO. 16-0203-0501

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-1017, Idaho Code (House Bill No. 697, passed by the 2004 Idaho Legislature, amended this Section).

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 August 17, 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:

House Bill No. 697 directs the Board of Health and Welfare to include criteria for "air medical services" provided by EMS personnel at emergency scenes. A new section of rule is being added to this chapter that outlines the clinical and operational factors influencing air medical use and decision making by EMS personnel.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

There is no fiscal impact to the general fund. The money involved is currently in the EMS Bureau's general administrative account and is "dedicated" funds not Idaho General Funds. This new rule will require provider education modules to be added to the training curriculum for EMS agencies. There will be a one time cost, within the first year, of \$5,000 for development of the curriculum and \$1,000 for supporting documentation and distribution costs. After that first year, there would be no additional costs. The Department will contract with an Idaho institution of higher education for this curriculum development.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, informal negotiated rulemaking was conducted with pertinent interest groups, Legislators and Department staff to obtain guidance on the content of the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dia Gainor at 334-4000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 27th day of June, 2005.

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

THE FOLLOWING IS THE TEXT FOR DOCKET NO. 16-0203-0501

010. DEFINITIONS AND ABBREVIATIONS.

For the purposes of these rules, the following terms and abbreviations will be used, as defined below: (7-1-80)

01. Advanced Emergency Medical Technician-Ambulance (AEMT-A). An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of an advanced EMT training program, examination, subsequent required continuing training, and recertification. (4-6-05)

02. Advanced Life Support (ALS). The provision of medical care, medication administration and treatment with medical devices which correspond to the knowledge and skill objectives in the EMT-Paramedic curriculum currently approved by the State Health Officer in accordance with Subsection 201.04 of these rules and within the scope of practice defined in IDAPA 22.01.06, "Rules for EMS Personnel," Subsection 011.05, by persons certified as EMT-Paramedics in accordance with these rules. (4-5-00)

03. Advertise. Communication of information to the public, institutions, or to any person concerned, by any oral, written, or graphic means including handbills, newspapers, television, radio, telephone directories and billboards. (4-5-00)

04. Agency. An applicant for designation or a licensed EMS service seeking designation. (4-5-00)

05. Air Medical Response. The deployment of an aircraft licensed as an ambulance to an emergency scene intended for the purpose of patient treatment and transportation. ()

056. Ambulance. Any privately or publicly owned ground vehicle, nautical vessel, fixed wing aircraft or rotary wing aircraft used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport. (7-1-97)

067. Ambulance-Based Clinicians. Licensed Professional Nurses, Advanced Practice Professional Nurses, and Physician Assistants with current licenses from the Board of Nursing or the Board of Medicine, who are personnel provided by licensed EMS services. (4-5-00)

078. Board. The Idaho State Board of Health and Welfare. (12-31-91)

089. Certification. A credential issued to an individual by the EMS Bureau for a specified period of time indicating that minimum standards corresponding to one (1) or several levels of EMS proficiency have been met. (7-1-97)

0910. Certified Personnel. Individuals who have completed training and successfully passed examinations for training and skills proficiency in one (1) or several levels of emergency medical services. (7-1-97)

101. Critical Care Transfer (CCT). The transportation of a patient with continuous care, monitoring, medication or procedures requiring knowledge or skills not contained within the EMT-Paramedic curriculum approved by the State Health Officer. Interventions provided by EMT-Paramedics are governed by the scope of practice defined in IDAPA 22.01.06, "Rules for EMS Personnel". (4-6-05)

112. Director. The Director of the Department of Health and Welfare or designated individual. (12-31-91)

123. Division. The Idaho Division of Health, Department of Health and Welfare. (11-19-76)

134. Emergency. A medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's

health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. (4-5-00)

145. Emergency Medical Services (EMS). The services utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. (11-19-76)

156. EMS Bureau. The Emergency Medical Services (EMS) Bureau of the Idaho Department of Health and Welfare. (11-19-76)

167. EMS Standards Manual. A manual published by the EMS Bureau detailing policy information including EMS education, training, certification, licensure, and data collection. (7-1-97)

178. Emergency Medical Technician-Ambulance (EMT-A). A designation issued to an EMT-B by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of supervised in-field experience. (7-1-97)

189. Emergency Medical Technician-Basic (EMT-B). An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of a basic EMT training program, examination, subsequent required continuing training, and recertification. (7-1-97)

190. Emergency Medical Technician-Intermediate (EMT-I). An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of an intermediate training program, examination, subsequent required continuing training, and recertification. (4-6-05)

201. Emergency Medical Technician-Paramedic (EMT-P). An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of a paramedic training program, examination, subsequent required continuing training, and recertification. (7-1-97)

22. Emergency Scene. Any setting (including standbys) outside of a hospital, with the exception of the inter-facility transfer, in which the provision of EMS may take place. ()

23. Glasgow Coma Score (GCS). A scale used to determine a patient's level of consciousness. It is a rating from three (3) to fifteen (15) of the patient's ability to open his eyes, respond verbally, and move normally. The GCS is used primarily during the examination of patients with trauma or stroke. ()

24. Ground Transport Time. The total elapsed time calculated from departure of the ambulance from the scene to arrival of the ambulance at the patient destination. ()

245. First Responder. An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of a first responder training program, examination, subsequent required continuing training, and recertification. (7-1-97)

226. Licensed EMS Services. Ambulance services and non-transport services licensed by the EMS Bureau to function in Idaho. (7-1-97)

27. Local Incident Management System. The local system of interagency communications, command, and control established to manage emergencies or demonstrate compliance with the National Incident Management System. ()

238. National Registry of Emergency Medical Technicians (NREMT). An independent, non-governmental, not for profit organization which prepares validated examinations for the state's use in evaluating candidates for certification. (7-1-97)

249. Non-Transport. A vehicle design or organizational configuration which brings EMS personnel or equipment to a location, but does not move any sick or injured person from that location. (7-1-97)

~~2530.~~ **Out-of-Hospital.** Any setting outside of a hospital, including inter-facility transfers, in which the provision of EMS may take place. (4-5-00)

~~31.~~ **Patient Assessment.** The evaluation of a patient by EMS certified personnel intending to provide treatment or transportation to that patient. ()

~~2632.~~ **Physician.** A person licensed by the State Board of Medicine to practice medicine or surgery or osteopathic medicine or surgery in Idaho. (11-17-96)

~~2733.~~ **Pre-Hospital.** Any setting (including standbys) outside of a hospital, with the exception of the inter-facility transfer, in which the provision of EMS may take place. (4-5-00)

~~2834.~~ **State Health Officer.** The Administrator of the Division of Health. (11-19-76)

~~2935.~~ **Transfer.** The transportation of a patient from one (1) medical care facility to another by ambulance. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

401. -- ~~499~~404. (RESERVED).

405. STANDARDS FOR THE APPROPRIATE USE OF AIR MEDICAL AGENCIES BY CERTIFIED EMS PERSONNEL AT EMERGENCY SCENES.

01. Who Establishes Training Curricula and Continuing Education Requirements for Air Medical Criteria? The EMS Bureau will incorporate education and training regarding the air medical criteria established in Section 425 of this rule into initial training curricula and required continuing education of certified EMS personnel. ()

02. Who Must Establish Written Criteria Guiding Decisions to Request an Air Medical Response? Each licensed EMS service must establish written criteria, approved by the EMS service medical director, to guide the decisions of the service's certified EMS personnel to request an air medical response to an emergency scene. The criteria will include patient conditions found in Section 415 of these rules. ()

03. What Written Criteria is Required for EMS Service Licensure? Written criteria guiding decisions to request an air medical response will be required for all initial and renewal applications for EMS service licensure for licenses effective on November 1, 2006, or later. ()

04. Who Is Responsible for Requesting an Air Medical Response? Certified EMS personnel en route to or at the emergency scene have the primary responsibility and authority to request the response of air medical services in accordance with the local incident management system and licensed EMS service written criteria. ()

05. When Can Certified EMS Personnel Cancel an Air Medical Response? Certified EMS personnel must complete a patient assessment prior to their cancellation of an air medical response. ()

06. Who May Establish Criteria for Simultaneous Dispatch? The licensed EMS service may establish criteria for simultaneous dispatch for air and ground medical response. Air medical services will not respond to an emergency scene unless requested. ()

07. Who Is Responsible for Selecting an Appropriate Air Medical Service? Selection of an appropriate air medical service is the responsibility of the licensed EMS service. ()

a. The licensed EMS service, through written policy, will establish a process of air medical selection. ()

b. The written policy must direct EMS personnel to honor a patient request for a specific air medical service when the circumstances will not jeopardize patient safety or delay patient care. ()

406. -- 414. (RESERVED).

415. AIR MEDICAL RESPONSE CRITERIA.

The need for an air medical request will be determined by the licensed EMS service certified personnel based on their patient assessment and transport time. Each licensed EMS service must develop written criteria based on best medical practice principles. The following conditions must be included in the criteria: ()

01. What Clinical Conditions Require Written Criteria? The licensed EMS service written criteria will provide guidance to the certified EMS personnel for the following clinical conditions: ()

- a.** The patient has a penetrating or crush injury to head, neck, chest, abdomen, or pelvis; ()
- b.** Neurological presentation suggestive of spinal cord injury; ()
- c.** Evidence of a skull fracture (depressed, open, or basilar) as detected visually or by palpation; ()
- d.** Fracture or dislocation with absent distal pulse; ()
- e.** A Glasgow Coma Score of ten (10) or less; ()
- f.** Unstable vital signs with evidence of shock; ()
- g.** Cardiac arrest; ()
- h.** Respiratory arrest; ()
- i.** Respiratory distress; ()
- j.** Upper airway compromise; ()
- k.** Anaphylaxis; ()
- l.** Near drowning; ()
- m.** Changes in level of consciousness; ()
- n.** Amputation of an extremity; and ()
- o.** Burns greater than twenty percent (20%) of body surface or with suspected airway compromise. ()

02. What Complicating Conditions Require Written Criteria? When associated with clinical conditions in Subsection 415.01 of these rules, the following complicating conditions require written guidance for EMS personnel: ()

- a.** Extremes of age; ()
- b.** Pregnancy; and ()
- c.** Patient "do not resuscitate" status as described in Section 400 of these rules. ()

03. What Operational Conditions Require Written Guidance for an Air Medical Response? The

licensed EMS service written criteria will provide guidance to the certified EMS personnel for the following operational conditions: ()

- a.** Availability of local hospitals and regional medical centers: ()
- b.** Air medical response to the scene and transport to an appropriate hospital will be significantly shorter than ground transport time: ()
- c.** Access to time sensitive medical interventions such as percutaneous coronary intervention, thrombolytic administration for stroke, or cardiac care: ()
- d.** When the patient's clinical condition indicates the need for advanced life support and air medical is the most readily available access to advanced life support capabilities: ()
- e.** As an additional resource for a multiple patient incident: ()
- f.** Remote location of the patient: and ()
- g.** Local destination protocols. ()

416. -- 419. (RESERVED).

420. COMMUNICATIONS.

01. Who Is Responsible for Requesting an Air Medical Response? The licensed EMS service will establish a uniform method of communication, in compliance with the local incident management system, to request air medical response. ()

02. What Information Must Be Given When Requesting an Air Medical Response? Requests for an air medical response must include the following information as it becomes available: ()

- a.** Type of incident: ()
- b.** Landing zone location or GPS (latitude/longitude) coordinates, or both: ()
- c.** Scene contact unit or scene incident commander, or both: ()
- d.** Number of patients if known: ()
- e.** Need for special equipment: ()
- f.** How to contact on scene EMS personnel, and ()
- g.** How to contact the landing zone officer. ()

03. Who Is Notified of a Request for an Air Medical Response? The air medical service will notify the State EMS Communication Center within ten (10) minutes of launching an aircraft in response to a request for emergency services. Notification will include: ()

- a.** The name of the requesting entity: ()
- b.** Location of the landing zone: and ()
- c.** Scene contact unit and scene incident commander, if known. ()

04. Who Is Provided the Estimated Time of Arrival at the Specified Landing Zone? Upon receipt of a request for emergency services, the air medical service will provide the requesting entity with an estimated time

to arrival in hours and minutes at the location of the specified landing zone and any changes to that estimated time. ()

05. Who Must Confirm Availability of an Air Medical Response? Upon receipt of a request, the air medical service will inform the requesting entity if the air medical service is not immediately available to respond. ()

421. -- 424. (RESERVED).

425. LANDING ZONE AND SAFETY.

01. Who Is Responsible for Setting Up Landing Zone Procedures? The licensed EMS service in conjunction with the air medical service(s) must have written procedures for establishment of landing zones. Such procedures will be compatible with the local incident management system. ()

02. What Are the Responsibilities of Landing Zone Officers? The procedures for establishment of landing zones must include identification of Landing Zone Officers with responsibility for the following: ()

a. Landing zone preparation: ()

b. Landing zone safety; and ()

c. Communication between ground and air agencies. ()

03. What Training Is Required for Landing Zone Officers? The licensed EMS service will assure that EMS certified personnel, designated as Landing Zone Officers, have completed training in establishing an air medical landing zone based on the following elements: ()

a. The required size of a landing zone: ()

b. The allowable slope of a landing zone: ()

c. The allowable surface conditions: ()

d. Hazards and obstructions: ()

e. Marking and lighting: ()

f. Landing zone communications; and ()

g. Landing zone safety. ()

04. What Is the Deadline for Obtaining Training as Landing Zone Officers? Current EMS certified personnel, designated as Landing Zone Officers, must complete the required training described in Subsection 425.03 of these rules by June 30, 2007. ()

05. What Is the Deadline for Training as a Landing Zone Officer for EMS Recertification? All EMS certified personnel will complete training described in Subsection 425.03 of these rules as a component of required continuing education for recertification not later than June 30, 2010. ()

06. Who Has the Final Decision to Use an Established Landing Zone? The air medical pilot may refuse the use of an established landing zone. In the event of pilot refusal, the landing zone officer will initiate communications to identify an alternate landing zone. ()

426. -- 429. (RESERVED).

430. PATIENT DESTINATION.

The air medical service must have written procedures for determination of patient destination. ()

01. Procedures for Destination Protocol and Medical Direction. The air medical service written procedure will consider the licensed EMS service destination protocol and medical direction received. ()

02. Availability of Written Procedures. The air medical service must make the written procedures available to licensed EMS services that utilize their services. ()

03. Determination of Destination Will Honor Patient Preference. The air medical procedures for determination of destination will honor patient preference if the requested facility is capable of providing the necessary medical care and if the requested facility is located within a reasonable distance not compromising patient care or the EMS system. ()

431. -- 434. (RESERVED).

435. PERIODIC REVIEW OF EMS SYSTEM DATA.

The Department of Health and Welfare, EMS Bureau, will periodically review service response data with other EMS system data such as those found in the Trauma Registry maintained in accordance with Title 57, Chapter 20, Idaho Code. ()

01. How Often Will the Department Conduct a Review of Air Medical Criteria? The Idaho EMS Bureau will review the rules, utilization and effectiveness of air medical criteria every three (3) years with the first review being completed no later than June 30, 2009. ()

02. What May Be Included During the Review of Air Medical Criteria? The EMS Bureau review of air medical criteria may include the following: ()

a. Licensed EMS service response data; ()

b. Licensed EMS service guidelines; ()

c. Patient treatment and outcome information; and ()

d. Trauma Registry data. ()

03. What Information Must Be Provided During the Review of Air Medical Response Criteria? Licensed EMS services must provide incident specific patient care related data identified and requested by the EMS Bureau in the review of air medical response criteria. ()

04. To Whom Will the EMS Bureau Report the Aggregate Data and Findings? The EMS Bureau will report the aggregate data and findings from the review of air medical criteria to all licensed EMS services, hospitals, county commissioners, and EMS medical directors. ()

436. -- 499. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM
DOCKET NO. 16-0309-0504
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 7, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b) and 56-203(g), Idaho Code, and House Bill 324 (2005).

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

Date: Friday, August 19, 2005
Time: 1:00 – 3:00 p.m.
Place: Medicaid Central Office
3232 Elder St.
Conference Room D – East
Boise, ID

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To better protect the health and safety of Idahoans, these rules are being amended to allow for Medicaid coverage of investigational medical treatments and procedures when the medical review process indicates that such a procedure is necessary and would benefit the health of the participant. The rules are also being amended to comply with House Bill 324 (2005) that prohibits Medicaid coverage of experimental medical services or procedures.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate since it is necessary for the protection of the public health, safety, or welfare.

FEE SUMMARY: There is no fee or charge being imposed or increased in this docket.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

This rule does not result in any additional costs to the Medical Assistance program as the changes proposed do not expand upon existing coverage; rather, they clarify how coverage determinations are made so that decisions will be cost effective and not arbitrary.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this change was made to reflect an internal Medicaid policy decision and to comply with House Bill 324 (2005).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Leslie Clement at (208) 364-1804.

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 Wednesday, August 24, 2005.

DATED this 17th day of June, 2005.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0504

061. -- ~~064~~063. (RESERVED).

064. COVERAGE OF INVESTIGATIONAL PROCEDURES OR TREATMENTS.

The Department may consider Medicaid coverage for investigational procedures or treatments on a case-by-case basis for life-threatening medical illnesses when no other treatment options are available. For these cases, a focused case review is completed by a professional medical review organization to determine if an investigational procedure would be beneficial to the participant. The Department will perform a cost/benefit analysis on the procedure or treatment in question. The Department will determine coverage based on this review and analysis. (4-7-05)T

- 01. Focused Case Review.** A focused case review consists of assessment of the following: (4-7-05)T
- a.** Health benefit to the participant of the proposed procedure or treatment; (4-7-05)T
 - b.** Risk to the participant associated with the proposed procedure or treatment; (4-7-05)T
 - c.** Result of standard treatment for the participant's condition, including alternative treatments other than the requested procedure or treatment; (4-7-05)T
 - d.** Specific inclusion or exclusion by Medicare national coverage guidelines of the proposed procedure or treatment; (4-7-05)T
 - e.** Phase of the clinical trial of the proposed procedure or treatment; (4-7-05)T
 - f.** Guidance of the proposed procedure or treatment by national organizations; (4-7-05)T
 - g.** Clinical data and peer-reviewed literature pertaining to the proposed procedure or treatment; and (4-7-05)T
 - h.** Ethics Committee review, if appropriate. (4-7-05)T
- 02. Additional Clinical Information.** For cases in which the Department determines that there is insufficient information from the focused case review to render a coverage decision, the Department may, at its discretion, seek an independent professional opinion. (4-7-05)T

03. Cost/Benefit Analysis. The Department will perform a cost/benefit analysis that will include at least the following: (4-7-05)T

- a. Estimated costs of the procedure or treatment in question. (4-7-05)T
- b. Estimated long-term medical costs if this procedure or treatment is allowed. (4-7-05)T
- c. Estimated long-term medical costs if this procedure is not allowed. (4-7-05)T
- d. Potential long-term impacts approval of this procedure or treatment may have on the medical assistance program. (4-7-05)T

04. Coverage Determination. The Department will make a decision about coverage of the investigational procedure or treatment after consideration of the focused case review, cost/benefit analysis, and any additional information received during the review process. (4-7-05)T

065. SERVICES, TREATMENTS, AND PROCEDURES NOT COVERED BY MEDICAL ASSISTANCE. The following services, treatments, and procedures are not covered for payment by the Medical Assistance Program: (5-15-84)(4-7-05)T

01. Service Categories ~~Excluded~~ Not Covered. The following ~~categories of~~ service categories are ~~excluded from MA payment~~ not covered for payment by the Medical Assistance Program: (5-15-84)(4-7-05)T

- a. Acupuncture services; ~~and~~ (5-15-84)(4-7-05)T
- b. Naturopathic services; ~~and~~ (5-15-84)(4-7-05)T
- c. Bio-feedback therapy; and (11-10-87)
- d. Fertility-related services, including testing. (11-10-87)(4-7-05)T

02. Procedures ~~Excluded~~ Types of Treatments and Procedures Not Covered. The costs of physician and hospital services for the following types of treatments and procedures are ~~excluded from MA payment. This includes both the procedure itself, and the costs for all follow-up medical treatment directly associated with such a procedure~~ not covered for payment by the Medical Assistance Program: (6-1-86)(4-7-05)T

a. Elective medical and surgical treatment, except for family planning services, without Departmental approval. Procedures that are generally accepted by the medical community and are medically necessary may not require prior approval and may be eligible for payment; ~~or~~ (6-1-86)(4-7-05)T

b. Cosmetic surgery, excluding reconstructive surgery ~~which that~~ has prior approval by the Department; ~~or~~ (7-1-98)(4-7-05)T

c. Acupuncture; ~~or~~ (6-1-86)(4-7-05)T

d. Bio-feedback therapy; ~~or~~ (6-1-86)(4-7-05)T

e. Laetrile therapy; ~~or~~ (6-1-86)(4-7-05)T

f. ~~Organ transplants; lung, pancreas, or other transplants considered investigative or experimental procedures and multiple organ transplants; or~~ (10-1-91)

g. Procedures and testing for the inducement of fertility. This includes, but is not limited to, artificial inseminations, consultations, counseling, office exams, tuboplasties, and vasovasostomies; (11-10-87)(4-7-05)T

h. New procedures of unproven value and established procedures of questionable current usefulness as identified by the Public Health Service and ~~which that~~ are excluded by the Medicare program are ~~excluded from~~

~~MA payment~~ not covered by the Medical Assistance Program; ~~or~~ (5-15-84)(4-7-05)T

~~h.~~ Drugs supplied to patients for self-administration other than those allowed under the conditions of Section ~~126~~ 805; ~~or~~ (12-31-91)(4-7-05)T

~~ji.~~ Examinations: (6-1-86)

i. For routine checkups, other than those associated with the EPSDT program; ~~or~~ (6-1-86)(4-7-05)T

ii. In connection with the attendance, participation, enrollment, or accomplishment of a program; or (6-1-86)

iii. For employment. (6-1-86)

~~ki.~~ Services provided by psychologists and social workers who are employees or contract agents of a physician, or a physician's group practice association except for psychological testing on the order of the physician; ~~or~~ (6-1-86)(4-7-05)T

~~lk.~~ The treatment of complications, consequences or repair of any medical procedure, ~~in which where~~ the original procedure was ~~excluded from MA coverage~~ not covered by the Medical Assistance Program, unless the resultant condition is life-threatening as determined by the ~~MA Section of the~~ Department; ~~or~~ (5-15-84)(4-7-05)T

~~ml.~~ Medical transportation costs incurred for travel to medical facilities for the purpose of receiving a noncovered medical service are ~~excluded from MA payment.~~ not covered by the Medical Assistance Program; (5-15-84)(4-7-05)T

~~nm.~~ Eye exercise therapy; or (10-25-88)(4-7-05)T

~~on.~~ Surgical procedures on the cornea for myopia. (3-2-94)

03. Experimental Treatments or Procedures. Treatments and procedures used solely to gain further evidence or knowledge or to test the usefulness of a drug or type of therapy are not covered for payment by the Medical Assistance Program. This includes both the treatment or procedure itself, and the costs for all follow-up medical treatment directly associated with such a procedure. Treatments and procedures deemed experimental are not covered for payment by the Medical Assistance Program under the following circumstances: (4-7-05)T

a. The treatment or procedure is in Phase I clinical trials in which the study drug or treatment is given to a small group of people for the first time to evaluate its safety, determine a safe dosage range, and identify side effects; (4-7-05)T

b. There is inadequate available clinical or pre-clinical data to provide a reasonable expectation that the trial treatment or procedure will be at least as effective as non-investigational therapy; or (4-7-05)T

c. Expert opinion suggests that additional information is needed to assess the safety or efficacy of the proposed treatment or procedure. (4-7-05)T

(BREAK IN CONTINUITY OF SECTIONS)

081. ORGAN TRANSPLANTS.

The Department may ~~purchase~~ reimburse for organ transplant services for bone marrows, kidneys, hearts, intestines, and livers when provided by hospitals approved by the ~~Health Care Financing Administration~~ Centers for Medicare and Medicaid for the Medicare program ~~and~~ that have completed a provider agreement with the Department. The Department may ~~purchase~~ reimburse for cornea transplants for conditions where such transplants have demonstrated efficacy. (3-15-02)(4-7-05)T

- ~~01. Heart or Liver Transplants. Heart or liver transplant surgery will be covered. (3-15-02) (3-15-02)~~
- 021. Kidney Transplants.** Kidney transplantation surgery will be covered only in a renal transplantation facility participating in the Medicare program after meeting the criteria specified in 42 CFR 405 Subpart U. Facilities performing kidney transplants must belong to one (1) of the End Stage Renal Dialysis (ESRD) network area's organizations designated by the Secretary of Health and Human Services for Medicare certification. ~~(10-1-91)(4-7-05)T~~
- 032. Living Kidney Donor Costs.** The transplant costs for actual or potential living kidney donors are fully covered by Medicaid and include all reasonable preparatory, operation, and post-operation recovery expenses associated with the donation. Payments for post-operation expenses of a donor will be limited to the period of actual recovery. (10-1-91)
- 043. Intestinal Transplants.** Intestinal transplantation surgery will be covered only for patients with irreversible intestinal failure, and who have failed total parenteral nutrition. ~~(3-15-02)(4-7-05)T~~
- 054. Coverage Limitations.** ~~When the need for transplant of a second organ such as a heart, lung, liver, bone marrow, pancreas, or kidney represents the coexistence of significant disease, the organ transplants will not be covered. (10-1-91)(4-7-05)T~~
- a. Multi-organ transplants may be covered when:** (4-7-05)T
- i. The primary organ defect caused damage to a second organ and transplant of the primary organ will eliminate the disease process; and** (4-7-05)T
- ii. The damage to the second organ will compromise the outcome of the transplant of the primary organ.** (4-7-05)T
- ab.** Each kidney or lung is considered a single organ for transplant; (10-1-91)
- bc.** Retransplants will be covered only if the original transplant was performed for a covered condition and if the retransplant is performed in a Medicare/Medicaid approved facility; (10-1-91)
- ed.** A liver transplant from a live donor will not be covered by the Medical Assistance Program; ~~(3-15-02)(4-7-05)T~~
- d.** ~~Multi-organ transplants such as heart/lung or kidney/pancreas and the transplant of artificial hearts or ventricular assist devices are not covered; (10-1-91)~~
- e.** ~~Except for cornea transplants, all~~ No organ transplants are ~~excluded from MA payment~~ covered by the Medical Assistance Program unless ~~prior pre~~authorized by the Department or its designee, and performed for the treatment of medical conditions where such transplants have a demonstrated efficacy. ~~(3-15-02)(4-7-05)T~~
- ~~06. Noncovered Transplants. Services, supplies, or equipment directly related to a noncovered transplant will be the responsibility of the recipient. (10-1-91)~~
- 075. Follow-Up Care.** Follow-up care to a recipient who received a covered organ transplant may be provided by a Medicare/Medicaid participating hospital not approved for organ transplantation. (10-1-91)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.11 - RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES

DOCKET NO. 16-0411-0501 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-4601 et seq., Idaho Code.

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

Date: Tuesday, August 9, 2005	Tuesday, August 16, 2005	Monday, August 22, 2005
Time: 6:00 - 8:00 p.m.	6:00 - 8:00 p.m.	6:00 - 8:00 p.m.
Place: Region IV Office 1720 Westgate Drive, Suite D Room 119 Boise, ID	Region I Kootenai Medical Center Health Resource Center 2003 Lincoln Way Fox #2 Coeur d'Alene, ID	Region VII Development Center 2475 Leslie Ave Idaho Falls, ID

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: This entire chapter of rules is being repealed. The text of the rewritten chapter will appear under Docket No. 16-0411-0502.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fees are being imposed or increased as result of this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year. There will not be any fiscal impact to State of Idaho general funds as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted for the rewrite of the chapter. The negotiated rulemaking workgroup met monthly from April 28, 2004, through June 2, 2005, and was comprised of Department staff, DDA providers, and advocates, including representatives from Comprehensive Advocacy (Co-Ad) and the Idaho Council on Developmental Disabilities.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cameron Gilliland (Division of FACS) at (208) 334-5512.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, August 24, 2005.

DATED this 28th day of June, 2005.

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 16.04.11 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.11 - RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES

DOCKET NO. 16-0411-0502 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-4601 et seq., Idaho Code.

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

Date: Tuesday, August 9, 2005	Tuesday, August 16, 2005	Monday, August 22, 2005
Time: 6:00 - 8:00 p.m.	6:00 - 8:00 p.m.	6:00 - 8:00 p.m.
Place: Region IV Office 1720 Westgate Drive, Suite D Room 119 Boise, ID	Region I Kootenai Medical Center Health Resource Center 2003 Lincoln Way Fox #2 Coeur d'Alene, ID	Region VII Development Center 2475 Leslie Ave Idaho Falls, ID

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

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

The chapter of rules that govern Developmental Disabilities Agencies (DDAs) has been completely rewritten to better assure that safe, high-quality developmental disabilities services are being delivered in an efficient manner to best meet the needs of people with developmental disabilities. The rewrite aims to make the requirements, both for certification and providing services, easier to understand and readily enforceable. This will improve compliance with the rules, reduce hearings, better assure the safety and quality of services, increase the efficiency of the system for providing services, and generally make the rules easier for staff and providers to use. More than a year of negotiated rulemaking was conducted in the development of these rules. This docket contains the text of the rewritten chapter of rules, IDAPA 16.04.11, "Developmental Disabilities Agencies".

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

No fees are being imposed or increased as result of this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

There will not be any fiscal impact to State of Idaho general funds as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The negotiated rulemaking workgroup met monthly from April 28, 2004, through June 2, 2005, and was comprised of Department staff, DDA providers, and advocates, including representatives from Comprehensive Advocacy (Co-Ad) and the Idaho Council on Developmental Disabilities.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cameron Gilliland (Division of FACS) at (208) 334-5512.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, August 24, 2005.

DATED this 30th day of June, 2005.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0411-0502

IDAPA 16
TITLE 04
CHAPTER 11

16.04.11 - DEVELOPMENTAL DISABILITIES AGENCIES

000. LEGAL AUTHORITY.

The Idaho Board of Health and Welfare is authorized under the “Idaho Developmental Disabilities Services and Facilities Act of 1978,” Sections 39-4601 et seq., Idaho Code, to adopt rules governing Developmental Disabilities Agencies in Idaho. ()

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.04.11, “Developmental Disabilities Agencies (DDA)”. ()

02. Scope. These rules govern: ()

a. The certification of Developmental Disabilities Agencies providing rehabilitative and habilitative services to persons with developmental disabilities; and ()

b. The provision of these services to those eligible under this chapter of rules. ()

c. All agencies that meet the definition of a Developmental Disabilities Agency (DDA) in Section 010 of these rules must be certified by the Department in accordance with the requirements in this chapter of rules. Rules regarding Medicaid reimbursement for DDA services are found in IDAPA 16.03.09, “Rules Governing the Medical Assistance Program,” Section 120. ()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter of rules. ()

003. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by provisions of IDAPA 16.05.03, “Rules Governing Contested Case Proceedings and Declaratory Rulings”. ()

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this chapter of rules. ()

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

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

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ()

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. ()

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ()

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

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records". ()

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ()

007. -- 008. (RESERVED).

009. MANDATORY CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Verification of Compliance. The agency must verify that all employees, subcontractors, agents of the agency, and volunteers delivering services to developmentally disabled participants have complied with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". ()

02. When Agency Employees May Begin Working. Once an employee, subcontractor, agent of the agency, or volunteer delivering services to developmentally disabled participants has completed a self-declaration form and has been fingerprinted, he may begin working for the agency on a provisional basis while awaiting the results of the criminal history check. ()

03. Requirement to Report Additional Criminal Convictions. Once an employee, subcontractor, agent of the agency, or volunteer delivering services to developmentally disabled participants has received a criminal history clearance, any additional criminal convictions must be reported to the Department or its designee when the agency learns of the conviction. ()

04. Requirement to Report Pending Investigations or Charges. Once an employee, subcontractor, agent of the agency, or volunteer delivering services to developmentally disabled participants has received a criminal history clearance, the agency must immediately report to the Department when any of them is charged with criminal charges, is charged with or is under investigation for abuse, neglect, or exploitation of any vulnerable adult or child, or when an adult protection or child protection complaint against them is substantiated. ()

010. DEFINITIONS -- A THROUGH O.

For the purposes of these rules, the following terms are used as defined below: ()

01. Adult. A person who is eighteen (18) years of age or older or an Idaho State School and Hospital (ISSH) Waiver participant. ()

- 02. Agency.** A developmental disabilities agency (DDA) as defined in Section 010 of this rule. ()
- 03. Annual.** Every three hundred sixty-five (365) days except during a leap year which equals three hundred sixty-six (366) days. ()
- 04. Baseline.** A baseline is pre-intervention or annual data used to gauge a participant's level of independent performance as a basis for initiating therapeutic intervention. ()
- 05. Board.** The Idaho State Board of Health and Welfare. ()
- 06. Communicable Disease.** A disease that may be transmitted from one (1) person or an animal to another person either by direct contact or through an intermediate host, vector, inanimate object, or other means that may result in infection, illness, disability, or death. ()
- 07. Comprehensive Assessment.** An assessment used for diagnostic and evaluation purposes that contains uniform criteria used to determine a person's eligibility for DDA services and the need for those services. ()
- 08. Deficiency.** A determination of non-compliance with a specific rule or part of rule. ()
- 09. Department.** The Idaho Department of Health and Welfare. ()
- 10. Developmental Disabilities Agency (DDA).** A DDA is an agency that is: ()
- a.** A type of developmental disabilities facility, as defined in Section 39-4604(7), Idaho Code, that is non-residential and provides services on an outpatient basis; ()
 - b.** Certified by the Department to provide DDA services to people with developmental disabilities, in accordance with these rules; ()
 - c.** A business entity, open for business to the general public; and ()
 - d.** Primarily organized and operated to provide developmental therapy and other DDA services and the corresponding assessments to people with developmental disabilities. ()
- 11. DDA Services.** A DDA provides services that are rehabilitative and habilitative in nature. DDA services include assessment, diagnostic, and treatment services that are provided on an outpatient basis to persons with developmental disabilities and may be community-based, home-based, or center-based in accordance with the requirements of this chapter. Each DDA is required to provide developmental therapy, and, in addition, also must provide or make available the following services: psychotherapy, occupational therapy, physical therapy, and speech and hearing therapy. A DDA may also opt to provide pharmacological management, psychiatric diagnostic interviews, community crisis supports, collateral contact, and Intensive Behavioral Intervention (IBI). ()
- 12. Developmental Disability.** A developmental disability, as defined in Section 66-402, Idaho Code, means a chronic disability of a person which appears before the age of twenty-two (22) years of age and: ()
- a.** Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism or other condition found to be closely related to or similar to one (1) of these impairments, which requires similar treatment or services or is attributable to dyslexia resulting from such impairments; and ()
 - b.** Results in substantial functional limitations in three (3) or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and ()
 - c.** Reflects the need for a combination or sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and individually planned and coordinated. ()

13. Developmental Specialist. A person qualified to conduct developmental assessments and developmental therapy under these rules. ()

14. Developmental Therapy. Developmental therapy is the use of therapeutic intervention and positive behavioral techniques that result in measurable skill acquisition or prevent regression where documentation shows that regression is anticipated in the following areas: ()

- a. Self-care; ()
- b. Receptive and expressive language; ()
- c. Learning; ()
- d. Mobility; ()
- e. Self-direction; ()
- f. Capacity for independent living; and ()
- g. Economic self-sufficiency. ()

15. Habilitation. The process of developing skills and abilities. ()

16. Individualized Family Service Plan (IFSP). An initial or annual plan of service, developed by the Department or its designee, for providing early intervention services to children birth to age three (3). This plan must meet the provisions of the Individuals with Disabilities Education Act (IDEA), Part C. ()

17. Individual Program Plan (IPP). An initial or annual plan of service developed by the DDA for providing DDA services to: ()

- a. Children from three (3) through seventeen (17) years of age; ()
- b. Participants up to age twenty-one (21) who are receiving Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services; or ()
- c. Participants eighteen (18) years of age or older receiving DDA services and who are using the Home and Community Based Services (HCBS) Waiver for the Aged and Disabled (A&D), State Plan PCS, or are living in a nursing facility. ()

18. Individual Service Plan (ISP). An initial or annual plan of service, for persons eighteen (18) years of age or older or ISSH waiver participants, that identifies all services and supports developed under a person-centered planning process. The Department authorizes each ISP at least once every three hundred sixty-five (365) days. This type of plan is referred to as the "plan of service" in IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services". ()

19. Integration. The process of promoting a life for individuals with developmental disabilities that is as much as possible like that of other citizens of the community, including living in the community and having access to community resources. A further goal of this process is to enhance the social image and personal competence of individuals with developmental disabilities. ()

20. Intensive Behavioral Intervention (IBI). Individualized, comprehensive, proven interventions used on a short term, one-to-one basis that produce measurable outcomes that diminish behaviors that interfere with the development and use of language and appropriate social interaction skills or broaden an otherwise severely restricted range of interest. ()

21. Medical/Social History. An assessment completed by a licensed social worker or other qualified

professional working within the scope of his license. This assessment of the participant's history, home, family, and physical environment is part of the process used to determine his treatment needs. ()

22. Medical, Social, and Developmental Assessment Summary. A form used by the Department to gather a participant's medical, social and developmental history and other summary information. It is required for all participants receiving DDA services under an ISP. The information is used in the assessment and authorization of a participant's services. ()

23. Objective. A behavioral outcome statement developed to address a particular need identified for a participant. An objective is written in measurable terms that specify a target date for completion, no longer than two (2) years in duration, and include criteria for successful attainment of the objective. ()

011. DEFINITIONS -- P THROUGH Z.

For the purposes of these rules, the following terms are used as defined below: ()

01. Paraprofessional. A person, such as an aide or therapy technician, who is qualified to assist a qualified professional in providing services to persons with developmental disabilities. ()

02. Participant. A person who has been identified as having a developmental disability as defined in this chapter, and who is receiving services through a DDA. ()

03. Person-Centered Planning Process. A meeting facilitated by the plan developer, comprised of family and individuals significant to the participant who collaborate with the participant to develop the plan of service. ()

04. Person-Centered Planning Team. The group who develops the plan of service. This group includes, at a minimum, the participant and the service coordinator or plan developer chosen by the participant. The person-centered planning team may include others identified by the participant or agreed upon by the participant and the Department as important to the process. ()

05. Plan Developer. A paid or nonpaid person identified by the participant who is responsible for developing an ISP and subsequent addenda that covers all services and supports, based on a person-centered planning process. ()

06. Plan Monitor. A person who oversees the provision of services on the ISP on a paid or non-paid basis. The plan developer is the plan monitor unless there is a Service Coordinator, in which case the Service Coordinator assumes both roles. ()

07. Plan of Service. An initial or annual plan that identifies services and supports based on a person-centered planning process. Plans are authorized annually. In this chapter of rules, "plan of service" may refer to any of the following: IFSP, IPP, or ISP. ()

08. Practitioner of the Healing Arts, Licensed. A licensed physician, physician assistant, or nurse practitioner. ()

09. Prior Authorization (PA). A process for determining a participant's eligibility for services and medical necessity prior to the delivery or payment of services in accordance with IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services". ()

10. Probe. A probe is data gathered on an intermittent basis, after a baseline is established, to measure a participant's level of independent performance as related to an identified objective. ()

11. Program Implementation Plan. A plan that details how DDA goals from the plan of service will be accomplished. ()

12. Provider. An agency, or an individual working for an agency, that furnishes DDA services under the provisions of these rules. ()

13. Provider Status Review. The written documentation that identifies a participant's progress toward goals defined in the ISP. ()

14. Provisional Certificate. A certificate issued by the Department to a DDA with deficiencies that do not adversely affect the health or safety of participants. A provisional certificate is issued contingent upon the correction of deficiencies in accordance with an agreed-upon plan. A provisional certificate is issued for a specific period of time, up to, and not exceeding, six (6) months. ()

15. Psychotherapy. Treatment methods using a specialized, formal interaction between a qualified professional and an individual, family, or group in which a therapeutic relationship is established, maintained, or sustained to understand unconscious processes, or intrapersonal, interpersonal, and psychosocial dynamics, or the diagnosis and treatment of mental, emotional, and behavioral disorders, conditions, and addictions. ()

16. Qualified Professional. A professional delivering services within the scope of his practice and in accordance with the requirements of this chapter. ()

17. Rehabilitation. The process of improving skills or level of adjustment to increase the person's ability to maintain satisfactory independent or dependent functioning. ()

18. Repeat Deficiency. A violation or deficiency found on a resurvey or revisit to a DDA that was also found during the previous survey or visit. ()

19. Service. Assessment, diagnosis, therapy, training, assistance, or support provided to a person with a developmental disability by a DDA. ()

20. Service Coordination. Service coordination is an activity that assists individuals eligible for Medicaid in gaining and coordinating access to necessary care and services appropriate to the needs of an individual. The delivery of service coordination is governed by IDAPA 16.03.17, "Service Coordination". ()

21. Service Coordinator. An individual who provides service coordination to a Medicaid-eligible participant, is employed by a service coordination agency, and meets the training, experience, and other requirements under IDAPA 16.03.17, "Service Coordination". ()

22. Specific Skill Assessment. A type of assessment used to determine the baseline or the need for further intervention for the discipline area being assessed. ()

23. Supervision. Initial direction and procedural guidance by a qualified professional and periodic inspection of the actual work performed at the service delivery site. ()

24. Supports. Formal or informal services and activities, not paid for by the Department, that enable the individual to reside safely and effectively in the setting of his choice. ()

012. -- 199. (RESERVED).

CERTIFICATION REQUIREMENTS FOR DEVELOPMENTAL DISABILITIES AGENCIES
(Sections 200 Through 299)

200. DDA CERTIFICATION.

01. Application for Certification. All DDAs must apply for certification under these rules. ()

02. Restriction on Certification. A business entity established by a parent for the sole purpose of providing DDA services to his own child cannot be certified as a DDA. ()

03. Effect of Previous Revocation or Denial of a Certificate or License. The Department is not required to consider the application of any operator or owner of an agency that has had its license or certification denied or revoked until five (5) years have lapsed from the date of denial or revocation. ()

04. Accessible Records. The DDA and records required under these rules must be accessible to the Department during normal operations of the agency for the purpose of inspection and copying, with or without prior notification, under Sections 39-4605(4), Idaho Code. ()

201. APPLICATION FOR INITIAL CERTIFICATION.

01. Certification Required. Before any agency can operate as a DDA, it must obtain DDA certification from the Department. No agency may provide DDA services until the Department has approved the application for certification. No agency may provide DDA services without a current certificate. ()

02. Open Application. Application for certification from new agencies will be accepted on an open and continuous basis. ()

03. National Accreditation. The Department may adopt the policy of accepting national accreditation in lieu of state certification for developmental disabilities agencies. ()

04. Content of Application for Certification. Application for certification must be made on the Department-approved form available by contacting the Department as described in Section 005 of these rules. The application and supporting documents must be received by the Department at least sixty (60) days prior to the planned opening date. The application must include all of the following: ()

a. Name, address, and telephone number of the agency; ()

b. Types of services to be provided by the agency and the anticipated capacity of each service; ()

c. The geographic service area of the agency; ()

d. The anticipated date for the initiation of services; ()

e. An accurate and complete statement of all business names of the agency as filed with the Secretary of State, whether an assumed business name, partnership, corporation, limited liability company or other entity, that identifies each owner with more than five percent (5%) interest in the agency, and the management structure of the agency; ()

f. A statement that the agency is in compliance with these rules and all other applicable local, state and federal requirements, including an assurance that the agency complies with pertinent state and federal requirements governing equal opportunity and nondiscrimination; ()

g. Written code of ethics policy adopting a code of ethics relevant to professional activities with participants and colleagues, in practice settings. The policy must articulate basic values, ethical principles and standards for conflict of interest, exploitation, and inappropriate boundaries in the developmental disabilities agency's relationship with participants and with other agencies. The code of ethics adopted must reflect nationally-recognized standards of practice; ()

h. A copy of the proposed organizational chart or plan for staffing of the agency; ()

i. Staff qualifications including resumes, job descriptions, and copies of state licenses and certificates for staff when applicable; ()

j. Written transportation safety policies and procedures in accordance with Section 501 of these rules; ()

k. Staff and participant illness policy, communicable disease policy, and other health and hygiene policies and procedures in accordance with Section 510 of these rules; ()

l. Written policies and procedures that address special medical or health care needs of participants in accordance with Section 510 of these rules; ()

m. Written medication policies and procedures in accordance with Section 511 of these rules; ()

n. Written admission and transition policies and procedures; ()

o. Written description of the agency's quality assurance program developed in accordance with Section 900 of these rules; ()

p. Written participant grievance policies and procedures in accordance with Section 905 of these rules; ()

q. Written policies and procedures for reporting incidents to the adult or child protection authority in accordance with Section 910 of these rules; ()

r. Written policies and procedures that address the development of participants' social skills and the management of participants' inappropriate behavior in accordance with Section 915 of these rules; ()

s. Written description of the program records system including a completed sample of a plan of service for participants, program implementation plan, and a monitoring record; ()

t. Written description of the fiscal record system including a sample of program billing; and ()

u. Any other information requested by the Department for determining the agency's compliance with these rules or the agency's ability to provide the services for which certification is requested. ()

v. When center-based services are to be provided, the following are also required for each service location: ()

i. Address and telephone number for each service location; ()

ii. A checklist that verifies compliance with the ADA requirements in accordance with Section 500 of these rules; ()

iii. Evidence of a local fire safety inspection; ()

iv. Evidence of compliance with local building and zoning codes, including occupancy permit; ()

v. Written policies and procedures covering the protection of all persons in the event of fire and other emergencies in accordance with Section 500 of these rules; and

vi. Written policies and procedures regarding emergency evacuation procedures. ()

05. Department Review of Application. Upon receipt of the application form and initial application materials, the Department will review the materials to determine if the agency has systems in place, that if properly implemented, would result in regulatory compliance. ()

06. Department's Written Decision. A written decision regarding certification will be submitted to the agency by the Department within thirty (30) days of the date the completed application packet is received by the Department. ()

202. CHANGES EACH DDA IS REQUIRED TO REPORT.

01. Change of Ownership or Physical Location. ()

a. The DDA must notify the Department at least thirty (30) days prior to any anticipated change in ownership or physical location. In order to continue operation after any such anticipated change, the DDA must receive an updated certificate from the Department that reflects the change(s). An agency that fails to notify the Department of such changes is operating without a certificate. ()

b. When an agency plans to provide center-based services in a new physical location, on a temporary or permanent basis, the Department will conduct a site review within two (2) weeks of receipt of the notification. Included with the notification required under Subsection 202.01.a. of these rules, the agency must provide: ()

i. Evidence of review and approval by the local fire and building authorities, including issuance of occupancy permit; and ()

ii. A checklist that verifies compliance with the ADA requirements in accordance with Section 500 of these rules. ()

02. Change in Geographic Service Area. The DDA must notify the Department at least thirty (30) days prior to any anticipated change(s) in the geographic service area. In order to continue operation after any such anticipated change, the DDA must receive an updated certificate from the Department that reflects the change(s). An agency that fails to notify the Department of such changes is operating without a certificate. ()

03. Change in Optional Services. The DDA must notify the Department at least thirty (30) days prior to any anticipated change(s) in optional services. ()

203. ISSUANCE OF CERTIFICATE.

01. Certificate. ()

a. Initial Certification. When the Department determines that all application requirements have been met, a certificate is issued for a period of up to six (6) months from the initiation of services. During this period, the Department evaluates the agency's ongoing capability to provide services and to meet these rules. The Department will resurvey the agency prior to the end of the initial certification period. ()

b. Renewal of Certificate. A certificate is issued by the Department when it determines, in accordance with the provisions of these rules, that the agency requesting certification is in substantial compliance with these rules. Agencies found to be in substantial compliance with these rules but failing to comply with every detail may be issued a certificate. A certificate issued on the basis of substantial compliance is contingent upon the correction of deficiencies in accordance with a plan developed by the agency and approved by the Department. ()

02. Provisional Certificate. When a DDA is found not to be in substantial compliance with these rules but does not have deficiencies that jeopardize the health or safety of participants, a provisional certificate may be issued by the Department for up to a six (6) month period. A provisional certificate is issued contingent upon the correction of deficiencies in accordance with a plan developed by the agency and approved by the Department. Before the end of the provisional certification period, the Department will determine whether areas of concern have been corrected and whether the agency is in substantial compliance with these rules. If so, then certification will be granted. If not, the certificate will be denied or revoked. ()

03. Return of Certificate. The certificate is the property of the state and must be returned to the state if it is revoked or suspended. ()

04. Certificate Not Transferable. The certificate is issued only to the agency named thereon, only for the period specified on the certificate, and only to the owners and operators as expressed on the application submitted to the Department, and may not be transferred or assigned to any other person or entity without the written permission of the Department. ()

05. Availability of Certificate. The certificate must be posted in a conspicuous location in the DDA

where it may be seen readily by the participants and members of the public. ()

204. RENEWAL AND EXPIRATION OF THE CERTIFICATE.

01. Renewal of Certificate. The Department issues certificates that are in effect for a period of no greater than two (2) years. ()

a. To ensure that there is no lapse in certification, an agency must request renewal of its certificate no less than ninety (90) days before the expiration date of the certificate. The request must contain a checklist or statement of any substantial changes occurring after the date the previous certificate was issued, including outcomes of the internal quality assurance processes in accordance with Section 900 of these rules. ()

b. Each agency seeking renewal of its certificate must have a site review by the Department. ()

c. The Department must find an agency to be in substantial compliance with these rules in order to renew the certificate. ()

02. Expiration Without Timely Request for Renewal. Expiration of a certificate without a timely request for renewal automatically rescinds all rights or privileges the agency previously had to deliver services under these rules. ()

205. -- 299. (RESERVED).

RULE ENFORCEMENT PROCESS AND REMEDIES
(Sections 300 Through 399)

300. ENFORCEMENT PROCESS.

01. Recommendation of Remedy. In determining which remedy or remedies to recommend, the Department will consider the DDA's compliance history, change of ownership, the number of deficiencies, the scope and severity of the deficiencies, the integrity of the program, and the potential risk to participants. Subject to these considerations, the Department may impose, as warranted, any of the remedies described in Subsection 300.02 of this rule. ()

02. Enforcement Remedies. If the Department finds that a DDA has not met a rule governing developmental disabilities agencies, it may impose any of the following remedies in accordance with Subsection 300.01 of these rules, independently or in conjunction with others, subject to the provisions of these rules for notice and appeal: ()

a. Require the DDA to complete a plan of correction; ()

b. Issue a provisional certificate with a specific date for correcting deficient practices; ()

c. Ban enrollment of all participants with specified diagnoses; ()

d. Ban any new enrollment of participants; ()

e. Revoke the DDA's certificate; or ()

f. Summarily suspend the certificate and transfer participants. ()

03. Immediate Jeopardy. If the Department finds that the DDA's deficiency or deficiencies immediately jeopardize the health or safety of its participants, the Department may summarily suspend the DDA's certificate. ()

04. No Immediate Jeopardy. If the Department finds that the DDA's deficiency or deficiencies do not immediately jeopardize participant health or safety, the Department may impose one (1) or more of the remedies specified in Subsections 300.02.a. through 300.02.e. of this rule. ()

05. Repeat Deficiencies. If the Department finds a repeat deficiency in a DDA, it may impose any of the remedies listed in Subsection 300.02 of this rule, as warranted. The Department may monitor the DDA on-site on an "as needed" basis, until the DDA has demonstrated to the Department's satisfaction that it is in compliance with all requirements governing DDAs and that it is likely to remain in compliance. ()

06. Failure to Comply. If a DDA has not complied with any requirement within three (3) months after the date the DDA is found to have been out of compliance with such requirement, or as stated in the DDA's accepted plan of correction and the Department has verified, via on-site resurveys, that the DDA has made little or no progress in correcting deficiencies, then the Department may impose one (1) or more of the remedies specified in Subsection 300.02 of this rule. ()

301. REVOCATION OF CERTIFICATE.

01. Revocation of the DDA's Certificate. The Department may revoke a DDA's certificate when persuaded by a preponderance of the evidence that the DDA is not in substantial compliance with the requirements in this chapter of rules. ()

02. Causes for Revocation of the Certificate. The Department may revoke any DDA's certificate for any of the following causes: ()

a. The certificate holder has willfully misrepresented or omitted information on the application for certification or other documents pertinent to obtaining a certificate; ()

b. The agency is not in substantial compliance with these rules; ()

c. When persuaded by a preponderance of the evidence that conditions exist in the agency that endanger the health or safety of any participant; ()

d. Any act adversely affecting the welfare of participants is being permitted, aided, performed, or abetted by the person or persons supervising the provision of services in the agency. Such acts may include neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation; ()

e. The provider has demonstrated or exhibited a lack of sound judgment that jeopardizes the health, safety, or wellbeing of participants; ()

f. The agency has failed to comply with any of the conditions of a provisional certificate; ()

g. The agency has one (1) or more major deficiencies. A major deficiency is a deficiency that endangers the health, safety, or welfare of any participant; ()

h. An accumulation of minor deficiencies that, when considered as a whole indicate that the agency is not in substantial compliance with these rules; ()

i. Repeat violations by the agency of any requirement of these rules or of the Idaho Code; ()

j. The agency lacks adequate personnel, as required by these rules or as directed by the Department, to properly care for the number and type of participants served at the agency; ()

k. The agency is not in substantial compliance with the provisions for services required in this rule or with participants' rights outlined in Section 905; or ()

l. The certificate holder refuses to allow the Department or Protection and Advocacy agencies full access to the agency environment, agency records, or the participants. ()

302. NOTICE OF ENFORCEMENT REMEDY.

The Department will notify the following of the of the imposition of any enforcement remedy on a DDA: ()

01. Notice to DDA. The Department will notify the DDA in writing, transmitted in a manner that will reasonably ensure timely receipt; ()

02. Notice to Public. The Department will notify the public by sending the DDA printed notices to post. The DDA must post all the notices on the premises of the DDA in plain sight in public areas where they will readily be seen by participants and their representatives, including exits and common areas. The notices must remain in place until all enforcement remedies have been officially removed by the Department; and ()

03. Notice to the Professional Licensing Boards. The Department will notify professional licensing boards, as appropriate. ()

303. HEARING RIGHTS.

A DDA may request a hearing following any enforcement action taken by the Department, in accordance with Section 003 of these rules. ()

304. -- 399. (RESERVED).

STAFFING REQUIREMENTS AND PROVIDER QUALIFICATIONS
(Sections 400 Through 499)

400. GENERAL STAFFING REQUIREMENTS FOR AGENCIES.

01. Administrative Staffing. Each DDA must have an agency administrator who is accountable for all service elements of the agency and must be employed on a continuous and regularly scheduled basis. ()

a. When the administrator is not a Developmental Specialist as defined in these rules, the DDA must employ a Developmental Specialist on a continuous and regularly scheduled basis who is responsible for the service elements of the agency; and ()

b. The Developmental Specialist responsible for the service elements of the agency must have two (2) years of supervisory or management experience providing developmental disabilities services to individuals with developmental disabilities. ()

02. Professionals. The agency must have available, at a minimum, the following personnel, qualified in accordance with Section 420 of these rules, as employees of the agency or through formal written agreement: ()

a. Speech-language pathologist or audiologist; ()

b. Developmental Specialist; ()

c. Occupational therapist; ()

d. Physical therapist; ()

e. Psychologist; and ()

f. Social worker, or other professionals qualified to provide the required services under the scope of their license. ()

03. Parents of Participants. A DDA may not hire the parent of a participant to provide services to the

parent's minor or adult child. ()

401. -- 404. (RESERVED).

405. STANDARDS FOR PARAPROFESSIONALS PROVIDING DEVELOPMENTAL THERAPY AND IBI.

When a paraprofessional provides either developmental therapy or IBI, the agency must assure adequate supervision by a qualified professional during its service hours. All paraprofessionals must meet the training requirements below under Section 415 of these rules and must meet the qualifications under Section 420 of these rules. A paraprofessional providing IBI must be supervised by an IBI professional; a paraprofessional providing developmental therapy must be supervised by a Developmental Specialist. Paraprofessionals providing developmental therapy to children birth to three (3) must work under the supervision of a Developmental Specialist fully qualified to provide services to participants in this age group. For paraprofessionals to provide developmental therapy or IBI in a DDA, the agency must adhere to the following standards: ()

01. Limits to Paraprofessional Activities. The agency must assure that paraprofessionals do not conduct participant assessments, establish a plan of service, develop a Program Implementation Plan, or conduct collateral contact or IBI consultation. These activities must be conducted by a professional qualified to provide the service. ()

02. Frequency of Supervision. The agency must assure that a professional qualified to provide the service must, for all paraprofessionals under his supervision, on a weekly basis or more often if necessary: ()

a. Give instructions; ()

b. Review progress; and ()

c. Provide training on the program(s) and procedures to be followed. ()

03. Professional Observation. The agency must assure that a professional qualified to provide the service must, on a monthly basis or more often if necessary, observe and review the work performed by the paraprofessional under his supervision, to assure the paraprofessional has been trained on the program(s) and demonstrates the necessary skills to correctly implement the program(s). ()

04. Limitations to Service Provision by an IBI Paraprofessional. IBI provided by a paraprofessional is limited to ninety percent (90%) of the direct intervention time, per individual participant. The remaining ten percent (10%) of the direct intervention time must be provided by the professional qualified to provide and direct the provision of IBI. ()

406. -- 414. (RESERVED).

415. GENERAL TRAINING REQUIREMENTS FOR DDA STAFF.

Each DDA must provide ongoing training for staff and volunteers that provide direct services. ()

01. Yearly Training. The DDA must ensure a minimum of twelve (12) hours of formal training is completed each calendar year by each professional, direct service staff person, or volunteer that provides direct services. ()

a. Each agency employee providing services to participants must participate in fire and safety training upon employment and at least yearly thereafter; and ()

b. Each agency employee providing services to participants must be certified in CPR and first aid within ninety (90) days of hire and maintain current certification thereafter. The agency must assure that CPR and first aid trained staff are present or accompany participants when services or DDA-sponsored activities are being provided. The employee or service provider must have the appropriate CPR/first aid certification for the participants he serves. ()

c. Direct service staff must be trained to meet any special health or medical requirements of the participants they serve. ()

02. Sufficient Training. Training of all professional and direct service staff and volunteers must include the following as applicable to their work assignments and responsibilities: ()

a. Correct and consistent implementation of all participants' individual program plans and implementation plans, to achieve individual objectives; ()

b. Optimal independence of all individuals receiving services is encouraged, supported and reinforced through appropriate activities, opportunities, and training; ()

c. Correct and appropriate use of assistive technology used by individuals obtaining services; ()

d. Accurate record keeping and data collection procedures; ()

e. Consistent use of behavioral and developmental programming principles and the use of positive behavioral intervention techniques; ()

f. Adequate observation, review and monitoring of staff, volunteer and participant performance to promote the achievement of participant objectives; ()

g. Each participant's rights, advocacy resources, confidentiality, safety and welfare; and ()

h. The proper implementation of all policies and procedures developed by the agency. ()

03. Additional Training Requirements for IBI Professionals and IBI Paraprofessionals. Qualified IBI professionals and IBI paraprofessionals must complete and pass a Department-approved training course and examination for certification. The training must include a curriculum that addresses standards of competence for the provision of IBI and ethical standards. Specifically, the curriculum must include: ()

a. Assessment of individuals; ()

b. Behavioral management; ()

c. Services or treatment of individuals; ()

d. Supervised practical experience; and ()

e. Successful completion of a student project that includes an observation of demonstrated competencies. ()

04. Continuing Training Requirements for IBI Professionals and IBI Paraprofessionals. As described in Subsection 415.01 of these rules, each IBI professional and IBI paraprofessional, in order to maintain certification, must complete at least twelve (12) hours of yearly training, six (6) hours of which must cover behavior methodology or interventions shown to be effective. ()

a. The initial IBI certification training meets the yearly training requirement for the calendar year in which the IBI professional or paraprofessional was first certified. ()

b. If the individual has not completed the required training during any yearly training period, he may not provide IBI services beginning with the anniversary date of the following period, and thereafter, until the required number of training hours have accumulated. As training hours accumulate, they will be accounted first to any training-deficient prior yearly period before being applied to the current annual training period. Training hours may not be earned in a current annual training period to be applied to a future training period. ()

c. An individual may remain IBI certified, despite being unable to bill for services, through two (2) consecutive annual training periods during which that individual has deficient training hours. A DDA may begin billing for the certified IBI Professional or Paraprofessional again after the required training hours are accumulated. ()

d. If an individual completes three (3) consecutive annual training periods without having accumulated sufficient training to satisfy the training requirement for the first of those periods, that individual's IBI certification is automatically rescinded and will no longer be recognized. To be recertified, the individual must retake the state IBI exam and complete the IBI Student Project, if not previously completed. ()

416. -- 419. (RESERVED).

420. STAFF WHO ARE QUALIFIED TO PROVIDE SERVICES FOR AGENCIES.

01. Audiologist, Licensed. A person licensed to conduct hearing assessment and therapy, in accordance with the Speech and Hearing Services Practice Act, Title 54, Chapter 29, Idaho Code, who either possesses a certificate of clinical competence in audiology from the American Speech, Language and Hearing Association (ASHA) or will be eligible for certification within one (1) year of employment. The agency's personnel records must reflect the expected date of certification. ()

02. Counselor, Licensed Clinical Professional. A person licensed to practice as a clinical professional counselor in accordance with Title 54, Chapter 34, Idaho Code and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists". ()

03. Counselor, Licensed Professional. A person licensed to practice as a professional counselor in accordance with Title 54, Chapter 34, Idaho Code and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists". ()

04. Marriage and Family Therapist, Licensed. A person licensed to practice as a marriage and family therapist in accordance with Title 54, Chapter 34, Idaho Code and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists". ()

05. Developmental Specialist for Adults. To be qualified as a Developmental Specialist for adults, a person must have a minimum of two hundred forty (240) hours of professionally-supervised experience with individuals who have developmental disabilities and either: ()

a. Possess a bachelor's or master's degree in special education, early childhood special education, speech and language pathology, applied behavioral analysis, psychology, physical therapy, occupational therapy, social work, or therapeutic recreation; or ()

b. Possess a bachelor's or master's degree in an area not listed above in Subsection 420.05.a. of this rule and have: ()

i. Completed a competency course jointly approved by the Department and the Idaho Association of Developmental Disabilities Agencies that relates to the job requirements of a Developmental Specialist; and ()

ii. Passed a competency examination approved by the Department. ()

c. Any person employed as a Developmental Specialist in Idaho prior to May 30, 1997, unless previously disallowed by the Department, will be allowed to continue providing services as a Developmental Specialist as long as there is not a gap of more than three (3) years of employment as a Developmental Specialist. ()

06. Developmental Specialist for Children Three through Seventeen. A Developmental Specialist providing developmental assessment and therapy services to children ages three (3) through seventeen (17) must meet the requirements for a Developmental Specialist for adults, and must also meet the following requirements:

()

a. Complete a competency course jointly approved by the Department and the Idaho Center on Disabilities and Human Development that relates to developmental assessment and therapy for children; and ()

b. Pass a competency examination approved by the Department. ()

07. Developmental Therapy Paraprofessionals Delivering Services to Participants Age Three and Older. Paraprofessionals, such as aides or therapy technicians, may be used by an agency to provide developmental therapy to children age (3) and older if they are under the supervision of a Developmental Specialist. A developmental therapy paraprofessional must be at least seventeen (17) years of age. ()

08. Developmental Specialist for Children Birth to Three. ()

a. To provide developmental assessments and therapy to children birth to three (3) years of age, a person 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: ()

i. An Elementary Education Certificate or Special Education Certificate with an Endorsement in Early Childhood Special Education; or ()

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 (24) semester credits in Early Childhood/Early Childhood Special Education (EC/ECSE) from an accredited college or university. Courses taken must appear on college or university transcripts and must cover the following standards in their content: ()

(1) Promotion of development and learning for children from birth to three (3) years; ()

(2) Assessment and observation methods for developmentally appropriate assessment of young children; ()

(3) Building family and community relationships to support early interventions; ()

(4) Development of appropriate curriculum for young children, including IFSP and IEP development; ()

(5) Implementation of instructional and developmentally effective approaches for early learning, including strategies for children who are medically fragile and their families; and ()

(6) Demonstration of knowledge of policies and procedures in special education and early intervention and demonstration of knowledge of exceptionalities in children's development. ()

b. Closely-related electives may be approved by the Department with a recommendation from an institution of higher education. ()

c. Developmental specialists who possess a bachelor's or master's degree listed above under Subsection 420.08.a.ii. of this rule, 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. ()

d. 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 of such qualified personnel to meet service needs in a specific geographic area: ()

i. The Department may approve the most qualified individuals who are demonstrating satisfactory progress toward completion of applicable course work in accordance with the individual's approved plan to meet the

required standard within three (3) years of being hired. ()

ii. Satisfactory progress will be determined on an annual review by the Department. ()

iii. 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. ()

09. Developmental Therapy Paraprofessionals Delivering Services to Children Birth to Three. Paraprofessionals, such as aides or therapy technicians, may be used by an agency to provide developmental therapy to children birth to three (3) years of age if they are under the supervision of a Developmental Specialist fully qualified to provide services to participants in this age group. Developmental therapy paraprofessionals serving infants and toddlers from birth to three (3) years of age must meet the following qualifications: ()

a. Be at least eighteen (18) years of age; ()

b. Be a high school graduate or have a GED; and ()

c. Have transcribed courses for a minimum of a Child Development Associate degree (CDA) or the equivalent through completion of twelve (12) credits in child development, special education or closely-related coursework; or ()

d. Have three (3) years of documented experience providing care to infants, toddlers, or children under five (5) years of age under the supervision of a child development professional, certified educator, or licensed therapist or Developmental Specialist. ()

10. Intensive Behavioral Intervention (IBI) Professional Delivering Services to Participants Three to Twenty-One. A person qualified to provide or direct the provision of Intensive Behavioral Intervention (IBI) must meet the following requirements: ()

a. Degree. A qualified IBI professional must hold at least a bachelor's degree in a health, human services, educational, behavioral science or counseling field from a nationally accredited university or college. ()

b. Experience. An individual applying for IBI paraprofessional or professional certification must be able to provide documentation of one (1) year's supervised experience working with children with developmental disabilities. The year's experience must be gained through paid employment or university practicum experience or internship and be documented to include one thousand (1,000) hours of direct contact or care of children with developmental disabilities in a behavioral context. ()

c. Training and Certification. Qualified IBI professionals and paraprofessionals must comply with the requirements under Section 415 of these rules. ()

d. Individuals Previously Certified. An individual certified as an IBI professional prior to July 1, 2003, maintains certification as long as he meets the requirements in Section 420 of these rules. ()

11. IBI Paraprofessionals Delivering Services to Participants Three to Twenty-One. A certified IBI paraprofessional may be used to provide IBI under the supervision of a certified IBI professional and must comply with Section 405 of these rules. An IBI paraprofessional must also: ()

a. Be at least eighteen (18) years of age; ()

b. Experience. An individual applying for IBI paraprofessional or professional certification must be able to provide documentation of one (1) year's supervised experience working with children with developmental disabilities. The year's experience must be gained through paid employment or university practicum experience or internship and be documented to include one thousand (1,000) hours of direct contact or care of children with developmental disabilities in a behavioral context. ()

c. Training and Certification. Qualified IBI professionals and paraprofessionals must comply with the requirements under Section 415 of these rules. ()

12. IBI Professionals Delivering Services to Children Birth to Three. A person qualified to provide or direct the provision of IBI to children under three (3) years of age must meet the staff qualifications described under Subsections 420.08.a.ii through 420.08.d. and 420.10.b. through 420.10.d. of these rules and the certification and training requirements above under Subsections 415.03 and 415.04 of these rules. ()

13. IBI Paraprofessionals Delivering Services to Children Birth to Three. Paraprofessionals serving infants and toddlers from birth to three (3) years of age must meet the following qualifications: ()

a. Be at least eighteen (18) years of age; ()

b. Be a high school graduate or have a GED; and ()

c. Have transcribed courses for a minimum of a Child Development Associate degree (CDA) or the equivalent through completion of twelve (12) credits in child development, special education or closely-related coursework; or ()

d. Have three (3) years of documented experience providing care to infants, toddlers or children under five (5) years of age under the supervision of a child development professional, certified educator, or licensed therapist or Developmental Specialist. ()

e. Qualified IBI professionals and paraprofessionals must comply with the requirements under Section 415 of these rules. ()

14. Nurse Practitioner. A licensed professional nurse (RN) who has met all the applicable requirements to practice as nurse practitioner under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing". ()

15. Occupational Therapist. A person qualified to conduct occupational therapy assessments and therapy in accordance with the requirements in IDAPA 22.01.09, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants". ()

16. Physical Therapist. A person qualified to conduct physical therapy assessments and therapy in accordance with the requirements in IDAPA 22.01.05, "Licensure of Physical Therapists Idaho State Board of Medicine and Physical Therapist Assistants". ()

17. Physician. A person licensed to practice medicine in Idaho in accordance with the provisions of the Medical Practice Act, Title 54, Chapter 18, Idaho Code. ()

18. Physician Assistant. A person who is licensed by the Idaho Board of Medicine and who meets at least one (1) of the following provisions: ()

a. Is currently certified by the National Commission on Certification of Physician Assistants to assist primary care physicians; or ()

b. Has satisfactorily completed a program for preparing physician's assistants that: ()

i. Was at least one (1) academic year in length; and ()

ii. Consisted of supervised clinical practice and at least four (4) months, in the aggregate, of classroom instruction directed toward preparing students to deliver health care; and ()

iii. Was accredited by the American Medical Association's Committee on Allied Health Education and Accreditation. ()

19. Psychiatric Nurse, Certified. A licensed professional nurse (RN), licensed in accordance with Title 54, Chapter 14, Idaho Code, or certified by a recognized national certification organization, and have a minimum of a master's degree. ()

20. Psychiatrist. A person licensed to practice medicine in Idaho in accordance with the provisions of the Medical Practice Act, Title 54, Chapter 18, Idaho Code, and who meets the requirements for certification in psychiatry by the American Board of Psychiatry and Neurology or the American Osteopathic Board of Neurology and Psychiatry. ()

21. Psychologist. A person licensed to practice psychology in Idaho under Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners". ()

22. Psychologist Extender. A person who practices psychology under the supervision of a licensed psychologist as required under Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners," and who is registered with the Bureau of Occupational Licenses. The DDA must retain a copy of that registration in the extender's personnel file. ()

23. Social Worker, Licensed. A person licensed in accordance with the Social Work Licensing Act, Title 54, Chapter 32, Idaho Code and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners". ()

24. Masters Social Worker, Licensed. A person who is licensed as a masters social worker (LMSW) in accordance with Title 54, Chapter 32, Idaho Code and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners". ()

25. Clinical Social Worker, Licensed. A person who is licensed as a clinical social worker (LCSW) in accordance with Title 54, Chapter 32, Idaho Code and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners". ()

26. Speech-Language Pathologist, Licensed. A person licensed to conduct speech-language assessment and therapy in accordance with the Speech and Hearing Services Practice Act, Title 54, Chapter 29, Idaho Code, who possesses a certificate of clinical competence in speech-language pathology from the American Speech, Language and Hearing Association (ASHA) or who will be eligible for certification within one (1) year of employment. The agency's personnel records must reflect the expected date of certification. ()

421. VOLUNTEER WORKERS IN A DDA.
If volunteers are utilized by a DDA, the agency must establish written policies and procedures governing the screening, training, and utilization of volunteer workers. ()

422. -- 499. (RESERVED).

FACILITY, SAFETY, AND HEALTH STANDARDS
(Sections 500 Through 599)

500. FACILITY STANDARDS FOR AGENCIES PROVIDING CENTER-BASED SERVICES.
The requirements in Section 500 of these rules, apply when an agency is providing center-based services. ()

01. Accessibility. Agencies designated under these rules must be responsive to the needs of the geographic service area and persons receiving services and accessible to persons with disabilities as defined in Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act (ADA), and the uniform federal accessibility standard. The DDA must submit a completed checklist to the Department to verify compliance with the ADA requirements. This checklist must be provided to the Department with the application for certification. ()

02. Environment. The facilities of the agency must be designed and equipped to meet the needs of

each participant including factors such as sufficient space, equipment, lighting and noise control. ()

03. Fire and Safety Standards. ()

a. Buildings on the premises must meet all local and state codes concerning fire and life safety that are applicable to a DDA. The owner or operator of a DDA must have the center inspected at least annually by the local fire authority and as required by local city or county ordinances. In the absence of a local fire authority, such inspections must be obtained from the Idaho State Fire Marshall's office. A copy of the inspection must be made available to the Department upon request and must include documentation of any necessary corrective action taken on violations cited; ()

b. There must be written policies and procedures covering the protection of all persons in the event of fire and other emergencies; ()

c. On the premises where natural or man-made hazards are present, suitable fences, guards or railings must be provided to protect participants; ()

d. The premises must be kept free from the accumulation of weeds, trash and rubbish; and ()

e. Portable heating devices are prohibited except those units that have heating elements that are limited to not more than two hundred twelve degrees Fahrenheit (212°F). The use of unvented, fuel-fired heating devices of any kind is prohibited. All portable space heaters must be approved by Underwriters Laboratories as well as approved by the local fire or building authority and covered in the local fire or building inspections; and ()

f. All hazardous or toxic substances must be properly labeled and stored under lock and key; and ()

g. Water temperatures in areas accessed by participants must not exceed one hundred twenty degrees Fahrenheit (120°F); and ()

h. There must be a telephone available on the premises for use in the event of an emergency. Emergency telephone numbers must be posted near the telephone. ()

04. Evacuation Plans. Evacuation plans must be posted throughout the center. Plans must indicate point of orientation, location of all fire extinguishers, location of all fire exits, and designated meeting area outside of building. ()

a. The DDA must conduct quarterly fire drills. At least two (2) times each year these fire drills must include complete evacuation of the building; and ()

b. A brief summary of each fire drill conducted must be written and maintained on file. The summary must indicate the date and time the drill occurred, problems encountered, and corrective action(s) taken. ()

05. Food Safety and Storage. ()

a. When the agency provides food service for participants and meets the definition of a "food establishment," in Section 39-1602, Idaho Code, the agency must comply with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments". Compliance is verified through inspection by the local District Health Department. Meals prepared or provided by the agency must be nutritious. ()

b. When the agency does not provide food service for participants, it must keep refrigerators and freezers used to store participant lunches and other perishable foods in good repair and equipped with an easily readable thermometer. Refrigerators must be maintained at forty-one degrees Fahrenheit (41°F) or below. Freezers must be maintained at ten degrees Fahrenheit (10°F) or below. ()

c. When medicines requiring refrigeration are stored in a food refrigerator, medicines must be stored in a package and kept inside a covered, leak proof container that is clearly identified as a container for the storage of ()

medicines. ()

06. Housekeeping and Maintenance Services. ()

a. The interior and exterior of the center must be maintained in a clean, safe and orderly manner and must be kept in good repair; ()

b. Deodorizers cannot be used to cover odors caused by poor housekeeping or unsanitary conditions; ()

c. The center must be maintained free from infestations of insects, rodents and other pests; and ()

d. The center must maintain the temperature and humidity within a normal comfort range by heating, air conditioning or other means. ()

501. VEHICLE SAFETY REQUIREMENTS.

Each DDA that transports participants must: ()

01. Preventative Maintenance Program. Establish a preventive maintenance program for each agency-owned or leased vehicle, including vehicle inspections and other regular maintenance to insure participant safety. ()

02. Transportation Safety Policy. Develop and implement a written transportation safety policy. ()

03. Licenses and Certifications for Drivers and Vehicles. Obtain and maintain licenses and certifications for drivers and vehicles required by public transportation laws, regulations, and ordinances that apply to the agency to conduct business and to operate the types of vehicles used to transport participants. Agencies must maintain documentation of appropriate licensure for all employees who operate vehicles. ()

04. Applicable Laws, Rules, and Regulations. Adhere to all laws, rules, and regulations applicable to drivers and vehicles of the type used. ()

05. Liability Insurance. Continuously maintain liability insurance that covers all passengers and meets the minimum liability insurance requirements under Idaho law. If an agency employee transports participants in the employee's personal vehicle, the agency must ensure that adequate liability insurance coverage is carried to cover those circumstances. ()

502. -- 509. (RESERVED).

510. HEALTH REQUIREMENTS.

01. Required Health Policies and Procedures. Each DDA must develop policies and procedures that: ()

a. Describe how the agency will assure that staff is free from communicable disease; ()

b. Describe how the agency will protect participants from exposure to individuals exhibiting symptoms of illness. ()

c. Address any special medical or health care needs of particular participants being served by the agency. ()

02. Services that Require Licensed Professionals. Some services are of such a technical nature that they must always be performed by, or under the supervision of, a licensed nurse or other licensed health professional. The agency must assure that all such care is provided within the scope of the care provider's training and expertise.

These limitations are outlined in IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," Section 490. ()

03. Employees. Each employee with direct contact with participants must be free of communicable disease and infected skin lesions while on duty. ()

04. Incident Reports. Each DDA must complete incident reports for all accidents, injuries, or other events that might endanger a participant receiving services. Each report must document that the adult participant's legal guardian, if he has one, or, in the case of a minor, the minor's parent or legal guardian, has been notified or that the participant's care provider has been notified if the participant or the participant's parent or legal guardian has given the agency permission to do so. A documented review of all incident reports must be completed at least annually with written recommendations. These reports must be retained by the agency for five (5) years. ()

511. MEDICATION STANDARDS AND REQUIREMENTS.

01. Medication Policy. Each DDA must develop written medication policies and procedures that outline in detail how the agency will assure appropriate handling and safeguarding of medications. An agency that chooses to assist participants with medications must also develop specific policies and procedures to assure this assistance is safe and is delivered by qualified, fully-trained staff. Documentation of training must be maintained in the staff personnel file. ()

02. Handling of Participant's Medication. ()

a. The medication must be in the original pharmacy-dispensed container, or in an original over-the-counter container, or placed in a unit container by a licensed nurse and be appropriately labeled with the name of the medication, dosage, time to be taken, route of administration, and any special instructions. Each medication must be packaged separately, unless in a Mediset, blister pack, or similar system. ()

b. Evidence of the written or verbal order for the medication from the physician or other practitioner of the healing arts must be maintained in the participant's record. Medisets filled and labeled by a pharmacist or licensed nurse can serve as written evidence of the order. An original prescription bottle labeled by a pharmacist describing the order and instructions for use can also serve as written evidence of an order from the physician or other practitioner of the healing arts. ()

c. The agency is responsible to safeguard the participant's medications while the participant is at the agency or in the community. ()

d. Medications that are no longer used by the participant must not be retained by the agency or agency staff for longer than thirty (30) calendar days. ()

03. Self-Administration of Medication. When the participant is responsible for administering his own medication without assistance, a written approval stating that the participant is capable of self-administration must be obtained from the participant's primary physician or other practitioner of the healing arts. The participant's record must also include documentation that a licensed nurse or other qualified professional has evaluated the participant's ability to self-administer medication and has found that the participant: ()

a. Understands the purpose of the medication; ()

b. Knows the appropriate dosage and times to take the medication; ()

c. Understands expected effects, adverse reactions or side effects, and action to take in an emergency; and ()

d. Is able to take the medication without assistance. ()

04. Assistance with Medication. An agency may choose to assist participants with medications; however, only a licensed nurse or other licensed health professional may administer medications. Prior to unlicensed agency staff assisting participants with medication, the following conditions must be in place: ()

- a.** Each staff person assisting with participant medications must successfully complete and follow the “Assistance with Medications” course available through the Idaho Professional Technical Education Program, a course approved by the Idaho State Board of Nursing, or other Department-approved training; ()
- b.** The participant's health condition is stable; ()
- c.** The participant's health status does not require nursing assessment before receiving the medication nor nursing assessment of the therapeutic or side effects after the medication is taken; ()
- d.** The medication is in the original pharmacy-dispensed container with proper label and directions or in an original over-the-counter container or the medication has been placed in a unit container by a licensed nurse. Proper measuring devices must be available for liquid medication that is poured from a pharmacy-dispensed container; ()
- e.** Written and oral instructions from a licensed physician or other practitioner of the healing arts, pharmacist, or nurse concerning the reason(s) for the medication, the dosage, expected effects, adverse reactions or side effects, and action to take in an emergency have been reviewed by the staff person; ()
- f.** Written instructions are in place that outline required documentation of assistance and who to call if any doses are not taken, overdoses occur, or actual or potential side effects are observed; ()
- g.** Procedures for disposal or destruction of medications must be documented and consistent with procedures outlined in the “Assistance with Medications” course. ()

05. Administration of Medications. Only a licensed nurse or another licensed health professional working within the scope of his license may administer medications. Administration of medications must comply with the Administrative Rules of the Board of Nursing, IDAPA 23.01.01, “Rules of the Idaho Board of Nursing”. ()

512. -- 519. (RESERVED).

520. SETTING REQUIREMENTS FOR AGENCIES DELIVERING COMMUNITY-BASED SERVICES.

The requirements in Section 520 of these rules apply when a DDA is providing community-based services. ()

- 01. Accessibility.** The community-based setting must be accessible, safe, and appropriate for each participant. ()
- 02. Environment.** The community-based setting must be designed and equipped to meet the needs of each participant including factors such as sufficient space, equipment, lighting, and noise control. ()
- 03. Training Group Session Size.** The community-based services must occur in integrated, inclusive settings and with no more than three (3) participants per trainer at each training session. ()
- 04. Image Enhancement.** The community-based services must enhance each participant’s social image, personal competencies, and promote inclusion in the community. ()

521. -- 599. (RESERVED).

REQUIRED ASSESSMENTS FOR DELIVERY OF DDA SERVICES
(Sections 600 through 699)

600. COMPREHENSIVE ASSESSMENTS CONDUCTED BY THE DDA.

Assessments must be conducted by qualified professionals defined under Section 420 of these rules for the respective

discipline or areas of service. ()

01. Comprehensive Assessments. A comprehensive assessment must: ()

a. Determine the necessity of the service; ()

b. Determine the participant's needs; ()

c. Guide treatment; ()

d. Identify the participant's current and relevant strengths, needs, and interests when these are applicable to the respective discipline; and ()

e. For medical or psychiatric assessments, formulate a diagnosis. For psychological assessments, formulate a diagnosis and recommend the type of therapy necessary to address the participant's needs. For other types of assessments, recommend the type and amount of therapy necessary to address the participant's needs. ()

02. Current Assessments Required. When the DDA determines developmental disabilities eligibility, current assessments must be completed or obtained as necessary. ()

03. Date, Signature, and Credential Requirements. Assessments must be signed and dated by the professional completing the assessment and include the appropriate professional credential or qualification of that person. ()

04. Assessment Must Be Completed Within Forty-Five Days. Each assessment must be completed within forty-five (45) calendar days of the date it was recommended by the physician or other practitioner of the healing arts. If the assessment is not completed within this time frame, the participant's records must contain participant-based documentation justifying the delay. ()

601. GENERAL REQUIREMENTS FOR ASSESSMENT RECORDS.

01. Completion of Assessments. Assessments must be completed or obtained prior to the delivery of therapy in each type of service. ()

02. Update of Assessments. Assessments or updates are required in disciplines in which services are being delivered and when recommended by a professional. ()

03. Psychological Assessment. A current psychological assessment must be completed or obtained: ()

a. When the participant is receiving a behavior modifying drug(s); ()

b. Prior to the initiation of restrictive interventions to modify inappropriate behavior(s); ()

c. When it is necessary to determine eligibility for services or establish a diagnosis; ()

d. When a participant has been diagnosed with mental illness; and ()

e. When a child has been identified to have a severe emotional disturbance. ()

602. REQUIREMENTS FOR CURRENT ASSESSMENTS. Assessments must accurately reflect the current status of the participant. ()

01. Current Assessments for Ongoing Services. To be considered current, assessments must be completed or updated at least annually for service areas in which the participant is receiving services on an ongoing basis. ()

02. Updated Assessments. At the time of the required review of the assessment(s), the qualified professional in the respective discipline must determine whether a full assessment or an updated assessment is required for the purpose of reflecting the participant's current status in that service area. If, during the required review of the assessment(s), the latest assessment accurately represents the status of the participant, the file must contain documentation from the professional stating so. ()

03. Medical/Social Histories and Medical Assessments. Medical/social histories and medical assessments must be completed at a frequency determined by the recommendation of a professional qualified to conduct those assessments. ()

04. Intelligence Quotient (IQ) Tests. Once initial eligibility has been established, annual assessment of IQ is not required for persons whose categorical eligibility for DDA services is based on a diagnosis of mental retardation. IQ testing must be reconducted on a frequency determined and documented by the agency psychologist or at the request of the Department. ()

603. ASSESSMENTS FOR ADULTS.

DDAs must obtain assessments required under IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services". All specific skill assessments must be conducted in accordance with Section 605 of these rules. ()

604. TYPES OF COMPREHENSIVE ASSESSMENTS.

01. Comprehensive Developmental Assessment. A comprehensive developmental assessment must be conducted by a qualified Development Specialist and reflect a person's developmental status in the following areas: ()

- a. Self-care; ()
- b. Receptive and expressive language; ()
- c. Learning; ()
- d. Gross and fine motor development; ()
- e. Self-direction; ()
- f. Capacity for independent living; and ()
- g. Economic self-sufficiency. ()

02. Comprehensive Intensive Behavioral Intervention (IBI) Assessment. The requirements for the comprehensive IBI assessment are found under Section 802 of these rules. ()

03. Occupational Therapy Assessment. Occupational therapy assessments must be conducted by an occupational therapist qualified under Section 420 of these rules and include gross and fine motor abilities, and recommendation of therapy necessary to address the participant's needs. ()

04. Physical Therapy Assessment. Physical therapy assessments must be conducted by a physical therapist qualified under Section 420 of these rules and include gross and fine motor abilities, and recommendation of therapy necessary to address the participant's needs. ()

05. Speech and Language Assessment. Speech and language assessments must be conducted by a Speech-Language Pathologist who is qualified under Section 420 of these rules. ()

06. Medical Assessments. Medical assessments must be completed by a physician or other practitioner of the healing arts who is qualified in accordance with Section 420 of these rules and accurately reflects the current status and needs of the person. ()

07. Medical/Social History. Medical/social histories must be completed by a licensed social worker or other qualified professional working within the scope of his license. The medical/social history is a narrative report that must include: ()

a. Medical history including age of onset of disability, prenatal and postnatal birth issues, other major medical issues, surgeries, and general current health information; ()

b. Developmental history including developmental milestones and developmental treatment interventions; ()

c. Personal history including social functioning/social relationships, recreational activities, hobbies, any legal and criminal history, and any history of abuse; ()

d. Family history including information about living or deceased parents and siblings, family medical history, relevant family cultural background, resources in the family for the participant; ()

e. Educational history including any participation in special education; ()

f. Prevocational or vocational paid and unpaid work experiences; ()

g. Financial resources; and ()

h. Recommendation of services necessary to address the participant's needs. ()

08. Hearing Assessment. A hearing assessment must be conducted by an audiologist who is qualified under Section 420 of these rules. ()

09. Psychological Assessment. A psychological assessment must include psychological testing for diagnosis and assessment of personality, psychopathology, emotionality, or intellectual abilities (IQ test). The assessment must include a narrative report. A psychological assessment must be provided by one (1) of the following qualified professionals: ()

a. Licensed Psychiatrist; ()

b. Licensed Physician; ()

c. Licensed Psychologist; or ()

d. Psychologist Extender registered with the Bureau of Occupational Licenses. ()

10. Psychological Testing. Psychological testing refers to any measurement procedure for assessing psychological characteristics in which a sample of a person's behavior is obtained and subsequently evaluated and scored using a standardized process. This does not refer to assessments that are otherwise conducted by a professional within the scope of his license for the purposes of determining a participant's mental status, diagnoses or functional impairments. ()

a. Psychological testing may be provided when in direct response to a specific assessment question. ()

b. The psychological report must contain the reason for the performance of this service. ()

c. Agency staff may deliver this service if they meet one (1) of the following qualifications: ()

i. Licensed Psychologist; ()

ii. Psychologist Extender; or ()

iii. A qualified therapist listed in Subsection 712.02 of these rules who has documented evidence of education or training qualifying him to administer, score, interpret, and report findings for the psychological test he will be performing. ()

11. Psychiatric Diagnostic Interview. A psychiatric diagnostic interview must be conducted in accordance with Section 722 of these rules. ()

605. REQUIREMENTS FOR SPECIFIC SKILL ASSESSMENTS.

Specific skill assessments must: ()

01. Further Assessment. Further assess an area of limitation or deficit identified on a comprehensive assessment. ()

02. Related to a Goal. Be related to a goal on the IPP, ISP, or IFSP. ()

03. Conducted by Qualified Professionals. Be conducted by qualified professionals for the respective disciplines as defined in this chapter. ()

04. Determine a Participant's Skill Level. Be conducted for the purposes of determining a participant's skill level within a specific domain. ()

05. Determine Baselines. Be used to determine baselines and develop the program implementation plan. ()

606. -- 699. (RESERVED).

GENERAL REQUIREMENTS FOR THE DELIVERY OF DDA SERVICES
(Sections 700 through 709)

700. REQUIREMENTS FOR A DDA PROVIDING SERVICES TO PERSONS EIGHTEEN YEARS OF AGE OR OLDER AND ISSH WAIVER PARTICIPANTS.

Section 700 of these rules does not apply to adults who receive services under Early and Periodic Screening, Diagnosis, and Treatment (EPSDT). DDAs must comply with the requirements under Section 701 of these rules for adults who receive EPSDT services. ()

01. Eligibility Determination. Prior to the delivery of any DDA services, the person must be determined to be eligible as defined under Section 66-402, Idaho Code, for DDA services. ()

a. For persons seeking Medicaid-funded DDA services who are eighteen (18) years of age or older, or are ISSH Waiver participants, the Department or its designee determines eligibility for services. ()

b. For persons eighteen (18) years of age or older who are not Medicaid participants, the DDA must follow the requirements under Subsection 701.01 of these rules. ()

02. Intake. ()

a. For participants eighteen (18) years of age or older or who are ISSH Waiver Participants, and who are not listed under Subsection 700.02.b., prior to the delivery of any Medicaid-funded DDA services: ()

i. The Department or its designee will have provided the DDA with current medical, social, and developmental information; and ()

ii. The participant must have an ISP that is authorized in accordance with IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services". ()

b. Participants eighteen (18) years of age or older receiving DDA services and who are using the Home and Community Based Services (HCBS) Waiver for the Aged and Disabled (A&D), State Plan PCS, or are living in a nursing facility must: ()

i. Have DDA services prior authorized by the Department or its designee; and ()

ii. DDAs must complete an Individual Program Plan (IPP) that meets the standards described in Subsections 701.04 through 701.06 of these rules. IPPs for these individuals do not require the signature of a physician or other practitioner of the healing arts. ()

c. For participants eighteen (18) years of age or older who are not Medicaid participants, the DDA must follow the requirements under Subsection 701.02 of these rules. ()

03. Assessments. Requirements for assessments are found under Sections 600 through 605 of these rules. ()

04. Individual Service Plan (ISP). For participants eighteen (18) years of age or older or for ISSH Waiver participants, any services provided by the DDA must be included on the plan of service and be prior authorized by the Department or its designee before a participant can receive the service from the agency. ()

05. Documentation of Plan Changes. Documentation of changes in the required plan of service or Program Implementation Plan must be included in the participant's record. This documentation must include, at a minimum, the reason for the change, the date the change was made, and the signature of the professional making the change complete with date, credential, and title. If there are changes to a Program Implementation Plan that affect the type or amount of service on the plan of service, an addendum to the plan of service must be completed. ()

701. REQUIREMENTS FOR A DDA PROVIDING SERVICES TO CHILDREN AGES THREE THROUGH SEVENTEEN AND ADULTS RECEIVING EPSDT SERVICES.

Section 701 of these rules does not apply to participants receiving ISSH Waiver services. DDAs must comply with the requirements under Section 700 of these rules for all ISSH Waiver participants. ()

01. Eligibility Determination. Prior to the delivery of any DDA services, the DDA must determine the participant's eligibility in accordance with Section 66-402, Idaho Code. For eligibility determination, the following assessments must be obtained or completed by the DDA: ()

a. Medical Assessment. This must contain medical information that accurately reflects the current status of the person and establishes eligibility in accordance with Section 66-402(5)(a), Idaho Code; or ()

b. Psychological Assessment. If the medical assessment does not establish eligibility, the DDA must obtain or conduct a psychological assessment that accurately reflects the current status of the person and establishes eligibility in accordance with Section 66-402(5)(a), Idaho Code. ()

c. Functional Assessment. This must contain developmental information regarding functional limitations that accurately reflects the current status of the person and establishes eligibility in accordance with Section 66-402(5)(b), Idaho Code. ()

02. Intake. The DDA must obtain medical information that accurately reflects the current status and needs of the participant prior to the delivery of services. ()

a. The person must have been determined by the DDA to be eligible for DDA services. ()

b. The DDA must obtain or complete a comprehensive medical and medical/social history. ()

03. Assessments. Requirements for assessments are found under Sections 600 through 605 of these rules. ()

04. Individual Program Plan (IPP) Definitions. The delivery of each service on a plan of service

must be defined in terms of the type, amount, frequency, and duration of the service. ()

a. Type of service refers to the kind of service described in terms of: ()

i. Discipline; ()

ii. Group, individual, or family; and ()

iii. Whether the service is home, community, or center-based. ()

b. Amount of service is the total number of service hours during a specified period of time. This is typically indicated in hours per week. ()

c. Frequency of service is the number of times service is offered during a week or month. ()

d. Duration of service is the length of time designated for the goal or objective in plan of service. This is typically indicated in terms of weeks or months and changes only with an order by a physician or other practitioner of the healing arts. ()

05. Individual Program Plan (IPP). For participants three (3) through seventeen (17) years of age who do not use ISSH Waiver services, and for adults receiving EPDST services, the DDA is required to complete an IPP. ()

a. The IPP must be developed following obtainment or completion of all applicable assessments consistent with the requirements of this chapter. ()

b. The planning process must include the participant and his parent or legal guardian, if applicable, and others the participant or his parent or legal guardian chooses. The participant's parent or legal guardian must sign the IPP indicating their participation in its development. The parent or legal guardian must be provided a copy of the completed IPP. If the participant and his parent or legal guardian are unable to participate, the reason must be documented in the participant's record. A physician or other practitioner of the healing arts and the parent or legal guardian must sign the IPP prior to initiation of any services identified within the plan. ()

c. The planning process must occur at least annually, or more often if necessary, to review and update the plan to reflect any changes in the needs or status of the participant. Revisions to the IPP requiring a change in type, amount, or duration of the service provided must be recommended by the physician or other practitioner of the healing arts prior to implementation of the change. Such recommendations must be signed by the physician or other practitioner of the healing arts and maintained in the participant's file. A parent or legal guardian must sign the IPP prior to initiation of any services identified within the plan. ()

d. The IPP must be supported by the documentation required in the participant's record under Section 705 of these rules. ()

e. The IPP must promote self-sufficiency, the participant's choice in program objectives and activities and encourage the participant's participation and inclusion in the community. The IPP must include: ()

i. The participants name and medical diagnosis; ()

ii. The name of the assigned Developmental Specialist, the date of the planning meeting, and the name and titles of those present at the meeting; ()

iii. The signature of the physician or other practitioner of the healing arts indicating his recommendation of the services on the plan; ()

iv. The type, amount, frequency and duration of therapy to be provided. For developmental therapy, the total hours of services provided cannot exceed the amount recommended on the plan. The amount and frequency of the type of therapy must be identified as targeted goals with the range of hours not deviating from the target type

more than twenty percent (20%) over a period of a four (4) weeks, unless there is documentation of good cause;

()

v. A list of the participant's current personal goals, interests and choices; ()

vi. An accurate, current, and relevant list of the participant's specific developmental and behavioral strengths and needs. The list will identify which needs are priority based on the participant's choices and preferences. An IPP objective must be developed for each priority need; ()

vii. A list of measurable behaviorally stated objectives, which correspond to the list of priority needs. A Program Implementation Plan must be developed for each objective; ()

viii. The discipline professional or Developmental Specialist responsible for each objective; ()

ix. The target date for completion of each objective; ()

x. The review date; and ()

xi. A transition plan. The transition plan is designed to facilitate the participant's independence, personal goals, and interests. The transition plan must specify criteria for participant transition into less restrictive, more integrated settings. These settings may include integrated classrooms, community-based organizations and activities, vocational training, supported or independent employment, volunteer opportunities, or other less restrictive settings. The implementation of some components of the plan may necessitate decreased or increased hours of service or discontinuation or extending services from a DDA. ()

06. Documentation of Plan Changes. Documentation of required plan of service or Program Implementation Plan changes must be included in the participant's record. This documentation must include, at a minimum: ()

a. The reason for the change; ()

b. Documentation of coordination with other services providers (where applicable); ()

c. The date the change was made; and ()

d. The signature of the professional making the change complete with date, credential, and title. Changes to the IPP require documented notification of the participant or the participant's parent or legal guardian, if applicable. Changes in type, amount, or duration of services require written authorization from a physician or other practitioner of the healing arts and the participant or the participant's parent or legal guardian prior to the change. If the signatures of the participant or the parent or legal guardian cannot be obtained, then the agency must document in the participant's record the reason the signatures were not obtained. ()

702. REQUIREMENTS FOR A DDA PROVIDING SERVICES TO CHILDREN BIRTH TO THREE YEARS OF AGE (INFANT TODDLER).

Services provided by a DDA to children birth to three (3) years of age must meet the requirements and provisions of the Individuals with Disabilities Education Act (IDEA), Part C; the Family Education Rights and Privacy Act; Sections 16-101, et seq., Idaho Code, regarding early intervention services; and the Idaho State Plan for Early Intervention Services under IDEA, Part C. These requirements include: adherence to procedural safeguards and time lines, use of multi-disciplinary assessments and Individualized Family Service Plans (IFSPs), provision of early intervention services in the natural environment, transition planning, and program enrollment and reporting requirements. For children birth to age three (3), the IFSP will be used in lieu of the Individual Program Plan (IPP). ()

01. Eligibility Determination. For a child birth to three (3) years of age, prior to the delivery of any DDA services: ()

a. In accordance with 34 CFR 303.321(e), the Department's regional Infant Toddler Program will

determine Infant Toddler Program eligibility in accordance with Section 66-402, Idaho Code. ()

b. Upon request from the DDA, and after receiving consent from the parent or legal guardian for release of information, the Department's regional Infant Toddler Program will provide the DDA with documentation of the child's eligibility including a copy of the current IFSP, addendum(a) to the IFSP, assessments, and service records related to current developmental disabilities services. ()

02. Intake. Prior to the delivery of DDA services: ()

a. The DDA must obtain both a copy of the current IFSP and a copy of all current assessment(s) used by the Department's regional Infant Toddler Program to determine eligibility for developmental disabilities services; and ()

b. The DDA must conduct a meeting with the child's family, in cooperation with the child's service coordinator, to review the current IFSP and confirm the family's resources, priorities, and concerns with regard to the child's current developmental status and therapeutic needs. ()

03. Individualized Family Service Plan (IFSP). The Department or its designee will develop the initial IFSP for each eligible child, birth to three (3) years of age. Each DDA that provides developmental disabilities services to an eligible child, birth to three (3) years of age, must implement services according to the IFSP for that child as required by the Individuals with Disabilities Education Act, (P.L. 108-446, December 2004), Part C, Section 636 (d) and Title 16, Chapter 1, Idaho Code. The DDA must use the Department-approved IFSP form in accordance with 34 CFR 303.344. The procedures for IFSP development, review, and assessment must be in accordance with 34 CFR 303.342. ()

a. Development of the IFSP. For a child who has been evaluated for the first time and has been determined to be eligible for developmental disabilities services, the initial IFSP developed by the Department must be completed within a forty-five (45) day time period in accordance with 34 CFR 303.321(e). ()

b. Periodic Reviews. In cooperation with the child's service coordinator and other service providers, the DDA must participate in a review of the IFSP to be conducted every six (6) months, or more frequently, if conditions warrant or if the family requests such a review. The purpose of the periodic review is to identify progress made toward each objective and to determine whether these current outcomes and objectives need modification or revision. The review may be carried out in a meeting or by another means that is acceptable to the parent or legal guardian and other participants. These reviews must include the degree to which progress toward achieving the outcomes is being made. ()

i. The DDA must provide the child's service coordinator with any current assessments and other information from the ongoing assessment of the child to determine what services are needed and will be provided. ()

ii. The DDA must identify outcomes and objectives for inclusion in the IFSP for any services to be provided through the DDA. ()

c. Participants in the IFSP meetings and periodic reviews must be in accordance with 34 CFR 303.343. IFSP meetings and periodic reviews must include the parent or legal guardian, the service coordinator working with the family, persons providing direct services to the child and family as appropriate, and persons directly involved in conducting the assessments of the child. The family is encouraged to invite any family member, advocate, or friend to the meeting to assist in the planning process. ()

d. The IFSP or IFSP addendum must be in accordance with 34 CFR 303.344, and include the following: ()

i. A statement of the outcome; ()

ii. Steps to support transitions; ()

- iii. Behaviorally-stated objectives toward meeting that outcome; ()
 - iv. Frequency, intensity, and method of delivering a service to meet the outcome; ()
 - v. Measurability criteria, strategies and activities; ()
 - vi. Start and end dates; ()
 - vii. A description of the natural environments in which early intervention services are appropriately provided, including a justification of the extent, if any, to which services will not be provided in a natural environment; and ()
 - viii. A list of who will be involved in the direct intervention. ()
 - e. There must be an order by a physician or other practitioner of the healing arts for all developmental disabilities services included on the IFSP. ()
 - f. Transition to preschool programs must be in accordance with 34 CFR 303.148. ()
 - i. At the IFSP review closest to the child's second birthday, outcomes must be written to address the steps needed to assure appropriate services for the child at age three (3). ()
 - ii. At least six (6) months prior to the child's third birthday, the DDA must document contact with the child's service coordinator and participation in the transition planning process at the time of referral of the child to his local school district for IDEA, Part B, eligibility determination. ()
- 04. Parental Consent and Right to Decline Service.** Written parental consent must be obtained before: ()
- a. Conducting the assessment of a child; and ()
 - b. Initiating the provision of services. ()
- 05. Ongoing Assessment of the Child.** The assessment of each child must: ()
- a. Be conducted by personnel trained to utilize appropriate methods and procedures; ()
 - b. Be based on informed clinical opinion; and ()
 - c. Include the following: ()
 - i. A review of pertinent records related to the child's current health status and medical history. ()
 - ii. An assessment of the child's level of functioning in cognitive development, physical development including vision and hearing, communication development, social or emotional development, and adaptive development. ()
 - iii. An assessment of the unique needs of the child in terms of each of the developmental areas mentioned above in Subsection 702.05.c.ii. of this rule, including the identification of services appropriate to meet those needs. ()
- 06. Services in the Natural Environment.** Natural environments are settings that are natural or normal for the child's age peers who have no disability. To the maximum extent appropriate, in order to meet the needs of the child, early intervention services must be provided in natural environments, including the home and community settings in which children without disabilities participate. ()

07. Documentation of Program Changes. Documentation of required plan or Program Implementation Plan changes must be included in the participant's record. This documentation must include, at a minimum, the reason for the change, documentation of coordination with other services providers, where applicable, the date the change was made, and the signature of the professional making the change complete with date, credential, and title. If there are changes to the Program Implementation Plan that affect the IFSP, an addendum to the IFSP must be completed: ()

- a. In cooperation with the service coordinator; ()
- b. With consent of the parent; ()
- c. With an order by the child's physician or other practitioner of the healing arts; ()
- d. With all changes documented on the enrollment form; and ()
- e. A copy of the addendum and the enrollment form must be submitted to the Department. ()

703. PROGRAM IMPLEMENTATION PLAN REQUIREMENTS.

For each participant, the DDA must develop a Program Implementation Plan for each DDA objective included on the participant's required plan of service. All Program Implementation Plans must be related to a goal or objective on the participant's plan of service. The Program Implementation Plan must be written and implemented within fourteen (14) days after the first day of ongoing developmental programming and be revised whenever participant needs change. If the Program Implementation Plan is not completed within this time frame, the participant's records must contain participant-based documentation justifying the delay. The Program Implementation Plan must include all of the following: ()

- 01. Name.** The participant's name. ()
- 02. Baseline Statement.** A baseline statement addressing the participant's skills and abilities related to the specific skill to be learned. ()
- 03. Objectives.** Measurable, behaviorally-stated objectives that correspond to those goals or objectives previously identified on the required plan of service. ()
- 04. Written Instructions to Staff.** These instructions may include curriculum, interventions, locations (either center or community), activity schedules, type and frequency of reinforcement and data collection including probe, directed at the achievement of each objective. These instructions must be individualized and revised as necessary to promote participant progress toward the stated objective. ()
- 05. Service Environments.** Identification of the type of environment(s) where services will be provided. ()
- 06. Target Date.** Target date for completion. ()
- 07. Results of the Psychological or Psychiatric Assessment.** When a participant has had a psychological or psychiatric assessment, the results of the psychological or psychiatric assessment must be used when developing objectives to assure therapies provided in the DDA accommodate the participant's mental health needs and to assure that none of the therapeutic methods are contra-indicated or delivered in a manner that presents a risk to the participant's mental health status. ()
- 08. IBI Implementation Plans.** ()
 - a. All IBI Implementation Plans must completed on the Department-approved form. ()
 - b. On all IBI Implementation Plan cover sheets, the signature of a parent or legal guardian is required. If the signatures of the parent or legal guardian cannot be obtained, then the agency must document in the participant's record the reason the signatures were not obtained. ()

704. PROGRAM DOCUMENTATION REQUIREMENTS.

Each DDA must maintain records for each participant the agency serves. Each participant's record must include documentation of the participant's involvement in and response to the services provided. ()

01. General Requirements for Program Documentation. For each participant the following program documentation is required: ()

a. Daily entry of all activities conducted toward meeting participant objectives. ()

b. Sufficient progress data to accurately assess the participant's progress toward each objective; and ()

c. A review of the data, and, when indicated, changes in the daily activities or specific implementation procedures by a Developmental Specialist. The review must include the Developmental Specialist's dated initials. ()

d. Documentation of the six (6) month and annual reviews by the Developmental Specialist that includes a written description of participant's progress toward the achievement of therapeutic goals, and why he continues to need services. ()

02. Additional Requirements for Participants Eighteen Years or Older and for ISSH Waiver Participants. For participant's eighteen (18) years of age or older and ISSH Waiver Participants, DDAs must also submit semiannual and annual provider status reviews to the plan monitor reflecting the status of behavioral objectives or services identified on the plan of service. Semiannual status reviews must remain in the participant's file and annual status reviews must be attached to the annual plan of service. ()

03. Additional Requirements for Participants Seven Through Sixteen. For participants ages seven (7) through sixteen (16), the DDA must also document that the child has been referred to the local school district in accordance with Subsection 706.01 of these rules. ()

04. Additional Requirements for Participants Birth to Three Years of Age. For participants birth to age three (3), the following are required in addition to those requirements in Subsection 702.01 of these rules: ()

a. Documentation of the six (6) month and annual reviews; ()

b. Documentation of participation in transition planning at the IFSP developed closest to the child's second birthday to assure service continuity and access to community services as early intervention services end at age three (3); ()

c. Documentation that participant rights have been met in accordance with Subsection 905.03.d.; ()

d. Documentation of participation in the transition meeting with the school district; and ()

e. Documentation of consultation with other service providers who are identified on the IFSP. ()

705. RECORD REQUIREMENTS.

Each DDA certified under these rules must maintain accurate, current and complete participant and administrative records. These records must be maintained for at least five (5) years. Each participant record must support the individual's choices, interests, and needs that result in the type and amount of each service provided. Each participant record must clearly document the date, time, duration, and type of service for all services provided. All signatures must be accompanied both by credentials and the date signed. Each agency must have an integrated participant records system to provide past and current information and to safeguard participant confidentiality under these rules. ()

- 01. General Records Requirements.** Each participant record must contain the following information: ()
- a.** An order by a physician or other practitioner of the healing arts for each DDA service the participant is receiving on an ongoing basis; ()
 - b.** Plan of service as required for the participant. ()
 - c.** Program Implementation Plans, program documentation and monitoring records that comply with all applicable sections of these rules; ()
 - d.** Current profile sheet containing the identifying information about the participant, including contact information, emergency contacts, physician, current medications, allergies, special dietary or medical needs, and any other information required to provide safe and effective care; ()
 - e.** Current medical, social, and developmental information and assessments; and ()
 - f.** When assessments are completed or obtained by the agency, the participant's record must include test scores and narrative reports, signed with credentials and dated by the respective evaluators. ()
- 02. Case Record Organization.** The case record must be divided into program and discipline areas identified by tabs, including plan of service, medical, social, psychological, speech, and developmental, as applicable. ()

706. REQUIREMENTS FOR COLLABORATION WITH OTHER PROVIDERS.

When participants are receiving rehabilitative or habilitative services from other providers, each DDA must coordinate each participant's DDA program with these providers to maximize skill acquisition and generalization of skills across environments, and to avoid duplication of services. The DDA must maintain documentation of this collaboration. This documentation includes other plans of services such as the Individual Education Plan (IEP), Personal Care Services (PCS) plan, Residential Habilitation plan, and the Psychosocial Rehabilitation (PSR) plan. The participant's file must also reflect how these plans have been integrated into the DDA's plan of service for each participant. ()

- 01. Requirements for Participants Three to Twenty-One.** ()
- a.** For participants who are children enrolled in school, the local school district is the lead agency as required under IDEA, Part B. DDAs must inform the child's home school district if they are serving the child during the hours that school is typically in session. The participant's record must contain an Individualized Education Plan (IEP), including any recommendations for Extended School Year, if there are any. The DDA must provide a current copy of the child's Individual Program Plan (IPP) to his school. The DDA may provide additional services beyond those that the school is obligated to provide during regular school hours. ()
 - b.** For participants of mandatory school attendance age, seven (7) through sixteen (16), who are not enrolled in school, DDAs must refer the child to the local school district for enrollment in educational and related services under the provisions of the Individuals with Disabilities Education Act (IDEA). ()
- 02. Requirements for Participants Birth to Three Years of Age.** For participants birth to age three (3), under IDEA, Part C, DDAs must: ()
- a.** Submit enrollment tracking forms to the Department for any additions, changes, or exiting program; ()
 - b.** Cooperate with the Department's regional Infant Toddler Program; ()
 - c.** Communicate regularly with the child's service coordinator regarding the status of services and any need for change in services. The DDA must alert the child's service coordinator of any identified developmental or health concern or potential developmental delay that is currently not addressed on the child's IFSP. ()

707. ACCESSIBILITY OF AGENCY RECORDS.

Records must be accessible to the Department during normal operation of the agency for inspection and copying, with or without prior notification, under Section 39-108, Idaho Code. ()

708. -- 709. (RESERVED).

REQUIRED SERVICES EACH AGENCY MUST PROVIDE
(Sections 710 through 716)

710. REQUIRED SERVICES.

Each DDA is required to provide developmental therapy, and, in addition, also must provide or make available the following services: psychotherapy, occupational therapy, physical therapy, and speech and hearing therapy. ()

01. Sufficient Quantity and Quality. All required services provided must be sufficient in quantity and quality to meet the needs of each person receiving services, and must be provided by qualified individuals in accordance with the requirements in Section 420 of these rules. ()

02. Comprehensive Assessment and Plan Requirements. All required services must be provided in accordance with the following: ()

a. Prior to the delivery of the service, a comprehensive assessment must be completed by a professional qualified to deliver the service; ()

b. The specified objectives in the participant's plan of service; and ()

c. A Program Implementation Plan. ()

03. Other Requirements of Service Provision. All required services must be: ()

a. Available as recommended by the physician or other practitioner of the healing arts; ()

b. Based on participant needs, interests, or choices; ()

c. Comply with all applicable rules of this chapter; and ()

d. Developmental therapy must be provided by qualified employees of the agency. Psychotherapy, occupational therapy, physical therapy, and speech and hearing therapy may be provided by qualified employees of the agency through a formal written agreement. ()

04. When a Required Service Is Not Available. When a required service is not provided by the agency due to a documented shortage of available providers in a specific geographic area, the DDA must document its effort to secure the service or facilitate the referral for the needed service, including notifying the service coordinator, when the participant has one. ()

711. DEVELOPMENTAL THERAPY.

Developmental therapy services must be delivered by Developmental Specialists or paraprofessionals qualified in accordance with these rules, based on a comprehensive developmental assessment completed prior to the delivery of developmental therapy. These services must be directed toward the rehabilitation or habilitation of physical or mental disabilities in the areas of self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living or economic self-sufficiency. Developmental therapy, in both individual and group formats, must be available in both community-based and home-based settings, and be based on participant needs, interests, or choices. When developmental therapy is center-based, there must be a minimum of one (1) qualified staff, who may be a paraprofessional or a Developmental Specialist, providing direct services for every twelve (12) participants. Additional staff must be added, as necessary, to meet the needs of each individual served. ()

712. PSYCHOTHERAPY.

01. Required Psychotherapy Services. The following psychotherapy services must be available through each agency and based on assessment(s) conducted by the professional qualified to deliver the service: ()

a. Individual psychotherapy; ()

b. Group psychotherapy in which there is a minimum ratio of one (1) qualified staff person for every twelve (12) individuals in group therapy; and ()

c. Family-centered psychotherapy that includes the participant and at least one (1) other family member at any given time. ()

02. Staff Qualifications for Psychotherapy Services. Psychotherapy services must be provided by one (1) of the following qualified professionals: ()

a. Licensed Psychiatrist; ()

b. Licensed Physician; ()

c. Licensed Psychologist; ()

d. Licensed Clinical Social Worker; ()

e. Licensed Clinical Professional Counselor; ()

f. Licensed Marriage and Family Therapist; ()

g. Certified Psychiatric Nurse (RN), licensed in accordance with Title 54, Chapter 14, Idaho Code, or certified by a recognized national certification organization, and have a minimum of a master's degree; ()

h. Licensed Professional Counselor whose provision of psychotherapy is supervised by persons qualified above under Subsections 712.02.a. through 712.02.g. of this rule; ()

i. Licensed Masters Social Worker whose provision of psychotherapy is supervised as described in IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners"; or ()

j. A Psychologist Extender, registered with the Bureau of Occupational Licenses, whose provision of psychotherapy is supervised as described in IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners". ()

713. OCCUPATIONAL THERAPY.

Occupational therapy services must be available and provided by a licensed occupational therapist and be based on the results of an occupational therapy assessment completed in accordance with Section 604 of these rules. ()

714. PHYSICAL THERAPY.

Physical therapy services must be available and provided by a licensed physical therapist and be based on the results of a physical therapy assessment completed in accordance with Section 604 of these rules. ()

715. SPEECH AND HEARING THERAPY.

Speech and hearing therapy services must be available and provided by a qualified speech-language pathologist, as defined in these rules, and be based on the results of a speech and language assessment completed in accordance with Section 604 of these rules. ()

716. -- 719. (RESERVED).

OPTIONAL SERVICES AGENCIES MAY PROVIDE
(Sections 720 through 726)

720. OPTIONAL SERVICES.

DDAs may opt to provide any of the following services: pharmacological management, psychiatric diagnostic interviews, community crisis supports, collateral contact, and Intensive Behavioral Intervention (IBI). All services must be provided by qualified individuals in accordance with the requirements in Section 420 of these rules. ()

721. PHARMACOLOGICAL MANAGEMENT.

Pharmacological management is consultation for the purpose of prescribing, monitoring, or administering medications. These consultations must be provided by a physician or other practitioner of the healing arts in direct face-to-face contact with the participant and be provided in accordance with the plan of service with the type, amount, frequency and duration of the service specified. ()

722. PSYCHIATRIC DIAGNOSTIC INTERVIEW.

A psychiatric diagnostic interview must include a history, a current mental status examination, and offer recommendations for treatment interventions needed, if any. If the interview exam results in a recommendation for additional intervention and the recommendation is accepted by the participant and his parent or legal guardian, if applicable, the recommendation must be incorporated into the participant's plan of service with the type, amount, frequency, and duration of service specified. ()

01. Physician Requirement. In order for a DDA to conduct a psychiatric diagnostic interview, the agency must have a physician on contract for the purpose of overseeing the services on the plan. ()

02. On Plan of Service. A psychiatric diagnostic interview must be incorporated into the participant's plan of service. ()

03. Staff Qualifications. A psychiatric diagnostic interview must be conducted by one (1) of the following professionals, in direct face-to-face contact with the participant: ()

- a. Psychiatrist; ()
- b. Physician or other practitioner of the healing arts; ()
- c. Psychologist; ()
- d. Clinical social worker; or ()
- e. Clinical professional counselor. ()

723. COMMUNITY CRISIS SUPPORTS.

Community crisis supports are interventions for participants who are adults or who are on the ISSH Waiver, who have been determined eligible for developmental disability services and who are at risk of losing housing, employment or income, or are at risk of incarceration, physical harm, family altercation, or other emergencies. DDAs that choose to provide these services must do so in accordance with IDAPA 16.03.13, "Prior Authorization for Behavioral Health Services", Section 400. ()

724. COLLATERAL CONTACT.

Collateral contact is consultation with or treatment direction given to a person with a primary relationship to a participant for the purpose of assisting the participant to live in the community. Collateral contact must: ()

01. Conducted by Agency Professionals. Be conducted by agency professionals qualified to deliver services and be necessary to gather and exchange information with individuals having a primary relationship to the participant. ()

02. Face to Face or by Telephone. Be conducted either face-to-face or by telephone when telephone contact is the most expeditious and effective way to exchange information. Collateral contact does not include general staff training, general staffings, regularly scheduled parent-teacher conferences, general parent education, or treatment team meetings, even when the parent is present. ()

03. On the Plan of Service. Have a goal and objective stated on the plan of service that identifies the purpose and outcome of the service and is conducted only with individuals specifically identified on the plan of service. ()

725. INTENSIVE BEHAVIORAL INTERVENTION (IBI).
DDAs that choose to offer intensive behavioral intervention (IBI) must provide these services in accordance with Sections 800 through 899 of these rules. ()

726. -- 799. (RESERVED).

REQUIREMENTS FOR THE DELIVERY OF INTENSIVE BEHAVIORAL INTERVENTION (IBI)
(Sections 800 through 899)

800. INTENSIVE BEHAVIORAL INTERVENTION (IBI).

01. Individualized and Comprehensive Interventions. IBI consists of individualized, comprehensive, proven interventions used on a short term, one-to-one basis. These interventions: ()

a. Produce measurable outcomes that diminish behaviors that interfere with the development and use of language and appropriate social interaction skills; or ()

b. Broaden an otherwise severely restricted range of interest; and ()

c. Increase the child's ability to participate in other therapies and environments. ()

02. IBI Service Eligibility. IBI is available to children with developmental disabilities through the month of their twenty-first birthday, who have the following characteristics: ()

a. Self-injurious, aggressive or severely maladaptive behavior as evidenced by a General Maladaptive Index score of minus twenty-two (-22) or below on the Scales of Independent Behavior - Revised (SIB-R) or other behavioral assessment indicators identified by the Department; and ()

b. A severe deficit, defined as equivalent to fifty percent (50%) or less of chronological age, in at least one (1) of the following areas: ()

i. Verbal and nonverbal communication as evidenced by the SIB-R Social Interaction & Communication Skills cluster score; ()

ii. Social interaction as evidenced by the SIB-R Social Interaction subscale score; or ()

iii. Leisure and play skills as evidenced by the SIB-R Home/Community Orientation subscale score. ()

801. IBI AUTHORIZATION AND REVIEW.

01. Initial Reviews. Initial Intensive Behavioral Intervention services or consultation must be prior authorized by the Department. At least twenty (20) working days prior to the intended start date of IBI services, the DDA must use Department-approved forms to submit evidence of each child's eligibility for Intensive Behavioral Intervention, the Program Implementation Plan, the number of hours of service requested, and the measurable

outcomes expected as the result of the intervention. The Department determines IBI eligibility based on information submitted by the DDA and other information gathered by the Department as deemed necessary. ()

02. First Quarter Review. The agency will conduct and document a formal review of therapy objectives and direction for future therapy for each objective. ()

03. Second Quarter Review and Authorization. The agency must submit the first quarter review, using Department-approved forms, and submit the Program Implementation Plan, the number of hours of service requested, the measurable outcomes expected as a result of the interventions, and report on the progress towards IBI outcomes. ()

04. Third Quarter Review. The agency will conduct and document a formal review of therapy objectives and direction for future therapy for each objective. ()

05. Fourth Quarter or Annual Review and Authorization. The agency must submit the third quarter review and using Department-approved forms submit the Program Implementation Plan, the number of hours of service requested, the measurable outcomes expected as a result of the interventions, and report on the progress towards IBI outcomes. In addition, the agency must submit documentation of eligibility and the annual IBI Implementation Plan. The Department determines IBI eligibility based on information submitted by the DDA and other information gathered by the Department as deemed necessary. ()

802. COMPREHENSIVE IBI ASSESSMENT.

A comprehensive IBI assessment must be completed by a certified IBI professional prior to the initial provision of IBI or IBI Consultation. The results of the assessment must form the basis for planning interventions. The assessment must include the following: ()

- 01. Review of Existing Assessments and Relevant Histories.** ()
 - a.** Medical history, medications, and current medical status; ()
 - b.** Medical/social history that includes a developmental history and onset of developmental disability; ()
 - c.** Assessment of the child's functional abilities as compared to the child's chronological age; ()
 - d.** Comprehensive developmental assessment reflecting the child's current status; ()
 - e.** Specific skill assessment, when such an assessment is completed; ()
 - f.** SIB-R Maladaptive Index and a list of the child's maladaptive behaviors; ()
 - g.** Baseline of the child's maladaptive behavior(s), if available; ()
 - h.** Psychological assessments and results of psychometric testing, or for very young children, a developmental assessment with equivalent age-appropriate social-emotional status; ()
 - i.** A mental health or social and emotional assessment, such as the Child and Adolescent Functional Assessment Scale (CAFAS), when one has been completed; ()
 - j.** Public school or Infant Toddler Program records including relevant birth records, multidisciplinary team assessments, recommendations, and Individualized Education Programs (IEPs) or Individualized Family Service Plans (IFSPs); and ()
 - k.** Other relevant assessments that may be available, including those for speech and hearing and physical and occupational therapy. ()
- 02. Interviews.** Interviews must be conducted with the child, if possible, and to the extent of the child's

abilities; the child's parent or legal guardian, or the primary care provider; and any other individuals who spend significant amounts of time with the child. These interviews must result in a written summary of the findings of each interview and include the following: ()

- a. Description of the child's desired and problem behaviors; ()
- b. Opinion about environmental stimuli that appear to precede problem behaviors; ()
- c. Opinion about the internal states or setting events that precede desired and problem behaviors; ()
- d. Opinion about identification of stimuli that maintain the desired or problem behaviors; and ()
- e. Opinion about factors that alleviate problem behaviors and increase desired behaviors. ()

03. Observation of the Child. Observations of the child must occur in environments in which the child spends significant amounts of time and where problem behaviors have been reported. Results of the observations must include the following: ()

- a. Specific descriptions of problem behaviors; ()
- b. Identification of environmental stimuli that appear to precede problem behaviors; ()
- c. Identification of internal states or setting events that appear to precede problem behaviors; ()
- d. Identification of stimuli that maintain the desired or problem behaviors; and ()
- e. Identification of factors that alleviate problem behaviors and increase desired behaviors. ()

04. Clinical Opinion. Clinical opinion about the underlying causes, antecedents, motivations, and communicative intent of desired and problem behaviors. ()

803. IBI TRANSITION PLAN.

An IBI transition plan must be developed when it is anticipated that IBI services will be terminated within the next Department or agency review period and the child will be moving into natural learning environments or less intensive therapy settings. Transition Plans must include the following steps to support the transition and the timelines for those steps: ()

01. Setting. The setting to which the child will be moving and the therapists or persons who will be interacting with the child ()

02. Training of New Therapists or Other Persons. How behavioral intervention techniques will be shared with new therapists or other persons in the new environments to encourage generalization and maintenance of appropriate behavior and action to be taken if the child demonstrates regression in the new setting in skills learned through IBI. ()

804. IBI CONSULTATION.

Professionals may provide IBI consultation to parents and other family members, professionals, paraprofessionals, school personnel, child care providers, or other caregivers who provide therapy or care for the child in other disciplines to assure successful integration and transition from IBI to other therapies, services, or types of care. IBI consultation objectives and methods of measurement must be developed in collaboration with the person receiving IBI consultation. ()

01. Service Delivery Qualification. IBI consultation must be delivered by an IBI professional who meets the requirements in Section 420 of these rules. ()

02. Measurable Progress. IBI consultation must result in measurable improvement in the child's

behavior. It is not intended to be used for educational purposes only. ()

03. Evidence of Progress. Persons who receive IBI consultation must meet with the IBI professional, agree to follow an IBI Implementation Plan, and provide evidence of progress. ()

04. Individualized. IBI consultation may not be reimbursed when it is delivered to a group of parents. IBI consultation is specific to the unique circumstances of each child. ()

805. -- 899. (RESERVED).

QUALITY ASSURANCE, PARTICIPANT RIGHTS, REQUIRED POLICIES, ETC.
(Sections 900 through 999)

900. REQUIREMENTS FOR AN AGENCY'S QUALITY ASSURANCE PROGRAM.
Each DDA defined under these rules must develop and implement a quality assurance program. ()

01. Purpose of the Quality Assurance Program. The quality assurance program is an ongoing, proactive, internal review of the DDA designed to ensure: ()

a. Services provided to participants produce measurable outcomes, are high quality, and are consistent with individual choices, interests, needs, and current standards of practice; ()

b. Sufficient staff and material resources are available to meet the needs of each person served; ()

c. The environment in which services are delivered is safe and conducive to learning; ()

d. Skill training activities are conducted in the natural setting where a person would commonly learn and utilize the skill, whenever appropriate; and ()

e. The rights of a person with disabilities are protected and each person is provided opportunities and training to make informed choices. ()

02. Quality Assurance Program Components. Each DDA's written quality assurance program must include: ()

a. Goals and procedures to be implemented to achieve the purpose of the quality assurance program as described in Subsection 900.01 of these rules; ()

b. Person, discipline or department responsible for each goal; ()

c. A system to ensure the correction of problems identified within a specified period of time; ()

d. A method for assessing participant satisfaction; and ()

e. A regular review of the agency's code of ethics, identification of violations, and implementation of an internal plan of correction. ()

03. Additional Requirements. The quality assurance program must ensure that DDA services provided to participants: ()

a. Are developed with each participant and guardian where applicable, and actively promote the participation, personal choice and preference of the participant; ()

b. Are age appropriate; ()

- c. Promote integration; ()
- d. Provide opportunities for community participation and inclusion; ()
- e. Offer opportunities for participants to exercise their rights; and ()
- f. Are observable in practice. ()

901. -- 904. (RESERVED).

905. PARTICIPANT RIGHTS.

Each DDA must ensure the rights provided under Sections 66-412 and 66-413, Idaho Code, as well as the additional rights listed in Subsection 905.02 of this rule, for each participant receiving DDA services. ()

01. Participant Rights Provided Under Idaho Code. Sections 66-412 and 66-413, Idaho Code, provide the following rights for participants: ()

- a. Humane care and treatment; ()
- b. Not be put in isolation; ()
- c. Be free of mechanical restraints, unless necessary for the safety of that person or for the safety of others; ()
- d. Be free of mental and physical abuse; ()
- e. Voice grievances and recommend changes in policies or services being offered; ()
- f. Practice his own religion; ()
- g. Wear his own clothing and to retain and use personal possessions; ()
- h. Be informed of his medical and habilitative condition, of services available at the agency and the charges for the services; ()
- i. Reasonable access to all records concerning himself; ()
- j. Refuse services; and ()
- k. Exercise all civil rights, unless limited by prior court order. ()

02. Additional Participant Rights. The agency must also ensure the following rights for each participant: ()

- a. Privacy and confidentiality; ()
- b. Be treated in a courteous manner; ()
- c. Receive a response from the agency to any request made within a reasonable time frame; ()
- d. Receive services that enhance the participant's social image and personal competencies and, whenever possible, promote inclusion in the community; ()
- e. Refuse to perform services for the agency. If the participant is hired to perform services for the agency the wage paid must be consistent with state and federal law; ()

f. Review the results of the most recent survey conducted by the Department and the accompanying plan of correction; ()

g. All other rights established by law; and ()

h. Be protected from harm. ()

03. Method of Informing Participants of Their Rights. Each DDA must ensure and document that each person receiving services is informed of his rights in the following manner: ()

a. Upon initiation of services, the DDA must provide each participant and his parent or guardian, where applicable, with a packet of information which outlines rights, access to grievance procedures, and the names, addresses, and telephone numbers of protection and advocacy services. This packet must be written in easily understood terms. ()

b. When providing center-based services, a DDA must prominently post a list of the rights contained in this chapter. ()

c. The DDA must provide each participant and his parent or guardian, where applicable, with a verbal explanation of their rights in a manner that will best promote individual understanding of these rights. ()

d. Parents of infants and toddlers under three (3) years of age must be provided with a copy of their parental rights consistent with the requirements of 34 CFR 303.400 through 303.460 and 303.510 through 303.512. ()

906. -- 909. (RESERVED).

910. OBLIGATION TO REPORT ABUSE, NEGLECT, EXPLOITATION, AND INJURIES.

Each agency must report all confirmed or suspected incidents of mistreatment, neglect, exploitation, or abuse of participants to the adult or child protection authority, in accordance with the "Child Protective Act," Section 16-1619, Idaho Code, and the "Adult Abuse, Neglect and Exploitation Act," Section 39-5303, Idaho Code. ()

911. -- 914. (RESERVED).

915. POLICIES REGARDING DEVELOPMENT OF SOCIAL SKILLS AND APPROPRIATE BEHAVIORS.

Each DDA must develop and implement written policies and procedures that address the development of participants' social skills and management of inappropriate behavior. These policies and procedures must include statements that: ()

01. Positive Social Skills. Focus on developing or increasing positive social skills. ()

02. Prevention Strategies. Ensure and document the use of positive approaches to increase social skills and decrease inappropriate behavior while using least restrictive alternatives and consistent, proactive responses to behaviors. ()

03. Functional Assessment. Address the possible underlying causes or function of the behavior and identifying what the participant may be attempting to communicate by the behavior. ()

04. Behavior Replacement. Ensure that programs to assist participants with managing inappropriate behavior include teaching of alternative adaptive skills to replace the inappropriate behavior. ()

05. Protected Rights. Ensure that the safety, welfare and human and civil rights of participants are adequately protected. ()

06. Objectives and Plans. Ensure that objectives and intervention techniques are developed or obtained and implemented to address self-injurious behavior, aggressive behavior, inappropriate sexual behavior and

any other behaviors which significantly interfere with the participant's independence or ability to participate in the community. Ensure that reinforcement selection is individualized and appropriate to the task and not contraindicated for medical reasons. ()

07. Participant Involvement. Ensure that plans developed by the DDA involve the participant, whenever possible, in developing the plan to increase social skills and to manage inappropriate behavior. ()

08. Written Informed Consent. Ensure that programs developed by an agency to assist participants with managing inappropriate behavior are conducted only with the written informed consent of the participant and guardian where applicable. When programs used by the agency are developed by another service provider the agency must obtain a copy of the informed consent. ()

09. Review and Approval. Ensure that programs developed by an agency to manage inappropriate behavior are only implemented after the review and written approval of the qualified professional. If the program contains restrictive or aversive components, the agency psychologist must also review and approve, in writing, the plan prior to implementation. When programs implemented by the agency are developed by another service provider the agency must obtain a copy of these reviews and approvals. ()

10. Appropriate Use of Interventions. Ensure that interventions used to manage a participant's inappropriate behavior are never used: ()

a. For disciplinary purposes; or ()

b. For the convenience of staff; or ()

c. As a substitute for a needed training program; or ()

d. By untrained or unqualified staff. ()

916. -- 919. (RESERVED).

920. ANNUAL PLAN.

Each agency is required, as needed, to participate in the development of the state developmental disabilities plan by completing an annual needs assessment survey regarding services for Idahoans with developmental disabilities. ()

921. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.05 - CRIMINAL HISTORY AND BACKGROUND CHECKS IN LONG TERM CARE SETTINGS

DOCKET NO. 16-0505-0501 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2005.

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 56-1004A, 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 August 17, 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:

This new chapter of rule identifies individuals with direct patient access in long term care settings who will be required to pass the Department's criminal history and background checks on or after October 1, 2005. These checks will help protect the health and safety of Idaho's vulnerable population living in long term care settings. This new chapter of rule aligns Department rules with 2005 Legislation adopted in Senate Bill 1196 authorizing the Department to participate in a federal grant pilot project from October 1, 2005 through September 30, 2007.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 56-1004A, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This temporary rule is necessary to protect the public health and safety of individuals living in long term care settings and to meet the federal grant guidelines.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

The general fund will not be impacted by this rule change. Funds for this project are being paid through a federal grant.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, formal negotiated rulemaking was not conducted. Informal negotiations were held with long term care facilities, providers, and associations for these facilities, and advocacy groups for vulnerable individuals.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Mond Warren, at (208) 334-5997.

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 August 24, 2005.

DATED this 17th day of June, 2005.

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

THE FOLLOWING IS THE TEXT FOR DOCKET 16-0505-0501

IDAPA 16
TITLE 05
CHAPTER 05

16.05.05 - CRIMINAL HISTORY AND BACKGROUND CHECKS IN LONG TERM CARE SETTINGS

000. LEGAL AUTHORITY.

The Idaho Legislature under Section 56-1004A, Idaho Code, has granted the Department of Health and Welfare the power and authority to participate in a federal pilot project to conduct criminal history and background checks for individuals in long term care settings that have direct patient access. The provisions of this rule will be effective from October 1, 2005 through September 30, 2007, or until federal funding is no longer available. (10-1-05)T

001. TITLE, SCOPE AND POLICY.

01. Title. The title of this chapter is IDAPA 16.05.05, “Criminal History and Background Checks in Long Term Care Settings”. (10-1-05)T

02. Scope. These rules are established to assist in the protection of children and vulnerable adults by requiring criminal history and background checks of individuals who may have access to or who provide care or services to those populations in long term care settings. (10-1-05)T

03. Policy. It is the Department's policy when doing criminal history and background checks based on the fingerprints of the individual and a self-declaration application, to use information obtained from the Federal Bureau of Investigation, the National Criminal History Background Check System, Bureau of Criminal Identification, the statewide Child Protection Central Registry, Adult Protection findings, Sexual Offender Registries, Idaho Department of Transportation Driving Records, the Nurse Aide Registry, findings from other states, the Medicaid/Medicare exclusion list, or other state or government sources. (10-1-05)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations associated with this chapter of rules. (10-1-05)T

003. ADMINISTRATIVE APPEALS.

Appeals and proceedings are governed by the Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, “Rules Governing Contested Case Proceedings and Declaratory Rulings”. (10-1-05)T

004. INCORPORATION BY REFERENCE.

The following are incorporated by reference into this chapter of rules.

01. IDAPA 16.05.06. IDAPA 16.05.06 “Rules Governing Mandatory Criminal History Checks”. This

chapter of rule may be found at <http://www2.state.id.us/adm/adminrules/rules/idapa16/0506.pdf>. (10-1-05)T

02. Public Law 108-173. Public Law 108-173, Section 307 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003. This law may be found on the CMS website at “<http://www.cms.hhs.gov/medicaid/survey-cert/307.pdf>.” (10-1-05)T

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

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (10-1-05)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (10-1-05)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (10-1-05)T

04. Telephone. (208) 334-5500. (10-1-05)T

05. Internet Website Address. Department Internet address is: <http://www.healthandwelfare.idaho.gov>. (10-1-05)T

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in Department records must comply with IDAPA 16.05.01, “Use and Disclosure of Department Records,” and federal Public Law 103-209 and 92-544. (10-1-05)T

02. Public Records. The Department of Health and Welfare will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempt, as set forth in Section 9-340, Idaho Code, and other state and federal laws and regulations, all public records in the custody of the Department of Health and Welfare are subject to disclosure. (10-1-05)T

007. -- 009. (RESERVED).

010. DEFINITIONS AND ABBREVIATIONS.

01. Criminal History and Background Check. The criminal history and background check is a fingerprint based check as defined in IDAPA 16.05.06. “Rules Governing Mandatory Criminal History Checks”. (10-1-05)T

02. Department. The Idaho Department of Health and Welfare. (10-1-05)T

03. Direct Patient Access Individual. An individual who has direct access to a patient or resident in a long term care setting through employment or contract.

04. Federal Pilot Project. The federal pilot project means the activities authorized by Section 307 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003, Public Law 108-173, which provides grant funding to Idaho to conduct background checks on employees and contractors who have direct patient access to individuals in long term care settings. (10-1-05)T

05. Long Term Care Settings. For the purpose of these rules and the federal pilot project, long term care settings include: (10-1-05)T

a. Home Health Agencies; (10-1-05)T

- b.** Hospices; (10-1-05)T
- c.** Hospitals with swing beds; (10-1-05)T
- d.** Intermediate Care Facilities for the Mentally Retarded (ICFs/MR); (10-1-05)T
- e.** Nursing Facilities and Residential Care or Assisted Living Facilities, not withstanding the exclusion of these facilities under IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks," Subsection 015.02.a. Such exclusion will not apply as long as this chapter of rule is in effect. (10-1-05)T

011. -- 049. (RESERVED).

050. FEES AND COSTS FOR CRIMINAL HISTORY AND BACKGROUND CHECKS.

Fees and costs for criminal history and background checks for direct patient access individuals participating in the federal pilot project are paid for by the federal grant as provided in Public Law 108-173, Section 307 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003. (10-1-05)T

051. -- 099. (RESERVED).

100. CRIMINAL HISTORY AND BACKGROUND CHECKS.

01. Direct Patient Access Individuals. Employees and contractors, having direct patient access to individuals in long term care settings, must have criminal history and background checks if they are hired or contracted with after October 1, 2005. (10-1-05)T

02. Excluded Individuals. Volunteers and any individual who does not have a contract with the facility or provider and is exclusively providing services in a long term care setting through a private arrangement or contract, are not required to have a criminal history and background check under this chapter of rule. (10-1-05)T

101. PROCEDURES FOR COMPLIANCE WITH MANDATORY CRIMINAL HISTORY AND BACKGROUND REQUIREMENTS.

Direct patient access individuals who are hired or contracted with on or after October 1, 2005, in long term care settings are required to follow procedures and be in compliance with IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". (10-1-05)T

102. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.08 - RULES AND MINIMUM STANDARDS FOR DUI EVALUATORS

DOCKET NO. 16-0608-0501

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections, 18-8005(9), 39-111 and 56-1003, 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 August 17, 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:

This rulemaking is needed to improve the quality of DUI evaluations performed by qualified professionals licensed by the Department. This will be accomplished by strengthening and clarifying the criteria for initial application and renewal of a license. The rule assures that evaluations performed for those accused of driving under the influence meet the demands of the courts. These rule changes will benefit DUI Evaluators by providing clear information on the licensure process, continuing education requirements, and statistical reporting. The safety of Idahoans will be improved if those convicted of driving under the influence are properly assessed and referred to appropriate services.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

There is no fiscal impact to the state general fund due to this rule change.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, formal negotiated rulemaking was not conducted; however, informal negotiated rulemaking was conducted by having key stakeholders review the text and provide feedback on the content.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Sherry Johnson at (208) 334-5934.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 29th day of June, 2005.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0608-0501

16.06.08 - RULES AND MINIMUM STANDARDS FOR DUI EVALUATORS

000. LEGAL AUTHORITY.

Under authority vested in the Idaho ~~State Board~~ Department of Health and Welfare by Title 18, Chapter 80, Section 18-8005(59), the Director of the Department of Health and Welfare by Section 56-1003, Idaho Code and in the Idaho Board of Health and Welfare by ~~Title 39, Chapter 3~~ Section 39-111, Idaho Code, the Department and the Board adopts the following rules for DUI evaluators in the state of Idaho. (4-5-00)()

001. TITLE AND SCOPE.

01. Title. These rules are to be cited in full as Idaho Department of Health and Welfare Rules, IDAPA 16.06.08, "Rules and Minimum Standards for DUI Evaluators". (4-5-00)

02. Scope. Under Section 18-8005(9), Idaho Code, the Department is given the authority to approve DUI Evaluators. The Department has determined to put in place a licensing process for approval of DUI Evaluators. It is the purpose of these rules to establish minimum standards for the approval, issuance, renewal, denial, suspension or revocation of the DUI evaluator license, to establish licensing fees charged by the Department for applicants seeking approval, evaluators seeking renewal, and to set forth rules for conducting evaluations by licensed evaluators. Licensed DUI evaluators are considered by the Department, under these rules, qualified to provide DUI evaluations of persons who plead guilty to, or are found guilty of, a violation of Section 18-8004 or Section 18-8006, Idaho Code. (4-5-00)()

~~**03. Approved Services.** DUI evaluators shall be considered by the Department, pursuant to these rules, to provide DUI evaluations of persons who plead guilty to, or are found guilty of, a violation of Section 18-8004 or Section 18-8006, Idaho Code. (4-5-00)~~

002. WRITTEN INTERPRETATIONS.

There are no written interpretations that apply to these rules. ()

~~**002003. ADMINISTRATIVE APPEALS.**~~

~~Contested case All administrative appeals shall be~~ are governed by Idaho Department of Health and Welfare Rules, provisions of IDAPA 16.05.03, ~~Sections 600, et seq.,~~ "Rules Governing Contested Case Proceedings and Declaratory Rulings". (4-5-00)()

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. ()

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

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

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ()

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. ()

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ()

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

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.
Any use or disclosure of Department records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records". ()

~~003007.~~ -- ~~099009.~~(RESERVED).

~~10010.~~ DEFINITIONS.

01. Certified, Credentialed or Licensed Alcohol/Drug Counselor. A counselor possessing voluntary certification or licensure by a recognized state or national alcohol/drug abuse/addiction counselor credentialing or certifying organization. Knowledge and skills may be acquired through a combination of specialized training, education and experience. ()

02. Continuing Education. Department approved course work which may be from an accredited university or college in alcohol and drug abuse studies, social work, psychology, or counseling and guidance; workshops or seminars on the subjects of alcohol and drug evaluation, treatment or prevention issues sponsored by state licensed facilities, state or federal government or other accredited educational institutions, and distance education classes. All continuing education hours must be specific to substance use disorders and their evaluation and treatment or related to chemical dependency counseling. ()

03. Defendant. Person that has been found guilty of driving under the influence of alcohol, drugs or any other intoxicating substances under Section 18-8004, Idaho Code. ()

~~04.~~ **Department.** The state of Idaho Department of Health and Welfare. (12-31-91)

~~05.~~ **Director.** The Director of the state of Idaho Department of Health and Welfare or his designee. (12-31-91)

~~06.~~ **DUI.** Driving while under the influence of alcohol, drugs or intoxicating substances. (12-31-91)

~~07.~~ **DUI Evaluation.** The process of obtaining information through a face-to-face interview with the defendant in order to determine the nature and the extent of the ~~offender's~~ defendant's use of alcohol or drugs and to recommend appropriate risk reduction education or treatment services. (12-31-91)()

08. Idaho Board of Alcohol/Drug Counselor's Certification, Inc. (IBADCC). Affiliated with the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC), the IBADCC is the certifying agency that oversees credentialing of Certified Alcohol/Drug Counselors (CADC), Certified Clinical Supervisors (CCS), and Certified Prevention Specialists (CPS) in the state of Idaho. The IBADCC may be contacted at the following address and telephone number: 270 N. 27th Street, Suite B, Boise, ID 83702 (208) 395-1078. ()

~~09.~~ **Licensed DUI Evaluator.** The licensed person qualified to provide diagnostic impression, assessment, or evaluation services to DUI ~~offenders~~ defendants in the state of Idaho. For the purposes of these rules and regulations, a licensed DUI evaluator may constitute a facility. (4-5-00)()

~~0610.~~ **Licensee.** The person who has been approved and issued a license pursuant to under Subsection 200-02 of these rules. (12-31-91)()

~~07.~~ **Licensing Agency.** The state of Idaho Department of Health and Welfare. (12-31-91)

~~08.~~ **Operating License.** A one (1) year license issued by the licensing agency to DUI evaluators complying with these rules. (12-31-91)

~~0911.~~ **Peer Review.** The process by which all DUI evaluators submit samples of their evaluations for an

~~annual quality assurance review by a team of DUI evaluators and Substance Abuse Program staff. A quality assurance process by which a team of DUI Evaluators and Department staff convene to review evaluations for consistency with minimum standards as described in Section 700 of these rules.~~ (4-5-00)()

102. Quality Assurance Process. The combination of technical and peer reviews of evaluations ~~conducted by a licensed DUI evaluator~~ to assure the evaluations consistently meet minimum standards. (4-5-00)()

~~11. Substance Abuse Related Continuing Education. Department approved course work from an accredited university or college in alcohol and drug abuse studies, social work, psychology, or counseling and guidance; workshops or seminars on the subjects of alcohol and drug evaluation, treatment or prevention issues sponsored by state licensed facilities, state or federal government or other accredited educational institutions.~~ (4-5-00)

123. Substance Related Violation. Any withheld judgment or conviction in which substance use is identified as a contributing factor. (4-5-00)

134. Technical Review. The quality assurance process of the Department evaluating the accuracy, legibility, appropriateness, and completeness of Department required forms and reporting formats used during DUI evaluations. (4-5-00)()

~~101011.~~ -- 199. (RESERVED).

200. LICENSURE.

01. Application for an ~~Operating~~ License. An individual seeking ~~approval as~~ a DUI Evaluator license must submit a completed application on forms provided by the Department, accompanied by the documents noted in Subsection ~~400225.~~02. In addition, the applicant must submit a statement of fees to be charged for services and an application fee of twenty-five dollars (\$25). (4-5-00)()

a. An application packet will not be processed until it is complete and all required documentation is received. ()

b. The application fee is not refundable and will not be returned. ()

c. By signing the application the individual represents that the information is true and accurate and they accept the responsibility to comply with these rules. ()

d. The individual signs a conflict disclosure or acknowledgement that the individual cannot perform both the evaluation and provide the recommended services unless they have a waiver from the court. ()

02. Application Review ~~and Issuance of Operating License.~~ The Department must initiate a review ~~including an investigation~~ within fifteen (15) days of receipt of the forms, documents, and fee described in Subsection 200.01. ~~The result of the review~~ A determination by the Department as to whether an ~~applicant individual~~ has complied with this chapter must be rendered within forty-five (45) days from the date of receipt of the completed application. ~~The Department will arrange testing for applicants found to have complied with this chapter. Upon successful completion of testing, the Department will issue an operating licence.~~ (4-5-00)()

03. DUI Evaluator Examination. Upon completion of the application review, where the individual meets minimum qualifications, the individual will be issued notification that they are eligible to take the examination. The Department will arrange testing for individuals found to have complied with this chapter. Upon successful completion of testing and meeting all requirements set forth in the rules, the Department will issue a license. The individual may take the examination twice during a twelve (12) month period from the date of the notification letter. An individual who fails the examination twice during the twelve (12) month period may submit a new application and reapply for a license at the end of the twelve (12) months following the notification letter. ()

034. License Period, Posting Requirement, and Notification of Changes. When the individual has

met all of the qualifications and passed the examination the Department will issue a license. The license, unless suspended or revoked, will be in effect for a period not to exceed one (1) calendar year from the date of issue printed on the license. The license will apply only to the person named therein and is not transferable. The license must be posted in a conspicuous location for client observation. The Department ~~shall~~ **must** be notified by a licensee in writing of any changes in address, phone number or fees within thirty (30) days of the change. (4-5-00)(____)

~~**04. Expiration and Renewal of License.** No license will be renewed, except as provided in Subsections 200.04 and 400.04.~~ (4-5-00)

~~**a.** At least sixty (60) days prior to the expiration of the license, the licensee will apply for a renewal of the license on forms provided by the Department. The application shall be accompanied by a twenty five dollar (\$25) renewal fee payable to the Department.~~ (3-10-88)

~~**b.** The licensee must attend a minimum of twelve (12) hours of substance abuse related continuing education each year, and will provide verification of attendance with the renewal application.~~ (4-5-00)

~~**c.** Following the application review, the licensee meeting the requirements of this chapter, will have their licenses renewed for a period not to exceed one (1) year.~~ (3-10-88)

~~**05. Denial, Suspension or Revocation of License.** The Department may deny, suspend or revoke the license of a DUI evaluator for any of the following reasons:~~ (3-10-88)

~~**a.** If an applicant has a substance related violation within the past two (2) years.~~ (4-5-00)

~~**b.** If a licensee has a substance related violation, the license shall be revoked for a period of two (2) years.~~ (4-5-00)

~~**c.** If the licensee has failed to comply with any portion of this chapter.~~ (4-5-00)

~~**d.** If the licensee demonstrates a conflict of interest by providing both the DUI evaluation and treatment or by referring the client to the licensee's employer or business associate, unless this requirement is waived in writing by the sentencing court.~~ (4-5-00)

~~**e.** If there has been a criminal, civil, or administrative determination that the licensee has committed misrepresentation in the preparation of the application or other documents required by the Department.~~ (3-10-88)

~~**f.** If there has been a criminal, civil, or administrative determination that the licensee has committed fraud or gross negligence while operating as a licensed DUI evaluator.~~ (3-10-88)

~~**g.** If an applicant or licensee has been convicted of a felony within the past three (3) years.~~ (4-5-00)

~~**h.** If there has been a criminal, civil, or administrative determination that the licensee has committed, permitted, or aided and abetted the commission of any illegal act while holding a DUI Evaluator license.~~ (4-5-00)

~~**i.** If the licensee demonstrates inadequate knowledge and/or performance by repeated substandard peer and quality assurance reviews.~~ (4-5-00)

~~**j.** If the licensee fails to furnish any data, information or records as requested.~~ (3-10-88)

~~**k.** If the licensee refuses or fails to participate in the peer review and quality assurance process.~~ (4-5-00)

~~**l.** If the licensee was first issued an operating license prior to June 30, 2000 and fails to meet minimum qualification standards within the sunset provision under Section 400.04.~~ (4-5-00)

~~**m.** Upon a second revocation, no further licenses shall be issued.~~ (4-5-00)

~~06. **Notice and Hearing.** The Department must give the licensee notice of intent to suspend, deny, or revoke approval, the right to appeal in accordance with the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 600, et seq., "Rules Governing Contested Cases and Declaratory Rulings".~~

(4-5-00)

~~07. **Return of License.** The DUI evaluator license is the property of the state of Idaho and must be returned to the Department immediately upon the denial, suspension, or revocation of the license, or if the operation is discontinued by the voluntary action of the licensee.~~

(3-10-88)

05. Responsibility of Licensee. A licensee is responsible for knowing the standards and rules applying to his license at all times. ()

06. Quality Assurance Process Participation. A licensee must participate in the quality assurance process as requested by the Department. ()

201. -- ~~200~~224. (RESERVED).

225. QUALIFICATIONS.

In addition to the requirements in Section 200 of these rules, an individual must also meet the following qualifications for licensure. ()

01. Evaluator Qualifications. In order for the applicant to be licensed as a DUI evaluator, the applicant must meet the following criteria: ()

a. Has professional experience supervised by a Certified, Credentialed or Licensed Alcohol/Drug Counselor in which a minimum of seven hundred twenty (720) cumulative hours were spent in the performance of alcohol/drug evaluation or treatment over the three (3) year period immediately prior to the application date; and ()

b. Holds one (1) of the following professional certifications or licenses: ()

i. Is a Certified Addictions Counselor as issued through the Idaho Board of Alcohol and Drug Counselor's Certification; or ()

ii. Is an Idaho Licensed, Licensed Clinical, or Licensed Masters Social Worker; or ()

iii. Is an Idaho Licensed Professional Counselor; and ()

c. Applicants must successfully pass the competency-based DUI Evaluator examination. ()

d. The applicant must have attended a minimum of twenty (20) hours of Department approved continuing education course work related to substance abuse screening, assessment, confidentiality, and referral within the twelve (12) months prior to applying for a license. ()

02. Documentation. The application submitted to the Department for licensure as a DUI evaluator must be accompanied by: ()

a. A current copy of professional licenses, or certifications. ()

b. A detailed employment history showing dates and hours of supervised employment experience in an alcohol/drug evaluation or treatment program, the name of the program, the name of the direct supervisor and a copy of their certification credential or license as an alcohol/drug counselor, and the nature of the duties performed. ()

c. Verification of attendance at the course work described in Subsection 225.01.d. of these rules. ()

03. Examination. The examination required by Subsection 200.03 of these rules will be administered a minimum of twice per year under the direction of the Department at times and locations to be announced by the Department. ()

04. License Granted Prior to July 1, 2006. If an individual was granted a license prior to July 1, 2006, and met the rule requirements at that time, he may continue to have his license renewed using those qualifications until such time as his license expires without renewal or the license is revoked by the Department. ()

226 -- 249. (RESERVED).

250. RENEWAL OF LICENSE.

The licensee is responsible for renewing the license in accordance with this chapter and requesting a renewal packet from the Department. No license will be renewed, except as provided in Section 250 of these rules. ()

01. Renewal Application. At least sixty (60) days prior to the expiration of the license, the licensee must apply for a renewal of the license on forms provided by the Department. The Department is not responsible for notifying the licensee of these time lines and failure to receive notice from the Department does not waive or extend renewal deadlines. The application must be accompanied by a twenty-five dollar (\$25) renewal fee payable to the Department. ()

a. A renewal packet will not be processed until it is complete and all required documentation is received. ()

b. The renewal fee is not refundable and will not be returned. ()

c. By signing the renewal application the individual represents that the information is true and accurate and they accept the responsibility to comply with these rules. ()

d. The individual signs a conflict disclosure or acknowledgement that the individual cannot perform both the evaluation and provide the recommended services unless they have a waiver from the court. ()

02. Continuing Education Credits. The licensee must participate in a minimum of twelve (12) hours of Department approved substance abuse related continuing education each year, and submit verification of continuing education credits with the renewal application. ()

03. Current Copy of Certification or License. A copy of current Idaho Board of Alcohol and Drug Counselor's Certification, or copy of Idaho Licensed, Licensed Clinical, or Licensed Masters Social Worker license, or Idaho Licensed Professional Counselor. A licensee must at all times hold a current certification or professional license in order to meet the educational requirement in Subsection 225.01 of these rules. ()

04. License Renewed for One Year. Following the application review, the licensee meeting the requirements of this chapter, will have their license renewed for a period not to exceed one (1) year. ()

05. Denial of Renewal. Failure to renew a license prior to the expiration date will result in a denial of renewal and the licensee will be required to comply with the requirements and procedures for obtaining an initial license. ()

06. Expired License. A person whose license has expired cannot represent themselves as a DUI Evaluator and offer or provide DUI evaluations. ()

07. Removal of Evaluator's Name From Directory. Following a thirty (30) day lapse in renewal of license, the DUI Evaluator's name will be removed from the Department's DUI Evaluator's Directory. ()

251. -- 274. (RESERVED).

275. DENIAL, SUSPENSION OR REVOCATION OF LICENSE.

The Department may deny, suspend or revoke the license for any of the following reasons: ()

01. Substance-Related Violation. If an applicant or licensee has a substance-related violation within the past two (2) years, the license may be revoked or denied for a period of two (2) years. ()

02. Failure to Comply. If the licensee has failed to comply with any portion of this chapter. ()

03. Conflict of Interest. If the licensee demonstrates a conflict of interest by providing both the DUI evaluation and treatment or by referring the client to the licensee's employer or business associate, unless this requirement is waived in writing by the sentencing court. ()

04. Determination of Misrepresentation of Application. If there has been a criminal, civil, or administrative determination that the applicant or licensee has committed misrepresentation in the preparation of the application or other documents required by the Department. ()

05. Determination of Fraud or Gross Negligence. If there has been a criminal, civil, or administrative determination that the applicant or licensee has committed fraud or gross negligence while operating as a licensed DUI evaluator. ()

06. Felony Conviction. If an applicant or licensee has been convicted of a felony within the past three (3) years. ()

07. Determination of Any Illegal Act. If there has been a criminal, civil, or administrative determination that the licensee has committed, permitted, or aided and abetted the commission of any illegal act while holding a DUI Evaluator license. ()

08. Inadequate Knowledge or Performance. If the applicant or licensee demonstrates inadequate knowledge, performance, or both by repeated substandard peer and quality assurance reviews. ()

09. Failure to Furnish Data, Information or Records. If the applicant or licensee fails to furnish any data, information or records as requested by the Department. ()

10. Refusal to Participate in Quality Assurance Process. If the applicant or licensee refuses or fails to participate in the peer review and quality assurance process. ()

11. Second Revocation. Upon a second revocation, no further licenses will be issued. ()

12. Result of Department Action. The following conditions apply as a result of action taken by the Department: ()

a. A person whose license has been denied, suspended or revoked cannot offer or provide DUI evaluations and may not represent themselves as DUI Evaluators. ()

b. Within thirty (30) days of the license being denied, suspended or revoked, the DUI Evaluator's name will be removed from the Department's DUI Evaluator's Directory. ()

13. Notice and Hearing. The Department must give the applicant or licensee notice of intent to suspend, deny, or revoke approval, the right to appeal in accordance with the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 600, et seq., "Rules Governing Contested Cases and Declaratory Rulings". ()

14. Return of License. The DUI evaluator license is the property of the state of Idaho and must be returned to the Department immediately upon the denial, suspension, or revocation of the license, or if the operation is discontinued by the voluntary action of the licensee. ()

276. -- 299. (RESERVED).

300. INSPECTIONS.

The Department reserves the right to inspect any office, files, client records, or other materials of any licensee to ascertain compliance with these rules, ~~and with Section 18-8004(4), Idaho Code.~~ (3-10-88)(____)

301. -- ~~399~~499. (RESERVED).

~~400. QUALIFICATIONS.~~

~~01. Qualifications of Staff. In order for the applicant to be licensed as a DUI evaluator, the applicant shall meet the following criteria:~~ (3-10-88)

~~a. Has professional experience in which a minimum of seven hundred twenty (720) cumulative hours were spent in the performance of alcohol/drug evaluation or treatment over the three (3) year period immediately prior to the application date; and~~ (4-5-00)

~~b. Holds a baccalaureate or higher degree in an allied health field; or~~ (4-5-00)

~~c. Is a Certified Addictions Counselor as issued through the Idaho Board of Alcohol and Drug Counselor's Certification; or~~ (4-5-00)

~~d. Is an Idaho Licensed, Licensed Clinical, or Licensed Masters Social Worker; or~~ (5-3-03)

~~e. Is an Idaho Licensed Professional Counselor.~~ (4-5-00)

~~f. Applicants must successfully complete the competency-based DUI Evaluator examination.~~ (4-5-00)

~~02. Documentation. The application submitted to the Department for licensure as a DUI evaluator shall be accompanied by:~~ (3-10-88)

~~a. A certified copy of all college transcripts; professional licenses, or certifications.~~ (4-5-00)

~~b. A detailed employment history showing dates and hours of employment experience in an alcohol/drug evaluation or treatment program, the name of the program, the name of the direct supervisor, and the nature of the duties performed.~~ (4-5-00)

~~03. Examination. The examination required by Subsection 400.01.f. shall be administered a minimum of twice per year under the direction of the Department at times and locations to be announced by the Department.~~ (4-5-00)

~~04. Sunset Provision. Licensees issued an operating license prior to June 30, 2000 must meet minimum qualification standards set in Subsection 400.01 before June 30, 2003. This includes educational and examination requirements. Licensees qualifying under this provision will provide verification on progress toward meeting the minimum education and examination standards with their annual application for renewal.~~ (4-5-00)

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

500. DUI EVALUATIONS.

01. Record System. The DUI evaluator must maintain a record system of client files for a minimum of three (3) years. Client files will minimally include the written evaluation, ~~and~~ supporting documents, ~~identified in Subsections 500.02 and 500.03~~ and use the same client identifier to correspond with the data collected for statistical reporting as described in Section 600 of these rules. (4-5-00)(____)

02. Individual DUI Evaluation. The DUI evaluation conducted by the licensee ~~shall~~ must be composed of the minimum following items: (3-10-88)(____)

a. ~~Face sheet.~~ All DUI evaluations ~~shall~~ must have a one (1) page typed summary sheet, ~~attached to the and the evaluation~~ report consistent with Idaho Supreme Court Misdemeanor Criminal Rule 9.4. A list of approved screening tools can be requested from the Department at the address located in Section 005 of these rules. Criminal Rule 9.4 may be found at the following website: www.isc.idaho.gov/rulestxt.htm. (4-5-00)()

b. ~~Evaluation report. All DUI evaluations shall conform to Idaho Supreme Court Misdemeanor Criminal Rule 9.4.~~ All evaluations must include a face-to-face interview between the licensee and the defendant. (4-5-00)()

03. Distribution of the DUI Evaluation. (3-10-88)

a. With the ~~client's~~ defendant's written consent, the evaluator will forward the original evaluation directly to the court. (3-10-88)()

b. The defendant ~~shall~~ must be provided with a copy of the DUI evaluation. (3-10-88)()

c. The DUI evaluator must abide by all applicable Federal and State laws requiring confidentiality of patient/client records. ()

d. The DUI evaluator is prohibited from releasing the evaluation to anyone other than the Department for the purposes of compliance inspection and peer review without the written authorization of the defendant. (4-5-00)

e. One (1) copy of the original evaluation, including all supporting documentation and associated Department required forms, must be maintained in the licensee's ~~files~~ record system for a minimum of five (5) years from the date the evaluation was conducted. (4-5-00)()

f. Photocopies of evaluations required for peer review and quality assurance will have personal identification data rendered illegible and replaced by the client number used on the statistical reporting forms. (4-5-00)()

501. -- 599. (RESERVED).

600. STATISTICAL REPORTING.

All licensees ~~shall~~ must submit ~~individual~~ required client data ~~on forms supplied on each defendant in the format prescribed by the Department.~~ (3-10-88)()

01. Collected Information. Specific client data information collection is to be recorded in the format prescribed by the Department. ()

02. Additional Forms. It is the responsibility of the Licensee to contact the Department when additional forms are needed. ()

03. Data Reported Monthly. The data is to be forwarded to the Department on a monthly basis by the fifteenth day of each month. ()

601. -- 699. (RESERVED).

700. QUALITY ASSURANCE, PEER AND TECHNICAL REVIEW.

The Department ~~shall~~ will develop policies concerning the composition of peer review teams, standardized assessment tools, standardized formats, scoring scales, and recommendations for quality and performance improvements. (4-5-00)()

701. -- 799. (RESERVED).

800. ADVISORY BOARD.

The Department ~~shall~~ may convene an advisory board. The advisory board consists of members from the community

and the Department. The board will provide feedback on program performance and suggestions for program improvement. *The board will meet at least quarterly and provide minutes of all meetings to the State Substance Abuse Executive Council.* (4-5-00)(____)

801. -- ~~995999~~. (RESERVED).

~~996. ADMINISTRATIVE PROVISIONS.~~

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 000, et seq., "Rules Governing Contested Case Proceedings and Declaratory Rulings". (12-31-91)

~~997. CONFIDENTIALITY OF RECORDS.~~

Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records". (12-31-91)

~~998. INCLUSIVE GENDER.~~

For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate. (3-10-88)

~~999. SEVERABILITY.~~

Idaho Department of Health and Welfare Rules, IDAPA 16.06.08, are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter. (1-1-84)

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.09 - SENIOR CONSUMER PROTECTION IN ANNUITY TRANSACTIONS
DOCKET NO. 18-0109-0501 (NEW CHAPTER)
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 41-211 and 41-1940, 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 August 17, 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:

The purpose of this rule is to set forth standards and procedures for recommendations to senior consumers that result in a transaction involving annuity products so that the insurance needs and financial objectives of senior consumers at the time of the transaction are appropriately addressed. This rule will apply to any recommendation to purchase or exchange an annuity made to a senior consumer by a producer, or an insurer where no producer is involved, that results in the purchase or exchange recommended.

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

The rulemaking is needed to implement the requirements of Section 41-1940, Idaho Code, which became effective July 1, 2005.

FEE SUMMARY: This rulemaking does not impose any fees.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: This rulemaking does not have a fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the June 1, 2005 Idaho Administrative Bulletin, Volume No. 05-6, page 34.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Shad Priest, Department of Insurance, (208)334-4250.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 30th day of June, 2005.

Gary L Smith
Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250
Facsimile No. (208) 334-4298

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0109-0501

IDAPA 18
TITLE 01
CHAPTER 9

18.01.09 - SENIOR CONSUMER PROTECTION IN ANNUITY TRANSACTIONS

000. LEGAL AUTHORITY.

This rule is promulgated pursuant to authority granted by Sections 41-211 and 41-1940, Idaho Code. (11-1-05)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 18.01.09 - Senior Consumer Protection in Annuity Transactions. (11-1-05)T

02. Propose. The purpose of this rule is to set forth standards and procedures for recommendations to senior consumers that result in a transaction involving annuity products so that the insurance needs and financial objectives of senior consumers at the time of the transaction are appropriately addressed. (11-1-05)T

03. Scope. This rule shall apply to any recommendation to purchase or exchange an annuity made to a senior consumer by a producer, or an insurer where no producer is involved, that results in the purchase or exchange recommended. (11-1-05)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for these rules. (11-1-05)T

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General" - General Provisions. (11-1-05)T

004. INCORPORATION BY REFERENCE.

01. Incorporated Documents. IDAPA 18.01.09, "Senior Consumer Protection in Annuity Transactions," adopts and incorporates by reference the following documents; (11-1-05)T

a. United States Code, Title 29 - Labor, Chapter 18 - Employee Retirement and Income Security Act (ERISA). (11-1-05)T

b. United States Code, Title 26 - Internal Revenue Code. (11-1-05)T

c. NASD Manual Conduct Rules pertaining to suitability, specifically Rule 2310. Recommendations to Customers (Suitability) as amended. (11-1-05)T

02. Availability of Referenced Documents. Printed copies of the documents described in section 004.01.a. and b. are available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954 as well as from the Department; the telephone number is (202) 512-1800, and electronic copies are available at <http://straylight.law.cornell.edu/uscode/>. Printed copies of the documents described in section 004.01.c. are available from the Department and electronic copies are available from <http://nasd.complinet.com/nasd/display/index.html>. (11-1-05)T

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

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. (11-1-05)T

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (11-1-05)T

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. (11-1-05)T

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho. (11-1-05)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

As used in this rule, unless the context requires otherwise, the following words shall have the following meanings: (11-1-05)T

01. Annuity. A fixed annuity or variable annuity that is individually solicited, whether the product is classified as an individual or group annuity. (11-1-05)T

02. Insurer. Includes every person engaged as indemnitor, surety or contractor in the business of entering into contracts of insurance or of annuity. (11-1-05)T

03. Producer. A person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities. (11-1-05)T

04. Recommendation. Advice provided by a producer, or an insurer where no producer is involved, to an individual senior consumer that results in a purchase or exchange of an annuity in accordance with that advice. (11-1-05)T

05. Senior Consumer. A person sixty-five (65) years of age or older. In the event of a joint purchase by more than one party, the purchaser(s) will be considered to be a senior consumer if any of the parties is age sixty-five (65) or older. (11-1-05)T

011. EXEMPTIONS.

Unless otherwise specifically included, this rule shall not apply to recommendations of annuity purchases or exchanges involving (11-1-05)T

01. Direct Response Solicitations. A response to a direct solicitation where there is no recommendation made based on information collected from the senior consumer pursuant to this rule; (11-1-05)T

02. Contracts Used to Fund. (11-1-05)T

- a.** An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA) as amended; (11-1-05)T
- b.** A plan described by Sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the Internal Revenue Code (IRC), as amended, if established or maintained by an employer; (11-1-05)T
- c.** A government or church plan defined in Section 414 of the IRC, as amended, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC, as amended; (11-1-05)T
- d.** A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor; (11-1-05)T
- e.** Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; (11-1-05)T
- f.** Formal prepaid funeral contracts; or (11-1-05)T
- g.** Contracts used to fund funeral and related funeral expenses. (11-1-05)T

012. -- 014. (RESERVED).

015. DUTIES OF INSURERS AND OF PRODUCERS.

01. General Rule. In recommending to a senior consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the senior consumer on the basis of the facts disclosed by the senior consumer as to his or her investments and other insurance products and as to his or her financial situation and needs. (11-1-05)T

02. Collection of Information. Prior to a recommendation to a senior consumer of a purchase or exchange of an annuity, a producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain information concerning: (11-1-05)T

- a.** The senior consumer's financial status; (11-1-05)T
- b.** The senior consumer's tax status; (11-1-05)T
- c.** The senior consumer's investment objectives; and (11-1-05)T
- d.** Such other information used or considered to be reasonable by the producer, or the insurer where no producer is involved, in making recommendations to the senior consumer. (11-1-05)T

03. Exceptions. (11-1-05)T

a. Except as provided under Subsection 015.03.b., neither a producer, nor an insurer where no producer is involved, shall have any obligation to a senior consumer under Subsection 015.01 related to any recommendation if a consumer: (11-1-05)T

- i.** Refuses to provide relevant information requested by the insurer or producer. (11-1-05)T
- ii.** Decides to enter into an insurance transaction that is not based on a recommendation of the insurer or producer; or (11-1-05)T
- iii.** Fails to provide complete or accurate information. (11-1-05)T

- b.** If a producer, or the insurer where no producer is involved, sells an annuity to a senior consumer that is not the product recommended, the producer or insurer where no producer is involved, must: (11-1-05)T
- i.** Document that the recommendation was not accepted as presented; and (11-1-05)T
 - ii.** Obtain the signature of the senior consumer evidencing the rejection or modification of the recommendation. (11-1-05)T

016. SUPERVISORY DUTIES OF INSURER.

01. Written Procedures. An insurer shall either assure that a system to supervise recommendations that is reasonably designed to achieve compliance with this rule is established and maintained by complying with Subsections 016.02 and 016.03, or shall establish and maintain such a system itself, which system shall include, but not be limited to: (11-1-05)T

- a.** Maintaining written procedures; and (11-1-05)T
- b.** Conducting periodic reviews of records that are reasonably designed to assist in detecting and preventing violations of this rule. (11-1-05)T

02. Third Party. An insurer may contract with a third party, including a general agent or independent agency, to establish and maintain a system of supervision as required by Subsection 016.01 with respect to insurance producers under contract with or employed by the third party. (11-1-05)T

03. Third Party Contracting. An insurer shall make reasonable inquiry to assure that the third party contracting under Subsection 016.02 is performing the functions required under Subsection 016.01 and shall take such action as is reasonable under the circumstances to enforce the contractual obligation to perform the functions. An insurer may comply with its obligation to make reasonable inquiry by doing all of the following: (11-1-05)T

- a.** Annually obtaining a certification from a third party senior manager who has responsibility for the delegated functions that the manager has a reasonable basis to represent, and does represent, that the third party is performing the required functions; and (11-1-05)T
- b.** Based on reasonable selection criteria, periodically selecting third parties contracting under Subsection 016.02 for a review to determine whether the third parties are performing the required functions. The insurer shall perform those procedures to conduct the review that are reasonable under the circumstances. (11-1-05)T

04. Complies With the Requirements to Supervise. An insurer that contracts with a third party pursuant to Subsection 016.02 and that complies with the requirements to supervise in Subsection 016.03 shall have fulfilled its responsibilities under Subsection 016.01. (11-1-05)T

05. Insurer, General Agent or Independent Agency. An insurer, general agent or independent agency is not required by Subsection 016.01 to: (11-1-05)T

- a.** Review, or provide for review of, all producer solicited transactions; or (11-1-05)T
- b.** Include in its system of supervision a producer's recommendations to senior consumers of products other than the annuities offered by the insurer, general agent or independent agency. (11-1-05)T

06. Unable to Meet the Certification Criteria. A general agent or independent agency contracting with an insurer pursuant to Subsection 016.02 shall promptly, when requested by the insurer pursuant to Subsection 016.03, give a certification as described in Subsection 016.03.a. or give a clear statement that it is unable to meet the certification criteria. (11-1-05)T

- a.** No person may provide a certification under Subsection 016.03.a. unless: (11-1-05)T

- i. The person is a senior manager with responsibility for the delegated functions; and (11-1-05)T
- ii. The person has a reasonable basis for making the certification. (11-1-05)T

07. Director's Ability to Enforce the Provisions. Compliance with the NASD Conduct Rules pertaining to suitability shall satisfy the requirements under Sections 015 and 016 for the recommendation of variable annuities. However, nothing in Section 016 shall limit the director's ability to enforce the provisions of this rule. (11-1-05)T

017. -- 020. (RESERVED).

021. RECORDKEEPING.

01. Maintaining Records. The insurer, general agent, independent agency and producer shall maintain or be able to make available to the director records of the information collected from the senior consumer and other information used in making the recommendations that were the basis for insurance transactions, as long as the contract remains in force. An insurer is permitted, but shall not be required, to maintain documentation on behalf of a producer, except as noted in Subsection 021.02. (11-1-05)T

02. Termination. If the producer terminates the appointment with the insurer or his license, the producer must remit copies of all records as described under Subsection 021.01 to the insurer within twenty-one (21) days of termination. (11-1-05)T

03. Form. Records required to be maintained by this rule may be maintained in paper, photographic, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document. (11-1-05)T

022. -- 024. (RESERVED).

025. VIOLATIONS.
Any violation of this rule will be deemed a violation of Section 41-1940, Idaho Code. (11-1-05)T

026. -- 999. (RESERVED).

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.10 - PRODUCERS HANDLING OF FIDUCIARY FUNDS
DOCKET NO. 18-0110-0501 (NEW CHAPTER)
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 41-211 and 41-1024 of the 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 August 17, 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:

The purpose of this rulemaking is to develop rules to implement amendments to Section 41-1024, Idaho Code, which were enacted this year and will require that all insurance producers (agents and brokers) maintain a trust account to hold all fiduciary funds received by the producer.

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

The rulemaking is needed to implement amendments to Section 41-1024, Idaho Code, that will become effective July 1, 2005.

FEE SUMMARY: This rulemaking does not impose any fees.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: This rulemaking does not have a fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the June 1, 2005 Idaho Administrative Bulletin, Volume No. 05-6, page 35.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Shad Priest, Department of Insurance, (208)334-4250.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 30th day of June, 2005.

Gary L Smith
Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250
Facsimile No. (208) 334-4298

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0110-0501

IDAPA 18
TITLE 01
CHAPTER 10

18.01.10 - PRODUCERS HANDLING OF FIDUCIARY FUNDS

000. LEGAL AUTHORITY.

This rule is promulgated pursuant to authority granted by Sections 41-211 and 41-1024, Idaho Code. (1-1-06)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 18.01.10, "Producers Handling of Fiduciary Funds". (1-1-06)T

02. Scope. This rule will affect "Producers," as defined in Section 41-1003, Idaho Code, who handle funds held in a fiduciary capacity. (1-1-06)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for these rules. (1-1-06)T

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General - General Provisions". (1-1-06)T

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. (1-1-06)T

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

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. (1-1-06)T

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (1-1-06)T

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho

83702-0043. (1-1-06)T

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho. (1-1-06)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Fiduciary Fund Account. A financial account established to hold fiduciary funds as provided in Section 016. (1-1-06)T

02. Fiduciary Funds. All premiums, return premiums, premium taxes and fees received by a producer. Fiduciary funds shall include: (1-1-06)T

a. All funds paid to a producer for selling, soliciting or negotiating policies of insurance except for those earned fees recognized by statute as earned by the producer upon receipt which are payable to the producer and not the insurance company, pursuant to Section 41-1030, Idaho Code. (1-1-06)T

b. All funds received by a producer from or on behalf of a client or premium finance company that are to be paid to an insurance company, its agents, or to the producer's employer. (1-1-06)T

c. All funds provided to a producer by an insurance company or its agents that are to be paid to a policyholder or claimant pursuant to a contract of insurance. (1-1-06)T

d. All checks or other negotiable instruments collected by the producer that are made payable to the insurer. (1-1-06)T

03. Premium. The consideration for insurance by whatever name called, and as more fully defined by Section 41-1803, Idaho Code. (1-1-06)T

04. Producer. A person required to be licensed under the laws of this state to sell, solicit or negotiate insurance. (1-1-06)T

05. Receive. To collect or otherwise take actual or constructive possession of fiduciary funds. Receiving, includes but is not limited to, taking possession of money, checks, or other negotiable instruments. If fiduciary funds are in the form of a credit or offset on an account or other liability for the benefit of the consumer, without the producer actually taking possession of the funds, then constructive receipt shall be deemed to have occurred on the due date to the insurer. (1-1-06)T

011. -- 013. (RESERVED).

014. FIDUCIARY FUND ACCOUNT.

01. Payable to an Insurer. Fiduciary funds that are in the form of a check or another negotiable instrument that is made payable to an insurer as described in Subsection 010.02.d. shall be remitted to the insurer within the time period as set forth in the terms and conditions as required by the insurer, or if not specified, then within twenty one (21) days of receipt. (1-1-06)T

02. Payable to a Policyholder. Fiduciary funds that are in the form of a check or another negotiable instrument that is made payable to a policyholder or claimant as described in Subsection 010.02.c. shall be remitted to the policyholder or claimant within fourteen (14) days of receipt or as required by the terms of the policy of insurance, the insurer, or applicable law. (1-1-06)T

03. All Other Fiduciary Funds. All other fiduciary funds received by the producer, except as described under Subsection 014.01 must be deposited into a fiduciary fund account according to the following

schedule: (1-1-06)T

a. If in the form of cash, within seven (7) days of receipt, except that, when a producer holds fiduciary funds in the form of cash that exceed two thousand dollars (\$2,000), such funds must be deposited within three (3) business days. (1-1-06)T

b. If in the form of checks, money orders or other negotiable instruments received or collected by the producer, within seven (7) days of receipt, except that the producer may remit such funds to the following: (1-1-06)T

i. Another licensed producer or licensed business entity, subject to the time frames of Subsection 014.03.b.; or (1-1-06)T

ii. A person designated by the insurer who has the obligation to remit the fiduciary funds to the insurer subject to the time frames of Subsection 014.03.b. (1-1-06)T

04. Document the Receipt of Fiduciary Funds. A producer who receives fiduciary funds shall document the receipt of those funds in sufficient detail to determine, at a minimum, the date received, the name of the payee, and the amount received. If the producer receives cash, the producer shall give the payer a detailed receipt at the time of payment. The receipt shall include an indication that cash was received, the date received, the amount received, the payer's name, the payee's name, the purpose of payment, and any other information important to the transaction. The producer shall maintain the receipt records as records of a transaction, and keep those records for a period of at least five (5) years. (1-1-06)T

015. DEPOSIT OF OTHER FUNDS IN ACCOUNT.

A producer may deposit other additional funds for the sole purpose of: (1-1-06)T

01. Establishing Reserves for Payment of Return Premiums. (1-1-06)T

02. Advancing Funds Sufficient to Pay Bank Charges. (1-1-06)T

03. Contingencies. For any contingencies that may arise in the business of receiving and transmitting premium or return premium funds (any such deposit is hereinafter referred to as "voluntary deposit"). (1-1-06)T

016. TYPES OF ACCOUNTS PERMITTED.

A producer shall maintain the fiduciary funds only in: (1-1-06)T

01. Accounts in Federally Insured Financial Institutions. Checking accounts, demand accounts, savings accounts or other accounts in a federally insured financial institution; or (1-1-06)T

02. Exceed the Federally Insured Limits. If such funds held exceed the federally insured limits, then in addition to Subsection 016.01, those funds that exceed the federally insured limits may be deposited into the following: (1-1-06)T

a. An investment account that invests monies in United States government bonds, United States Treasury certificates or in federally guaranteed obligations; (1-1-06)T

b. Money market mutual funds registered with the SEC which are rated AAA by Moody's or AAA by S&P. (1-1-06)T

03. Separate Fiduciary Funds Account. Nothing in this rule requires a producer to maintain and hold fiduciary funds in his, her, or its, own separate fiduciary funds account. Nevertheless, each producer is responsible for compliance with the provisions of this rule even if fiduciary funds are maintained in a fiduciary funds account established by another affiliated producer. (1-1-06)T

017. ACCOUNT DESIGNATION.

01. Designation of a Fiduciary Fund. A fiduciary fund account shall be so designated on the records of the financial institution. The account shall have a separate account number, a separate check register and its own checks. (1-1-06)T

02. Trust Fund Account. The phrase, "Trust Fund Account" shall be displayed on the face of each check drawn on a fiduciary fund account or other similar designation as permitted by the financial institution to identify the checks as being from a fiduciary fund account. (1-1-06)T

018. INTEREST EARNINGS.

A fiduciary fund account may be interest-bearing or an investment account in accordance with Section 016. The producer shall maintain records establishing the existence and amount of interest accrued and shall make such records available for examination by the director. (1-1-06)T

019. PERMISSIBLE DISTRIBUTION OF FIDUCIARY FUNDS.

Distributions from a fiduciary fund account shall only be made for the following purposes, and in the manner stated: (1-1-06)T

01. Remit Premiums. To remit premiums to an insurer or an insurer's designee pursuant to a contract of insurance; (1-1-06)T

02. Return Premiums. To return premiums to an insured or other person or entity entitled to the premiums; (1-1-06)T

03. Remit Surplus Lines Taxes and Stamping Fees. To remit surplus lines taxes and stamping fees collected to the appropriate state; (1-1-06)T

04. Reimburse Voluntary Deposits. To reimburse voluntary deposits made by the producer to the extent that the funds in the fiduciary account exceed the amount necessary to meet all fiduciary obligations, only if the reimbursement can be matched and identified with the previous voluntary deposit. (1-1-06)T

05. Transfer or Withdraw Accrued Interest. To transfer or withdraw accrued interest to the extent that fiduciary fund account funds exceed the amount necessary to meet all fiduciary obligations, only if the reimbursement can be matched and identified with the previous interest deposit by the financial institution. (1-1-06)T

06. Transfer or Withdraw Actual Commissions. To transfer or withdraw actual commissions and those earned fees recognized as earned by the producer, upon receipt, which are payable to the producer, only if the commissions and fees can be matched and identified with funds previously deposited in the fiduciary account. (1-1-06)T

07. Pay Charges Imposed. To pay charges imposed by the financial institution that directly relate to the operation and maintenance of the fiduciary funds account to the extent that fiduciary account funds exceed fiduciary obligations; and (1-1-06)T

08. Transfer Funds. To transfer funds from one (1) fiduciary fund account to another fiduciary fund account. (1-1-06)T

020. AUDIT OF FIDUCIARY FUNDS.

A producer shall make all records of collections for, deposits to and disbursements from each fiduciary fund account, as well as any related records accessible to the director for purposes of examination and audit or other general inquiry. (1-1-06)T

021. PROHIBITED PRACTICES.

A producer shall not use fiduciary funds for personal use, including but not limited to: (1-1-06)T

01. Use Fiduciary Funds as a Personal Asset. Using or allowing other persons to use fiduciary funds as a personal asset, or as collateral for a personal or business loan; (1-1-06)T

02. Misreporting Fiduciary Funds. Reporting fiduciary funds on a financial statement without recording an equivalent liability and disclosing through a footnote that the fiduciary funds are not available for use by the reporting entity; (1-1-06)T

03. Withhold Issue of Money From a Fiduciary Fund Account. Authorizing a financial institution to withhold issue of money from a fiduciary fund account unless required by a court order; or (1-1-06)T

04. Seize Money From a Fiduciary Fund. Authorizing a financial institution to seize money from a fiduciary fund account unless required by a court order. (1-1-06)T

022. TIMELY DISBURSEMENT OF FIDUCIARY FUNDS.

In addition to the requirements of Section 014, after receiving fiduciary funds, a producer shall: (1-1-06)T

01. Remit Premiums. Remit premiums directly to an insurer or an insurer's designee within the time period as set forth in the terms and conditions as required by the insurer, or if not specified, within fourteen (14) days of receipt; (1-1-06)T

02. Return Money Received. Return to the payer the money received as a premium deposit which is retained by the producer or returned to the producer by the insurer to the payer by the earlier of: (1-1-06)T

a. Fourteen (14) days from the date the premium is received by the producer from the insurer, or (1-1-06)T

b. Fourteen (14) days from the date the insurer notifies the insurance applicant that coverage has been denied if the producer retained the premium deposit. (1-1-06)T

03. Refund Received From the Insurer. Issue a refund received from the insurer within fourteen (14) days by disbursing money to the insured or other party entitled thereto by notifying the insured that the refund is being applied to an outstanding amount owed or to be owed by the insured. If the producer is applying the refund to an outstanding amount owed by the insured, the producer shall obtain the insured's permission and provide the insured a detailed description of the amount owed to which the refund is being applied. (1-1-06)T

04. Dispute of Entitlement of Funds. If there is a dispute as to entitlement of funds under Subsections 022.01 or 022.03, notify the parties of the dispute and seek to resolve the dispute and document the steps taken to resolve the dispute. (1-1-06)T

05. Funds Held for More Than Ninety Days. If fiduciary funds within the scope of Subsections 022.01 or 022.03 are held for more than ninety (90) days, investigate to determine the entitlement to fiduciary funds and pay those fiduciary funds when due to the appropriate person in accordance with this section. (1-1-06)T

023. VIOLATIONS.

Any violation of this rule may subject a producer to any sanction authorized pursuant to Section 41-1016(1), Idaho Code. (1-1-06)T

024. - 999. (RESERVED).

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.18 - OPEN LINES FOR EXPORT - SURPLUS LINES

DOCKET NO. 18-0118-0501

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 41-211 and 41-1216 of the 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 August 17, 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:

At the request of the Idaho Surplus Lines Association, the Department is making changes to the listing of lines of insurance that are considered to be "open lines" for purposes of treatment as surplus lines insurance. The insurance lines included in this listing represent lines of insurance for which there appears to be no reasonable or adequate market among insurers authorized to do business in this state. The Department is also making some technical changes to the rule to replace outdated or unnecessary wording.

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

This rule is intended to confer a benefit by providing the public easier access to lines of insurance that are not readily obtainable from authorized insurers in Idaho.

FEE SUMMARY: This rulemaking does not impose any fees.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: This rulemaking does not have a fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the June 1, 2005 Idaho Administrative Bulletin, Volume No. 05-6, page 36.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Shad Priest, Department of Insurance, (208)334-4250.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 30th day of June.

Gary L Smith
Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250
Facsimile No. (208) 334-4298

THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0118-0501

003. ADMINISTRATIVE APPEALS.

There is no appeal to the Attorney General from application of this rule. All such appeals must be instituted by written demand for a hearing before the Director of Insurance, per Idaho Code Section 41-232. Further appeal from the Director's decision can be taken to district court, pursuant to Sections 41-242 and 67-5270, Idaho Code. All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code and IDAPA 04.11.01, Idaho Rules of Administrative Procedure, Idaho Rules of Administrative Procedure of the Attorney General – General Provisions. (1-1-94)(8-1-05)T

(BREAK IN CONTINUITY OF SECTIONS)

~~012. OPEN LINES FOR EXPORT - SURPLUS LINES.~~

The attached list of open lines for export to eligible surplus lines insurers will continue in effect during the existence of the conditions upon which predicated, subject to earlier termination by the Director. A class or classes may be deleted at the direction of the Director if conditions appear to warrant such action. This list supersedes any previous list published or compiled for use in the state of Idaho. This list becomes effective November 15, 1980. (1-1-94)

~~013~~012. SEVERABILITY.

If any provision of this Rule shall be held invalid, the remainder of the Rule shall not be affected thereby. (1-1-94)

~~014~~013. OPEN LINES FOR EXPORT - SURPLUS LINES.

- 01. Code AH Accident and Health.** (1-1-94)
 - a.** Accidental death - high limit or hazardous occupation. (1-1-94)
 - b.** Accidental death - world wide coverage. (1-1-94)
 - c.** Air crew personal accident. (1-1-94)
 - d.** Aviation accident, personal. (1-1-94)
 - e.** Dread disease. (1-1-94)
 - f.** Twenty-four (24) hour accident - high limits. (1-1-94)
 - g.** High Limit Disability - Uninsurable and Excess. (8-1-05)T

a.	Air cargo.	(1-1-94)
b.	Aircraft - antique.	(1-1-94)
e.	Aircraft - chartered.	(1-1-94)
d.	Aircraft applicators liability including crop damage, chemical drift.	(1-1-94)
eh.	Aircraft - excess passenger liability.	(1-1-94) (8-1-05)T
f.	Aircraft - fixed base operations.	(1-1-94)
g.	Aircraft - hull.	(1-1-94)
h.	Aircraft - liability.	(1-1-94)
i.	Aircraft - nonownership liability.	(1-1-94)
jc.	Airmeeet liability.	(1-1-94)
k.	Airport liability.	(1-1-94)
ld.	Aviation - workmen's compensation and employers' liability.	(1-1-94)
me.	Hangar-Keeper's legal liability.	(1-1-94)
05.	Code FA Fire and Allied Lines.	(1-1-94)
a.	Amusement devices.	(1-1-94)
b.	Amusement parks and carnivals.	(1-1-94)
c.	Business Interruption - value, excess.	(1-1-94)
d.	Business Interruption - contingent, excess.	(1-1-94)
e.	Bowling alleys.	(1-1-94)
f.	Chattel Mortgage, non-filing or non-recording.	(1-1-94)
g.	Collapse of building <u>Commercial/Residential Protection class 9 and 10.</u>	(1-1-94) (8-1-05)T
h.	Crop Insurance - all weather hazards.	(1-1-94)
i.	Drought insurance.	(1-1-94)
j.	Earthquake.	(1-1-94)
k.	Greenhouses - wind and hail.	(1-1-94)
l.	Polyurethane insulated buildings.	(1-1-94)
m.	Riot and civil commotion <u>Residential with water losses.</u>	(1-1-94) (8-1-05)T
n.	Sawmills.	(1-1-94)

- o.** Valued business interruption. (1-1-94)
- p.** Woodhandlers. (1-1-94)
- q.** Distress Fire - unprotected lodges, restaurants and taverns. (1-1-94)
- r.** Residential and Commercial with EIFS exposure- synthetic stucco. (8-1-05)T
- s.** Bars, taverns, private clubs. (8-1-05)T
- t.** Single family dwellings seventy-five thousand dollars (\$75,000) or less, duplexes. (8-1-05)T
- u.** Builders Risk PC 7-10 - Course of Construction. (8-1-05)T
- v.** Vacant buildings. (8-1-05)T
- w.** Nuclear energy property. (8-1-05)T
- x.** Buildings built prior to 1975 without significant updating or renovation. (8-1-05)T
- y.** Restaurants without auto fire suppression. (8-1-05)T
- 06.** **Code GL General Liability.** (1-1-94)
 - a.** Amusement devices. (1-1-94)
 - b.** Amusement parks. (1-1-94)
 - c.** Anhydrous ammonia dealers and haulers. (1-1-94)
 - d.** Animal rides. (1-1-94)
 - e.** Carnivals. (1-1-94)
 - f.** Contractors "X", "C", and "U" coverage Artisan Contractors. ~~(1-1-94)~~(8-1-05)T
 - g.** Corporate officers, directors, and trustees liability. (1-1-94)
 - h.** Demolition contractors liability. (1-1-94)
 - i.** Dude ranch liability. (1-1-94)
 - j.** Environmental impairment. (1-1-94)
 - k.** Excess limits liability. (1-1-94)
 - l.** Exterminators liability. (1-1-94)
 - m.** Fairgrounds, fairs, liability. (1-1-94)
 - n.** False arrest, municipal or other public body. (1-1-94)
 - o.** Go-karts, spectators liability. (1-1-94)
 - p.** Ground applicators - chemical drift. (1-1-94)
 - q.** Health club liability. (1-1-94)

r.	Homes for Aged—liability Residential/Assisted Living/Nursing homes.	(1-1-94) (8-1-05)T
s.	Immkeeper legal liability Recreational vehicle rental: snowmobiles, atvs, jet skis.	(1-1-94) (8-1-05)T
t.	Liquified petroleum dealers.	(1-1-94)
u.	Liquor liability and Dram Shop Act liability.	(1-1-94)
v.	Loggers property damage liability All Lines.	(1-1-94) (8-1-05)T
w.	Non-accidental seepage and pollution.	(1-1-94)
x.	Nursing home liability.	(1-1-94)
y.	Outfitters and guides.	(1-1-94)
z.	Personal injury liability including false arrest, detention or imprisonment, malicious prosecution, libel, slander, defamation, violation of privacy, wrongful entry, or eviction or other invasions of right of private occupancy. EIFS Contractors.	(1-1-94) (8-1-05)T
aa.	Products liability.	(1-1-94)
bb.	Radio and T.V. broadcasters and producers liability.	(1-1-94)
cc.	Rodeos and horse shows - liability.	(1-1-94)
dd.	Saddle horse Equine Liability .	(1-1-94) (8-1-05)T
ee.	Ski-lifts and tows liability.	(1-1-94)
ff.	Snowmobile dealers.	(1-1-94)
gg.	Special schools.	(1-1-94)
hh.	Spectator liability - special events.	(1-1-94)
ii.	Swimming pools.	(1-1-94)
jj.	Theatrical presentations.	(1-1-94)
kk.	Manufacturing General contractors.	(1-1-94) (8-1-05)T
ll.	Petroleum drilling and maintenance - on and off shore.	(1-1-94)
mm.	<u>Social service agencies.</u>	(8-1-05)T
nn.	<u>Non profit clubs, associations, charitable organizations.</u>	(8-1-05)T
oo.	<u>Gun dealers.</u>	(8-1-05)T
pp.	<u>Bullet manufacturers.</u>	(8-1-05)T
qq.	<u>Antique dealers/pawn shops.</u>	(8-1-05)T
rr.	<u>Motorcycle dealership.</u>	(8-1-05)T

<u>ss.</u>	<u>Security service.</u>	(8-1-05)T
<u>tt.</u>	<u>Homeowners association.</u>	(8-1-05)T
<u>uu.</u>	<u>Used auto dealers.</u>	(8-1-05)T
<u>vv.</u>	<u>Aircraft hangers.</u>	(8-1-05)T
<u>ww.</u>	<u>Bars, taverns, private clubs.</u>	(8-1-05)T
<u>xx.</u>	<u>Products Liability Monoline.</u>	(8-1-05)T
<u>yy.</u>	<u>Real Estate Developers.</u>	(8-1-05)T
<u>zz.</u>	<u>Gas/Fuel Distributors.</u>	(8-1-05)T
<u>aaa.</u>	<u>Quarry/Sand/Gravel Ops.</u>	(8-1-05)T
<u>bbb.</u>	<u>Garbage/Refuse Collection.</u>	(8-1-05)T
<u>ccc.</u>	<u>Irrigation Systems.</u>	(8-1-05)T
<u>ddd.</u>	<u>Pawn Shops.</u>	(8-1-05)T
<u>eee.</u>	<u>Recreation Vehicles and Mobile Home Dealers.</u>	(8-1-05)T
<u>fff.</u>	<u>Janitorial.</u>	(8-1-05)T
<u>ggg.</u>	<u>Vacant Buildings.</u>	(8-1-05)T
<u>hhh.</u>	<u>Lessors Risk Only (Rental Dwellings).</u>	(8-1-05)T
<u>iii.</u>	<u>Boats/houseboats.</u>	(8-1-05)T
<u>jjj.</u>	<u>Bridges.</u>	(8-1-05)T
<u>kkk.</u>	<u>Mining Equipment.</u>	(8-1-05)T
<u>lll.</u>	<u>Alcohol/drug rehabilitation centers/programs.</u>	(8-1-05)T
<u>mmm.</u>	<u>Automobile wrecking yards.</u>	(8-1-05)T
<u>nnn.</u>	<u>Building Moving.</u>	(8-1-05)T
<u>ooo.</u>	<u>Child care.</u>	(8-1-05)T
<u>ppp.</u>	<u>Courier services.</u>	(8-1-05)T
<u>qqq.</u>	<u>Crane rental.</u>	(8-1-05)T
<u>rrr.</u>	<u>Detective agencies.</u>	(8-1-05)T
<u>sss.</u>	<u>Employment Agencies – temporary.</u>	(8-1-05)T
<u>ttt.</u>	<u>Environmental remediation.</u>	(8-1-05)T
<u>uuu.</u>	<u>Firearms liability - gun smithing.</u>	(8-1-05)T

<u>vvv.</u>	<u>Fire alarm systems - installation contractors.</u>	(8-1-05)T
<u>www.</u>	<u>Fraternities.</u>	(8-1-05)T
<u>xxx.</u>	<u>Freight Handlers - lumpers.</u>	(8-1-05)T
<u>yvy.</u>	<u>Fuel tank testers.</u>	(8-1-05)T
<u>zzz.</u>	<u>Garage Service.</u>	(8-1-05)T
<u>aaaa</u>	<u>Habitational (apartments, condos, residential).</u>	(8-1-05)T
<u>bbbb.</u>	<u>Habitational materials - manufacturers.</u>	(8-1-05)T
07.	Code IM Inland Marine.	(1-1-94)
a.	Anhydrous ammonia apparatus.	(1-1-94)
b.	Cameras - all risk coverage.	(1-1-94)
c.	Cargo - excess limits.	(1-1-94)
d.	Coin dealers - all risk coverage.	(1-1-94)
e.	Coin operated devices.	(1-1-94)
f.	Contact lenses.	(1-1-94)
g.	Data processing equipment - excess limits.	(1-1-94)
h.	Fine arts - all risk coverage.	(1-1-94)
i.	Furs - all risk coverage.	(1-1-94)
j.	Jewelry - all risk coverage.	(1-1-94)
k.	All Mmotor truck cargo-long haul.	(1-1-94) (8-1-05)T
l.	Professional musical instrument floater.	(1-1-94)
08.	Code OM Ocean Marine.	(1-1-94)
a.	Ocean marine.	(1-1-94)
09.	Code MS Miscellaneous Specialty Lines.	(1-1-94)
a.	Excess crime.	(1-1-94)
b.	Hole-in-one insurance.	(1-1-94)
c.	Mortality - livestock and pets.	(1-1-94)
d.	Twin insurance.	(1-1-94)
e.	Water damage including flood.	(1-1-94)

f.	Difference in condition.	(1-1-94)
g.	<u>Intellectual property - copyright/patent infringement.</u>	(8-1-05)T
h.	<u>Garagekeepers Legal.</u>	(8-1-05)T
i.	<u>Food Borne Illness.</u>	(8-1-05)T
j.	<u>Asbestos - all coverages.</u>	(8-1-05)T
k.	<u>International exposures.</u>	(8-1-05)T
l.	<u>Kidnap, ransom.</u>	(8-1-05)T
10.	Code PL Professional Liability and Malpractice (Includes Errors and Omissions).	(1-1-94)
a.	Abstractors.	(1-1-94)
b.	Accountants.	(1-1-94)
c.	Ambulance personnel.	(1-1-94)
d.	Anesthetists.	(1-1-94)
e.	Architects.	(1-1-94)
f.	Attorneys <u>and mediators.</u>	(1-1-94) (8-1-05)T
g.	Beauty and barber shops.	(1-1-94)
h.	Beauty and barber schools.	(1-1-94)
i.	Cemeteries.	(1-1-94)
j.	Chiropodists.	(1-1-94)
k.	Chiropractors.	(1-1-94)
l.	County clerks.	(1-1-94)
m.	Dentists.	(1-1-94)
n.	Druggists.	(1-1-94)
o.	Engineers.	(1-1-94)
p.	Hospitals.	(1-1-94)
q.	Insurance agents.	(1-1-94)
r.	Management <u>e</u> Consultants.	(1-1-94) (8-1-05)T
s.	Nurses.	(1-1-94)
t.	Opticians.	(1-1-94)
u.	Optometrists.	(1-1-94)

v.	Osteopaths.	(1-1-94)
w.	Physicians and surgeons.	(1-1-94)
x.	Psychologists and sociologists.	(1-1-94)
y.	Radiologists <u>Insurance companies.</u>	(1-1-94) (8-1-05)T
z.	Real estate agents.	(1-1-94)
aa.	Surveyors.	(1-1-94)
bb.	Title insurance company and agents.	(1-1-94)
cc.	X-ray specialists.	(1-1-94)
dd.	Seedsmen.	(1-1-94)
ee.	<u>Employment Practices.</u>	(8-1-05)T
ff.	<u>Computer technology.</u>	(8-1-05)T
gg.	<u>Law Enforcement.</u>	(8-1-05)T
hh.	<u>Appraisers.</u>	(8-1-05)T
ii.	<u>Social Services.</u>	(8-1-05)T
jj.	<u>Actuaries.</u>	(8-1-05)T
kk.	<u>Clinical labs.</u>	(8-1-05)T
ll.	<u>Drug testing.</u>	(8-1-05)T
mm.	<u>Foster care Agencies.</u>	(8-1-05)T
nn.	<u>Property management.</u>	(8-1-05)T
oo.	<u>Public officials.</u>	(8-1-05)T
pp.	<u>Residential home inspectors.</u>	(8-1-05)T
015014.	-- 999. (RESERVED).	

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - IDAHO PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0501

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2005.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Section(s) 63-105A and 63-3624, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

Rule 960 is being amend to update the rule based on HB126 and make rule internally consistent. The statutes will be retroactive on January 1, 2005, and the rule changes will need to be in place for the effective date.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section (s) 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with deadline in amendments to governing law.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary rule, contact Alan Dornfest, at (208) 334-7530.

DATED this 1st day of July, 2005.

Alan Dornfest, Tax Policy Supervisor
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0501

960. DEFINITIONS (RULE 960).

01. Present Use. Present use shall mean that the land contains trees of a marketable species which are being actively managed to produce a forest crop for eventual harvest and which may be accepted by a commercial mill. (7-1-97)

02. ~~Silvicultural Treatment.~~ Silvicultural ~~treatment~~ treatment shall include the following activities: site preparation, planting, vegetation control, precommercial thinning, commercial thinning, fertilization, mechanical or chemical pest and disease control, pruning, inventorying, cruising, or regeneration surveys, fencing established to protect seedlings, and genetic tree improvement. (7-1-97)(1-1-05)T

03. Custodial Expenses. Custodial expenses are some of the expenses incurred in the management of forestlands. (1-1-05)T

a. Included Expenses. Custodial expenses include the following expenses, except as provided in Paragraph 960.03.b of this rule: (1-1-05)T

i. Reforestation expenses are the cost of seeds, seedlings, and planting for the establishment of a forest to the specifications of the Idaho Forest Practices Act (Title 38, Chapter 13, Idaho Code); (1-1-05)T

ii. Road maintenance expenses are those costs necessary to prevent major deterioration or maintain the integrity of forest roads including culvert maintenance, public access control, and erosion prevention, but not including the cost of original construction, opening the road for silviculture, driveway maintenance, or recreation access; (1-1-05)T

iii. Expenses for managing public use are limited to the costs of installing and maintaining gates and signage; (1-1-05)T

iv. Forest inventory expenses are the costs of collection and analysis of forest inventory data; (1-1-05)T

v. Forest management planning expenses are the costs associated with a geographic information system (GIS) or similar information database and those activities integral to the planning process; (1-1-05)T

vi. Facility operations and maintenance expenses are those costs of maintaining and operating facilities necessary for forestland management; (1-1-05)T

vii. Environmental analysis and documentation expenses are analysis and documentation costs associated with federal and state environmental requirements; (1-1-05)T

viii. Appeals and litigation expenses are those costs associated with litigating items associated with federal and state environmental requirements; (1-1-05)T

ix. Land survey expenses are those costs associated with surveying forestland; (1-1-05)T

x. Forest fire suppression expenses are the portion of those costs associated with the suppression of wildfires on forestlands borne by the forestland owner, that exceed the annual fire protection fee under Section 38-111, Idaho Code; (1-1-05)T

xi. Other management expenses are unspecified costs agreed to by the committee on forestland taxation methodologies (CFTM) and determined to be annualized custodial expenses by the forest management cost study conducted pursuant to Section 63-1705, Idaho Code. (1-1-05)T

b. Excluded Expenses. Custodial expenses exclude the following: (1-1-05)T

i. Fertilization; (1-1-05)T

ii. Precommercial thinning; (1-1-05)T

iii. Tree improvement; (1-1-05)T

iv. Genetic improvement; (1-1-05)T

v. Site preparation; (1-1-05)T

vi. Harvesting; (1-1-05)T

vii. Road building; (1-1-05)T

viii. Timber harvest layout and silvicultural layout; (1-1-05)T

- ix. Slash management: (1-1-05)T
- x. Brush control: (1-1-05)T
- xi. Litigation pertaining to Subparagraphs 960.03.b.i. through 960.03.b.xi., of this rule. (1-1-05)T

034. Forestland Management Plan. Forestland management plan shall mean a written management plan reviewed by a professional consulting forester, Idaho Department of Lands private forestry specialist, professional industry forester, or federal government forester, to include eventual harvest of the forest crop. Professional forester is defined as an individual holding at least a Bachelor of Science degree in forestry from an accredited four (4) year institution. The forestland management plan shall include as a minimum: (1-1-97)

- a. Date of the plan preparation; (7-1-97)
- b. Name, address, and phone number of the land owner, and person preparing and/or reviewing the plan; (7-1-97)
- c. The legal description of the property; (7-1-97)
- d. A map of the property of not less than 1:24,000 scale; (7-1-97)
- e. A general description of the forest stand(s) including species and age classes; (7-1-97)
- f. A general description of the potential insect, disease, and fire hazards that may be present and the management systems which shall be used to control them; (7-1-97)
- g. The forest management plans of the landowner over the next twenty (20) years. (7-1-97)

045. Bare Forestland. Bare forestland shall qualify as forestland only if, within five (5) years after harvest or initial assessment, they are planted or regenerated naturally to minimum stocking levels as specified by the Idaho Forest Practices Act. (Title 38, Chapter 13, Idaho Code). (7-1-97)

06. County Average Forestland Levy Rate. The county average forestland levy rate is calculated by summing the levy rate for each forested tax code area in each county and dividing this sum by the number of tax code areas in each county. (1-1-05)T

07. Weighted Average Forestland Levy Rate. The weighted average forestland levy rate is the average forestland levy rate defined in Subsection 960.06. of this rule multiplied by the total number of designated forestland acres in each county. The sum of the product of this calculation for each county in a forest value zone is then divided by the total number of designated forestland acres in the forest value zone. (1-1-05)T

08. Guiding Discount Rate. The guiding discount rate shall be determined in accordance with procedures found in the User's Guide and derived from ten (10) year treasury constant maturity rates as reported by the federal reserve system, the producer price index (PPI) published by the U.S. bureau of labor statistics, and a risk premium. (1-1-05)T

09. Real Price Appreciation of Stumpage. A real price appreciation (RPA) of stumpage in Idaho shall be determined in accordance with procedures found in the User's Guide and will be benchmarked to the PPI for softwood logs and bolts as reported by the U.S. bureau of labor statistics, less inflation as reported in the PPI. (1-1-05)T

0510. Joint Ownership. Joint ownership as used in Subsections 963.01 and 966.01 of these rules includes ownership of a single parcel of forestland by two (2) or more legal entities irrespective of their proportionate ownership interests in the parcel, but shall not include the community property interests of a spouse. (3-30-01)

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - IDAHO PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0502

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 63-105A and 63-3624, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 17, 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:

Rule 645 - is being amended to clarify references and definitions necessary for implementing HB215 passed by the 2005 Legislature. The statute will be retroactive on January 1, 2005, and this rule will need to be in place for the effective date.

Rules 962 and 964 – is being amended to update rule based on HB126 and make rule internally consistent. The statutes will be retroactive on January 1, 2005, and the rule changes will need to be in place for the effective date.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section (s) 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with deadline in amendments to governing law.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being adopted as a temporary/proposed rule and the time constraints require having the information available retroactively.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Dornfest, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 24, 2005.

DATED this 1st day of July, 2005.

Alan Dornfest, Tax Policy Supervisor
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0502

645. LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED (RULE 645).

Section 63-604, Idaho Code.

(3-15-02)

01. Definitions. The following definitions apply for the implementation of the exemption for the speculative value portion of agricultural land. (7-1-99)

a. Homesite. The “homesite” is that portion of land, contiguous with but not qualifying as land actively devoted to agriculture, and the associated site improvements used for residential and farm homesite purposes. (7-1-99)

b. Associated Site Improvements. The “associated site improvements” include developed access, grading, sanitary facilities, water systems and utilities. (7-1-99)

c. Nursery Stock. Nursery stock is defined in Section 22-2302, Idaho Code. (3-15-02)

d. Land Used to Produce Nursery Stock. “Land used to produce nursery stock” means land used by an agricultural enterprise to promote or support the promotion of nursery stock growth or propagation, not land devoted primarily to selling nursery stock or related products. This term also includes land under any container used to grow or propagate nursery stock. This term does not include land used for parking lots or for buildings sites used primarily to sell nursery stock or related items or any areas not primarily used for the nurturing, growth or propagation of nursery stock. (3-15-02)

e. Speculative Value Exemption. The “speculative value exemption” is the exemption allowed on land actively devoted to agriculture. (7-1-99)

02. Homesite Assessment. Effective January 1, 1999, each homesite and residential and other improvements, located on the homesite, shall be assessed at market value each year. (7-1-99)

a. Accepted Assessment Procedures. Market value shall be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the State Tax Commission. Acceptable techniques include those that are either time tested in Idaho, mathematically correlated to market sales, endorsed by assessment organizations, or widely accepted by assessors in Idaho and other states. (7-1-99)

b. Appropriate Market and Comparable Selection. The appropriate market is the market most similar to the homesite and improvements, located on the homesite. In applying the sales comparison approach, the appraiser should select comparables having actual or potential residential use. (7-1-99)

c. Assigning Category. The value of the homesite will be listed in Category 10. (7-1-99)

d. Homesite Independent of Remaining Land. The value and classification of the homesite will be independent of the classification and valuation of the remaining land. (7-1-99)

03. Valuing Land, Excluding the Homesite. The assessor shall value land, excluding the homesite, on the following basis: (5-3-03)

a. Land Used for Personal Use or Pleasure. Any land, regardless of size, utilized for the grazing of animals kept primarily for personal use or pleasure and not a portion of a for profit ~~making agricultural~~ enterprise, shall be valued at market value using appraisal procedures identified in ~~Subsection~~ Paragraph 645.02.a of this rule and shall not qualify for the speculative value exemption. (~~3-30-01~~)(1-1-05)T

b. Land in a Subdivision. Land in a subdivision with restrictions prohibiting agricultural use shall be

valued at market value using appraisal procedures identified in ~~Subsection~~ Paragraph 645.02.a of this rule and shall not qualify for the speculative value exemption but may qualify for the exemption under Section 63-602FF, Idaho Code. Land meeting the use qualifications identified in Section 63-604, Idaho Code, and in a subdivision without restrictions prohibiting agricultural use shall be valued as land actively devoted to agriculture using the same procedures as used for valuing land actively devoted to agriculture and not located in a subdivision.

~~(5-3-03)(1-1-05)T~~

c. Land, Five (5) Contiguous Acres or Less. Land of five (5) contiguous acres or less shall be presumed nonagricultural, shall be valued at market value using appraisal procedures identified in ~~Subsection Paragraph 645.02.a of these~~ this rules, and shall not qualify for the speculative value exemption. If the owner produces evidence that each contiguous holding of land under the same ownership has been devoted to agricultural use for the last three (3) growing seasons and it agriculturally produced for sale or home consumption fifteen percent (15%) or more of the owner's or lessee's annual gross income or it produced gross revenue in the immediate preceding year of one thousand dollars (\$1,000) or more, the land actively devoted to agriculture, shall qualify for the speculative value exemption. For holdings of five (5) contiguous acres or less income is measured by production of crops, nursery stock, grazing, or net income from sale of livestock. Income shall be estimated from crop prices at harvest or nursery stock prices at time of sale. The use of the land and the income received in the prior year must be certified with the assessor by March 15, each year.

~~(5-3-03)(1-1-05)T~~

d. Land, More Than Five (5) Contiguous Acres. Land of more than five (5) contiguous acres under one (1) ownership, producing agricultural field crops, nursery stock, or grazing, or in a cropland retirement or rotation program, as part of an ~~agricultural~~ for profit enterprise, shall qualify for the speculative value exemption. Land not annually meeting any of these requirements fails to qualify as land actively devoted to agriculture and shall be valued at market value using appraisal procedures identified in ~~Subsection Paragraph 645.02.a and shall not qualify~~ of this rule.

~~(5-3-03)(1-1-05)T~~

(BREAK IN CONTINUITY OF SECTIONS)

962. TAXATION OF ~~LARGE SIZE FOREST TRACTS~~ FORESTLANDS UNDER THE PRODUCTIVITY OPTION (RULE 962).

Section 63-1705, Idaho Code.

~~(5-3-03)(1-1-05)T~~

01. ~~Productivity Formula~~ Forestland Valuation Process. ~~Taxation under the provisions of Section 63-1705, Idaho Code, shall not include timber inventory in addition to the productivity value since the value of timber growing on the land is included in the productivity formula. The productivity formula process used to determine the forestland value under the productivity option shall be as follows:~~ specified in the User's Guide referenced in Section 63-1701, Idaho Code.

Step 1:	(MAI) Mean Annual Growth Increment Multiplied By The (SV) Stumpage Value
Step 2:	Add Other Agricultural Related Income
Step 3:	Minus Costs
Step 4:	The Sum Of Steps 1 - 3 Divided By The Capitalization Rate
Step 5:	Equals The Productivity Value
	(MAI x SV + other agricultural related income - costs) / Capitalization Rate
KEY:	
MAI = Mean Annual Growth Increment, board feet/acre/year	
SV = Stumpage Value, preceding five (5) year rolling average value of timber harvested within the forest value zone from state timber sales or the best available data for the same five (5) year period.	

<i>Other Agricultural Related Income = Grazing income from the forestland.</i>
<i>Costs = Annualized expenses directly related to producing the forest crop, including, but not limited to the establishment, maintenance, improvement, and management of the crop over the rotation period, including the forest protection fee currently charged by the Idaho Department of Lands.</i>
<i>Capitalization Rate = Shall be determined in accordance with the procedures described in Section 63-1705(4), Idaho Code.</i>

(5-3-03)(1-1-05)T

- 02. Forest Valuation Zones.** The state shall be divided into four (4) forest valuation zones: (7-1-99)
- a. ZONE 1 - Boundary, Bonner, Kootenai counties. (7-1-97)
 - b. ZONE 2 - Benewah, Shoshone, Latah, Clearwater, Nez Perce, Lewis, Idaho counties. (7-1-97)
 - c. ZONE 3 - Adams, Valley, Washington, Payette, Gem, Boise, Canyon, Ada, Elmore, Camas, Blaine, Gooding, Lincoln, Jerome, Minidoka counties. (7-1-97)
 - d. ZONE 4 - The remaining nineteen (19) counties. (7-1-97)

03. Classification of Forestlands. ~~In all F~~forest valuation zones, ~~1 and 2: T~~there shall be three (3) separate productivity classes of forestland: poor, medium, and good. These broad classes are related in the following manner by definition to the "Meyer Tables" published in "Yield of Even-Aged Stands of Ponderosa Pine" and "Haig Tables" published in "Second-Growth Yield, Stand, and Volume Table for the Western White Pine Type" as both documents are referenced in Rule 006 of these rules. These classes apply to forestland which may or may not be stocked with commercial or young growth timber. (5-3-03)(1-1-05)T

a. Poor productivity class is defined as forestland having a mean annual increment, MAI, of one hundred twenty-five (10025) board feet per acre per year, based on an ~~eighty seven~~ eighty seven (8073) year rotation ~~and sixty five percent (65%) of normal stocking by the end of the rotation period.~~ This productivity class includes western white pine site index 35-45 and ponderosa pine site index 45-80. One hundred ~~twenty-five~~ (10025) board feet per acre MAI shall be used in the productivity formula valuation process. (7-1-93)(1-1-05)T

b. Medium productivity class is defined as forestland having a mean annual increment, MAI, of two hundred twenty-five (225) board feet per acre per year, based on an ~~eighty six~~ eighty six (8068) year rotation ~~and sixty five percent (65%) of normal stocking by the end of the rotation period.~~ This productivity class includes western white pine site index 46-60 and ponderosa pine site index 81-110. Two hundred twenty-five (225) board feet per acre MAI shall be used in the productivity formula valuation process. (7-1-93)(1-1-05)T

c. Good productivity class is defined as forestland having a mean annual increment, MAI, of three hundred fifty (350) board feet per acre per year, based on an ~~eighty six~~ eighty six (8063) year rotation ~~and sixty five percent (65%) of normal stocking by the end of the rotation period.~~ This productivity class includes western white pine site index 61 and above and ponderosa pine site index 111 and above. Three hundred fifty (350) board feet per acre MAI shall be used in the productivity formula valuation process. (7-1-93)(1-1-05)T

d. For forest valuation zones 1 and 2, forestland shall be stratified into areas of similar productive potential using the habitat typing methodology described in "Forest Habitat Types of Northern Idaho: A Second Approximation," referenced in Rule 006 of these rules. Within these stratified areas, site index trees will be selected and measured that will identify the site index to be used to place the land in one (1) of the three (3) productivity classes listed above. (5-3-03)

e. For forest valuation zones 3 and 4, the criteria for stratification shall be generally the same as that used in zones 1 and 2 based on the habitat typing methodology described in "Forest Habitat Types of Central Idaho," as referenced in Rule 006 of these rules, with the following adjustments made in growth rates for lower moisture

levels. Poor productivity class, one hundred ~~twenty-five~~ (100) board feet per acre MAI shall be used in the ~~productivity formula~~ valuation process. Medium productivity class, two hundred thirteen (213) board feet per acre MAI shall be used in the ~~productivity formula~~ valuation process. Good productivity class, three hundred twenty (320) board feet per acre MAI shall be used in the ~~productivity formula~~ valuation process. ~~(5-3-03)(1-1-05)T~~

~~04. Recommended Mean Annual Growth Increments. The recommended MAI's to be used in the productivity formulas for the appropriate forest valuation zones are according to the best available information and subject to change upon receipt of updated information. The MAI's shall be considered as midpoints of a class in the following manner:~~

MIDPOINT	
Zones 1 and 2:	
Poor	38 - 100 - 162 board feet per acre
Medium	163 - 225 - 286 board feet per acre
Good	287 - 350 and greater board feet per acre
Zones 3 and 4:	
Poor	44 - 100 - 156 board feet per acre
Medium	157 - 213 - 268 board feet per acre
Good	269 - 320 and greater board feet per acre

~~(7-1-99)~~

~~054. Deficient Areas. Lakes, solid rock bluffs, talus slopes, and continuously flooded swampy areas, larger than five contiguous acres in size which can be identified ~~on aerial photos~~ through remote sensing shall be valued at forty percent (40%) of the poor bare land value as defined in Section 63-1706, Idaho Code. These areas are defined as being incapable of growing trees.~~ ~~(7-1-97)(1-1-05)T~~

(BREAK IN CONTINUITY OF SECTIONS)

964. YIELD TAX ON APPLICABLE FOREST PRODUCTS (RULE 964).

01. Calculation. The calculation described below will be used to update the bare forestland value for tax assessment purposes on an annual basis:

$$BLV_z = \left([0.5] \times \frac{[T_z - T_n]}{T_n} \right) + 1 \times (BLV_y)$$

STEP 1:	Subtract T_n from T_z
STEP 2:	Divide the Answer in Step 1 by T_n
STEP 3:	Multiply the Answer in Step 2 by 0.5
STEP 4:	Add 1 to the Answer in Step 3
STEP 5:	Multiply BLV_y by the Answer in Step 4
KEY:	
BLV_z	= Bare forestland value for next year
BLV_y	= Bare forestland value for current year

Tz = Five year average stumpage value (\$/MBF) for the period ending in the current year
Tn = Five year average stumpage value (\$/MBF) for the period ending one year ago

~~(3-30-01)~~(1-1-05)T

02. Stumpage Value. The stumpage value shall be the same as that used in the productivity ~~formula~~ valuation process by zone. ~~(3-30-01)~~(1-1-05)T

03. Bare Forestland Value. After review of the productivity valuation process by March 1 each year, the State Tax Commission shall review and adjust, as appropriate, the bare forestland values for the current year shall be reviewed and adjusted by the State Tax Commission periodically. ~~(3-30-01)~~(1-1-05)T

04. Landowner's Report. By June 1, of each year the county treasurer shall make a written report to include the forest landowner's name, legal description of forest property owned, and yield taxes paid for the current assessment year. This report shall be submitted to the county auditor and ~~shall be kept on file~~ a record shall be maintained for ten (10) years and not disposed of until the eleventh year. ~~(7-1-97)~~(1-1-05)T

IDAPA 36 - IDAHO BOARD OF TAX APPEALS

36.01.01 - IDAHO BOARD OF TAX APPEALS RULES

DOCKET NO. 36-0101-0501

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 63-3808 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 August 17, 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;

Rule 30 no longer allows third party non-attorney representation before the Board through a Board approved power of attorney. The Attorney General has advised the Board that this rule conflicts with Sections 3-401 and 3-420, Idaho Code, the unauthorized practice of law.

Rule 45 references third party representatives and a power of attorney, conflicting with Sections 3-401 and 3-420, Idaho Code, the unauthorized practice of law.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because Rule 30 is currently in conflict with Idaho statutes, therefore no negotiated rulemaking is required. Rule 45 references Board approved power of attorney for third party non-attorney representatives also in conflict with Idaho statutes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Susan Renfro at 208-334-3354.

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 August 24, 2005.

DATED this 17th day of June, 2005.

Susan Renfro
Director and Clerk to the Board
Board of Tax Appeals
3380 Americana Terrace, Suite 110
P.O. Box 83720
Boise, ID 83720-0088
Phone 208-334-3354/Fax 208-334-4060

THE FOLLOWING IS THE TEXT OF DOCKET NO. 36-0101-0501

030. ~~APPEARANCE~~ REPRESENTATION AND PRACTICE BEFORE THE BOARD (RULE 30).

~~All Proceedings.~~ The right to appear and practice before the Board shall be limited to the following classes of persons: (4-5-00)(____)

01. Natural Persons. ~~Parties who are~~ A natural persons ~~may representing themselves;~~ himself or herself or be represented by an attorney. (4-5-00)(____)

02. ~~Authorized Persons~~ Corporations. Duly authorized directors; ~~or officers or designated full-time salaried employees~~ of corporations representing the corporations ~~of~~ for which they are, respectively, directors; ~~or officers or employees;~~ (4-5-00)(____)

03. ~~Authorized Representation~~ Partnerships, Joint Ventures and Trusts. Duly authorized partners, joint venturers, ~~designated full-time salaried employees;~~ or trustees representing their respective partnerships, joint ventures or trusts; (4-5-00)(____)

04. Authorized Attorneys. Attorneys duly authorized, who are qualified and entitled to practice in the courts of the state of Idaho; (4-5-00)

05. ~~Public Officers or Employees.~~ Public officers ~~or designated employees representatives~~ when representing the ~~governmental agency of which they are an officer or employee;~~ (7-1-93)(____)

~~06. **Board Approved Power of Attorney.** A party may designate a representative in writing through a Board approved power of attorney;~~ (4-5-00)

~~07. **Intervention.** Parties entitled to intervene under Section 085.~~ (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

045. NOTICE OF APPEAL -- CONTENTS (RULE 45).

All appeals shall be in writing and shall contain clear and concise statements of the matters that lay a foundation for the relief that may be granted by the Idaho Board of Tax Appeals. All appeals shall allege necessary facts to establish jurisdiction of the Board to hear said appeal. (4-5-00)

01. Appeals. All appeals shall contain: (4-5-00)

a. Appellant's full name; (4-5-00)

b. Current mailing address; (4-5-00)

c. Tax year(s) being appealed; and (4-5-00)

d. The telephone number where the appellant can be reached during normal daytime business hours. (4-5-00)

02. Appeal Filed by an Attorney or Representative. If any appeal is filed by an attorney or other representative, the pleading shall contain: (4-5-00)

a. The attorney's or representative's name, address, telephone number; and (4-5-00)

b. ~~For attorneys, the~~ Idaho State Bar License number ~~for attorneys.~~ ~~Representatives shall include a power of attorney from the appellant.~~ (4-5-00)(____)

03. Board Must Be Informed of Any Changes in Address or Phone Number. Parties and representatives must keep the Board informed of any changes in address or telephone number. (4-5-00)

IDAPA 54 - OFFICE OF THE STATE TREASURER

54.02.01 - RULES GOVERNING THE COLLEGE SAVINGS PROGRAM

DOCKET NO. 54-0201-0501

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2006 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 the pending rule. The action is authorized pursuant to Section 33-5402, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 1, 2005 Idaho Administrative Bulletin, Vol. 05-6, pages 40 through 42.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: The pending rulemaking will have no impact on the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Liza C. Carberry, Investment Manager, at (208) 332-2997.

DATED this 29th day of June 2005.

Liza C. Carberry
Investment Manager
Idaho Office of the State Treasurer
State Capitol Building, Rooms 101-109
P. O. Box 83720
Boise, Idaho 83720-0091
Phone : (208) 332-2997
Fax : (208) 332-2960

IDAPA 54, TITLE 02, CHAPTER 01

RULES GOVERNING THE COLLEGE SAVINGS PROGRAM

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 05-6, June 1, 2005, pages 40 through 42.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2006 Idaho State Legislature as a final rule.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-0504

NOTICE OF FINAL DECISION ON THE BEAVER-CAMAS TMDL

AUTHORITY: In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Beaver-Camas Total Maximum Daily Load (TMDL).

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Beaver-Camas TMDL. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Beaver-Camas TMDL (Hydrologic Unit Code 17040214) addresses three (3) streams and their associated assessment units on Idaho's 1998 Section 303(d) list. DEQ has submitted this TMDL to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

AVAILABILITY OF THE TMDL: Electronic copy of the TMDL can be obtained at http://www.deq.idaho.gov/water/data_reports/surface_water/tmdls/beaver_camass/beaver_camass.cfm or by contacting Marti Bridges, TMDL Program Manager, 208-373-0382, marti.bridges@deq.idaho.gov.

Dated this 17th day of June, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0503

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

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

September 7, 2005, 4 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: House Bill 230 and Senate Bill 1228 require the Department of Environmental Quality (DEQ) to adopt rules that define the term "regulated air pollutant" as it applies to various Clean Air Act (CAA) permit to construct and operating permit programs. In addition, these bills require DEQ to adopt rules that are consistent with the CAA and its implementing regulations in regard to the permit applicability treatment of fugitive emissions.

Revisions to the Rules for the Control of Air Pollution in Idaho will clarify certain rule sections and permit requirements to ensure consistency with federal CAA requirements.

The text of the rule was developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. All major and non-major sources of air pollution may be interested in commenting on this proposed rule. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to submit comments on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, May 4, 2005, Volume 05-5, page 112.

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 AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 7, 2005.

DATED this 1st day of July, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-0503

006. GENERAL DEFINITIONS.

Subsections 006.01 through 006.09 have no changes

10. **Ambient Air Quality Violation.** Any ambient concentration ~~of any regulated air pollutant~~ that causes or contributes to an exceedance of a national ambient air quality standard as determined by 40 CFR Part 50. (4-5-00)(____)

11. **Atmospheric Stagnation Advisory.** An air pollution alert declared by the Department when ~~regulated~~ air pollutant impacts have been observed and/or meteorological conditions are conducive to additional ~~regulated~~ air pollutant buildup. (4-5-00)(____)

12. **Attainment Area.** Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as having ambient concentrations equal to or less than national primary or secondary ambient air quality standards for a particular ~~regulated~~ air pollutant or air pollutants. (4-5-00)(____)

13. **Baseline (Area, Concentration, Date).** See Section 579. (5-1-94)

~~14. **Best Available Control Technology (BACT).** An emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each pollutant subject to regulation under the Clean Air Act which would be emitted from any proposed major facility or major modification which the Department, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such proposed major facility or major modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any regulated air pollutant which would exceed the emission allowed by any applicable standard under 40 CFR Parts 60 and 61. If the Department determines that technological or economic limitations on the application of measurement methodology to a particular emission unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.~~ (4-5-00)

154. **Board.** Idaho Board of Environmental Quality. (5-1-94)

- 165. Breakdown.** An unplanned failure of any equipment or emissions unit which may cause excess emissions. (4-5-00)
- 176. BTU.** British thermal unit. (5-1-94)
- 187. Clean Air Act.** The federal Clean Air Act, 42 U.S.C. Sections 7401 through 7671q. (5-1-94)
- 198. Collection Efficiency.** The overall performance of the air cleaning device in terms of ratio of materials collected to total input to the collector unless specific size fractions of the contaminant are stated or required. (5-1-94)
- 209. Commence Construction or Modification.** In general, this means initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change. (4-5-00)
- 240. Complete.** A determination made by the Department that all information needed to process a permit application has been submitted for review. (5-1-94)
- 221. Construction.** Fabrication, erection, installation, or modification of a stationary source or facility. (5-1-94)
- 232. Control Equipment.** Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. (5-1-94)
- 243. Controlled Emission.** An emission which has been treated by control equipment to remove all or part of an air pollutant before release to the atmosphere. (5-1-94)
- 254. Criteria Air Pollutant.** Any of the following: PM-10; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; lead. (4-5-00)
- 265. Department.** The Department of Environmental Quality. (5-1-94)
- 276. Designated Facility.** Any of the following facilities: (5-1-94)
- a.** Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (5-1-94)
 - b.** Coal cleaning plants (thermal dryers); (5-1-94)
 - c.** Kraft pulp mills; (5-1-94)
 - d.** Portland cement plants; (5-1-94)
 - e.** Primary zinc smelters; (5-1-94)
 - f.** Iron and steel mill plants; (5-1-94)
 - g.** Primary aluminum ore reduction plants; (5-1-94)
 - h.** Primary copper smelters; (5-1-94)
 - i.** Municipal incinerators capable of charging more than two hundred and fifty (250) tons of refuse per day; (5-1-94)

- j.** Hydrofluoric, sulfuric, and nitric acid plants; (5-1-94)
- k.** Petroleum refineries; (5-1-94)
- l.** Lime plants; (5-1-94)
- m.** Phosphate rock processing plants; (5-1-94)
- n.** Coke oven batteries; (5-1-94)
- o.** Sulfur recovery plants; (5-1-94)
- p.** Carbon black plants (furnace process); (5-1-94)
- q.** Primary lead smelters; (5-1-94)
- r.** Fuel conversion plants; (5-1-94)
- s.** Sintering plants; (5-1-94)
- t.** Secondary metal production facilities; (5-1-94)
- u.** Chemical process plants; (5-1-94)
- v.** Fossil-fuel boilers (or combination thereof) of more than two hundred and fifty (250) million BTU's per hour heat input; (5-1-94)
- w.** Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (5-1-94)
- x.** Taconite ore processing facilities; (5-1-94)
- y.** Glass fiber processing plants; and (5-1-94)
- z.** Charcoal production facilities. (5-1-94)
- 287.** **Director.** The Director of the Department of Environmental Quality or his designee. (5-1-94)
- 298.** **Effective Dose Equivalent.** The sum of the products of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body of reference man. The unit of the effective dose equivalent is the rem. It is generally calculated as an annual dose. (5-1-94)
- 309.** **Emission.** Any controlled or uncontrolled release or discharge into the outdoor atmosphere of any air pollutants or combination thereof. Emission also includes any release or discharge of any air pollutant from a stack, vent, or other means into the outdoor atmosphere that originates from an emission unit. (5-1-94)
- 340.** **Emission Standard.** A permit or regulatory requirement established by the Department or EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction. (4-5-00)
- 321.** **Emissions Unit.** An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. This definition does not alter or affect the term "unit" for the purposes of 42 U.S.C. Sections 7651 through 7651o. (5-1-94)
- 332.** **EPA.** The United States Environmental Protection Agency and its Administrator or designee.

(5-1-94)

343. Environmental Remediation Source. A stationary source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, any hazardous waste or hazardous substance from any soil, ground water or surface water, and shall have an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. Nothing in this definition shall be construed so as to actually limit remediation projects to five (5) years or less of total operation.

(5-1-95)

354. Excess Emissions. Emissions ~~of any regulated air pollutant that~~ exceeding an applicable emissions standard established for any facility, source or emissions unit by statute, regulation, rule, permit, or order.

~~(4-5-00)~~()

365. Existing Stationary Source or Facility. Any stationary source or facility that exists, is installed, or is under construction on the original effective date of any applicable provision of this chapter.

(5-1-94)

376. Facility. All of the pollutant-emitting activities which belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law.

~~(4-5-00)~~()

387. Federal Class I Area. Any federal land that is classified or reclassified "Class I" pursuant to Section 580.

(5-1-94)

398. Federal Land Manager. The Secretary of the federal department with authority over any federal lands in the United States.

(5-1-94)

4039. Fire Hazard. The presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare or adjacent lands.

(5-1-94)

440. Fuel-Burning Equipment. Any furnace, boiler, apparatus, stack and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer.

(5-1-94)

421. Fugitive Dust. Fugitive emissions composed of particulate matter.

(5-1-94)

432. Fugitive Emissions. Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(5-1-94)

443. Garbage. Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food including, but not limited to, waste materials from households, markets, storage facilities, handling and sale of produce and other food products.

(5-1-94)

454. Grain Elevator. Any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded.

(5-1-94)

465. Grain Storage Elevator. Any grain elevator located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean extraction plant which has a permanent grain storage capacity of thirty five thousand two hundred (35,200) cubic meters (ca. 1 million bushels).

(5-1-94)

476. Grain Terminal Elevator. Any grain elevator which has a permanent storage capacity of more than eighty-eight thousand one hundred (88,100) cubic meters (ca. 2.5 million bushels), except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots. (5-1-94)

487. Hazardous Air Pollutant (HAP). Any air pollutant listed ~~in or~~ pursuant to Section 112(b) of the Clean Air Act. Hazardous Air Pollutants are regulated air pollutants. ~~(4-5-00)(_____)~~ (5-1-94)

498. Hazardous Waste. Any waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may:
(5-1-94)

a. Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible, or incapacitating reversible illnesses; or
(5-1-94)

b. Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties; provided that such wastes do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are allowed under a national pollution discharge elimination system permit, or source, special nuclear, or by-product material as defined by 42 U.S.C. Sections 2014(e),(z) or (aa).
(5-1-94)

5049. Hot-Mix Asphalt Plant. Those facilities conveying proportioned quantities or batch loading of cold aggregate to a drier, and heating, drying, screening, classifying, measuring and mixing the aggregate and asphalt for the purpose of paving, construction, industrial, residential or commercial use.
(5-1-94)

540. Incinerator. Any source consisting of a furnace and all appurtenances thereto designed for the destruction of refuse by burning. "Open Burning" is not considered incineration. For purposes of these rules, the destruction of any combustible liquid or gaseous material by burning in a flare stack shall be considered incineration.
(5-1-94)

521. Indian Governing Body. The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.
(5-1-94)

532. Kraft Pulping. Any pulping process which uses, for a cooking liquor, an alkaline sulfide solution containing sodium hydroxide and sodium sulfide.
(5-1-94)

543. Lowest Achievable Emission Rate (LAER). For any source, the more stringent rate of emissions based on the following:
(4-5-00)

a. The most stringent emissions limitation which is contained in any State Implementation Plan for such class or category of facility, unless the owner or operator of the proposed facility demonstrates that such limitations are not achievable; or
(4-5-00)

b. The most stringent emissions limitation which is achieved in practice by such class or category of facilities. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the facility. In no event shall the application of the term permit a proposed new or modified facility to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.
(4-5-00)

554. Member of the Public. For purposes of Subsection 006.9289.a.xvi., a person located at any off-site point where there is a residence, school, business or office.
~~(4-5-00)(_____)~~

565. Modification. Any physical change in, or change in the method of operation of, a stationary source or facility which increases the amount of any regulated air pollutant emitted by such stationary source or facility or which results in the emission of any regulated air pollutant not previously emitted except that routine maintenance, repair and replacement shall not be considered physical changes, ~~and~~ Fugitive emissions shall not be considered for purposes of determining whether a modification increases the amount of any regulated air pollutant emitted by a stationary source or facility, unless required by federal law. ~~†~~The following shall not be considered a change in the method of operation:
~~(4-5-00)(_____)~~

a. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; (5-1-94)

b. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)

c. Use of an alternative fuel or raw material if the stationary source is specifically designed to accommodate such fuel or raw material and use of such fuel or raw material is not specifically prohibited in a permit. (4-5-00)

576. Monitoring. Sampling and analysis, in a continuous or noncontinuous sequence, using techniques which will adequately measure emission levels and/or ambient air concentrations of air pollutants. (5-1-94)

587. Multiple Chamber Incinerator. Any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion furnaces in series physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate parameters necessary for maximum combustion of the material to be burned. (5-1-94)

598. New Stationary Source or Facility. (5-1-94)

a. Any stationary source or facility, the construction or modification of which is commenced after the original effective date of any applicable provision of this chapter; or (5-1-94)

b. The restart of a nonoperating facility shall be considered a new stationary source or facility if: (5-1-94)

i. The restart involves a modification to the facility; or (5-1-94)

ii. After the facility has been in a nonoperating status for a period of two (2) years, and the Department receives an application for a Permit to Construct in the area affected by the existing nonoperating facility, the Department will, within five (5) working days of receipt of the application notify the nonoperating facility of receipt of the application for a Permit to Construct. Upon receipt of this Departmental notification, the nonoperating facility will comply with the following restart schedule or be considered a new stationary source or facility when it does restart: Within thirty (30) working days after receipt of the Department's notification of the application for a Permit to Construct, the nonoperating facility shall provide the Department with a schedule detailing the restart of the facility. The restart must begin within sixty (60) days of the date the Department receives the restart schedule. (5-1-94)

6059. Nonattainment Area. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as not meeting (or contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant. (5-1-94)

640. Noncondensibles. Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified. (5-1-94)

621. Odor. The sensation resulting from stimulation of the human sense of smell. (5-1-94)

632. Opacity. A state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as percent. (5-1-94)

643. Open Burning. The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or chimney. (5-1-94)

654. Operating Permit. A permit issued by the Director pursuant to Sections 300 through 386 and/or 400 through 461. (4-5-00)

665. Particulate Matter. Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. (5-1-94)

676. Particulate Matter Emissions. All particulate matter emitted to the ambient air as measured by an applicable reference method, or any equivalent or alternative method in accordance with Section 157. (4-5-00)

687. Permit to Construct. A permit issued by the Director pursuant to Sections 200 through 228. (7-1-02)

698. Person. Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity. (5-1-94)

709. PM-10. All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53. (5-1-94)

740. PM-10 Emissions. All particulate matter, including condensible particulates, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method in accordance with Section 157. (4-5-00)

721. Potential to Emit/Potential Emissions. The maximum capacity of a facility to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility to emit an air pollutant, provided the limitation or its effect on emissions is state or federally enforceable, shall be treated as part of its design. Limitations may include, but are not limited to, air pollution control equipment, restrictions on hours of operation and restrictions on the type or amount of material combusted, stored or processed. This definition does not alter or affect the term "capacity factor" as defined in 42 U.S.C. Sections 7651 through 7651o. (4-5-00)

732. Portable Equipment. Equipment which is designed to be dismantled and transported from one (1) job site to another job site. (5-1-94)

743. PPM (parts per million). Parts of a gaseous contaminant per million parts of gas by volume. (5-1-94)

754. Prescribed Fire Management Burning. The controlled application of fire to wildland fuels in either their natural or modified state under such conditions of weather, fuel moisture, soil moisture, etc., as will allow the fire to be confined to a predetermined area and at the same time produce the intensity of heat and rate of spread required to accomplish planned objectives, including: (5-1-94)

- a. Fire hazard reduction; (5-1-94)
- b. The control of pests, insects, or diseases; (5-1-94)
- c. The promotion of range forage improvements; (5-1-94)
- d. The perpetuation of natural ecosystems; (5-1-94)
- e. The disposal of woody debris resulting from a logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system; (5-1-94)
- f. The preparation of planting and seeding sites for forest regeneration; and (5-1-94)
- g. Other accepted natural resource management purposes. (5-1-94)

765. Primary Ambient Air Quality Standard. That ambient air quality which, allowing an adequate

margin of safety, is requisite to protect the public health. (5-1-94)

776. Process or Process Equipment. Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stack, etc., the use of which may cause any discharge of an air pollutant into the ambient air but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment. (5-1-94)

787. Process Weight. The total weight of all materials introduced into any source operation which may cause any emissions of particulate matter. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air. Water which occurs naturally in the feed material shall be considered part of the process weight. (5-1-94)

798. Process Weight Rate. The rate established as follows: (5-1-94)

a. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof; (4-5-00)

b. For cyclical or batch source operations, the total process weight for a period that covers a complete cycle of operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply. (4-5-00)

8079. Quantifiable. The Department must be able to determine the emissions impact of any SIP trading programs requirement(s) or emission limit(s). (4-5-00)

840. Radionuclide. A type of atom which spontaneously undergoes radioactive decay. (5-1-94)

821. Regulated Air Pollutant. *The following air pollutants:* (4-5-00)(____)

a. *Nitrogen oxides or any volatile organic compounds.* For purposes of determining applicability of major source permit to operate requirements, issuing, and modifying permits pursuant to Sections 300 through 397, and in accordance with Title V of the federal Clean Air Act amendments of 1990, 42 U.S.C. Section 7661 et seq., "regulated air pollutant" shall have the same meaning as in Title V of the federal Clean Air Act amendments of 1990, and any applicable federal regulations promulgated pursuant to Title V of the federal Clean Air Act amendments of 1990, 40 CFR Part 70; (4-5-00)(____)

b. *Any pollutant for which a national ambient air quality standard has been promulgated.* For purposes of determining applicability of any other operating permit requirements, issuing, and modifying permits pursuant to Sections 400 through 410, the federal definition of "regulated air pollutant" as defined in Subsection 006.81.a. shall also apply; (4-5-00)(____)

c. *Any pollutant that is subject to any standard promulgated under 42 U.S.C. Section 7411.* For purposes of determining applicability of permit to construct requirements, issuing, and modifying permits pursuant to Sections 200 through 228, except Section 214, and in accordance with Part D of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7501 et seq., "regulated air pollutant" shall mean those air contaminants that are regulated in non-attainment areas pursuant to Part D of Subchapter I of the federal Clean Air Act and applicable federal regulations promulgated pursuant to Part D of Subchapter I of the federal Clean Air Act, 40 CFR 51.165; and (4-5-00)(____)

d. *Any Class I or II substance subject to a standard promulgated under or established under 42 U.S.C. Sections 7671a(a) or 7671a(b).* For purposes of determining applicability of any other major or minor permit to construct requirements, issuing, and modifying permits pursuant to 200 through 228, except Section 214, "regulated air pollutant" shall mean those air contaminants that are regulated in attainment and unclassifiable areas pursuant to Part C of Subchapter I of the federal Clean Air Act, 40 CFR 52.21, and any applicable federal regulations promulgated pursuant to Part C of Subchapter I of the federal Clean Air Act, 42 U.S.C. Section 7470 et seq.

(4-5-00)()

~~e.~~ Any air pollutant subject to a standard promulgated under 42 U.S.C. Section 7412 or other requirements established under 42 U.S.C. Section 7412, including 42 U.S.C. Section 7412(g), (j), and (r), including the following: (4-5-00)

~~i.~~ Any air pollutant subject to requirements under 42 U.S.C. Section 7412(j). If the EPA fails to promulgate a standard by the date established pursuant to 42 U.S.C. Section 7412(e), any air pollutant for which a subject source would be major shall be considered to be regulated on the date eighteen (18) months after the applicable date established pursuant to 42 U.S.C. Section 7412(e); and (4-5-00)

~~ii.~~ Any air pollutant for which the requirements of 42 U.S.C. Section 7412(g)(2) have been met, but only with respect to the individual source subject to 42 U.S.C. Section 7412(g)(2) requirement. (4-5-00)

~~f.~~ Any air pollutant listed in Sections 585, 586, or subject to regulation pursuant to Section 161. Unless otherwise listed in Subsections 006.84.a. through 006.84.e., these pollutants do not constitute regulated air pollutants for purposes of Sections 300 through 399. (7-1-02)

~~832.~~ **Replicable.** Any SIP procedures for applying emission trading shall be structured so that two (2) independent entities would obtain the same result when determining compliance with the emission trading provisions. (4-5-00)

~~843.~~ **Responsible Official.** One (1) of the following: (5-1-94)

~~a.~~ For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a permit and either: (5-1-94)

~~i.~~ The facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 dollars); or (4-5-00)

~~ii.~~ The delegation of authority to such representative is approved in advance by the Department. (5-1-94)

~~b.~~ For a partnership or sole proprietorship: a general partner or the proprietor, respectively. (5-1-94)

~~c.~~ For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of Section 123, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). (4-5-00)

~~d.~~ For Phase II sources: (5-1-94)

~~i.~~ The designated representative in so far as actions, standards, requirements, or prohibitions under 42 U.S.C. Sections 7651 through 7651o or the regulations promulgated thereunder are concerned; and (5-1-94)

~~ii.~~ The designated representative for any other purposes under 40 CFR Part 70. (5-1-94)

~~854.~~ **Safety Measure.** Any shutdown (and related startup) or bypass of equipment or processes undertaken to prevent imminent injury or death or severe damage to equipment or property which may cause excess emissions. (4-5-00)

~~865.~~ **Salvage Operation.** Any source consisting of any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers, or drums, and specifically including automobile graveyards and junkyards.

(5-1-94)

876. Scheduled Maintenance. Planned upkeep, repair activities and preventative maintenance on any air pollution control equipment or emissions unit, including process equipment, and including shutdown and startup of such equipment. (3-20-97)

887. Secondary Ambient Air Quality Standard. That ambient air quality which is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of air pollutants in the ambient air. (5-1-94)

898. Shutdown. The normal and customary time period required to cease operations of air pollution control equipment or an emissions unit beginning with the initiation of procedures to terminate normal operation and continuing until the termination is completed. (5-1-94)

9089. Significant. In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, ~~A~~ a rate of ~~regulated air pollutant~~ emissions that would equal or exceed any of the following: ~~(4-5-00)~~(____)

- a. ~~Air-p~~Pollutant ~~and~~ emissions ~~and~~ rate: ~~(5-1-94)~~(____)
- i. Carbon monoxide, one hundred (100) tons per year; (5-1-94)
- ii. Nitrogen oxides, forty (40) tons per year; (5-1-94)
- iii. Sulfur dioxide, forty (40) tons per year; (5-1-94)
- iv. Particulate matter, twenty-five (25) tons per year of particulate matter emissions; fifteen (15) tons per year of PM₁₀ emissions; ~~(5-1-94)~~(____)
- v. Ozone, forty (40) tons per year of volatile organic compounds ~~as a measure of ozone;~~ ~~(5-1-94)~~(____)
- vi. Lead, six-tenths (0.6) of a ton per year; (5-1-94)
- ~~vii. Asbestos, seven thousandths (0.007) of a ton per year; (5-1-94)~~
- ~~viii. Beryllium, four ten thousandths (0.0004) of a ton per year; (5-1-94)~~
- ~~ix. Mercury, one tenth (0.1) of a ton per year; (5-1-94)~~
- ~~x. Vinyl chloride, one (1) ton per year; (5-1-94)~~
- ~~xvii. Fluorides, three (3) tons per year; (5-1-94)~~
- ~~xviii. Sulfuric acid mist, seven (7) tons per year; (5-1-94)~~
- ~~xxix. Hydrogen sulfide (H₂S), ten (10) tons per year; (5-1-94)~~
- ~~xiv. Total reduced sulfur (including H₂S), ten (10) tons per year; (5-1-94)~~
- ~~xvi. Reduced sulfur compounds (including H₂S), ten (10) tons per year; (5-1-94)~~
- ~~xvi. PM-10, fifteen (15) tons per year; (5-1-94)~~
- ~~xvii. Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans), thirty-five ten-millionths (0.0000035) tons per year; (5-1-94)~~

- x+iii. Municipal waste combustor metals (measured as particulate matter), fifteen (15) tons per year; (5-1-94)
- xi+iv. Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride), forty (40) tons per year; (5-1-94)
- x+iv. Municipal solid waste landfill emissions (measured as nonmethane organic compounds), fifty (50) tons per year; ~~or~~ ~~(4-5-00)~~(____)
- x+vi. Radionuclides, a quantity of emissions, from source categories regulated by 40 CFR Part 61, Subpart H, that have been determined in accordance with 40 CFR Part 61, Appendix D and by Department approved methods, that would cause any member of the public to receive an annual effective dose equivalent of at least one tenth (0.1) mrem per year, if total facility-wide emissions contribute an effective dose equivalent of less than three (3) mrem per year; or any radionuclide emission rate, if total facility-wide radionuclide emissions contribute an effective dose equivalent of greater than or equal to three (3) mrem per year. (5-1-95)
- b. In reference to a net emissions increase or the potential of a source or facility to emit a regulated air pollutant not listed in Subsection 006.9289.a. above and not a toxic air pollutant, any emission rate; or ~~(4-5-00)~~(____)
- c. For a major facility or major modification which would be constructed within ten (10) kilometers of a Class I area, the emissions rate which would increase the ambient concentration of an emitted regulated air pollutant in the Class I area by one (1) microgram per cubic meter, twenty-four (24) hour average, or more. (4-5-00)
- 940. Significant Contribution.** Any increase in ambient concentrations which would exceed the following: (5-1-94)
- a. Sulfur dioxide: (5-1-94)
- i. One (1.0) microgram per cubic meter, annual average; (5-1-94)
- ii. Five (5) micrograms per cubic meter, twenty-four (24) hour average; (5-1-94)
- iii. Twenty-five (25) micrograms per cubic meter, three (3) hour average; (5-1-94)
- b. Nitrogen dioxide, one (1.0) microgram per cubic meter, annual average; (5-1-94)
- c. Carbon monoxide: (5-1-94)
- i. One-half (0.5) milligrams per cubic meter, eight (8) hour average; (5-1-94)
- ii. Two (2) milligrams per cubic meter, one (1) hour average; (5-1-94)
- d. PM-10: (5-1-94)
- i. One (1.0) microgram per cubic meter, annual average; (5-1-94)
- ii. Five (5.0) micrograms per cubic meter, twenty-four (24) hour average. (5-1-94)
- 921. Small Fire.** A fire in which the material to be burned is not more than four (4) feet in diameter nor more than three (3) feet high. (5-1-94)
- 932. Smoke.** Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible material. (5-1-94)
- 943. Smoke Management Plan.** A document issued by the Director to implement Sections 606 through 616, Categories of Allowable Burning. (5-1-94)

954. Smoke Management Program. A program whereby meteorological information, fuel conditions, fire behavior, smoke movement and atmospheric dispersal conditions are used as a basis for scheduling the location, amount and timing of open burning operations so as to minimize the impact of such burning on identified smoke sensitive areas. (5-1-94)

965. Source. A stationary source. (5-1-94)

976. Source Operation. The last operation preceding the emission of air pollutants, when this operation: (5-1-94)

a. Results in the separation of the air pollutants from the process materials or in the conversion of the process materials into air pollutants, as in the case of fuel combustion; and (5-1-94)

b. Is not an air cleaning device. (5-1-94)

987. Stack. Any point in a source arranged to conduct emissions to the ambient air, including a chimney, flue, conduit, or duct but not including flares. (5-1-94)

998. Standard Conditions. Except as specified in Subsection 576.02 for ambient air quality standards, a dry gas temperature of twenty degrees Celsius (20C) sixty-eight degrees Fahrenheit (68F) and a gas pressure of seven hundred sixty (760) millimeters of mercury (14.7 pounds per square inch) absolute. (4-5-00)

1009. Startup. The normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. (5-1-94)

1010. Stationary Source. Any building, structure, facility, emissions unit, or installation which emits or may emit any air pollutant. The fugitive emissions shall not be considered in determining whether a permit is required unless required by federal law. (4-5-00)(____)

1021. Tier I Source. Any of the following: (5-1-94)

a. Any source located at any major facility as defined in Section 008; (4-5-00)

b. Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60, and required by EPA to obtain a Part 70 permit; (5-31-05)T

c. Any source, including an area source, subject to a standard or other requirement under 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63, and required by EPA to obtain a Part 70 permit, except that a source is not required to obtain a permit solely because it is subject to requirements under 42 U.S.C. Section 7412(r); (5-31-05)T

d. Any Phase II source; and (5-1-94)

e. Any source in a source category designated by the Department. (5-1-94)

1032. Total Suspended Particulates. Particulate matter as measured by the method described in 40 CFR 50 Appendix B. (4-5-00)

1043. Toxic Air Pollutant. An air pollutant that has been determined by the Department to be by its nature, toxic to human or animal life or vegetation and listed in Section 585 or 586. (5-1-94)

1054. Toxic Air Pollutant Carcinogenic Increments. Those ambient air quality increments based on the probability of developing excess cancers over a seventy (70) year lifetime exposure to one (1) microgram per cubic meter (1 ug/m3) of a given carcinogen and expressed in terms of a screening emission level or an acceptable ambient concentration for a carcinogenic toxic air pollutant. They are listed in Section 586. (5-1-94)

1065. Toxic Air Pollutant Non-carcinogenic Increments. Those ambient air quality increments based on occupational exposure limits for airborne toxic chemicals expressed in terms of a screening emission level or an acceptable ambient concentration for a non-carcinogenic toxic air pollutant. They are listed in Section 585. (5-1-94)

1076. Toxic Substance. Any air pollutant that is determined by the Department to be by its nature, toxic to human or animal life or vegetation. (5-1-94)

1087. Trade Waste. Any solid, liquid or gaseous material resulting from the construction or demolition of any structure, or the operation of any business, trade or industry including, but not limited to, wood product industry waste such as sawdust, bark, peelings, chips, shavings and cull wood. (5-1-94)

1098. TRS (Total Reduced Sulfur). Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. (5-1-94)

1109. Unclassifiable Area. An area which, because of a lack of adequate data, is unable to be classified pursuant to 42 U.S.C. Section 7407(d) as either an attainment or a nonattainment area. (5-1-94)

1140. Uncontrolled Emission. An emission which has not been treated by control equipment. (5-1-94)

1121. Upset. An unplanned disruption in the normal operations of any equipment or emissions unit which may cause excess emissions. (4-5-00)

1132. Wigwam Burner. Wood waste burning devices commonly called teepee burners, silos, truncated cones, and other such burners commonly used by the wood product industry for the disposal by burning of wood wastes. (5-1-94)

1143. Wood Stove Curtailment Advisory. An air pollution alert issued through local authorities and/or the Department to limit wood stove emissions during air pollution episodes. (5-1-94)

007. DEFINITIONS FOR THE PURPOSES OF SECTIONS 200 THROUGH 228 AND 400 THROUGH 461.

01. Adverse Impact on Visibility. Visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with: (4-5-00)

a. Times of visitor use of the Federal Class I area; and (4-5-00)

b. The frequency and timing of natural conditions that reduce visibility. (4-5-00)

c. This term does not include affects on integral vistas. (4-5-00)

02. Agricultural Activities and Services. For the purposes of Subsection 222.02.f., the usual and customary activities of cultivating the soil, producing crops and raising livestock for use and consumption. Agricultural activities and services do not include manufacturing, bulk storage, handling for resale or the formulation of any agricultural chemical listed in Sections 585 or 586. (5-1-94)

03. Innovative Control Technology. Any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice, or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental effects. (5-1-94)

04. Integral Vista. A view perceived from within the mandatory federal Class I area of a specific landmark or panorama located outside the boundary of the mandatory federal Class I area. Integral vistas are identified by the responsible federal land manager in accordance with criteria adopted pursuant to 40 CFR Part 51.304(a). (5-1-94)

05. Mandatory Federal Class I Area. Any area designated under 42 U.S.C. Section 7472(a) as Class I and never to be redesignated. (5-1-94)

06. Net Emissions Increase. Any increase in actual emissions from a particular modification plus any other increases and decreases in actual emissions at the facility that are creditable and contemporaneous with the particular modification, where: (4-5-00)

a. A creditable increase or decrease in actual emissions is contemporaneous with a particular modification if it occurs between the date five (5) years before the commencement of construction or modification on the particular change and the date that the increase from the particular modification occurs. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred and eighty (180) days; (4-5-00)

b. A decrease in actual emissions is creditable only if it satisfies the requirements for emission reduction credits (Section 460) and has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular modification, and is federally enforceable at and after the time that construction of the modification commences. (4-5-00)

c. The increase in toxic air pollutant emissions from an already operating or permitted source is not included in the calculation of the net emissions increase for a proposed new source or modification if: (5-1-95)

i. The already operating or permitted source commenced construction or modification prior to July 1, 1995; or (5-1-95)

ii. The uncontrolled emission rate from the already operating or permitted source is ten per cent (10%) or less of the applicable screening emissions level listed in Section 585 or 586; or (6-30-95)

iii. The already operating or permitted source is an environmental remediation source subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and "Idaho Rules and Standards for Hazardous Waste," (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order. (6-30-95)

07. Pilot Plant. A stationary source located at least one quarter (1/4) mile from any sensitive receptor that functions to test processing, mechanical, or pollution control equipment to determine full-scale feasibility and which does not produce products that are offered for sale except in developmental quantities. (5-1-94)

08. Reasonable Further Progress (RFP). Annual incremental reductions in emissions of the applicable ~~regulated~~ air pollutant as identified in the SIP which are sufficient to provide for attainment of the applicable ambient air quality standard by the required date. (~~4-5-00~~)()

09. Secondary Emissions. Emissions which would occur as a result of the construction, modification, or operation of a stationary source or facility, but do not come from the stationary source or facility itself. Secondary emissions must be specific, well defined, quantifiable, and affect the same general area as the stationary source, facility, or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the primary stationary source, facility or modification. Secondary emissions do not include any emissions which come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. (4-5-00)

10. Sensitive Receptor. Any residence, building or location occupied or frequented by persons who, due to age, infirmity or other health based criteria, may be more susceptible to the deleterious effects of a toxic air pollutant than the general population including, but not limited to, elementary and secondary schools, day care centers, playgrounds and parks, hospitals, clinics and nursing homes. (5-1-94)

11. Short Term Source. Any new stationary source or modification to an existing source, with an operational life no greater than five (5) years from the inception of any operations to the cessation of actual

operations. (5-1-94)

12. Toxic Air Pollutant Reasonably Available Control Technology (T-RACT). An emission standard based on the lowest emission of toxic air pollutants that a particular source is capable of meeting by the application of control technology that is reasonably available, as determined by the Department, considering technological and economic feasibility. If control technology is not feasible, the emission standard may be based on the application of a design, equipment, work practice or operational requirement, or combination thereof. (5-1-94)

13. Visibility Impairment. Any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions. (4-5-00)

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

01. Affected States. All States: (5-1-94)

a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)

b. That are within fifty (50) miles of the Tier I source. (5-1-94)

02. Allowance. An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)

03. Applicable Requirement. All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)

a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)

b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (4-5-00)

c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)

d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)

e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)

f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)

g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)

h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)

i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under

Section 324. (5-1-94)

04. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

05. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

06. Emergency. For the purposes of Section 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (4-5-00)

07. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

08. General Permit. A Tier I permit issued pursuant to Section 335. (3-23-98)

09. Insignificant Activity. Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)

10. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

a. For hazardous air pollutants: (3-23-98)

i. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

ii. The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. For non-attainment areas: (3-23-98)

i. The facility is located in a "serious" particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

ii. The facility is located in a "serious" carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in

accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is “marginal” or “moderate”, one hundred (100) tpy or more, if the area is “serious”, fifty (50) tpy or more, if the area is “severe”, twenty-five (25) tpy or more, and if the area is “extreme”, ten (10) tpy or more. (3-23-98)

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant ~~listed in Subsections 006.84.a. through 006.84.e.~~ The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (4-5-00)(____)

i. Designated facilities. (3-23-98)

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-5-00)

11. Part 70. Unless specified otherwise in this chapter, all definitions adopted under 40 CFR Part 70, revised as of July 1, 2004, are hereby incorporated by reference. (4-6-05)

12. Permit Revision. Any permit modification, administrative amendment or reopening. (3-19-99)

13. Phase II Source. A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651o and shall have the meaning given to it pursuant to those sections. (5-1-94)

14. Phase II Unit. A unit that is subject to emissions reduction requirements of 42 U.S.C. Sections 7651 through 7651o and the term shall have the meaning given to it pursuant to those sections. (5-1-94)

15. Proposed Permit. The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)

16. Section 502(b)(10) Changes. Changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements. (3-19-99)

17. Tier I Operating Permit. Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 386. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

133. STARTUP, SHUTDOWN AND SCHEDULED MAINTENANCE REQUIREMENTS.

The requirements in Subsection 133.01 shall apply in all cases where startup, shutdown, or scheduled maintenance of any equipment or emissions unit is expected to result or results in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions shall demonstrate compliance with all of the requirements of Subsection 133.01, as well as the development and implementation of procedures pursuant to Subsections 133.02 and 133.03 as a prerequisite to any consideration under Subsection 131.02. (4-5-00)

01. General Provisions. The following shall pertain to all startup, shutdown, and scheduled maintenance activities expected to result or resulting in excess emissions: (4-5-00)

a. No scheduled startup, shutdown, or maintenance resulting in excess emissions shall occur during any period in which an Atmospheric Stagnation Advisory and/or a Wood Stove Curtailment Advisory has been declared by the Department within an area designated by the Department as a PM-10 nonattainment area, unless the permittee demonstrates that such is reasonably necessary to facility operations and cannot be reasonably avoided and the Department approves such activity in advance, to the extent advance approval by the Department is feasible. This

prohibition on scheduled startup, shutdown or maintenance activities during Advisories does not apply to situations where shutdown is necessitated by urgent situations, such as imminent equipment failure, power curtailment, worker safety concerns or similar situations. (3-20-97)

b. The owner or operator of a source of excess emissions shall notify the Department of any startup, shutdown, or scheduled maintenance event that is expected to cause an excess emissions event. Such notification shall identify the time of the excess emissions, specific location, equipment involved, and type of excess emissions event (i.e. startup, shutdown, or scheduled maintenance). The notification shall be given as soon as reasonably possible, but no later than two (2) hours prior to the start of the excess emissions event unless the owner or operator demonstrates to the Department's satisfaction that a shorter advanced notice was necessary. The Department may prohibit or postpone any scheduled startup, shutdown, or maintenance activity upon consideration of the factors listed in Subsection 134.03. (4-5-00)

c. The owner or operator of a source of excess emissions shall report and record the information required pursuant to Sections 135 and 136 for each excess emissions event due to startup, shutdown, or scheduled maintenance. (3-20-97)

d. The owner or operator of a source of excess emissions must make the maximum reasonable effort, including off-shift labor where practicable to accomplish maintenance during periods of nonoperation of any related source operations or equipment. (4-5-00)

02. Excess Emissions Procedures. For all equipment or emissions unit from which excess emissions may occur during startup, shutdown, or scheduled maintenance, the facility owner or operator shall prepare, implement and file with the Department specific procedures which will be used to minimize excess emissions during such events. Specific information for each of the types of excess emissions events (i.e. startup, shutdown and scheduled maintenance) shall be established or documented for each piece of equipment or emissions unit and shall include all of the following (which may be based upon the facility owner or operator's knowledge of the process or emissions where measured data is unavailable): (4-5-00)

a. Identification of the specific equipment or emissions unit and the type of event anticipated. (4-5-00)

b. Identification of the specific ~~regulated air pollutants likely to be emitted~~ emissions in excess of applicable emission standards during the startup, shutdown, or scheduled maintenance period. ~~(4-5-00)~~()

c. The estimated amount of excess emissions expected to be released during each event. (3-20-97)

d. The expected duration of each excess emissions event. (3-20-97)

e. An explanation of why the excess emissions are reasonably unavoidable for each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance). (3-20-97)

f. Specification of the frequency at which each of the types of excess emissions events (i.e. startup, shutdown, and scheduled maintenance) are expected to occur. (3-20-97)

g. For scheduled maintenance, the owner or operator shall also document detailed explanations of: (4-5-00)

i. Why the maintenance is needed. (3-20-97)

ii. Why it is impractical to reduce or cease operation of the equipment or emissions unit during the scheduled maintenance period. (4-5-00)

iii. Why the excess emissions are not reasonably avoidable through better scheduling of the maintenance or through better operation and maintenance practices. (3-20-97)

iv. Why, where applicable, it is necessary to by-pass, take off line, or operate equipment or emissions

unit at reduced efficiency while the maintenance is being performed. (4-5-00)

h. Justification to explain why the piece of equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the excess emissions which occur during startup, shutdown, and scheduled maintenance. (4-5-00)

i. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during startup, shutdown, and scheduled maintenance. These procedures may include such measures as preheating or otherwise conditioning the emissions unit prior to its use or the application of auxiliary equipment or emissions unit to reduce the excess emissions. (4-5-00)

03. Amendments to Procedures. The owner or operator shall amend, and the Department may require amendments to, the procedures established pursuant to Section 133 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. (4-5-00)

04. Filing of Excess Emissions Procedures. (4-5-00)

a. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 133.02 shall not be a violation of these Rules in and of itself. (4-5-00)

b. To the extent procedures or plans for excess emissions resulting from startup, shutdown, or scheduled maintenance are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, shall fulfill the requirement under this Section to file plans and procedures with the Department. (4-5-00)

134. UPSET, BREAKDOWN AND SAFETY REQUIREMENTS.

The requirements in Subsections 134.01, 134.02, and 134.03 shall apply in all cases where upset or breakdown of equipment or an emissions unit, or the initiation of safety measures, result or may result in an excess emissions event. The owner or operator of the facility or emissions unit generating the excess emissions shall demonstrate compliance with all of the requirements of Subsections 134.01, 134.02 and 134.03 as well as the development and implementation of procedures pursuant to Subsections 134.04 and 134.05 as a prerequisite to any consideration under Subsection 131.02. Where the owner or operator demonstrates that because of the unforeseeable nature of the excess emissions event it is impractical to develop procedures pursuant to Subsection 134.04, the Department shall exercise its enforcement discretion on a case by case basis. (4-5-00)

01. Routine Maintenance and Repairs. For all equipment or emissions units from which excess emissions may occur during upset conditions or breakdowns or implementation of safety measures, the facility owner or operator shall: (4-5-00)

a. Implement routine preventative maintenance and operating procedures consistent with good pollution control practices for minimizing upsets and breakdowns or events requiring implementation of safety measures, and (3-20-97)

b. Make routine repairs in an expeditious fashion when the owner or operator knew or should have known that an excess emissions event was likely to occur. Off-shift labor and overtime shall be utilized, to the extent practicable, to ensure that such repairs are made expeditiously. (3-20-97)

02. Excess Emissions Minimization and Notification. For all equipment or emissions units from which excess emissions result during upset or breakdown conditions, or for other situations that may necessitate the implementation of safety measures which cause excess emissions, the facility owner or operator shall comply with the following: (4-5-00)

a. The owner or operator shall immediately undertake all appropriate measures to reduce and, to the extent possible, eliminate excess emissions resulting from the event and to minimize the impact of such excess emissions on the ambient air quality and public health. (4-5-00)

b. The owner or operator shall notify the Department of any upset/breakdown/safety event that results

in excess emissions. Such notification shall identify the time, specific location, equipment or emissions unit involved, and (to the extent known) the cause(s) of the occurrence. The notification shall be given as soon as reasonably possible, but no later than twenty-four (24) hours after the event, unless the owner or operator demonstrates to the Department's satisfaction that the longer reporting period was necessary. (4-5-00)

c. The owner or operator shall report and record the information required pursuant to Sections 135 and 136 for each excess emissions event caused by an upset, breakdown, or safety measure. (3-20-97)

03. Discretionary Reduction or Cessation Provisions. During any period of excess emissions caused by upset, breakdown, or operation under facility safety measures, the Department may require the owner or operator to immediately reduce or cease operation of the equipment or emissions unit causing the excess emissions until such time as the condition causing the excess emissions has been corrected or brought under control. Such action by the Department shall be taken upon consideration of the following factors and after consultation with the facility owner or operator: (4-5-00)

a. Potential risk to the public or the environment. (3-20-97)

b. Whether ceasing operations could result in physical damage to the equipment, emissions unit or facility, or cause injury to employees. (4-5-00)

c. Whether continued excess emissions were reasonably unavoidable as determined by the Department. (4-5-00)

d. The effect of the increase in pollution resulting from the shutdown and subsequent restart of the equipment or emissions unit or facility. (4-5-00)

e. The owner or operator shall not be required to reduce or cease operations at the entire facility if reducing or ceasing operations at a portion of the facility eliminates or adequately reduces the excess emissions. (4-5-00)

04. Excess Emissions Procedures. For equipment or emissions units and process upsets and breakdowns and situations that require implementation of safety measures, which events can reasonably be anticipated to occur periodically but which cannot be reasonably avoided or predicted with certainty, the owner or operator shall prepare, implement, and file with the Department specific procedures which will be used to minimize such events and excess emissions during such events. To the extent possible and reasonably practicable (and based upon knowledge of the process or emissions where measured data is not available), specify the following information for each type of anticipated upset/ breakdown/safety event: (4-5-00)

a. The specific air pollution control equipment or emissions unit and the type of event anticipated. (3-20-97)

b. The specific ~~regulated air pollutants likely to be emitted~~ emissions in excess of applicable emission standards during the event. ~~(4-5-00)~~(____)

c. The estimated amount of excess emissions expected to be released during each event. (3-20-97)

d. The expected duration of each excess emissions event. (3-20-97)

e. An explanation of why the excess emissions are reasonably unavoidable. (3-20-97)

f. The frequency of the type of event, based on historic occurrences. (3-20-97)

g. Justification to explain why the piece of control equipment or emissions unit cannot be modified or redesigned to eliminate or reduce the particular type of event. (3-20-97)

h. Detailed specification of the procedures to be followed by the owner or operator which will minimize excess emissions at all times during such events, including without limitation those procedures listed under

Subsection 134.05. (3-20-97)

05. Amendments to Procedures. The owner or operator shall amend, and the Department may require amendments to, the procedures established pursuant to Section 134 from time to time and as deemed reasonably necessary to ensure that the procedures are and remain consistent with good pollution control practices. (4-5-00)

06. Filing Of Excess Emissions Procedures. (4-5-00)

a. Failure to follow procedures filed with the Department shall not preclude the Department from making a determination under Subsection 131.02 if the owner or operator demonstrates to the Department's satisfaction that alternate and equivalent procedures were used and were necessitated by the exigency of the circumstances. (4-5-00)

b. Unless otherwise required by the Department, the failure to prepare or file procedures pursuant to Subsection 134.04 shall not be a violation of these Rules in and of itself. (4-5-00)

c. To the extent procedures or plans for excess emissions resulting from upsets, breakdowns or safety measures are required to be or are otherwise submitted to the Department with any permit application, such submission, if deemed adequate by the Department, shall fulfill the requirement under this Section to file plans and procedures with the Department. (4-5-00)

135. EXCESS EMISSIONS REPORTS.

01. Deadline for Excess Emissions Reports. A written report for each excess emissions event shall be submitted to the Department by the owner or operator no later than fifteen (15) days after the beginning of each such event. (3-20-97)

02. Contents Of Excess Emissions Reports. Each report shall contain the following information: (3-20-97)

a. The time period during which the excess emissions occurred; (3-20-97)

b. Identification of the specific equipment or emissions unit which caused the excess emissions; (3-20-97)

c. An explanation of the cause, or causes, of the excess emissions and whether the excess emissions occurred as a result of startup, shutdown, scheduled maintenance, upset, breakdown or a safety measure; (3-20-97)

d. An estimate of the ~~quantity of each regulated air pollutant emitted~~ emissions in excess of any applicable emission standard (based on knowledge of the process and facility where emissions data is unavailable); ~~(4-5-00)~~(____)

e. A description of the activities carried out to eliminate the excess emissions; and (3-20-97)

f. Certify compliance status with the requirements of Sections 131, 132, 133.01, 134.01 through 134.03, 135, and 136. (4-5-00)

g. If requesting consideration under Subsection 131.02, certify compliance status with Sections 131, 132, 133.01 through 133.03, 134.01 through 134.05, 135, and 136. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

155. CIRCUMVENTION.

No person shall willfully cause or permit the installation or use of any device or use of any means ~~which~~, that

~~conceals emissions of pollutants that would otherwise violate the provisions of this chapter~~ without resulting in a reduction in the total amount of ~~regulated air pollutants emitted, conceals an emission of regulated air pollutants which would otherwise violate the provisions of this chapter~~ emissions. (4-5-00)(____)

(BREAK IN CONTINUITY OF SECTIONS)

213. PRE-PERMIT CONSTRUCTION.

This section describes how owners or operators may commence construction or modification of certain stationary sources before obtaining the required permit to construct. (3-23-98)

01. Pre-Permit Construction Eligibility. Pre-permit construction approval is available for non-major sources and non-major modifications and for new sources or modifications proposed in accordance with Subsection 213.01.d. Pre-permit construction is not available for any new source or modification that: uses emissions netting to stay below major source levels; uses optional offsets pursuant to Section 206; or would have an adverse impact on the air quality related values of any Class I area. Owners or operators may ask the Department for the ability to commence construction or modification of qualifying sources under Section 213 before receiving the required permit to construct. To obtain the Department's pre-permit construction approval, the owner or operator shall satisfy the following requirements: (4-5-00)

a. The owner or operator shall apply for a permit to construct in accordance with Subsections 202.01.a., 202.02, and 202.03 of this chapter. (3-23-98)

b. The owner or operator shall consult with Department representatives prior to submitting a pre-permit construction approval application. (3-23-98)

c. The owner or operator shall submit a pre-permit construction approval application which must contain, but not be limited to: a letter requesting the ability to construct before obtaining the required permit to construct, a copy of the notice referenced in Subsection 213.02; proof of eligibility; process description(s); equipment list(s); proposed emission limits and modeled ambient concentrations for all regulated air pollutants and toxic air pollutants, such that they demonstrate compliance with all applicable air quality rules and regulations. The models shall be conducted in accordance with Subsection 202.02 and with written Department approved protocol and submitted with sufficient detail so that modeling can be duplicated by the Department. (4-5-00)(____)

d. Owners or operators seeking limitations on a source's potential to emit such that permitted emissions will be either below major source levels or below a significant increase must describe in detail in the pre-permit construction application the proposed restrictions and certify in accordance with Section 123 that they will comply with the restrictions, including any applicable monitoring and reporting requirements. (3-23-98)

02. Permit to Construct Procedures for Pre-Permit Construction. (3-23-98)

a. Within ten (10) days after the submittal of the pre-permit construction approval application, the owner or operator shall hold an informational meeting in at least one (1) location in the region in which the stationary source or facility is to be located. The informational meeting shall be made known by notice published at least ten (10) days before the meeting in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. A copy of such notice shall be included in the application. (3-23-98)

b. Within fifteen (15) days after the receipt of the pre-permit construction approval application, the Department shall notify the owner or operator in writing of pre-permit construction approval or denial. The Department may deny the pre-permit construction approval application for any reason it deems valid. (3-23-98)

c. Upon receipt of the pre-permit construction approval letter issued by the Department, the owner or operator may begin construction at their own risk as identified in Subsection 213.02.d. Upon issuance of the pre-permit construction approval letter, any and all potential to emit limitations addressed in the pre-permit construction application pursuant to Subsection 213.01.d. shall become enforceable. The owner or operator shall not operate those

emissions units subject to permit to construct requirements in accordance with Section 200 unless and until issued a permit pursuant to Section 209. (5-3-03)

d. If the pre-permit construction approval application is determined incomplete or the permit to construct is denied, the Department shall issue an incompleteness or denial letter pursuant to Section 209. If the Department denies the permit to construct, then the owner or operator shall have violated Section 201 on the date it commenced construction as defined in Section 006. The owner or operator shall not contest the final permit to construct decision based on the fact that they have already begun construction. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

220. GENERAL EXEMPTION CRITERIA FOR PERMIT TO CONSTRUCT EXEMPTIONS.

01. General Exemption Criteria. Sections 220 through 223 may be used by owners or operators to exempt certain sources from the requirement to obtain a permit to construct. Nothing in these sections shall preclude an owner or operator from choosing to obtain a permit to construct. For purposes of Sections 220 through 223, the term source means the equipment or activity being exempted. For purposes of Sections 220 through 223, fugitive emissions shall not be considered in determining whether a source meets the applicable exemption criteria unless required by federal law. No permit to construct is required for a source that satisfies all of the following criteria, in addition to the criteria set forth at Sections 221, 222, or 223: (4-5-00)(____)

a. The maximum capacity of a source to emit an air pollutant under its physical and operational design without consideration of limitations on emission such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed would not: (4-5-00)

i. Equal or exceed one hundred (100) tons per year of any regulated air pollutant. (4-5-00)

ii. Cause an increase in the emissions of a major facility that equals or exceeds the significant emissions rates set out in the definition of significant at Section 006. (4-5-00)

b. Combination. The source is not part of a proposed new major facility or part of a proposed major modification. (4-5-00)

02. Record Retention. Unless the source is subject to and the owner or operator complies with Section 385, the owner or operator of the source, except for those sources listed in Subsections 222.02.a. through 222.02.g., shall maintain documentation on site which shall identify the exemption determined to apply to the source and verify that the source qualifies for the identified exemption. The records and documentation shall be kept for a period of time not less than five (5) years from the date the exemption determination has been made or for the life of the source for which the exemption has been determined to apply, which ever is greater, or until such time as a permit to construct or an operating permit is issued which covers the operation of the source. The owner or operator shall submit the documentation to the Department upon request. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

440. REQUIREMENTS FOR ALTERNATIVE EMISSION LIMITS (BUBBLES).

The owner or operator of any facility may apply to the Department for a Tier I or Tier II operating permit (or a revision thereto) to authorize an alternative emission limit for any stationary source or emissions unit within the facility. The Department may issue or revise a Tier II operating permit or issue a significant modification to a Tier I operating permit which authorizes an alternative emission limit provided that all of the following are met: (4-5-00)

01. Actual Emissions. There is no increase in actual emissions of the applicable ~~regulated~~ air pollutant at the facility. (4-5-00)(____)

02. Emission Reductions. All emission reductions satisfy the requirements for emission reduction credits (Section 460). (5-1-94)

03. Trade Requirements. All trades involve the same *regulated* air pollutant and demonstrate ambient equivalence as specified in Subsection 441.02. (~~4-5-00~~)(____)

04. Applicable Requirement Prohibition. No applicable Section of 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63, best available control technology requirement, lowest achievable emission rate requirement, or visual emission standard is exceeded. (5-1-94)

05. Actual HAP/TAP Emissions. The actual emissions of any hazardous air pollutant or any toxic air pollutant are not increased. (5-1-94)

06. Fugitive Dust Trades. Where the trade involves fugitive dust, the owner or operator shall undertake an adequate post-approval monitoring program to evaluate the ambient results of the controls. If the monitoring data indicate that the air quality effects are not equivalent, then: (5-1-94)

a. Further reductions must be proposed by the owner or operator; and/or (5-1-94)

b. The applicable emission standards in the operating permit will be adjusted by the Department; (5-1-94)

07. Compliance Schedule Extension. Any compliance schedule extension for a facility in a nonattainment area is consistent with reasonable further progress. (5-1-94)

08. EPA Approval. Approval of the U.S. Environmental Protection Agency, and where necessary the appropriate court, has been obtained for any individual stationary source or facility which is the subject of a federal enforcement action or outstanding enforcement order. (5-1-94)

441. DEMONSTRATION OF AMBIENT EQUIVALENCE.
The demonstration of ambient equivalence shall: (5-1-94)

01. VOC Trades. For trades involving volatile organic compounds, show that total emissions are not increased for the air basin in which the stationary source or facility is located. (5-1-94)

02. Other Trades. For trades involving any other *regulated* air pollutant, show through appropriate dispersion modeling that the trade will not cause a significant contribution at any modeled receptor. (~~4-5-00~~)(____)

442. -- 459. (RESERVED).

460. REQUIREMENTS FOR EMISSION REDUCTION CREDIT.
In order to be credited in a permit to construct, Tier I operating permit or Tier II operating permit any emission reduction must satisfy the following: (5-1-94)

01. Allowable Emissions. The proposed level of allowable emissions must be less than the actual emissions of the stationary source(s) or emission unit(s) providing the emission reduction credit. No emission reduction(s) can be credited for actual emissions which exceed the allowable emissions of the stationary source(s) or emission unit(s). (5-1-94)

02. Timing of Emission Reduction. In an attainment or unclassifiable area any emission reduction which occurs prior to the minor source baseline date must have been banked with the Department prior to the minor source baseline date in order to be credited; in a nonattainment area the emission reduction must occur after the base year of any control strategy for the particular *regulated* air pollutant. (~~4-5-00~~)(____)

03. Emission Rate Calculation. The emission rate before and after the reduction must be calculated using the same method and averaging time and the characteristics necessary to evaluate any future use of the emission

reduction credit must be described. (5-1-94)

04. Permit Issuance. A permit to construct, Tier I operating permit or Tier II operating permit shall be issued which establishes a new emission standard for the facility, or restricts the operating rate, hours of operation, or the type or amount of material combusted, stored or processed for the stationary source(s) or emission unit(s) providing the emission reductions. (4-5-00)

05. Imposed Reductions. Emission reductions imposed by local, state or federal regulations or permits shall not be allowed for emission reduction credits. (5-1-94)

06. Mobile Sources. The proposed level of allowable emissions must be less than the actual emissions of the mobile sources or stationary sources providing the emission reduction credit. Mobile source emission reduction credits shall be made state or federally enforceable by SIP revision. The form of the SIP revision may be a state or local regulation, operating permit condition, consent or enforcement order, or any mechanism available to the state that is enforceable. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

511. APPLICABILITY.

The provisions of Sections 510 through 516 shall apply to existing, new, and modified stationary sources and facilities. The provisions of Sections 510 through 516 do not apply to stack heights in existence, or dispersion techniques implemented, on or before December 31, 1970, except where regulated or toxic air pollutant(s) are being emitted from such stacks or using such dispersion techniques by sources which were constructed, or reconstructed, or for which major modifications were carried out, after December 31, 1970. (~~5-3-03~~)(____)

512. DEFINITIONS.

For the purpose of Sections 500 through 516: (5-1-94)

01. Dispersion Technique. Any technique which attempts to affect the concentration of a regulated or toxic air pollutant in the ambient air by: (~~4-5-00~~)(____)

a. Using that portion of a stack which exceeds good engineering practice stack height; (5-1-94)

b. Varying the rate of emission of a regulated or toxic air pollutant according to atmospheric conditions or ambient concentrations of that ~~regulated air~~ pollutant; or (~~4-5-00~~)(____)

c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one (1) stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This does not include the reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream; smoke management in agricultural or silvicultural prescribed burning programs; episodic restrictions on residential woodburning and open burning; techniques which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed five thousand (5,000) tons per year; or the merging of exhaust gas streams where: (5-1-94)

i. The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams; (5-1-94)

ii. After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a regulated or toxic air pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the regulated or toxic air pollutant affected by such change in operation; or (~~4-5-00~~)(____)

iii. Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, the reviewing agency shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the reviewing agency shall deny credit for the effects of such merging in calculating the allowable emissions for the source. (5-1-94)

02. Excessive Concentration. For the purpose of determining good engineering practice stack height in a fluid modeling evaluation or field study as provided for in Subsection 512.03.c. "Excessive Concentration" means: (5-1-94)

a. For sources seeking credit for stack height exceeding that established under Subsection 512.03.b., a maximum ground level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of such effects, and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration program, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under Subsection 512.02.a., shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Department, an alternative emission rate shall be established in consultation with the source owner or operator. (5-1-94)

b. For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under Subsection 512.03.b., either: (5-1-94)

i. A maximum ground-level concentration due in whole or in part to downwash, wakes or eddy effects as provided in Subsection 512.02.a., except that the emission rate specified by any applicable SIP or, in the absence of such a limit, the actual emission rate shall be used; or (5-1-94)

ii. The actual presence of a local nuisance caused by the existing stack as determined by the authority administering the Department. (5-1-94)

c. For sources seeking credit after January 12, 1979, for a stack height determined under Subsection 512.03.b., where the Department requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Subsection 512.03.b., a maximum ground-level concentration due in whole or in part to downwash, wakes or eddy effects that is at least forty percent (40%) in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects. (5-1-94)

03. Good Engineering Practice (GEP) Stack Height. The greater of: (5-1-94)

a. Sixty-five (65) meters, measured from the ground-level elevation at the base of the stack; (5-1-94)

b. For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required,

$$H = 2.5S$$

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation. For all other stacks provided that the Department may require the use of a field study or fluid model to verify GEP stack height for the source,

$$H = S + 1.5L$$

where: (5-1-94)

i. H = good engineering practice stack height measured from the ground-level elevation at the base of the stack. (5-1-94)

ii. S = height of nearby structure(s) measured from the ground-level elevation at the base of the stack. (5-1-94)

iii. L = lesser dimension, height or projected width, of nearby structure(s). (5-1-94)

c. The height demonstrated by a fluid model or a field study approved by the Department which ensures that the emissions from a stack do not result in excessive concentrations of any regulated or toxic air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, structures, or terrain features. (~~4-5-00~~)(____)

04. Nearby Structures or Terrain Features. "Nearby" as applied to a specific structure or terrain feature under the definition of "good engineering practice stack height"; and (5-1-94)

a. For purposes of applying the formulae provided under Subsection 512.03.b., means that distance up to five (5) times the lesser of the height or the width dimension of a structure, but not greater than one-half (1/2) mile (0.8 km); and (5-1-94)

b. For conducting demonstrations under Subsection 512.03.c., means not greater than one-half (0.5) mile (0.8 km), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten (10) times the maximum height of the feature, not to exceed two (2) miles if such feature achieves a height one-half (0.5) mile (0.8 km) from the stack that is at least forty percent (40%) of the GEP stack height determined by the formulae provided in Subsection 512.03.b., or twenty-six (26) meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack. (4-5-00)

05. Stack in Existence. The owner or operator had: (5-1-94)

a. Begun, or caused to begin, a continuous program of physical on-site construction of the stack; or (5-1-94)

b. Entered into binding agreements or contractual obligations which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time. (5-1-94)

513. REQUIREMENTS.

The required degree of emission control of any regulated or toxic air pollutant shall not be affected by the amount of any stack height that exceeds good engineering practice (GEP) or by any other dispersion technique. (~~4-5-00~~)(____)

(BREAK IN CONTINUITY OF SECTIONS)

560. NOTIFICATION TO SOURCES.

The Department will assure that all significant sources of ~~regulated~~ the applicable air pollutant(s) are notified of the emergency stage by telephone or other appropriate means. (~~4-5-00~~)(____)

561. GENERAL RULES.

All persons in the designated stricken area shall be governed by the following rules for each emergency episode stage. The Director may waive one (1) or more of the required measures at each episode stage if, on the basis of information available to him, he judges that a measure is an inappropriate response to the specific episode conditions which then exist. (5-1-94)

- 01. Stage 1 - Air Pollution Forecast and Caution.** There shall be no new ignition of open burning of any kind. The Director may require, if practicable, or in an emergency situation, the cessation of any open burning. (3-15-02)
- 02. Stage 2 - Alert.** (5-1-94)
- a.** There shall be no open burning of any kind. (5-1-94)
- b.** The use of burners and incinerators for the disposal of any form of solid waste shall be prohibited. (3-15-02)
- c.** Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. (5-1-94)
- d.** Commercial, industrial and institutional facilities utilizing coal or residual fuel oil are required to switch to natural gas or distillate oil if available. (5-1-94)
- 03. Stage 3 - Warning.** (5-1-94)
- a.** There shall be no open burning of any kind. (5-1-94)
- b.** The use of burners and incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited. (3-15-02)
- c.** Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 pm (noon) and 4:00 p.m. (5-1-94)
- d.** Commercial, industrial and institutional facilities utilizing coal or residual fuel are required to either: (5-1-94)
- i.** Switch completely to natural gas or distillate oil; or (5-1-94)
- ii.** If these low sulfur fuels are not available, curtail the use of existing fuels to the extent possible without causing injury to persons or damage to equipment. (5-1-94)
- 04. Stage 4 - Emergency.** This will be called only with specific concurrence of Governor. (5-1-94)
- a.** There shall be no open burning of any kind. (5-1-94)
- b.** The use of burners and incinerators for the disposal of any form of solid or liquid waste shall be prohibited. (3-15-02)
- c.** All places of employment described below shall immediately cease operations: (5-1-94)
- i.** All mining and quarrying operations; (5-1-94)
- ii.** All construction work except that which must proceed to avoid injury to persons; (5-1-94)
- iii.** All manufacturing establishments except those required to have in force an air pollution emergency plan; (5-1-94)
- iv.** All wholesale trade establishments, i.e. places of business primarily engaged in selling merchandise to retailers or industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies except those engaged in the distribution of drugs, surgical supplies and food; (5-1-94)

v. All offices of local, county and State government including authorities, joint meetings, and other public bodies excepting such agencies which are determined by the chief administrative officer of local, county, or State government authorities, joint meetings and other public bodies to be vital for public safety and welfare and the enforcement of the provisions of this order; (5-1-94)

vi. All retail trade establishments except pharmacies, surgical supply distributors, and stores primarily engaged in the sale of food; (5-1-94)

vii. Banks, credit agencies other than banks, securities and commodities brokers, dealers, exchanges and services; offices of insurance carriers, agents and brokers, real estate offices; (5-1-94)

viii. Wholesale and retail laundries, laundry services and cleaning and dyeing establishments; photographic studios; beauty shops, barber shops, shoe repair shops; (5-1-94)

ix. Advertising offices, consumer credit reporting, adjustment and collection agencies; duplicating, addressing, blueprinting; photocopying, mailing, mailing list and stenographic services; equipment rental services, commercial testing laboratories; (5-1-94)

x. Automobile repair, automobile services, garages except those located adjacent to state or interstate highways; (5-1-94)

xi. Establishments rendering amusement and recreational services including motion picture theaters; (5-1-94)

xii. Elementary and secondary schools, colleges, universities, professional schools, junior colleges, vocational schools, and public and private libraries. (5-1-94)

d. All commercial and manufacturing establishments not included in this order will institute such actions as will result in maximum reduction of ~~regulated~~ the applicable air pollutant(s) from their operation by ceasing, curtailing, or postponing operations which emit ~~regulated~~ the applicable air pollutants to the extent possible without causing injury to persons or damage to equipment. These actions include limiting boiler lancing or soot blowing operations for fuel burning equipment to between the hours of 12:00 pm (noon) and 4:00 p.m. (~~4-5-00~~)()

e. When the emergency episode is declared for carbon monoxide, the use of motor vehicles is prohibited except in emergencies or with the approval of local or state police or the Department. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

575. AIR QUALITY STANDARDS AND AREA CLASSIFICATION.

Ambient Air Quality Standards. The purpose of Sections 575 through 587 is to establish air quality standards for the state of Idaho which define acceptable ambient concentrations ~~of regulated air pollutants~~ consistent with established air quality criteria. (~~4-5-00~~)()

(BREAK IN CONTINUITY OF SECTIONS)

581. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) INCREMENTS.

The purpose of Section 581 is to establish the allowable degree of deterioration for the areas within the State which have air quality better than the ambient standards. (5-1-94)

01. Class I, II and III Areas. In any area designated as Class I, II, or III, increases in any ambient concentration over the baseline concentration shall be limited to the following:

CLASS AREAS	Maximum Allowable Increase (Micrograms per cubic meter)
CLASS I AREAS	
PM-10:	
Annual arithmetic mean	4
Maximum twenty-four (24) hour average	8
Sulfur dioxide:	
Annual arithmetic mean	2
Maximum twenty-four (24) hour average	5
Maximum three (3) hour average	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5
CLASS II AREAS	
PM-10:	
Annual arithmetic mean	17
Maximum twenty-four (24) hour average	30
Sulfur dioxide:	
Annual arithmetic mean	20
Maximum twenty-four (24) hour average	91
Maximum three (3) hour average	512
Nitrogen dioxide:	
Annual arithmetic mean	25
CLASS III AREAS	
PM-10:	
Annual arithmetic mean	34
Maximum twenty-four (24) hour average	60
Sulfur dioxide:	
Annual arithmetic mean	40
Maximum twenty-four (24) hour average	182
Maximum three (3) hour average	700
Nitrogen dioxide:	
Annual arithmetic mean	50

(5-3-03)

02. Exceedances. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location. (5-1-94)

03. Exclusions. The following concentrations shall be excluded in determining compliance with the maximum allowable increases: (5-1-94)

a. Concentrations attributable to the increase in emissions from facilities which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, over the emissions from such facilities before the effective date of such order or plan; this shall not apply more than five (5) years after the effective date of such order or plan; (5-1-94)

b. Concentrations of PM-10 attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified facilities; (7-1-97)

c. The increase in concentrations attributable to new facilities outside the United States over the concentrations attributable to existing facilities which are included in the baseline concentration; and (5-1-94)

d. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen dioxide, or particulate matter from facilities which are affected by a revision to the SIP approved by the U.S. Environmental Protection Agency; this exclusion shall not exceed two (2) years unless a longer time is approved by the U.S. Environmental Protection Agency, is not renewable, and applies only to revisions which: (5-1-94)

i. Would not affect ~~regulated air~~ the applicable pollutant concentrations in a Class I area or an area where an applicable increment is known to be violated and would not cause or contribute to a violation of an ambient air quality standard; and (~~4-5-00~~)(____)

ii. Require limitations to be in effect at the end of the approved time period which would ensure that the emissions from facilities affected by the revision would not exceed those concentrations occurring before the revision was approved. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

679. AVERAGING PERIOD.

For purposes of Sections 675 through 680, emissions shall be averaged according to the following, whichever is the lesser period of time: (5-1-94)

01. One Cycle. One (1) complete cycle of operation; or (5-1-94)

02. One Hour. One (1) hour of operation representing worst-case conditions for the emission of ~~regulated air pollutants~~ particulate matter. (~~4-5-00~~)(____)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0505

NOTICE OF RULEMAKING - PROPOSED RULE

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

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

September 7, 2005, 4 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: This rulemaking is necessary to ensure that the Rules for the Control of Air Pollution in Idaho will remain consistent with federal regulations. This proposed rule updates citations to federal regulations incorporated by reference to include those revised as of July 1, 2005. In addition, this proposed rule makes a correction in Subsection 209.05.a.iv. The reference to Section 269 should be Section 369.

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

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2006 session of the Idaho Legislature if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440 or martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 7, 2005.

DATED this 1st day of July, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-0505

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

- 01. Affected States.** All States: (5-1-94)
- a.** Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)
- b.** That are within fifty (50) miles of the Tier I source. (5-1-94)
- 02. Allowance.** An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)
- 03. Applicable Requirement.** All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)
- a.** Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)
- b.** Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (4-5-00)
- c.** Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)
- d.** Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)
- e.** Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)
- f.** Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)
- g.** Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)
- h.** Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)
- i.** Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR

Part 82. (5-1-94)

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

04. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

05. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

06. Emergency. For the purposes of Section 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (4-5-00)

07. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

08. General Permit. A Tier I permit issued pursuant to Section 335. (3-23-98)

09. Insignificant Activity. Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)

10. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

a. For hazardous air pollutants: (3-23-98)

i. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

ii. The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. For non-attainment areas: (3-23-98)

i. The facility is located in a "serious" particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

ii. The facility is located in a "serious" carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is "marginal" or "moderate", one hundred (100) tpy or more, if the area is "serious", fifty (50) tpy or more, if the area is "severe", twenty-five (25) tpy or more, and if the area is "extreme", ten (10) tpy or more. (3-23-98)

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant listed in Subsections 006.84.a. through 006.84.e. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (4-5-00)

i. Designated facilities. (3-23-98)

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-5-00)

11. Part 70. Unless specified otherwise in this chapter, all definitions adopted under 40 CFR Part 70, revised as of July 1, 2004~~5~~, are hereby incorporated by reference. (~~4-6-05~~)(____)

12. Permit Revision. Any permit modification, administrative amendment or reopening. (3-19-99)

13. Phase II Source. A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651o and shall have the meaning given to it pursuant to those sections. (5-1-94)

14. Phase II Unit. A unit that is subject to emissions reduction requirements of 42 U.S.C. Sections 7651 through 7651o and the term shall have the meaning given to it pursuant to those sections. (5-1-94)

15. Proposed Permit. The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)

16. Section 502(b)(10) Changes. Changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements. (3-19-99)

17. Tier I Operating Permit. Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 386. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability Of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

- and
- a. All federal publications: U.S. Government Printing Office, <http://www.gpoaccess.gov/index.html>; (3-20-04)
 - b. All documents herein incorporated by reference: (7-1-97)
 - i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502. (7-1-97)
 - ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)
- 03. Documents Incorporated by Reference.** The following documents are incorporated by reference into these rules: (5-1-94)
- a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Appendix W to Part 51--Guideline on Air Quality Models. 40 CFR Parts 51 and 52 revised as of July 1, 20045. (~~4-6-05~~)()
 - b. Implementation Plan for the Control of Air Pollution in the State of Idaho (SIP), Department of Environmental Quality, November 1996. (3-19-99)
 - c. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 20045. (~~4-6-05~~)()
 - d. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, Identification of Integral Vistas, Subsection a, 40 CFR Part 51.304(a), revised as of July 1, 20045. (~~4-6-05~~)()
 - e. Approval and Promulgation of Implementation Plans, 40 CFR Part 52, revised as of July 1, 20045. (~~4-6-05~~)()
 - f. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 20045. (~~4-6-05~~)()
 - g. Ambient Air Quality Surveillance, Quality Assurance Requirements for Prevention of Significant Deterioration (PSD Air Monitoring), 40 CFR Part 58, Appendix B, revised as of July 1, 20045. (~~4-6-05~~)()
 - h. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 20045. (~~4-6-05~~)()
 - i. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 20045. (~~4-6-05~~)()
 - j. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 20045. (~~4-6-05~~)()
 - k. Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 20045. (~~4-6-05~~)()
 - l. Permits, 40 CFR Part 72, revised as of July 1, 20045. (~~4-6-05~~)()
 - m. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 20045. (~~4-6-05~~)()
 - n. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 20045. (~~4-6-05~~)()
 - o. Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)
 - p. Determining Conformity of Federal Actions to State or Federal Implementation Plans: Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or

Approved Under Title 23 U.S.C. or the Federal Transit Laws, 40 CFR Part 93, Subpart A, Sections 93.100 through 93.129, revised as of July 1, 2004~~5~~, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. (4-6-05)()

(BREAK IN CONTINUITY OF SECTIONS)

200. PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT.

The purposes of Sections 200 through 228 is to establish uniform procedures and requirements for the issuance of "Permits to Construct". As used throughout Sections 200 through 228 and 578 through 581, major facility shall be defined as major stationary source in 40 CFR 52.21(b), revised as of July 1, 2004~~5~~, and major modification shall be defined as in 40 CFR 52.21(b), revised as of July 1, 2004~~5~~. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr. (4-6-05)()

(BREAK IN CONTINUITY OF SECTIONS)

204. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN NONATTAINMENT AREAS.

New major facilities or major modifications proposed for location in a nonattainment area and which would be major for the nonattainment regulated air pollutant are considered nonattainment new source review (NSR) actions and are subject to the requirements in Section 204. Section 202 contains application requirements and Section 209 contains processing requirements for nonattainment NSR permitting actions. The intent of Section 204 is to incorporate the federal nonattainment NSR rule requirements. (4-6-05)

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 51.165, revised as of July 1, 2004~~5~~, are hereby incorporated by reference. Requirements contained in the following subparts of 40 CFR 52.21, revised as of July 1, 2004~~5~~, are hereby incorporated by reference. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr.

40 CFR Reference	40 CFR Reference Title
40 CFR 51.165(a)(1)	Definitions
40 CFR 51.165(a)(2)(ii)(A) - (J)	Applicability Provisions
40 CFR 51.165(a)(6)(i) - (v)	Applicability Provisions
40 CFR 51.165(c)	Clean Unit Test for Emission Units that are Subject to LAER
40 CFR 51.165(d)	Clean Unit Provisions for Emission Units that Achieve an Emission Limitation Comparable to LAER
40 CFR 52.21(z)(1) - (3) and (6)	PCP Exclusion Procedural Requirements
40 CFR 52.21(aa)	Actual PALs

(4-6-05)()

02. Additional Requirements. The applicant must demonstrate to the satisfaction of the Department the following: (4-6-05)

a. LAER. Except as otherwise provided in Section 204, the new major facility or major modification would be operated at the lowest achievable emission rate (LAER) for the nonattainment regulated air pollutant, specifically: (4-6-05)

i. A new major facility would meet the lowest achievable emission rate at each new emissions unit which emits the nonattainment regulated air pollutant; and (4-5-00)

ii. A major modification would meet the lowest achievable emission rate at each new or modified emissions unit which has a net emissions increase of the nonattainment regulated air pollutant. (4-5-00)

b. Required offsets. Allowable emissions from the new major facility or major modification are offset by reductions in actual emissions from stationary sources, facilities, and/or mobile sources in the nonattainment area so as to represent reasonable further progress. All offsetting emission reductions must satisfy the requirements for emission reduction credits (Section 460) and provide for a net air quality benefit which satisfies the requirements of Section 208. If the offsets are provided by other stationary sources or facilities, a permit to construct shall not be issued for the new major facility or major modification until the offsetting reductions are made enforceable through the issuance of operating permits. The new major facility or major modification may not commence operation, and an operating permit for the new major facility or major modification shall not be effective before the date the offsetting reductions are achieved. (4-5-00)

c. Compliance status. All other sources in the State owned or operated by the applicant, or by any entity controlling, controlled by or under common control with such person, are in compliance with all applicable emission limitations and standards or subject to an enforceable compliance schedule. (5-1-94)

d. Effect on visibility. The effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory federal Class I area, by the new major facility or major modification is consistent with making reasonable progress toward remedying existing and preventing future visibility impairment. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR Part 51.304(a), may be exempted from Section 204 by the Department. (4-6-05)

03. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 51.165 or 40 CFR 52.21 incorporated in Section 204, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections 220 through 223. (4-6-05)

205. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN ATTAINMENT OR UNCLASSIFIABLE AREAS.

The prevention of significant deterioration (PSD) program is a construction permitting program for new major facilities and major modifications to existing major facilities located in areas in attainment or in areas that are unclassifiable for any criteria air pollutant. Section 202 contains application requirements and Section 209 contains processing requirements for PSD permit actions. The intent of Section 205 is to incorporate the federal PSD rule requirements. (4-6-05)

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 52.21, revised as of July 1, 2004⁵, are hereby incorporated by reference. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr.

40 CFR Reference	40 CFR Reference Title
40 CFR 52.21(a)(2)	Applicability Procedures
40 CFR 52.21(b)	Definitions
40 CFR 52.21(i)	Review of Major Stationary Sources and Major Modifications - Source Applicability and Exempting
40 CFR 52.21(j)	Control Technology Review
40 CFR 52.21(k)	Source Impact Analysis

40 CFR Reference	40 CFR Reference Title
40 CFR 52.21(r)	Source Obligation
40 CFR 52.21(v)	Innovative Control Technology
40 CFR 52.21(w)	Permit Rescission
40 CFR 52.21(x)	Clean Unit Test
40 CFR 52.21(y)	Clean Unit Provisions for Emissions Units that Achieve an Emission Limit Comparable to BACT
40 CFR 52.21(z)(1) - (3) and (6)	PCP Exclusion Procedural Requirements
40 CFR 52.21(aa)	Actual PALS

~~(4-6-05)~~()

02. Exception to Incorporation by Reference of 40 CFR 52.21. Every use of the word Administrator in 40 CFR 52.21 means the Department except for the following: (4-6-05)

a. In 40 CFR 52.21(b)(17), the definition of federally enforceable, Administrator means the EPA Administrator. (4-6-05)

b. In 40 CFR 52.21(l)(2), air quality models, Administrator means the EPA Administrator. (4-6-05)

c. In 40 CFR 52.21(b)(43), permit program approved by the Administrator, Administrator means the EPA Administrator. (4-6-05)

d. In 40 CFR 52.21(b)(48)(ii)(c), MACT standard that is proposed or promulgated by the Administrator, Administrator means the EPA Administrator. (4-6-05)

e. In 40 CFR 52.21(b)(50)(i), regulated NSR pollutant as defined by Administrator, Administrator means the EPA Administrator. (4-6-05)

f. In 40 CFR 52.21(y)(4)(i), Administrator for BACT, LAER and RACT clearinghouse, Administrator means the EPA Administrator. (4-6-05)

03. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 52.21 incorporated in Section 205, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections 220 through 223. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

209. PROCEDURE FOR ISSUING PERMITS.

No Changes to Subsections 209.01 through 209.04

05. Permit to Construct Procedures for Tier I Sources. For Tier I sources that require a permit to construct, the owner or operator shall either: (5-1-94)

a. Submit only the information required by Sections 200 through 219 for a permit to construct, in

which case: (3-23-98)

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. (5-1-94)

ii. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (3-23-98)

iii. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02. (4-5-00)

iv. Unless a different time is prescribed by these rules, the applicable requirements contained in a permit to construct will be incorporated into the Tier I operating permit during renewal (Section ~~269~~369). Where an existing Tier I permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation. Tier I sources required to meet the requirements under Section 112(g) of the Clean Air Act (Section 214), or to have a permit under the preconstruction review program approved into the applicable implementation plan under Part C (Section 205) or Part D (Section 204) of Title I of the Clean Air Act, shall file a complete application to obtain a Tier I permit revision within twelve (12) months after commencing operation. (~~3-19-99~~)(____)

v. The application or minor or significant permit modification request shall be processed in accordance with timelines: Section 361 and Subsections 367.02 through 367.05. (3-19-99)

vi. The final Tier I operating permit action shall incorporate the relevant terms and conditions from the permit to construct; or (4-5-00)

b. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 386 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)

i. Completeness of the application shall be determined within thirty (30) days. (5-1-94)

ii. The Department shall prepare a proposed permit to construct or denial in accordance with Sections 200 through 219 and a draft Tier I operating permit or Tier I operating permit modification in accordance with Sections 300 through 386 within sixty (60) days. (4-5-00)

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364 and 365 on the proposed permit to construct or denial and draft Tier I operating permit or Tier I operating permit modification. (4-5-00)

iv. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial within fifteen (15) days of the close of the public comment period. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)

v. The final permit to construct will be sent to EPA, along with the proposed Tier I operating permit or modification. The proposed Tier I operating permit or modification shall be sent for review in accordance with Section 366. (4-5-00)

vi. The Tier I operating permit, or Tier I operating permit modification, will be issued in accordance with Section 367. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02; or (4-5-00)

c. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 381 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)

- i. Completeness of the application shall be determined within thirty (30) days. (4-5-00)
- ii. The Department shall prepare a draft permit to construct or denial in accordance with Sections 200 through 219 and that also meets the requirements of Sections 300 through 381 within sixty (60) days. (4-5-00)
- iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364, and 365 on the draft permit to construct or denial. (4-5-00)
- iv. The Department shall prepare and send a proposed permit to construct or denial to EPA for review in accordance with Section 366. EPA review of the proposed permit to construct or denial in accordance with Section 366 can occur concurrently with public comment and affected state review of the draft permit, as provided in Subsection 209.05.c.iii. above, except that if the draft permit or denial is revised in response to public comment or affected state review, the Department must send the revised proposed permit to construct or denial to EPA for review in accordance with Section 366. (4-5-00)
- v. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial in accordance with Section 367. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)
- vi. The permittee may, at any time after issuance, request that the permit to construct requirements be incorporated into the Tier I operating permit through an administrative amendment in accordance with Section 381. The owner or operator may operate the source or modification upon submittal of the request for an administrative amendment. (4-5-00)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0506

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

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

September 7, 2005, 4 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: Last year the Department of Environmental Quality (DEQ) revised its major permitting program due to changes in federal law. This docket revises a number of definitions to provide consistency between the major and minor air quality permitting programs. Also proposed are two new subsections allowing for the transfer of permit to construct and Tier II operating permits.

The text of the rule has been developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Both major and minor sources of air pollution may be interested in participating in this rulemaking. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho may also wish to submit comments on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, March 3, 2004, Vol. 04-3, page 42, under Docket No. 58-0101-0401.

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 AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440 or mbauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 7, 2005.

DATED this 1st day of July, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0101-0506

006. GENERAL DEFINITIONS.

Subsections 006.01 through 006.55 have no changes

56. Modification. Any physical change in, or change in the method of operation of, a stationary source or facility which ~~increases the amount of any regulated air pollutant emitted by such stationary source or facility~~ results in an emission increase as defined in Section 007 or which results in the emission of any regulated air pollutant not previously emitted except that routine maintenance, repair and replacement shall not be considered physical changes, and the following shall not be considered a change in the method of operation: ~~(4-5-00)(_____)~~

a. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; (5-1-94)

b. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)

c. Use of an alternative fuel or raw material if the stationary source is specifically designed to accommodate such fuel or raw material and use of such fuel or raw material is not specifically prohibited in a permit. (4-5-00)

Subsections 006.57 through 006.114 have no changes

007. DEFINITIONS FOR THE PURPOSES OF SECTIONS 200 THROUGH 228 AND 400 THROUGH 461.

01. Adverse Impact on Visibility. Visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairments, and how these factors correlate with: (4-5-00)

a. Times of visitor use of the Federal Class I area; and (4-5-00)

b. The frequency and timing of natural conditions that reduce visibility. (4-5-00)

c. This term does not include affects on integral vistas. (4-5-00)

02. Agricultural Activities and Services. For the purposes of Subsection 222.02.f., the usual and customary activities of cultivating the soil, producing crops and raising livestock for use and consumption. Agricultural activities and services do not include manufacturing, bulk storage, handling for resale or the formulation of any agricultural chemical listed in Sections 585 or 586. (5-1-94)

03. Baseline Actual Emissions. The rate of emissions, in tons per year, of a regulated air pollutant as determined by the following provisions: ()

a. For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the five (5) year period immediately preceding when the owner or operator begins actual construction of the project. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. ()

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. ()

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. ()

iii. For a regulated air pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. ()

iv. The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Subsection 007.03.a.ii. ()

b. For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the regulated air pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the ten (10) year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Director for a permit required under these rules, whichever is earlier, except that the ten (10) year period shall not include any period earlier than November 15, 1990. ()

i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions. ()

ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive twenty-four (24) month period. ()

iii. The average rate shall be adjusted downward to exclude any emission limitation with which the source must currently comply, had such source been required to comply with such limitations during the consecutive twenty-four (24) month period; however, if an emission limitation is part of a standard or other requirement under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the Department has taken credit for such emissions reductions in an attainment demonstration or maintenance plan. ()

iv. For a regulated air pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated air pollutant. ()

v. The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if

required by Subsections 006.03.b.ii. and 006.03.b.iii. ()

c. For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero (0); and, thereafter, for all other purposes, shall equal the unit's potential to emit. ()

d. For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in Subsection 007.03.a. for other existing emissions units in accordance with the procedures contained in Subsection 007.03.b. and for a new emissions unit in accordance with the procedures contained in Subsection 007.03.c. ()

04. Begin Actual Construction. Commence construction. ()

05. Emissions Increase. The amount by which projected actual emissions exceed baseline actual emissions of an emissions unit. ()

036. Innovative Control Technology. Any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice, or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental effects. (5-1-94)

047. Integral Vista. A view perceived from within the mandatory federal Class I area of a specific landmark or panorama located outside the boundary of the mandatory federal Class I area. Integral vistas are identified by the responsible federal land manager in accordance with criteria adopted pursuant to 40 CFR Part 51.304(a). (5-1-94)

058. Mandatory Federal Class I Area. Any area designated under 42 U.S.C. Section 7472(a) as Class I and never to be redesignated. (5-1-94)

069. Net Emissions Increase. ~~Any increase in actual emissions~~ For purposes of Sections 204 and 205, a net emissions increase shall be defined by the federal regulations incorporated by reference. For purposes of Section 210, a net emissions increase shall be an emissions increase from a particular modification plus any other increases and decreases in actual emissions at the facility that are creditable and contemporaneous with the particular modification, where: ~~(4-5-00)~~()

a. A creditable increase or decrease in actual emissions is contemporaneous with a particular modification if it occurs between the date five (5) years before the commencement of construction or modification on the particular change and the date that the increase from the particular modification occurs. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred and eighty (180) days; (4-5-00)

b. A decrease in actual emissions is creditable only if it satisfies the requirements for emission reduction credits (Section 460) and has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular modification, and is federally enforceable at and after the time that construction of the modification commences. (4-5-00)

c. The increase in toxic air pollutant emissions from an already operating or permitted source is not included in the calculation of the net emissions increase for a proposed new source or modification if: (5-1-95)

i. The already operating or permitted source commenced construction or modification prior to July 1, 1995; or (5-1-95)

ii. The uncontrolled emission rate from the already operating or permitted source is ten per cent (10%) or less of the applicable screening emissions level listed in Section 585 or 586; or (6-30-95)

iii. The already operating or permitted source is an environmental remediation source subject to or regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and "Idaho Rules and

Standards for Hazardous Waste,” (IDAPA 58.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order. (6-30-95)

~~0710.~~ **Pilot Plant.** A stationary source located at least one quarter (1/4) mile from any sensitive receptor that functions to test processing, mechanical, or pollution control equipment to determine full-scale feasibility and which does not produce products that are offered for sale except in developmental quantities. (5-1-94)

11. Projected Actual Emissions. ()

a. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated air pollutant in any one (1) of the five (5) years (twelve (12) month period) following the date the unit resumes regular operation after the project, or in any one (1) of the ten (10) years following that date, if the project involves increasing the emissions unit’s design capacity or its potential to emit that regulated air pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at an existing major stationary source. ()

b. In determining the projected actual emissions, the owner or operator of the stationary source: ()

i. Shall consider all relevant information including, but not limited to, historical operational data, the company’s own representations, the company’s expected business activity and the company’s highest projections of business activity, the company’s filings with state or federal regulatory authorities, and compliance plans under the approved state implementation plan; and ()

ii. Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions; and ()

iii. Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit’s emissions following the project that an existing unit could have accommodated during the consecutive twenty-four (24) month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or ()

iv. In lieu of using the method set out in Subsections 007.11.b.i. through 007.11.b.iii., may elect to use the emissions unit’s potential to emit, in tons per year. ()

~~0812.~~ **Reasonable Further Progress (RFP).** Annual incremental reductions in emissions of the applicable regulated air pollutant as identified in the SIP which are sufficient to provide for attainment of the applicable ambient air quality standard by the required date. (4-5-00)

~~0913.~~ **Secondary Emissions.** Emissions which would occur as a result of the construction, modification, or operation of a stationary source or facility, but do not come from the stationary source or facility itself. Secondary emissions must be specific, well defined, quantifiable, and affect the same general area as the stationary source, facility, or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the primary stationary source, facility or modification. Secondary emissions do not include any emissions which come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. (4-5-00)

104. Sensitive Receptor. Any residence, building or location occupied or frequented by persons who, due to age, infirmity or other health based criteria, may be more susceptible to the deleterious effects of a toxic air pollutant than the general population including, but not limited to, elementary and secondary schools, day care centers, playgrounds and parks, hospitals, clinics and nursing homes. (5-1-94)

~~115.~~ **Short Term Source.** Any new stationary source or modification to an existing source, with an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. (5-1-94)

126. Toxic Air Pollutant Reasonably Available Control Technology (T-RACT). An emission standard based on the lowest emission of toxic air pollutants that a particular source is capable of meeting by the application of control technology that is reasonably available, as determined by the Department, considering technological and economic feasibility. If control technology is not feasible, the emission standard may be based on the application of a design, equipment, work practice or operational requirement, or combination thereof. (5-1-94)

137. Visibility Impairment. Any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

209. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for permits to construct. (5-1-94)

a. Within thirty (30) days after receipt of the application for a permit to construct, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing. (5-1-94)

b. Within sixty (60) days after the application is determined to be complete the Department shall: (5-1-94)

i. Upon written request of the applicant, provide a draft permit for applicant review. Agency action on the permit under this Section may be delayed if deemed necessary to respond to applicant comments. (4-5-00)

ii. Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 209.01.c. The Department shall set forth reasons for any denial; or (5-1-94)

iii. Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)

c. An opportunity for public comment will be provided on all applications requiring a permit to construct. Public comment shall be provided on an application for any new major facility or major modification, any new facility or modification which would affect any Class I area, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516, any application which uses an interpollutant trade pursuant to Subsection 210.17, any application which the Director determines an opportunity for public comment should be provided, and any application upon which the applicant so requests. (5-3-03)

i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. (5-1-94)

ii. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (5-1-94)

iii. A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. (5-1-94)

iv. There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. (5-1-94)

v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, or notice of public hearing if one is

requested under Subsections 209.02.b.iv. or 209.02.a.ii., unless the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. (5-1-94)

vi. All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. (5-1-94)

d. A copy of each permit will be sent to the U.S. Environmental Protection Agency. (5-1-94)

02. Additional Procedures for Specified Sources. (5-1-94)

a. For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant. (4-6-05)

i. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the degree of increment consumption that is expected from the new major facility or major modification; and (5-1-94)

ii. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effects of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-23-98)

b. For any new major facility or major modification which would affect a federal Class I area or an integral vista of a mandatory federal Class I area. (5-1-94)

i. If the Department is notified of the intent to apply for a permit to construct, it shall notify the appropriate Federal Land Manager within thirty (30) days; (5-1-94)

ii. A copy of the permit application and all relevant information, including an analysis of the anticipated effects on visibility in any federal Class I area, shall be sent to the Administrator of the U.S. Environmental Protection Agency and the Federal Land Manager within thirty (30) days of receipt of a complete application and at least sixty (60) days prior to any public hearing on the application; (5-1-94)

iii. Notice of every action related to the consideration of the permit shall be sent to the Administrator of the U.S. Environmental Protection Agency; (5-1-94)

iv. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effect of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-23-98)

v. The notice of public hearing, if required, shall explain any differences between the Department's preliminary determination and any visibility analysis performed by the Federal Land Manager and provided to the Department within thirty (30) days of the notification pursuant to Subsection 209.02.b.ii. (5-1-94)

vi. Upon a sufficient showing by the Federal Land Manager that a proposed new major facility or major modification will have an adverse impact upon the air quality related values (including visibility) of any federal mandatory Class I area, the Director may deny the application notwithstanding the fact that the concentrations of regulated air pollutants would not exceed the maximum allowable increases for a Class I area. (4-5-00)

03. Establishing A Good Engineering Stack Height. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. (5-1-94)

04. Revisions of Permits to Construct. The Director may approve a revision of any permit to construct provided the stationary source or facility continues to meet all applicable requirements of Sections 200 through 228. Revised permits will be issued pursuant to procedures for issuing permits (Section 209), except that the requirements of Subsections 209.01.c., 209.02.a., and 209.02.b., shall only apply if the permit revision results in an increase in emissions authorized by the permit or if deemed appropriate by the Director. (7-1-02)

05. Permit to Construct Procedures for Tier I Sources. For Tier I sources that require a permit to construct, the owner or operator shall either: (5-1-94)

a. Submit only the information required by Sections 200 through 219 for a permit to construct, in which case: (3-23-98)

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. (5-1-94)

ii. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (3-23-98)

iii. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02. (4-5-00)

iv. Unless a different time is prescribed by these rules, the applicable requirements contained in a permit to construct will be incorporated into the Tier I operating permit during renewal (Section 269). Where an existing Tier I permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation. Tier I sources required to meet the requirements under Section 112(g) of the Clean Air Act (Section 214), or to have a permit under the preconstruction review program approved into the applicable implementation plan under Part C (Section 205) or Part D (Section 204) of Title I of the Clean Air Act, shall file a complete application to obtain a Tier I permit revision within twelve (12) months after commencing operation. (3-19-99)

v. The application or minor or significant permit modification request shall be processed in accordance with timelines: Section 361 and Subsections 367.02 through 367.05. (3-19-99)

vi. The final Tier I operating permit action shall incorporate the relevant terms and conditions from the permit to construct; or (4-5-00)

b. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 386 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)

i. Completeness of the application shall be determined within thirty (30) days. (5-1-94)

ii. The Department shall prepare a proposed permit to construct or denial in accordance with Sections 200 through 219 and a draft Tier I operating permit or Tier I operating permit modification in accordance with Sections 300 through 386 within sixty (60) days. (4-5-00)

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364 and 365 on the proposed permit to construct or denial and draft Tier I operating permit or Tier I operating permit modification. (4-5-00)

iv. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial within fifteen (15) days of the close of the public comment period. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection

213.02.c. (4-5-00)

v. The final permit to construct will be sent to EPA, along with the proposed Tier I operating permit or modification. The proposed Tier I operating permit or modification shall be sent for review in accordance with Section 366. (4-5-00)

vi. The Tier I operating permit, or Tier I operating permit modification, will be issued in accordance with Section 367. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02; or (4-5-00)

c. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 381 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)

i. Completeness of the application shall be determined within thirty (30) days. (4-5-00)

ii. The Department shall prepare a draft permit to construct or denial in accordance with Sections 200 through 219 and that also meets the requirements of Sections 300 through 381 within sixty (60) days. (4-5-00)

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364, and 365 on the draft permit to construct or denial. (4-5-00)

iv. The Department shall prepare and send a proposed permit to construct or denial to EPA for review in accordance with Section 366. EPA review of the proposed permit to construct or denial in accordance with Section 366 can occur concurrently with public comment and affected state review of the draft permit, as provided in Subsection 209.05.c.iii. above, except that if the draft permit or denial is revised in response to public comment or affected state review, the Department must send the revised proposed permit to construct or denial to EPA for review in accordance with Section 366. (4-5-00)

v. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial in accordance with Section 367. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)

vi. The permittee may, at any time after issuance, request that the permit to construct requirements be incorporated into the Tier I operating permit through an administrative amendment in accordance with Section 381. The owner or operator may operate the source or modification upon submittal of the request for an administrative amendment. (4-5-00)

06. Transfer of Permits to Construct. ()

a. Transfers by Revision. A permit to construct may be transferred to a new owner or operator in accordance with Subsection 209.06. ()

b. Automatic Transfers. Any permit to construct, with or without transfer prohibition language, may be automatically transferred if: ()

i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; ()

ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and ()

iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 209.06. If the Department does not issue such notice, the transfer is effective on the date provided in the notice

described in Subsection 209.06.b.ii.

()

(BREAK IN CONTINUITY OF SECTIONS)

404. PROCEDURE FOR ISSUING PERMITS.

- 01. General Procedures.** General procedures for Tier II operating permits. (5-1-94)
- a.** Within thirty (30) days after receipt of the application for a Tier II operating permit, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing. (5-1-94)
- b.** Within sixty (60) days after the application is determined to be complete the Department shall:
- i.** Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 404.01.c. The Department shall set forth reasons for any denial; or (5-1-94)
- ii.** Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)
- c.** An opportunity for public comment shall be provided on an application for any Tier II operating permit pursuant to Subsection 401.01, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516 and any other application which the Director determines an opportunity for public comment should be provided. (5-1-94)
- i.** The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. (5-1-94)
- ii.** The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (5-1-94)
- iii.** A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. (5-1-94)
- iv.** There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. (5-1-94)
- v.** After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, unless the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. (5-1-94)
- vi.** All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. (5-1-94)
- d.** A copy of each proposed and final permit will be sent to the U.S. Environmental Protection Agency. (4-5-00)
- 02. Specific Procedures.** Procedures for Tier II operating permits required by the Department under Subsection 401.03. (5-1-94)

a. The Director shall send a notification to the proposed permittee by registered mail of his intention to issue a Tier II operating permit for the facility concerned. The notification shall contain a copy of the proposed permit in draft form stating the proposed emission standards and any required action, with corresponding dates, which must be taken by the proposed permittee in order to achieve or maintain compliance with the proposed Tier II operating permit. (5-1-94)

b. The Department's proposed Tier II operating permit shall be made available to the public in at least one (1) location in the region in which the facility is located. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the facility is located. A copy of such notice shall be sent to the applicant. There shall be a thirty (30) day period after publication for comment on the Department's proposed Tier II operating permit. Such comment shall be made in writing to the Department. (5-1-94)

c. A public hearing will be scheduled to consider the standards and limitations contained in the proposed Tier II operating permit if the proposed permittee files a request therefor with the Department within ten (10) days of receipt of the notification, or if the Director determines that there is good cause to hold a hearing. (5-1-94)

d. After consideration of comments and any additional information submitted during the comment period or at any public hearing, the Director shall render a final decision upon the proposed Tier II operating permit within thirty (30) days of the close of the comment period or hearing. At this time the Director may adopt the entire Tier II operating permit as originally proposed or any part or modification thereof. (5-1-94)

e. All comments and additional information received during the comment period, together with the Department's final permit, shall be made available to the public at the same location as the proposed Tier II operating permit. (5-1-94)

03. Availability of Fluid Models and Field Studies. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. (5-1-94)

04. Permit Revision or Renewal. The Director may approve a revision of any Tier II operating permit or renewal of any Tier II operating permit provided the stationary source or facility continues to meet all applicable requirements of Sections 400 through 410. Revised permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsection 404.01.c. shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. Renewed Tier II operating permits will be issued pursuant to procedures for issuing permits (Section 404), except that the requirements of Subsections 404.01.c., and 404.02.b. through 404.02.e. shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. The expiration of a permit will not affect the operation of a stationary source or a facility during the administrative procedure period associated with the permit renewal process. (7-1-02)

05. Transfer of Tier II Permit. ()

a. Transfers by Revision. A Tier II permit may be transferred to a new owner or operator in accordance with Subsection 404.05. ()

b. Automatic Transfers. Any Tier II permit, with or without transfer prohibition language, may be automatically transferred if: ()

i. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; ()

ii. The notice provides written documentation signed by the current and proposed permittees containing a date for transfer of permit responsibility, designation of the proposed permittee's responsible official, and certification that the proposed permittee has reviewed and intends to operate in accordance with the permit terms and conditions; and ()

iii. The Department does not notify the current permittee and the proposed permittee within thirty (30) days of receipt of the notice of the Department's determination that the permit must be revised pursuant to Subsection 404.05. If the Department does not issue such notice, the transfer is effective on the date provided in the notice described in Subsection 404.05.b.ii. ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-0501

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Department of Environmental Quality (DEQ) has proposed rulemaking. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before August 17, 2005. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: Idaho's Rules and Standards for Hazardous Waste are updated annually to maintain consistency with the U.S. Environmental Protection Agency's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). Idaho has historically adopted both required and optional federal regulations so that Idaho's hazardous waste rules are the same as federal requirements. Optional federal regulations usually allow more flexibility to the regulated community; required federal regulations are necessary to maintain program primacy. Adoption by reference allows the Department of Environmental Quality (DEQ) to keep its rules up to date with federal regulation changes and minimizes the EPA Region 10 effort needed to keep Idaho's authorization current. Adoption by reference also simplifies compliance for the regulated community. This proposed rule updates citations to the federal regulations incorporated by reference to include those revised as of July 1, 2005.

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

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2006 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact John Brueck at (208)373-0458 or john.brueck@deq.idaho.gov.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before August 31, 2005.

Dated this 1st day of July, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0105-0501

002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260-266, 268, 270, 273, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 2004~~5~~, including any notes and appendices therein, unless expressly provided otherwise in these rules. ~~(4-6-05)~~(_____)

01. Exceptions. Nothing in 40 CFR Parts 260 - 266, 268, 270, 273, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (7-2-97)

02. Availability of Referenced Material. The federal regulations adopted by reference throughout these rules are maintained at the following locations: (7-2-97)

- a. U.S. Government Printing Office, <http://www.gpoaccess.gov/index.html>; and (3-20-04)
- b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208)334-3316; and (7-2-97)
- c. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. (7-2-97)

(BREAK IN CONTINUITY OF SECTIONS)

004. HAZARDOUS WASTE MANAGEMENT SYSTEM.

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260-266, 268, 270, 273, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 2004~~5~~, including any notes and appendices therein, unless expressly provided otherwise in these rules. ~~(4-6-05)~~(_____)

005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.

40 CFR Part 261 and all Subparts, except the language "in the Region where the sample is collected" in 40 CFR 261.4(e)(3)(iii), except remanded waste codes "K064, K065, K066, K090 and K091" listed in 40 CFR Part 261 Appendix VII, except "49 CFR 173.300" in 40 CFR 261.21(a)(3) as replaced with "49 CFR 173.115 or equivalent test methods in Chapter 7 of SW-846," except "49 CFR 173.151" in 40 CFR 261.21(a)(4) as replaced with "49 CFR 173.127" and except 40 CFR 261.23(a)(8), are herein incorporated by reference as provided in 40 CFR, revised as of

July 1, 2004~~5~~. For purposes of 40 CFR 261.10 and 40 CFR 261.11, "Administrator" shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 261 Appendix IX, "EPA" shall be defined as the U.S. Environmental Protection Agency. ~~(4-6-05)~~(____)

01. Excluded Wastes. Chemically Stabilized Electric Arc Furnace Dust (CSEAFD) generated by Envirosafe Services of Idaho, Inc. (ESII) at ESII's facility in Grand View, Idaho using the Super Detox(R) treatment process as modified by ESII and that is disposed of in a Subtitle D or Subtitle C landfill is excluded from the lists of hazardous waste provided ESII implements a program that meets the following conditions: (3-16-96)

a. Verification Testing Requirements. Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.01.b. and 005.01.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (3-16-96)

b. Initial Verification Testing. (3-16-96)

i. For purposes of Subsections 005.01.b., "new source" shall mean any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Department of Environmental Quality Hazardous Waste No. KO61, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Subsection 005.01.d. (3-16-96)

ii. Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in writing. The written notification shall include: (3-16-96)

(1) The waste profile information; and (3-16-96)

(2) The name and address of the generator. (3-16-96)

iii. The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.01.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iv. If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Subsection 005.01.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Subsection 005.01.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (3-16-96)

v. CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: (3-16-96)

(1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d.; and (3-16-96)

(2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.01.b.iv. (3-16-96)

vi. For purposes of Subsections 005.01.b. and 005.01.c., "batch" shall mean the CSEAFD which results from a single treatment episode in a full scale mixing vessel. (3-16-96)

c. Subsequent Verification Testing. (3-16-96)

i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.01.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. (3-16-96)

ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the

CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. (3-16-96)

iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.01.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.01.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (3-16-96)

v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.01.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final analytical results, and any CSEAFD which contributed to the sample must be: (3-16-96)

(1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.01.d.; or (3-16-96)

(2) Managed and disposed of in accordance with Subtitle C of RCRA. (3-16-96)

vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

d. Delisting Levels. (3-16-96)

i. All leachable concentrations for these metals must not exceed the following levels (mg/l):

antimony	0.06
arsenic	0.50
barium	7.60
beryllium	0.010
cadmium	0.050
chromium	0.33
lead	0.15
mercury	0.009
nickel	1
selenium	0.16
silver	0.30
thallium	0.020
vanadium	2
zinc	70

(3-16-96)

ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (3-16-96)

e. Modification of Treatment Process. (3-16-96)

i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. (3-16-96)

ii. After ESII's receipt of written approval from the Department, and subject to any conditions included with the approval, ESII may implement the proposed modification. (3-16-96)

iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the process was modified. (3-16-96)

iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Department of Environmental Quality, Permits and Enforcement, 1410 N. Hilton, Boise, Idaho 83706. (3-16-96)

f. Records and Data Retention and Submittal. (3-16-96)

i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (3-16-96)

ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (3-16-96)

iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (3-16-96)

iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (3-16-96)

g. Facility Merger and Name Change. On May 4, 2001, the Department was notified of a stock transfer that resulted in ESII's facility merging with American Ecology. This created a name change from EnviroSAFE Services of Idaho, Inc. (ESII) to US Ecology Idaho, Inc. effective May 1, 2001. All references to EnviroSAFE Services of Idaho, Inc. or ESII now refer to US Ecology Idaho, Inc. (3-15-02)

006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.

01. Incorporation by Reference. 40 CFR Part 262 and all Subparts, except for the language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and 40 CFR 262.42(b), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. For purposes of 40 CFR 262.55, 262.56, and 262.57(b), "Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director. For purposes of 40 CFR 262.51, 262.53, 262.54(g)(1), and 262.85(g), EPA shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR Part 262 Subparts E, F, H, and 40 CFR 262.41(a)(4), "United States or U.S." shall be defined as the United States. (~~4-6-05~~)(_____)

02. Generator Emergency Notification. In addition to the emergency notification required by 40 CFR 265.56(d)(2), 262.34(d)(5)(iv)(C), (see 40 CFR 262.34(a)(4)), 263.30(c)(1), and 264.56(d)(2), the emergency coordinator must also immediately notify the State Communications Center by telephone, 1-800-632-8000, to file an identical report. (3-15-02)

007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.

40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. For purposes of 40 CFR 263.20(g), 263.20(g)(1), 263.20(g)(4), 263.21(a)(4), and 263.22(d), "United States" shall be defined as the United States. (~~4-6-05~~)(____)

008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 264 and all Subparts (excluding 40 CFR 264.1(f), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f) and 264.1080(g)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. For purposes of 40 CFR Subsection 264.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 264.1082(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency. (~~4-6-05~~)(____)

009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 265, and all Subparts (excluding Subpart R, 40 CFR 265.1(c)(4), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g)) and except the language contained in 40 CFR 265.340(b)(2) as replaced with, "The following requirements continue to apply even when the owner or operator has demonstrated compliance with the MACT requirements of part 63, subpart EEE of this chapter: 40 CFR 265.351 (closure) and the applicable requirements of Subparts A through H, BB and CC of this part.", are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. For purposes of 40 CFR Subsection 265.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 265.1083(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency. (~~4-6-05~~)(____)

010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES.

40 CFR Part 266 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. (~~4-6-05~~)(____)

011. LAND DISPOSAL RESTRICTIONS.

40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~, except for 40 CFR 268.1(e)(3), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g). The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(17) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. For purposes of 40 CFR 268.2(j) "EPA" shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 268.40(b), "Administrator" shall be defined as U.S. Environmental Protection Agency Administrator. In 40 CFR 268.7(a)(9)(iii), "D009" is excluded, (from lab packs as noted in 40 CFR Part 268 Appendix IV.) In 40 CFR 268.48(a), the entry for "2,4,6-Tribromophenol" is excluded. (~~4-6-05~~)(____)

012. HAZARDOUS WASTE PERMIT PROGRAM.

40 CFR Part 270 and all Subparts, except 40 CFR 270.12(a) and 40 CFR 270.14(b)(18), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(2), 270.10(f)(3), 270.10(g), 270.11(a)(3), 270.32(a), 270.32(b)(2), 270.32(c), 270.51, 270.72(a)(5), and 270.72(b)(5), "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively. (~~4-6-05~~)(____)

013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).

40 CFR Part 124, Subparts A and B are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~, except that 40 CFR 124.19, the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively. (~~4-6-05~~)(____)

(BREAK IN CONTINUITY OF SECTIONS)

015. STANDARDS FOR THE MANAGEMENT OF USED OIL.

01. Incorporation by Reference. 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. For purposes of 40 CFR 279.43(c)(3)(ii) "Director" shall be defined as the Director, U.S.DOT Office of Hazardous Materials Regulation. (~~4-6-05~~)(____)

02. Used Oil as a Dust Suppressant. 40 CFR Part 279 contains a prohibition on the use of used oil as a dust suppressant at 279.82(a), however, States may petition EPA to allow the use of used oil as a dust suppressant. Members of the public may petition the State to make this application to EPA. This petition to the State must: (2-11-94)

a. Be submitted to the Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255; and (2-11-94)

b. Demonstrate how the requirements of 40 CFR 279.82(b) will be met. (2-11-94)

016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.

40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2004~~5~~. For purposes of 40 CFR 273.32(a)(3), "EPA" shall be defined as the U.S. Environmental Protection Agency. (~~4-6-05~~)(____)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.13 - RULES FOR ORE PROCESSING BY CYANIDATION

DOCKET NO. 58-0113-0501

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rule was effective July 13, 2005.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality (DEQ) is commencing proposed rulemaking. This action is authorized by Chapter 1, Title 39, Idaho Code. In addition, the Idaho Legislature directed DEQ to promulgate rules to implement the provisions of Senate Bill 1169 (codified at Section 39-118A, Idaho Code).

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before August 17, 2005. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: Under Senate Bill 1169, the 2005 Idaho Legislature amended Section 39-118A, Idaho Code, and the Surface Mining Act, Chapter 15, Title 47, Idaho Code, with respect to bonding, closure plans, and time frames for rejecting or approving permits for ore processing facilities using cyanide. Senate Bill 1169 directed DEQ and the Idaho Department of Lands (IDL) to promulgate temporary rules implementing the provisions of the legislation by August 1, 2005. This temporary/proposed rule is the result of a series of negotiated rulemaking meetings conducted with members of the regulated community, other interested parties, and IDL. The Board of Environmental Quality adopted the temporary rule on June 23, 2005.

The Idaho Mining Association, Independent Miners Association, Idaho Conservation League, Idaho Rivers United, U.S. EPA, mining companies, associated grass roots environmental and multiple use organizations, and the public at large may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality for adoption of a pending rule in November 2005. The pending rule will become final upon the conclusion of the 2006 session of the Idaho Legislature if approved by the Legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is necessary to meet the deadline for rule adoption set out in Senate Bill 1169.

IDAHO CODE SECTION 39-107D STATEMENT: This temporary/proposed rule makes revisions to a current existing rule that regulates an activity not regulated by the federal government. The Idaho Legislature directed DEQ to promulgate temporary rules to implement the provisions of Senate Bill 1169 by August 1, 2005. DEQ initiated this rulemaking to meet that statutory directive.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, April 6, 2005, Vol. 05-4, page 23.

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 AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact John Lawson at john.lawson@deq.idaho.gov, (208)373-0141.

Anyone may submit written comments regarding this proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before August 31, 2005.

DATED this 1st day of July, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0113-0501

000. LEGAL AUTHORITY.

Title 39, Chapter 1, Idaho Code, grants the authority to the Board of Environmental Quality to adopt rules, regulations and standards to protect the environment and the health of the State; grants authority to the Director to issue permits as prescribed by law and by the rules of the Board; and requires Department of Environmental Quality review and approval of plans and specifications for all new facilities, or for modifications or expansions to existing facilities, that process ore by cyanidation; and authorizes the Director to require a reasonable fee for processing permit applications ~~and to require financial assurance for permanent closure.~~ (1-1-88)(7-13-05)T

001. TITLE, SCOPE AND INTENT.

01. Title. These rules shall be known as Idaho Department of Environmental Quality Rules, IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation". (1-1-88)

02. Scope and Intent. These rules establish the procedures and requirements for the issuance and maintenance of a permit to construct, operate and close that portion of ~~an ore processing a cyanidation facility which utilizes cyanidation and that~~ is intended to contain, treat or dispose of process water or process-contaminated water containing cyanide. The provisions of these rules also establish requirements for water quality protection which address performance, construction, operation and closure of that portion of any ~~ore processing cyanidation~~ facility that is intended to contain, treat, or dispose of process water ~~or process-contaminated water containing cyanide~~. These rules are intended to ensure that process water and process-contaminated water generated in ore processing operations that utilize cyanide as a primary leaching agent and pollutants associated with the cyanidation process are safely contained, controlled, and treated so that they do not interfere with the beneficial uses of the waters of the state and do not endanger public safety or the environment. (12-31-91)(7-13-05)T

002. DEFINITIONS.

01. Beneficial Use. Any of the various uses which may be made of the surface and/or ground water of the state including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. Beneficial uses for specific stream segments are established in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality

Standards and Wastewater Treatment Requirements”. (1-25-95)

02. Best Management Practices (BMPs). Practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan, as described in IDAPA 58.01.02, “Water Quality Standards and Wastewater Treatment Requirements,” which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals. (7-13-05)T

023. Cyanidation. A The method of extracting target precious metals from ores by treatment with a cyanide solution, which is the primary leaching agent for extraction. (~~1-1-88~~)(7-13-05)T

04. Cyanidation Facility. That portion of a new ore processing facility, or a material modification or a material expansion of that portion of an existing ore processing facility, that utilizes cyanidation and is intended to contain, treat, or dispose of cyanide containing materials including spent ore, tailings and process water. (7-13-05)T

035. Department. The Idaho Department of Environmental Quality. (1-1-88)

046. Director. The Director of the Department of Environmental Quality or his designee. (12-31-91)

057. Discharge. When used without qualification, ~~the release of process water, process-contaminated water, chemicals, or other potential any~~ spilling, leaking, emitting, escaping, leaching, or disposing of a pollutants into the ~~surface waters and/or ground~~ waters of the State. (~~1-1-88~~)(7-13-05)T

06. Existing Facility. ~~Any facility engaged in commercial cyanidation within one (1) year prior to the original effective date of these rules; any portion of a facility under construction prior to the original effective date of these rules; or, any portion of a facility under construction within three (3) months after the effective date of these rules, and in accordance with Department approved engineering plans and specifications.~~ (7-1-97)

07. Facility. ~~For the purpose of these rules, a facility means that portion of an ore processing operation which utilizes cyanidation and which is intended to contain, treat, or dispose process water or process-contaminated water containing cyanide.~~ (7-1-97)

08. Free Cyanide. The sum of cyanide present as undissociated molecular hydrogen cyanide (HCN) and the cyanide ion (CN⁻), expressed as cyanide (CN). (1-1-88)

09. Groundwater. ~~Subsurface water comprising the zone of saturation including perched groundwater.~~ Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (~~1-1-88~~)(7-13-05)T

10. Impoundment. For the purpose of these rules an impoundment means a structure such as a pond, reservoir, tank, or vat that collects and confines liquids or slurries. (7-1-97)

11. Land Application. A process or activity involving application of process water, process-contaminated water, wastewater, surface water, or semi-liquid material to the land for the purpose of disposal, pollutant removal, or groundwater recharge. (1-1-88)

12. Liner. A continuous layer of natural or man-made materials beneath and, if applicable, on the sides of a surface impoundment or leach pad which restricts the downward and lateral escape of liquids. (1-1-88)

13. Material Modification or Material Expansion. (7-13-05)T

a. The addition of a new beneficiation process which includes, but is not limited to, heap leaching and process components for milling, which was not identified in the original application that significantly increases the potential to degrade the waters of the state; or (7-13-05)T

b. A significant change in the location of a proposed process component or site condition which was not adequately described in the original application; or (7-13-05)T

c. A change in the beneficiation process that alters the characteristics of the waste stream in a way that significantly increases the potential to degrade the waters of the state. (7-13-05)T

d. Reclamation or closure related activities at a facility with an existing cyanidation permit that did not actively add cyanide after January 1, 2005 shall not be considered to be material modifications or material expansions of the cyanidation facility. (7-13-05)T

14. Material Stabilization. Managing or treating spent ore, tailings or other solids and/or sludges resulting from the cyanidation process to minimize waters or all other applied solutions from migrating through the material and transporting contaminants associated with the cyanidation facility to ensure that all discharges comply with all applicable standards and criteria. (7-13-05)T

15. Neutralization. Treatment of process waters such that discharge or final disposal of those waters does not, or shall not, violate any applicable standards and criteria. (7-13-05)T

136. Permanent Closure. *Final cessation of operations.* Those activities which result in neutralization, material stabilization and decontamination of cyanidation facilities and/or their final reclamation. (~~1-1-88~~)(7-13-05)T

17. Permanent Closure Plan. A description of the procedures, methods, and schedule that will be implemented to meet the intent and purpose of Section 39-118A, Idaho Code, and Chapter 15, Title 47, Idaho Code, in treating and disposing of cyanide-containing materials including spent ore, tailings, and process water and in controlling and monitoring discharges and potential discharges for a reasonable period of time based on site-specific conditions. (7-13-05)T

148. Permit. When used without qualification, any written authorization by the Director, issued pursuant to the application, public participation and appeal procedures in these rules, governing location, operation and maintenance, monitoring, seasonal and permanent closure, discharge response, and design and construction of a new cyanidation facility or a material expansion or material modification to a cyanidation facility. (~~7-1-97~~)(7-13-05)T

159. Permittee. The person in whose name a permit is issued and who is to be the principal party responsible for compliance with these rules and the conditions of a permit. (7-1-97)

1620. Person. An individual, corporation, partnership, association, state, municipality, commission, federal agency, special district or interstate body. (1-1-88)

1721. Pilot Facility. (7-1-97)

a. A testing cyanidation facility that is constructed primarily to obtain data on the effectiveness of the benefaction process to determine: (~~7-1-97~~)(7-13-05)T

i. The feasibility of metals recovery from an ore; or (7-1-97)

ii. The optimum operating conditions for a predetermined process to extract values from an ore. (7-1-97)

b. A pilot or testing facility operates for one (1) year for a single test or two (2) years for multiple tests, during which time no more than ten thousand (10,000) tons of ore are evaluated for the testing process(es), unless the applicant can demonstrate that a greater amount is necessary for a specific purpose in the testing process. (7-1-97)

1822. Pollutant. Chemicals, chemical waste, process water, process-contaminated water, biological materials, radioactive materials, or other materials which, when discharged cause or contribute adverse effects to any beneficial use. (1-1-88)

23. Post-Closure. The period of time after completion of permanent closure when the operator is

monitoring the effectiveness of the closure plan. Post closure shall last a minimum of twelve (12) months but may extend until the cyanidation facility is shown to be in compliance with the stated permanent closure objectives and requirements of Chapter 15, Title 47, Idaho Code, and these rules. (7-13-05)T

24. Process Waters. Any liquids which are intentionally or unintentionally introduced into any portion of the cyanidation process. These liquids may contain cyanide or other minerals, meteoric water, ground or surface water, elements and compounds added to the process solutions for leaching or the general beneficiation of ore, or hazardous materials that result from the combination of these materials. (7-13-05)T

~~1925.~~ **Seasonal Closure.** Annual cessation of operations that is due to weather. (1-1-88)

206. Small Mineral Cyanidation Processing Facility. A cyanidation facility which chemically processes less than thirty-six thousand five hundred (36,500) tons of ore per year and no more than one hundred twenty thousand (120,000) tons of ore for the life of the project at any one (1) permitted ~~site~~ cyanidation facility. No person or applicant may concurrently hold more than one (1) small ~~mineral~~ cyanidation processing facility permit, if located within ten (10) miles of each other. (~~7-1-97~~)(7-13-05)T

~~217.~~ **Special Resource Water.** Those waters of the state which are recognized as needing intensive protection: (1-1-88)

a. To preserve outstanding or unique characteristics; or (1-1-88)

b. To maintain current beneficial use (refer to Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," for a complete description; special resource waters for specific stream segments are established in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements"). (1-25-95)

~~228.~~ **State.** The state of Idaho. (12-31-91)

~~239.~~ **Temporary Closure.** Any cessation of operations exceeding thirty (30) days, other than seasonal or permanent. (1-1-88)

~~2430.~~ **Treatment.** Any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a waste for the purpose of disposal. (1-1-88)

31. Water Balance. An inventory and accounting process, capable of being reconciled, that integrates all potential sources of water that are entrained in the cyanidation facility or may enter into or exit from the cyanidation facility. The inventory must include the water holding capacity of specific structures within the facility that contain process water. The water balance is used to ensure that all process water can be contained as engineered and designed within a factor of safety as determined in the permanent closure plan. (7-13-05)T

32. Water Management Plan. A document that describes the results of the water balance and the methods that will be used to ensure that pollutants are not discharged from a cyanidation facility into waters of the state unless permitted or otherwise approved by the Department. (7-13-05)T

~~2533.~~ **Waters of the State.** All the accumulations of water, surface and underground, natural and artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. These waters shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state. (~~12-31-91~~)(7-13-05)T

~~2634.~~ **Weak Acid Dissociable (WAD) Cyanide.** The sum of free cyanide and all but the most refractory metal cyanide complexes, such as the iron, gold, cobalt, and platinum cyanides. The cyanide concentration as determined by Method C, Weak Acid Dissociable Cyanide, D2036 of American Society of Testing Materials Book of Standards, "Standard Methods for the Examination of Water and Wastewater," Method 4500-CN- I, or other methods accepted by the scientific community and deemed appropriate by the Department. (~~1-1-88~~)(7-13-05)T

003. -- 009. (RESERVED).

010. APPLICABILITY TO ~~EXISTING~~ FACILITIES WITH EXISTING PERMITS.

A cyanidation facility with an existing permit approved by the Department prior to July 1, 2005 shall be subject to the applicable laws and rules for ore processing by cyanidation in effect on June 30, 2005. Material modifications or material expansions of such facilities are subject to Section 39-118A, Idaho Code. The rules for ore processing by cyanidation in effect on June 30, 2005 can be obtained by contacting the Department of Environmental Quality, Hearing Coordinator, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, www.deq.idaho.gov. (7-13-05)T

~~01. **Registration Requirement.** Except as expressly provided in these rules, an existing facility shall not be subject to these rules if the owner or operator of such a facility registers with the Department within three (3) months after the original effective date of these rules. Nothing in this section shall be construed to deny the owner or operator of an existing facility the opportunity to apply for, and receive, a permit under these rules. (1-1-88)~~

~~02. **Registration Form.** Registration of an existing facility shall include the following, and items in Subsections 010.02.k., 010.02.n., 010.02.p., and 010.02.q. shall be in sufficient detail for the Director to determine, in the future, if a registered existing facility has been materially modified or materially expanded without a valid permit under these rules: (12-31-91)~~

- ~~a. Name, location and mailing address of the facility; (1-1-88)~~
- ~~b. Name, phone number and mailing address of the facility owner or operator, and the registered agent; (1-1-88)~~
- ~~c. Land ownership status of the facility (federal, state, private or public entity); (1-1-88)~~
- ~~d. Legal structure of the owner or operator (corporation, partnership, etc.); (1-1-88)~~
- ~~e. Facility layout, topographic map with plan view of the facility; (1-1-88)~~
- ~~f. Wells, irrigation ditches and drainages within one (1) mile radius of the facility (shown on topographic map); (1-1-88)~~
- ~~g. Existing water quality monitoring and leak detection, including number, monitoring frequency and location of wastewater surface water and groundwater monitoring sites (shown on topographic map); (1-1-88)~~
- ~~h. Project access; (1-1-88)~~
- ~~i. Estimated facility life; (1-1-88)~~
- ~~j. Operating season; (1-1-88)~~
- ~~k. Ore processing rate (tons/day); (1-1-88)~~
- ~~l. Process solution flow rate (gal./day); (1-1-88)~~
- ~~m. Water supply source, location and peak demand; (1-1-88)~~
- ~~n. General description of steps involving cyanidation including:
 - ~~i. Leaching cycle (time); and (1-1-88)~~
 - ~~ii. Process waste (spent ore and/or excess process water) treatment and disposal method, location, volume and area; (1-1-88)~~~~
- ~~o. Water management system(s), including determination of overall water balance; (1-1-88)~~
- ~~p. Storage capacity of all process impoundments and emergency impoundments, and the total free-~~

~~board storage in excess of total operating requirements.~~ (1-1-88)

~~g. Total pad, pond and lined areas including basic design and materials to be used.~~ (1-1-88)

~~03. Verification of Registration. Registration under this section shall be subject to on-site verification by the Director, and shall be based upon the truth and accuracy of the information provided on the registration form.~~ (1-1-88)

~~04. Public Notice. No public notice of registration is required.~~ (1-1-88)

~~05. False Information. Submission of false information or the material omission of information without reasonable investigation for purposes of registration under this section shall be cause for the Director to require an existing facility to apply for, and obtain, a permit under these rules.~~ (1-1-88)

011. -- 049. (RESERVED).

050. CONCEPTUAL DESIGN APPROVAL.

01. Information Required for Conceptual Design Approval. Submittal of a Conceptual Design Report is not mandatory. The Director may, if requested, give initial approval of the basic operation, design concepts, and environmental safeguards proposed based on the information included in a Conceptual Design Report. Approval of the Conceptual Design Report shall not authorize the construction, modification or operation of the cyanidation facility. The Conceptual Design Report shall consist of the following: (1-1-88)(7-13-05)T

a. Requirements for a permit application as listed in Subsections 100.03.a. through 100.03.f. (12-31-91)

b. A general description of the operating plan, processing cyanidation facility and conceptual designs. (1-1-88)(7-13-05)T

02. Notice of Conceptual Design Approval or Disapproval. The Director shall notify the applicant in writing of the decision for conceptual approval or disapproval within a period of thirty (30) days from receiving all information as required under Subsection 050.01. The time required to review and approve, if appropriate, a conceptual design shall be considered separate from and shall not be included as part of the one hundred eighty (180) day time period for processing the formal application and issuance of a Director's determination pursuant to these rules. (12-31-91)(7-13-05)T

03. Preapplication Conference. Prospective applicants are encouraged to meet with agents of the Department well in advance to discuss siting and operating plans, anticipated application requirements, application procedures, and to arrange for ~~a-site~~ cyanidation facility visits. (1-1-88)(7-13-05)T

051. -- 099. (RESERVED).

100. PERMIT AND PERMIT APPLICATION.

01. Permit Required. No person shall construct a new cyanidation facility prior to obtaining a permit from the Director. No person shall materially expand or materially modify a ~~new or existing~~ cyanidation facility prior to obtaining a permit for such expansion or modification. (1-1-88)(7-13-05)T

02. Permit Application. The owner or operator of a proposed cyanidation facility or the owner's or operator's authorized representative shall: (7-13-05)T

a. ~~make~~ Make application to the Director in writing and in a manner or form prescribed herein; and (1-1-88)(7-13-05)T

b. Provide five (5) paper copies of the application to the Director, unless otherwise agreed to by the Department and the applicant. (7-13-05)T

03. Contents of Application. A permit application will be used to determine if the location, construction, operation, and closure of a proposed cyanidation facility will be in conformance with these and other applicable rules including, but not limited to Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," and Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems". Information required shall include the following, in sufficient detail to allow the Director to make necessary application review decisions concerning design concept, environmental protection and public health: ~~(7-1-97)~~(7-13-05)T

- a. Name, location, and mailing address of the cyanidation facility. ~~(1-1-88)~~(7-13-05)T
- b. Name, mailing address, and phone number of the applicant, and a registered agent. (1-1-88)
- c. Land ownership status of the cyanidation facility (federal, state, private or public). ~~(1-1-88)~~(7-13-05)T
- d. The legal structure (corporation, partnership, etc.) and residence of the applicant. (1-1-88)
- e. A surface and subsurface description, except as provided in Subsection 100.04 of these rules, of ~~the proposed facility site to characterize~~ the local hydrogeologic regime. ~~(7-1-97)~~(7-13-05)T
- f. A topographic site map and or aerial photos, except as provided in Subsection 100.04 of these rules, extending at least one (1) mile beyond the outer limits of the cyanidation facility ~~site~~, identifying and showing the location and extent of the following features: ~~(7-1-97)~~(7-13-05)T
 - i. All wells, springs, wetlands, surface waters and irrigation ditches within one (1) mile of the ~~site boundary~~ cyanidation facility; ~~(1-1-88)~~(7-13-05)T
 - ii. All process water supply source(s); (1-1-88)
 - iii. All public and private drinking water supply source(s) within at least one (1) mile of the ~~site boundary~~ cyanidation facility; ~~(1-1-88)~~(7-13-05)T
 - iv. All USGS identified floodplain areas (as shown on USGS sectional Quadrangle maps); (1-1-88)
 - v. All service roads and public roads; (1-1-88)
 - vi. All buildings and structures within a half (1/2) mile of the ~~site boundary~~ cyanidation facility; ~~(1-1-88)~~(7-13-05)T
 - vii. All special resource waters within one (1) mile of the ~~site boundary~~ cyanidation facility; ~~(1-1-88)~~(7-13-05)T
- g. Topographic maps and/or aerial photos and an engineering report with drawings, except as provided in Subsection 100.04 of these rules, showing locations and design of those portions of the cyanidation facility intended to contain, treat, or dispose process water or process-contaminated water containing cyanide. This information shall be of sufficient detail to allow the Director to make necessary factual determinations concerning design competence and environmental protection and include: a drawing which shows surface gradients and flow of process solutions, predicted flow of runoff and run-on; design criteria and process schematic; leach pad and pond cross sections; typical details of liner systems for pads, ponds and process-related impoundments; treatment process schematics; and leak detection/monitoring system details. The cyanidation facility design shall be certified by a registered professional engineer. Any material modifications to the engineering drawings shall require prior approval by the Department and submittal of as built drawings by the applicant which are certified by a registered professional engineer. These rules recognize the need for practicable design flexibility in order to meet site specific operating and environmental protection criteria. Construction and material specifications that meet design criteria shall be submitted with the permit application. These shall address major construction requirements related to materials of construction identified in the engineering report, inspection and testing requirements (including liners), and necessary

manufacturer certifications. Construction specifications shall include a quality assurance procedure for liner installations and a procedure for leak testing of impoundments. ~~(7-1-97)~~(7-13-05)T

- h. An operating plan, except as provided in Subsection 100.04 of these rules, that includes: (7-1-97)
- i. The general ore processing overview; (1-1-88)
- ii. The process containment, treatment and disposal methods to be used; (1-1-88)
- iii. A water management ~~strategy plan~~ that describes the process water balance and the methods to manage all process water, process-contaminated water, and runoff or run-on water, emergency releases, and excess water due to flood, rain, snowmelt, or other similar events. The ~~strategy plan~~ shall include the basis for impoundment volumes and all estimations. Nothing in these rules shall be construed to deny the owner or operator of a cyanidation facility the opportunity to apply for and receive a federal discharge permit or an Idaho Department of Water Resources injection well permit as part of the water management ~~strategy plan~~. In addition the ~~strategy plan~~ may include a request for approval of a land application proposal or a proposal for economic reuse. ~~(7-1-97)~~(7-13-05)T
- iv. A monitoring strategy that describes the existing water quality (baseline), proposed monitoring of surface and ground waters that may receive drainage or seepage from the operation (operational), and proposed monitoring for detection and location of leaks or discharges from the operation. (1-1-88)
- v. A discharge response strategy that describes procedures and methods to be implemented for the abatement, and clean up of any pollutant that may escape proper containment at the cyanidation facility. ~~(1-1-88)~~(7-13-05)T
- vi. A seasonal closure strategy, if applicable, that describes the procedures, methods, and schedule to be implemented for the treatment and disposal of process water, the control of drainage from the cyanidation facility during the period of closure, the control of drainage from the surrounding area, and the secure storage of chemicals. ~~(1-1-88)~~(7-13-05)T
- i. ~~A Permanent Closure Plan that describes the procedures, methods, and schedule to be implemented at the facility for the treatment and disposal of process water and process-contaminated water and the control and monitoring of discharges and potential discharges for a reasonable period of time based on site specific conditions. The permanent closure plan may be the same as the plan submitted to the Idaho Department of Lands pursuant to the Idaho Surface Mining Act, Chapter 15, Title 47, Idaho Code. The permanent closure plan shall:~~ ~~(1-1-88)~~(7-13-05)T
 - i. Provide a definition of the current ownership of the cyanidation facility and the party responsible for the permanent closure and the long-term care and maintenance of the cyanidation facility. (7-13-05)T
 - ii. Include a timeline showing the schedule to complete permanent closure activities, including neutralization of process waters and material stabilization, and the time period for which the operator shall be responsible for post-closure activities. (7-13-05)T
 - iii. Provide the objectives, methods and procedures, that will achieve neutralization of process waters and material stabilization during the closure period and through post-closure. (7-13-05)T
 - iv. Provide a water management plan from the time the cyanidation facility is in permanent closure through the defined post-closure period. (7-13-05)T
 - v. Include the schematic drawings for all BMPs that will be used during the closure period, through the defined post-closure period, a description of how the BMPs support the water management plan, and an explanation of the water conveyance systems that are planned for the cyanidation facility. (7-13-05)T
 - vi. Provide proposed post-construction topographic maps and scaled cross-sections showing the configuration of the final heap or tailing facility, including final cap and cover designs and the plan for long-term operation and maintenance of the cap. Caps and covers used as source control measures for cyanidation facilities must be designed to minimize the interaction of meteoric waters, surface waters, and ground waters with wastes

containing contaminants that are likely to be mobilized and discharged to waters of the state. Engineering designs and specifications for caps and covers must be signed and stamped by a professional engineer registered in the state of Idaho. (7-13-05)T

vii. Include monitoring plans for surface and ground water during closure and post-closure periods adequate to demonstrate water quality trends and to ensure compliance with the stated permanent closure objectives and requirements of these rules. (7-13-05)T

viii. Provide an assessment of the potential impacts to soils and vegetation for all areas to be used for land application and provide a mitigation plan as appropriate. (7-13-05)T

ix. Provide information on how the operator will comply with the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 et seq.; the Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code; the Idaho Solid Waste Management Act, Chapter 74, Title 39, Idaho Code; and appropriate state rules, during operation and permanent closure. (7-13-05)T

x. All components of the permanent closure plan shall be prepared in sufficient detail to allow the operator to prepare an estimate of the reasonable cost for a third party to implement the closure plan. (7-13-05)T

j. The application shall be accompanied by a fee of one hundred dollars (\$100). (1-1-88)

04. Application for a Small ~~Mineral~~ Cyanidation Processing Facility and Pilot Facility. The owner or operator of a proposed small cyanidation processing facility or the owner's or operator's authorized representative shall make application to the Director in writing of the intent to operate a small ~~mineral cyanidation~~ processing facility or a pilot facility. The application shall include an explanation as to why the proposed small cyanidation processing facility qualifies as a small ~~mineral cyanidation~~ processing facility or a pilot facility. The application must further meet the requirements of Subsection 100.03 in the following manner: ~~(7-1-97)~~(7-13-05)T

a. The application must contain plans and specifications certified by a registered professional engineer in accordance with Section 39-118A, Idaho Code; and (7-1-97)

b. The application must contain the information and fee required by Subsections 100.03.a., 100.03.b., 100.03.c., 100.03.d., 100.03.i., and 100.03.j.; and (7-1-97)

c. The Director may provide an exemption to any other requirement of Subsection 100.03 not set forth in Subsections 100.04.a. and 100.04.b., if by so doing, the Director has sufficient information to determine potential impacts to the environment, public health or current or future beneficial uses of the waters of the state. (7-1-97)

101. -- 199. (RESERVED).

200. REQUIREMENTS FOR WATER QUALITY PROTECTION.

The following minimum design and performance standards are intended as a baseline for protection of public health and for the waters of the state. These standards shall apply to all facilities unless the Director approves, based on an applicant's site specific information that compliance with a specific standard is not required to protect water quality and the public health. (1-1-88)

01. Containment Design Criteria. A cyanidation facility shall be designed to contain the maximum expected normal operating water balance and the one hundred (100) year, twenty-four (24) hour storm event. Snowmelt events shall be considered in determining the containment capacity. Contingency plans for managing excesses of process water or process-contaminated water shall be described in the water management strategy. ~~(1-1-88)~~(7-13-05)T

02. Impoundment Design. Impoundments, other than for emergency runoff, containing or designed to contain process water shall be designed for efficient leak detection and provide for adequate leak recovery. This requirement does not apply to tailing structures more than thirty (30) feet in height which are regulated by the Idaho Department of Water Resources under Chapter 17, Title 42, Idaho Code. (1-1-88)

- 03. Liner Criteria.** A hydraulic liner is required for leach pads and impoundments and shall: (1-1-88)
- a.** Be designed for a maximum coefficient of permeability of 10^{-7} cm/sec; a clay liner shall also have a minimum thickness of twelve (12) inches; (1-1-88)
 - b.** Have a competent foundation designed to withstand the projected static and dynamic loading and projected differential settlement; (1-1-88)
 - c.** Be structurally competent at all times until permanent closure; (1-1-88)
 - d.** Be chemically compatible with materials contacting the liner; (1-1-88)
 - e.** Be designed to prevent damage during loading and unloading; (1-1-88)
 - f.** Where appropriate, ensure minimal hydraulic head above the liner. (1-1-88)
- 04. Water Quality Monitoring.** A ground water and/or surface water monitoring program shall be required for a cyanidation facility. The monitoring program shall be dependent on location, design and operation of the cyanidation facility, and shall be capable of indicating the cyanidation facility's effect on the surface and/or ground water most likely to be affected by the operation. The monitoring program shall be designed to give the earliest possible detection of an unauthorized discharge. ~~(1-1-88)~~(7-13-05)T
- 05. Disposal or Abandonment of Leached Ore.** Disposal or abandonment of the leached ore shall ensure that: (1-1-88)
- a.** The concentration of weak acid dissociable cyanide or free cyanide and other pollutants associated with cyanidation in process-contaminated water draining from the leached ore is reduced to a level that is based on the disposal method, location and the potential for ground water and surface water contamination, or the pH of process-contaminated water draining from the leached ore is stabilized to a pH between six point five (6.5) and nine (9.0), prior to disposal or abandonment. Mine tailing impoundments that require recycling of process water to prevent a point source discharge may be exempt from this requirement by the director; (1-1-88)
 - b.** Structural stability of the spent-ore pile is maintained; (1-1-88)
 - c.** Monitoring of the surface and ground water is conducted to verify that beneficial uses are maintained. (1-1-88)
- 06. Seasonal Closure.** Prior to seasonal closure, the freeboard in process water impoundments shall be increased to a level sufficiently below normal operating volume to ensure containment design criteria. The concentration of weak acid dissociable cyanide or free cyanide and other pollutants associated with cyanidation in process or process-contaminated water shall be reduced to a level that is based on the disposal method, location and the potential for ground water and surface water contamination; or prior to disposal, process water shall be treated to a pH between six point five (6.5) and nine (9.0). (1-1-88)
- 07. Storage Requirements.** Cyanide compounds in storage shall be physically separated and protected from other substances, such as acids and strong oxidants, that are not chemically compatible. (1-1-88)
- 08. Employee Education Program.** The permittee shall demonstrate that a program of new employee orientation and continuing employee education is being implemented and maintained. The program shall be designed to ensure awareness and implementation of the discharge response strategy. (1-1-88)
- 201. -- 299. (RESERVED).**
- 300. APPLICATION PROCESSING PROCEDURE.**
- 01. Substantially Incomplete Applications.** An application which does not, on its face, include all the requirements of Subsection 100.03, except as provided in Subsection 100.04 of these rules, will be returned to the applicant with a written list of the missing items. (7-1-97)

02. Decision. (12-31-91)

a. Except as provided in Subsection 300.01, within sixty (60) days of receipt of an application for a new permit or to modify an existing permit, the Director shall issue to the applicant and to the Idaho Department of Lands a notice of intent to deny a permit or notice that the Director has determined that an application is complete and the Director intends to draft a permit. Except as provided in Subsection 300.01, within thirty (30) days of receipt of an application for a small ~~mineral~~ cyanidation processing facility or a pilot facility, the Director shall issue to the applicant a notice of intent to deny or draft a permit. (~~7-1-97~~)(7-13-05)T

b. The Director may suspend the running of the sixty (60) or thirty (30) day period for no more than thirty (30) days by requesting more detailed information necessary to ensure completeness and accuracy of an application, or the applicant may suspend the running of the sixty (60) or thirty (30) day period by written request to the Director. Upon receipt of the required information by the Director, the sixty (60) or thirty (30) day period will resume. (7-1-97)

c. A notice of intent to deny the permit application shall follow the same procedures as a draft permit issued under this section. (12-31-91)

03. Basis for Permit Denial. The Director shall deny a draft or final permit if: (1-1-88)

a. The application is inaccurate or incomplete; (1-1-88)

b. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure to protect beneficial uses of the waters of the state. (~~1-1-88~~)(7-13-05)T

04. Fact Sheet. The Director shall prepare a fact sheet, for each denial or draft permit, which briefly states the principal facts and the significant legal and policy questions considered in the Director's decision. The fact sheet shall include, when applicable: (1-1-88)

a. A brief description of the proposed cyanidation facility and the operating plan. (~~1-1-88~~)(7-13-05)T

b. A brief summary of the basis for the decision, including references to applicable requirements and supporting materials. (1-1-88)

c. Reasons why any requested conditions or alternatives to required standards do or do not appear justified. (1-1-88)

d. A description of the procedures for reaching a final decision, including: (1-1-88)

i. The beginning and ending dates of the public comment period; (1-1-88)

ii. The address where comments will be received during the comment period; (1-1-88)

iii. Any other procedures by which the public may participate in the final decision; (1-1-88)

e. The name and phone number of the agency representative to contact for additional information. (1-1-88)

301. -- 399. (RESERVED).

400. PUBLIC INVOLVEMENT IN PERMIT PROCEDURES.

01. Public Notice of Permit Actions. No public notice is required when a request for a permit modification or revocation is denied. The Director shall give public notice of: (1-1-88)

a. Receipt of an application for a permit; (1-1-88)

- b. Any public meeting schedule; (1-1-88)
- c. Issuance of a draft permit or a decision to deny the application for a permit; (1-1-88)
- d. An appeal that has been granted. (1-1-88)

02. Public Notice Information. All public notices shall contain the name and address of the Department's office processing the permit action, where the application and draft permit will be available for public review, and a brief description of the public involvement procedures. (1-1-88)

03. Serving the Public Notice. Public notice of permit actions shall be given by the following methods: (1-1-88)

- a. By mail to: (1-1-88)
 - i. The applicant; (1-1-88)
 - ii. Persons on a mailing list who request to be notified; (1-1-88)
 - iii. Other appropriate government authorities; (1-1-88)

b. Publication in a daily or weekly major newspaper of general circulation in the area of the proposed cyanidation facility; ~~(1-1-88)~~(7-13-05)T

c. Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected. (1-1-88)

04. Public Comment and Public Meetings. (7-1-93)

a. Oral or written comments may be submitted by any person at a public meeting. Such meeting may be held prior to a draft permit or notice of intent to deny a permit, if the Director finds twenty-five (25) individuals, or one (1) organization representing twenty-five (25) or more members, who request a public meeting based on a water quality issue and related to the technical merits of the application. The request shall be made in writing within ten (10) days following public notice of a receipt of an application for a permit. The meeting may be presided by agency personnel appointed by the Director. Any person wishing to submit oral comments must sign up prior to the meeting. Oral commentaries will receive equal time to submit oral comments. To be considered in the final decision, oral comments must be submitted in writing within five (5) days following the public meeting. (1-1-88)

b. Within thirty (30) days of public notice of a draft permit or decision to deny an application for a permit, any person may submit written comments to the Department on issues raised in the notice, draft permit or decision to deny a permit. Pursuant to Section 39-106, Idaho Code, the Director has inherent authority to take oral comment on a draft permit at his discretion. (1-1-88)

c. All written comments shall be considered by the Director in making the final decision. (1-1-88)

401. -- 449. (RESERVED).

450. FINAL PERMIT DECISION.

01. Issuing the Decision. Within thirty (30) days after the close of the written public comment period on a draft permit, the Director shall issue a final permit decision. The Director shall notify the applicant and each person who requested notice of the final permit decision. This notice shall include reference to the procedures for administrative appeal under Section 996. For the purpose of this section, a final permit decision means a final decision to issue, deny, modify, or revoke a permit. (1-25-95)

02. Response to Public Comments. All written comments and information received during the comment period, together with the Department's final permit and the response to relevant written comments shall be made available to the public. This response shall: (1-1-88)

a. Specify any differences between the final permit and the draft permit and state the reasons for those differences; (1-1-88)

b. Briefly describe and respond to all relevant written comments on the draft permit or denial. (1-1-88)

03. Immediate Effect of the Permit. A valid permit authorizes the construction and operation of a cyanidation facility. (1-1-88)

04. Duration of Permit. A permit shall remain valid until the Director determines permanent closure is completed, or until such time as the permit is revoked or modified. (1-1-88)

05. Duration of a Small ~~Mineral~~ Cyanidation Processing Facility Permit. A permit for a small ~~mineral~~ cyanidation processing facility shall remain valid only until the Director determines: ~~(7-1-97)~~(7-13-05)T

a. Permanent closure is completed; or (7-1-97)

b. The lifetime allotment of one hundred twenty thousand (120,000) tons of processed ore is reached; or (7-1-97)

c. The cyanidation facility no longer qualifies as a small ~~mineral~~ cyanidation processing facility; or ~~(7-1-97)~~(7-13-05)T

d. One (1) person or applicant concurrently holds more than one (1) permit for a small ~~mineral~~ cyanidation processing facility where the facilities are located within ten (10) miles of each other; or ~~(7-1-97)~~(7-13-05)T

e. Operations must cease, temporarily or permanently, due to a violation of the Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," or adverse impacts to the beneficial uses of the water of the state; or (7-1-97)

f. To revoke or modify the existing permit. (7-1-97)

06. Duration of the Pilot Facility Permit. The permit to operate a pilot facility is valid: (7-1-97)

a. For one (1) year from date of issuance for a facility conducting a single test; or (7-1-97)

b. For two (2) years from date of issuance for a facility conducting multiple tests; or (7-1-97)

c. Until revoked or modified by the Department; or (7-1-97)

d. Until the facility no longer qualifies as a pilot facility. (7-1-97)

451. -- 499. (RESERVED).

500. PERMIT ISSUANCE AND CONDITIONS.

The following conditions shall apply to and be specified in all permits: (1-1-88)

01. Issuance. Within sixty (60) days of the Director's final determination to issue a permit, the Department shall write and issue the permit subject to considerations of the contents of the application, public comments, and responses to those public comments. (7-13-05)T

02. Conditions. The following conditions shall apply to and be specified in all permits: (7-13-05)T

01a. Compliance Required. The permittee shall comply with all conditions of the permit. However, the permit shall not relieve the permittee of the responsibility to comply with all other applicable local, state, and federal laws. (1-1-88)

02b. **Construction and Operation of Cyanidation Facility.** The permittee shall ensure that construction, operation and maintenance of the cyanidation facility proceed according to the approved design plans and specifications and the approved operating and closure plans. ~~(1-1-88)~~(7-13-05)T

03c. **As-Built Plans and Specifications.** Complete and accurate record drawings and specifications, signed by a registered, professional engineer depicting actual construction shall be submitted by the permittee to the Director within thirty (30) days after the completion of the construction. Alternatively, if the construction proceeded in substantial compliance with the approved plans and specifications, a statement to the effect may be submitted by the registered, professional engineer. (1-1-88)

04d. **Provide Information.** The permittee shall furnish to the Director within a reasonable time, any information including copies of records required by the permit or other applicable rules, which the Director may reasonably require to determine whether cause exists for modifying or revoking the permit or to determine compliance with the permit or other applicable rules. (1-1-88)

05e. **Notifications.** After construction, seasonal and temporary closure, the permittee shall within seven (7) days provide written notice to the Director of operation start-ups. The permittee shall provide written notice sufficient to allow the Director to inspect all seasonal, temporary and permanent closures. (1-1-88)

06f. **Entry and Access.** The permittee shall allow the Director, or a designee obligated by agreement with the Director to comply with the confidentiality provisions of Section 39-111, Idaho Code, to: (1-1-88)

a.i. Enter at reasonable times upon the premises of a permitted cyanidation facility or where records required by a permit are kept; ~~(1-1-88)~~(7-13-05)T

b.ii. Have access to and copy at reasonable times any records that must be kept under the conditions of the permit; (1-1-88)

e.iii. Inspect at reasonable times any cyanidation facility, equipment, practice, or operation permitted or required by the permit; ~~(1-1-88)~~(7-13-05)T

d.iv. Sample or monitor at reasonable times, substance(s) or parameter(s) directly related to permit or regulation compliance. (1-1-88)

07g. **Reporting.** It shall be the permittee's responsibility to report to the Director: (1-1-88)

a.i. Orally, as soon as possible but no later than twenty-four (24) hours from the time the permittee knows or should reasonably know of any noncompliance which may endanger the public health or the environment. (1-1-88)

b.ii. In writing, within five (5) working days from the time a permittee knows or should reasonably know of any event which may be or which may result in a violation of these rules, or Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, ~~Sections 000, et seq.~~ "Water Quality Standards and Wastewater Treatment Requirements". This report shall contain: ~~(12-31-91)~~(7-13-05)T

~~i.(1)~~ A description of the event and its cause; if the cause is not known, steps taken to investigate and determine the cause; (1-1-88)

~~ii.(2)~~ The period of the event including, to the extent possible, times and dates; (1-1-88)

~~iii.(3)~~ Measures taken to mitigate or eliminate the event and protect the public health; (1-1-88)

~~iv.(4)~~ Steps taken to prevent recurrence of the event; (1-1-88)

e.iii. In writing, confirmation of any conditions which may result in violation of any permit condition; (1-1-88)

~~4~~iv. In writing, when the permittee knows or should reasonably know of material relevant facts not submitted or incorrect information submitted in a permit application or any report or notice to the Director or the Department. Those facts or the correct information shall be included as a part of this report. (1-1-88)

~~08~~h. Discharge Response. If an unauthorized discharge occurs the permittee shall: (1-1-88)

~~a~~i. Report the event(s) pursuant to the reporting requirements under Subsection 500.07~~2~~g. of ~~this section~~ these rules; (~~1-1-88~~)(7-13-05)T

~~b~~ii. Implement the approved discharge response strategy. (1-1-88)

~~09~~i. Temporary Closure Plan. In the event of temporary closure, the permittee shall submit a temporary closure plan to the Director for approval. The plan shall describe the procedures, methods, and schedule to be implemented for the treatment and disposal of process water, the control of drainage from the cyanidation facility, the control of drainage from the surrounding area, and the secure storage of chemicals during the period of closure. Within thirty (30) days of receiving the plan, the Director shall approve and/or suggest modifications necessary to protect the waters of the State. The permittee shall ensure that closure complies with an approved plan. In no case shall the permittee complete temporary closure prior to implementation of the approved plan. (~~1-1-88~~)(7-13-05)T

~~10~~j. Begin Construction. If the permittee fails to begin construction of a cyanidation facility within two (2) years of the effective date of the permit, the Director may void the permit and require a new application. (~~1-1-88~~)(7-13-05)T

k. Permanent Closure. The permanent closure plan, as approved by the Idaho Department of Environmental Quality in coordination with the Idaho Department of Lands, shall be incorporated by reference into the Department-issued permit as a permit condition and shall be enforceable as such. The Department may evaluate permanent closure based on different performance standards than those used by Idaho Department of Lands. (7-13-05)T

501. COMPLETION OF PERMANENT CLOSURE.

01. Implementation of a Permanent Closure Plan. Unless otherwise specified in the approved permanent closure plan, an operator must begin implementation of the approved permanent closure plan: (7-13-05)T

a. Within one (1) year of the final addition of cyanide to the ore processing circuit for pilot or small cyanidation processing facilities; or (7-13-05)T

b. Within two (2) years of the final addition of cyanide to the ore processing circuit for all other cyanidation facilities; or (7-13-05)T

c. If the product recovery phase of the cyanidation facility has been suspended for a period of more than two (2) years. (7-13-05)T

02. Submittal of a Permanent Closure Report. The operator shall submit a permanent closure report to the Department for review and approval. A permanent closure report shall be of sufficient detail for the directors of the Idaho Department of Environmental Quality and the Idaho Department of Lands to issue a determination that permanent closure, as defined in Section 002 of these rules, has been achieved. The permanent closure report shall address: (7-13-05)T

a. The effectiveness of material stabilization. (7-13-05)T

b. The effectiveness of the water management plan and adequacy of the monitoring plan. (7-13-05)T

c. The final configuration of the cyanidation facility and its operational/closure status. (7-13-05)T

d. The post-closure operation, maintenance, and monitoring requirements, and the estimated reasonable cost to complete those activities. (7-13-05)T

- e.** The operational/closure status of any land application site of the cyanidation facility. (7-13-05)T
- f.** Source control systems that have been constructed or implemented to eliminate, mitigate, or contain short and long term discharge of pollutants from the cyanidation facility, unless otherwise permitted. (7-13-05)T
- g.** The short and long term water quality trends in surface and ground water through the statistical analyses of the existing monitoring data collected pursuant to the ore processing by cyanidation permit. (7-13-05)T
- h.** Ownership and responsibility for the cyanidation facility during the defined post-closure period. (7-13-05)T
- i.** The future beneficial uses of the land, surface and ground waters in and adjacent to the closed facilities. (7-13-05)T
- j.** How the permanent closure of the cyanidation facility complies with the Resource Conservation and Recovery Act, Hazardous Waste Management Act, Solid Waste Management Act, and appropriate rules. (7-13-05)T

502. DECISION TO APPROVE OR DISAPPROVE OF A PERMANENT CLOSURE REPORT.

01. Issuance of Director's Determination. Within sixty (60) days of receipt of a permanent closure report, the Director shall issue to the permittee a Director's determination of approval or disapproval of the permanent closure report. (7-13-05)T

02. Director's Determination to Disapprove a Permanent Closure Report. A Director's determination to disapprove a permanent closure report shall specifically identify and discuss those reasons for disapproval, any administrative actions being considered by the Director, and the permittee's options and procedures for administrative appeal. The Director's determination to disapprove a permanent closure report must include: (7-13-05)T

- a.** Identification of errors or inaccuracies in the permanent closure report. (7-13-05)T
- b.** Issues or details which require additional clarification. (7-13-05)T
- c.** Failures to fully implement the approved permanent closure plans. (7-13-05)T
- d.** Outstanding violations or other noncompliance issues. (7-13-05)T
- e.** Other issues supporting the Department's disagreement with the contents, final conclusions or recommendations of the permanent closure report. (7-13-05)T

~~503. -- 649. (RESERVED).~~

650. FINANCIAL ASSURANCE.

01. Financial Assurance Required. ~~Prior to commencing cyanidation operations an applicant shall establish financial assurance for permanent closure of the facility meeting the requirements of these rules.~~ The permittee is required to provide financial assurance pursuant to the Idaho Surface Mining Act, Chapter 15, Title 47, Idaho Code, and the rules promulgated thereunder. The Department shall not issue a permit under these rules to a cyanidation facility unless the cyanidation facility has satisfied such financial assurance requirements. (1-1-88)(7-13-05)T

~~**02- Amount. The amount of financial assurance shall be determined by multiplying five cents (\$.05) by the number of tons of untreated processed ore and the projected number of tons to be leached with cyanide within the next calendar year, unless the permittee requests an amount based on a projection for more than one (1) year;**~~

~~however, the minimum amount of financial assurance shall be the sum of twenty five thousand dollars (\$25,000) and the maximum amount shall be the sum of one hundred thousand dollars (\$100,000). (1-1-88)~~

~~**a.** The amount of financial assurance shall be reviewed on an annual basis. The permittee shall submit in writing on or before December 1 each year the number of tons of untreated processed ore and the projected number of tons to be leached with cyanide for the succeeding calendar year. (1-1-88)~~

~~**b.** In the event there is a material change in the tons of ore leached with cyanide over the tons of ore projected under Subsection 650.02.a., the permittee shall submit written notification to the Department of the change and an adjustment will be made accordingly. (12-31-91)~~

~~**03. Form.** An applicant may comply with the financial assurance requirements of these rules through one (1) or more of the following options: (1-1-88)~~

~~**a.** A corporate surety bond evidenced by an indemnity agreement, executed by or for the applicant and a corporate surety, and payable to the Department. Corporate surety bonds shall be subject to the following conditions: (1-1-88)~~

~~i. The Department shall obtain possession of the bond. (1-1-88)~~

~~ii. The bond shall be conditioned upon the applicant's adequate performance of permanent closure under an approved closure plan. (1-1-88)~~

~~iii. The bond shall be on a form supplied by the Department. (1-1-88)~~

~~iv. The corporate surety shall be licensed to do business in the United States. (1-1-88)~~

~~**b.** A collateral bond evidenced by an indemnity agreement, executed by or for the applicant and payable to the Department, pledging cash deposits, negotiable bonds of the United States, this State or political subdivisions of this State, or negotiable certificates of deposit of any bank doing business in the United States. Collateral bonds shall be subject to the following conditions: (1-1-88)~~

~~i. The Department shall obtain possession, and upon receipt of such collateral bonds, deposit them with the State Treasurer to hold in trust for the purpose of bonding permanent closure. (1-1-88)~~

~~ii. The Department shall value collateral at current market value, not face value. (1-1-88)~~

~~iii. Certificates of deposit shall be issued in the name of "principal or Idaho Department of Environmental Quality" in writing and upon the records of the bank issuing such certificates. Interest may be allowed to accrue and received upon release of the bond, or be paid to the principal no more than semiannually. (1-1-88)~~

~~iv. Banks issuing certificates of deposit shall waive all rights of set off, or liens which it has or might have against such certificates. (1-1-88)~~

~~v. All certificates of deposit shall be automatically renewable. (1-1-88)~~

~~vi. All certificates of deposit shall be of sufficient amount to ensure that the Department may liquidate such certificates, upon forfeiture, for the amount of the required bonding, including penalty for early withdrawal. (1-1-88)~~

~~**c.** A corporate surety or collateral bond payable to another state agency and the Department, or the federal government, and meeting the applicable bonding requirements of these rules. (1-1-88)~~

~~**d.** One (1) or more insurance policies issued under the following conditions: (1-1-88)~~

~~i. The applicant shall submit a certificate of insurance to the Department. (1-1-88)~~

~~ii. The policy shall be issued by a company licensed to do business in the United States. (1-1-88)~~

~~iii. The policy shall guarantee the amount determined under Subsection 650.02 to the Department for the performance of permanent closure if the applicant fails to perform permanent closure under an approved plan. (12-31-91)~~

~~iv. Termination, cancellation or nonrenewal of the policy may occur only if the Department receives ninety (90) days notice from the insurance company, and the Department consents or the policy premium is not paid by the permittee. Nonpayment of the premium constitutes a violation of the provisions of this section by the permittee. The Department shall consent to termination, cancellation or nonrenewal if the permittee substitutes alternative financial surety under this section, or completes permanent closure guaranteed by the policy under an approved plan. (1-1-88)~~

~~e. A closure trust fund which conforms to the following conditions: (1-1-88)~~

~~i. The applicant shall submit a certificate of trustees acknowledgment and a signed duplicate trust agreement to the Department. (1-1-88)~~

~~ii. The trust agreement shall be substantially in the form appended to these rules as Appendix A, and shall guarantee payments by the trustee at the direction of the Department to implement an approved permanent closure plan if the permittee fails to adequately perform permanent closure under such a plan. (1-1-88)~~

~~iii. The trustee shall have authority to act as such and be regulated by a state or federal agency. (1-1-88)~~

~~iv. The applicant shall deposit cash in the full amount determined under Subsection 650.02 prior to commencing cyanidation operations. (12-31-91)~~

~~v. The trust agreement shall terminate if the permittee substitutes alternative financial surety under these rules, or the permittee completes permanent closure guaranteed by the trust fund under an approved plan. (1-1-88)~~

~~**04. Cancellation and Replacement of Bonds. (1-1-88)**~~

~~a. Any surety cancelling a bond shall give the Department and the bonded principal at least ninety (90) days notice prior to cancellation of an agreement. The Department shall not release a surety from liability under existing bonds until the permittee has submitted to the Department an acceptable replacement bond or other form of financial assurance under these rules. (1-1-88)~~

~~b. If a surety cancels a bond or fails to maintain a valid license to do business in the United States, the permittee shall, within forty five (45) days of notice from the Department, substitute a sufficient surety. A replacement bond or other financial assurance under these rules shall cover any liability accrued against the bonded principal at the facility in addition to the amount determined under Subsection 650.02. If the permittee fails to secure a replacement bond or other alternative financial assurance under these rules, the permittee shall cease operations at the facility covered by the bond until sufficient financial assurance is filed with the Department. (12-31-91)~~

~~**05. Release of Financial Assurance. Financial assurance, or a portion thereof, required under these rules may be released as follows: (1-1-88)**~~

~~a. If at any time the value of a bond, insurance or trust is greater than the total amount of financial assurance required under Subsection 650.02, the permittee may submit a written request to the Department for release of the amount in excess of the amount required under Subsection 650.02. (12-31-91)~~

~~b. If the permittee substitutes alternative financial assurance under these rules for all or part of a bond, insurance or trust, the permittee may submit a written request to the Department for release of the amount in excess of the financial assurance required under Subsection 650.02. (1-1-88)~~

~~c. Upon completion of permanent closure in accordance with an approved plan, the permittee may request release from financial assurance by the Department. If the Department determines that permanent closure is~~

~~in accordance with an approved plan financial assurance shall be released. If the Department determines that a portion of permanent closure has been satisfactorily completed the Department may proportionately reduce the amount of financial assurance required and release the balance.~~ (1-1-88)

~~d. Within thirty (30) days after receiving a request from a permittee for release of a bond, insurance or trust, or any portion thereof, the Department shall either order release or provide the permittee with a detailed written statement of reasons why financial assurance will not be released.~~ (1-1-88)

062. Insufficiency. In the event the ~~amount of financial surety is insufficient to implement an approved permanent closure plan~~ financial assurance is forfeited as described in the Idaho Surface Mining Act, Chapter 15, Title 47, Idaho Code, the Department may ~~commence legal action against the permittee~~ seek to recover the amount necessary to implement permanent closure under ~~an approved plan~~ the Department-issued permit and these rules as provided by law. (1-1-88)(7-13-05)T

651. -- 749. (RESERVED).

750. PERMIT MODIFICATION.

01. Cause for Permit Modification. Causes for permit modification are: (1-1-88)

a. A material ~~change~~ modification or material expansion in the cyanidation facility operation, design or closure plan. (1-1-88)(7-13-05)T

b. Natural phenomena substantially different from those anticipated in the original permit. (1-1-88)

02. Modification at Request of Permittee. Requests for modification from the permittee shall include: (1-1-88)

a. A written description of the modification(s); (1-1-88)

b. Data supporting the modification request; (1-1-88)

c. Causes and anticipated effects of the modification. (1-1-88)

03. Modification at Request of Director. Pursuant to Subsection 750.01, if the Director determines that cause exists for permit modification, the Director shall notify the permittee in writing and request information necessary for the Director to modify the permit. (12-31-91)

04. Modification Procedure. Permit modifications shall follow the application processing, public involvement, and administrative appeal procedures of these rules. (1-1-88)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.17 - WASTEWATER-LAND APPLICATION PERMIT RULES

DOCKET NO. 58-0117-0501

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Chapter 1, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before August 17, 2005. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) has initiated this rulemaking to modify and clarify existing water quality limits and other requirements for the various classes of municipal reclaimed wastewater, to add and clarify various definitions, to change the name of the rules from "Wastewater Land Application Rules" to "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater," and to make various changes in the rules associated with this name change. This rulemaking is necessary because DEQ has determined that the existing water quality limits and other requirements for Class A and Class B reclaimed wastewater may be too strict. The name change reflects the desire of DEQ and stakeholders to go beyond just land application of wastewater in the field of reuse. In this context, land application is a subset of the broader scope of reclaimed wastewater reuse. In this rulemaking, DEQ also proposes to renumber the standard rule sections, and delete unnecessary rule sections, in conformance with IDAPA 44.01.01, "Rules of the Administrative Rules Coordinator," and for consistency with other DEQ administrative rules. Section 950, Public and Confidential Information, has been deleted because it is outdated and obsolete due to the adoption of Section 997, Confidentiality of Records, in 2002.

Idaho Association of Commerce and Industry, Idaho Association of Cities, consulting engineers, existing and potential permittees, and the development community may be interested commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending and temporary rule. If adopted by the Board, the temporary rule would become effective on December 7, 2005. The pending rule is expected to be final upon the adjournment of the 2006 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule regulates an activity not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code, supporting modifications to these rules. The requirements set forth in this proposed rule are based upon studies and analysis conducted by other states, the U.S. Environmental Protection Agency (EPA), and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects. The limits placed on wastewater treatment in the stated modifications are proposed for both public health and environmental effects. The population affected by these limits includes the residents and users of facilities being irrigated by this wastewater effluent and the potential users of down-gradient beneficial uses of groundwater being recharged by this wastewater effluent.

Section 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk. The expected risk of exposure to this quality of wastewater effluent for each of these populations is as follows.

The expected risk for nitrate contamination on groundwater is low. For nitrate from the wastewater effluent entering

the groundwater and affecting down-gradient beneficial users for drinking water (either directly or indirectly), the proposed limits are based on the Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08, and Idaho's Ground Water Quality Rule, IDAPA 58.01.11. These standards are based on past studies by EPA determining the adverse health effects on infants from nitrate in drinking water.

The expected risk for pathogen contamination for affected populations is low. For pathogens in the wastewater effluent, the proposed coliform limits are based on Idaho's existing Wastewater-Land Application Permit Rules. Associated additional requirements regarding treatment, buffer zones, reliability and redundancy are included to give additional assurance that the limits are attained consistently.

There are multiple requirements put on the distribution system of the wastewater effluent. These requirements provide the affected populations with safeguards against contamination of their drinking water system from parallel or crossing main lines. These requirements also protect against contamination of their wastewater effluent system by raw sewage in parallel or crossing main lines. The expected risk of this type of contamination is low.

The requirements set forth in this proposed rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty. The limits placed on wastewater treatment in the stated modifications are proposed for both public health and environmental effects. The limits in these proposed rule modifications are based on limits and standards used by other states and as promoted by national water reuse organizations. Although Idaho's wastewater land application permit program has been in effect for many years utilizing treated effluent for agricultural and municipal beneficial irrigation, the use of highly treated wastewater for higher beneficial uses is an evolving industry throughout the U.S. and the world. These higher uses, involving almost unrestricted use and unrestricted access by the general public, call for higher treatment and monitoring requirements to protect the affected populations. The uncertainty in assessing the health and environmental effects is believed to be minimal, but not zero.

Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data. The use of the proposed 10 mg/l for nitrate is based on the existing Ground Water Quality Rule and the existing Idaho Rules for Public Drinking Water Systems. The use of the proposed 2.2 total coliform limit is currently in the Wastewater-Land Application Permit Rules.

The requirements set forth in this proposed rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, April 6, 2005, Vol. 05-4, page 24.

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 AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this proposed rule, contact Mark Mason at (208) 373-0266 or

mark.mason@deq.idaho.gov.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before August 31, 2005.

Dated this 1st day of July, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0117-0501

58.01.17 - WASTEWATER-LAND APPLICATION PERMIT RULES FOR THE RECLAMATION AND REUSE OF MUNICIPAL AND INDUSTRIAL WASTEWATER

001. TITLE AND SCOPE.

01. Title. These rules are to be known and cited as Idaho Department of Environmental Quality Rules, IDAPA 58.01.17, "Wastewater-Land Application Permit Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater". (4-1-88)(____)

02. Scope. These rules establish the procedures and requirements for the issuance and maintenance of pollution source permits for the treatment of municipal and industrial wastewaters by application to land, and reclamation and reuse facilities, including permits for the treatment of municipal wastewaters for other reuse purposes as defined in Subsection 600.07, Direct Use of Municipal Reclaimed Wastewater. (4-6-05)(____)

(BREAK IN CONTINUITY OF SECTIONS)

003. INCORPORATION BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 003.02 shall constitute the full adoption by reference. (4-6-05)

02. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (4-6-05)

a. IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06, as codified in the 20045 Idaho Administrative Code. (4-6-05)(____)

b. IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.07, as

codified in the 2004~~5~~ Idaho Administrative Code.

(4-6-05)()

03. Availability of Documents Incorporated by Reference. Copies of the documents incorporated by reference are available at the following locations. (4-6-05)

a. Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255,
www.deq.idaho.gov. (4-6-05)()

b. Idaho Administrative Rules website, <http://www.state.id.us/adm/adminrules/agyindex.htm>. (4-6-05)

~~996~~004. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (3-15-02)

~~997~~005. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality". (3-15-02)

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

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. ()

~~004~~007. -- 099. (RESERVED).

100. APPLICABILITY.

01. Existing Land Application Applicability to Reclamation and Reuse Facilities. ~~Those land application facilities which are in operation on the effective date of these rules are deemed to be validly permitted for up to one (1) year. Permit conditions for the first permit issued to any existing facility under these rules shall substantially conform to the existing practices of such facility unless those existing practices cause or create conditions hazardous to the public health or to the environment, or violate other laws or regulations.~~ All reclamation and reuse facilities are subject to the permit requirements of these rules. (4-1-88)()

02. Excluded Facilities. Land application of wastewater from livestock truck washing facilities, feedlots, dairies and mining are excluded from permit requirements under these rules but are subject to Idaho Department of Environmental Quality Rules, IDAPA 58.01.02~~16~~, "~~Water Quality Standards and Wastewater Treatment Requirements~~ Rules". The Director may exclude other facilities if covered adequately by other law. (4-6-05)()

101. -- 199. (RESERVED).

200. DEFINITIONS.

For the purpose of these rules the following definitions apply unless another meaning is clearly indicated by context: (4-1-88)

01. Applicant. The person applying for a wastewater ~~land application~~ reclamation and reuse permit. (4-6-05)()

02. Applicable Requirements. Any state, local or federal statutes, regulations or ordinances to which the facility is subject. (4-1-88)

03. Board. The Idaho State Board of Environmental Quality. (12-31-91)

- 04. Buffer Distances.** ()
- a.** The distances between the actual ~~land application~~ point of reuse of reclaimed wastewater and other uses such as wells, adjoining property, inhabited dwellings, and other features. ~~These distances are further defined in The Idaho Guidance for Land Application of Municipal and Industrial Wastewater.~~ Buffer distances are set to: (4-6-05)()
- i.** Protect public health by limiting exposure to wastewater and conditions associated with reuse facilities; ()
- ii.** Protect waters of the state, including surface water, ground water and drinking water supplies; and ()
- iii.** Help ensure that wastewater is restricted to the reuse facilities. ()
- b.** In determining buffer distances, the Department will consider, as applicable, the degree of treatment or pretreatment of wastewater; the method of irrigation; physical or vegetative barriers; studies of the content of the wastewater, such as pathogen studies; best management practices; environmental conditions, such as wind speed and direction; and other information relevant to protecting public health and the environment. Further information regarding buffer distances is set forth in The Idaho Guidance for The Reclamation and Reuse of Municipal and Industrial Wastewater. ()
- 05. Class A Capacity.** The capabilities required of a Class A effluent treatment and distribution system in order to achieve and maintain compliance with these rules. (4-6-05)
- 06. Class A Effluent Distribution System.** The distribution system for Class A effluent as described in these rules. The distribution system does not include any of the collection or treatment portions of the wastewater facility and is not subject to operator licensing requirements of IDAPA 58.01.0216, "~~Water Quality Standards and Wastewater Treatment Requirements, Rules~~" Section 404. (4-6-05)()
- 07. Department.** The Idaho Department of Environmental Quality. (4-1-88)
- 08. Director.** The Director of the Department of Environmental Quality or the Director's designee. (4-1-88)
- 09. Idaho Guidance for ~~Land Application~~ the Reclamation and Reuse of Municipal and Industrial Wastewater.** This document, and subsequent revisions of this document, provides assistance in applying and interpreting these rules relating to for permitting and operating ~~land application~~ reclamation and reuse facilities. Copies of the document are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255 and www.deq.idaho.gov. (4-6-05)()
- 10. ~~Land Application Facility or Facility.~~ Any structure or system designed or used to treat wastewater through application to the land surface: Industrial Wastewater.** Wastewater that is the by-product of any industrial processes including, but not limited to, food processing or food washing wastewater. (4-1-88)()
- 11. Land Application.** The application of municipal or industrial wastewater to land for the purpose of land treatment. ()
- 12. Land Treatment.** The use of land, soil, and crops for treatment of municipal or industrial wastewater. ()
- 13. Municipal Wastewater.** Waste water that contains sewage. (4-1-88)
- 14. New Activity.** Any significant change in operation or construction of the wastewater treatment system which may impact the waters of the state. (4-1-88)

- 135. Non-Contact Cooling Water.** Water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. (4-1-88)
- 146. NTU.** Nephelometric Turbidity Unit - a unit of measurement of the level of turbidity. (4-6-05)
- 157. Permit.** Written authorization by the Director to ~~land apply~~ modify, operate, construct or discharge ~~wastewater, other than to surface waters of the state, as identified in the plan of operation~~ to a reclamation and reuse facility. (4-1-88)(____)
- 168. Permittee.** The person to whom the ~~wastewater land application~~ reclamation and reuse permit is issued. (4-6-05)(____)
- 179. Person.** An individual, corporation, partnership, association, state, municipality, commission, political subdivision of the state, state agency, federal agency, special district, or interstate body. (4-1-88)
- 1820. Point of Compliance.** That point in the reclamation and reuse facility where the ~~treated effluent reclaimed~~ wastewater must meet the ~~different limit~~ requirements of the permit. There may be more than one (1) point of compliance within the facility depending on the constituents to be monitored. (4-6-05)(____)
- 1921. Primary Effluent.** Raw wastewater that has been mechanically treated by screening, degritting, sedimentation and/or skimming processes to remove substantially all floatable and settleable solids. (4-1-88)
- 202. Processed Food Crop.** Any crop intended for human consumption that has been changed from its original form and further disinfection occurs. (4-1-88)
- 213. Rapid Infiltration System.** A wastewater treatment method by which wastewater is applied to land in an amount of twenty (20) to six hundred (600) feet per year for percolation through the soil. Vegetation is not generally utilized by this method. (4-1-88)
- 224. Raw Food Crop.** Any crop intended for human consumption which is to be used in its original form. (4-1-88)
- 235. Reclaimed Wastewater.** For the purpose of these rules, the term reclaimed ~~wastewater or reuse~~ shall mean ~~municipal~~ wastewater that is used in accordance with these rules. (4-6-05)(____)
- 246. Restricted Public Access.** Preventing public entry within ~~one thousand (1,000) feet of the border the area or point of reuse~~ of a facility and the buffer distance around the area by site location or physical structures such as fencing. A lesser buffer ~~strip less than one thousand (1,000) feet~~ distance may be accepted if aerosol drift is reduced. (4-1-88)(____)
- 25. Reclaimed Wastewater Facility.** ~~Any municipal structure or system designed or used to treat municipal wastewater for the purpose of reusing the effluent including, but not limited to, municipal wastewater treatment facilities, pumping and storage facilities, pipeline and distribution facilities, and the property to which the reclaimed wastewater is applied.~~ (4-6-05)
- 27. Reclamation.** The treatment of municipal or industrial wastewater that allows it to be reused for beneficial uses. Reclamation also includes land treatment for wastewater that utilizes soil and crops for partial treatment. (____)
- 28. Reuse.** The use of reclaimed wastewater for beneficial uses including, but not limited to, land treatment, irrigation, aquifer recharge, use in surface water features, toilet flushing in commercial buildings, dust control, and other uses. (____)
- 29. Reclamation and Reuse Facility or Facility.** Any structure or system designed or used for reclamation or reuse of municipal or industrial wastewater including, but not limited to, municipal wastewater treatment facilities, pumping and storage facilities, pipeline and distribution facilities, and the property to which the reclaimed wastewater is applied. (____)

~~2630.~~ **Sewage.** The water-carried human wastes from residences, buildings, industrial establishments and other places. (4-1-88)

~~2731.~~ **Sludge.** The semi-liquid mass produced by treatment of water or wastewater. (4-1-88)

~~2832.~~ **Time Distribution of Flows.** A measurement of the volume of wastewater distributed over a specified area during a specified time period. Typical unit of measure is inches per acre per week. (4-1-88)

~~2933.~~ **Wastewater.** Unless otherwise specified, industrial waste, municipal waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present but not including sludge, or non-contact cooling water. (4-1-88)

~~30.~~ **Wastewater Treatment System.** *All phases of wastewater treatment including any pretreatment equipment and the land treatment facility on which the wastewater is applied.* (4-6-05)

~~34.~~ **Waters and Waters of the State.** All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (4-1-88)

201. -- 299. (RESERVED).

300. PERMIT REQUIREMENTS AND APPLICATION.

01. Permit Required. No person shall construct, modify, operate, or continue to operate a ~~land application reclamation and reuse facility or other reclaimed wastewater facility~~ without a valid permit issued by the Director as provided in these rules. (4-6-05)(____)

02. Dischargers. No person shall discharge to a land ~~application treatment~~ or other ~~reclaimed wastewater reclamation and reuse~~ facility without a valid permit issued by the Director as provided in these rules. (4-6-05)(____)

03. Pre-Application Conference. Prospective applicants are encouraged to meet with the Department to discuss application procedure and anticipated application requirements. (4-1-88)

04. Application Required. Every person requiring a permit under these rules shall submit a permit application to the Department: (4-1-88)

a. At least one hundred eighty (180) days prior to the day on which a new activity is to begin; ~~or~~ (4-1-88)(____)

b. At least one hundred eighty (180) days prior to the expiration of any permit issued pursuant to these rules; (4-1-88)(____)

~~c. Within one hundred eighty (180) days after the effective date of these rules for any existing land application facility deemed to be permitted under these rules. (4-1-88)~~

05. Application Contents. Application shall be made on a form prescribed by the Director and available from the Department and shall include, but not be limited to, the following information: (4-1-88)

a. Name, location, and mailing address of the facility; (4-1-88)

b. Name, mailing address, and phone number of the facility owner and signature of the owner or authorized agent; (4-1-88)

c. The nature of the entity owning the facility (federal, state, private, or public entity); (4-1-88)

- d.** A list of local, state, and federal permits, licenses and approvals related to the activity which have been applied for and which have been received and the dates of application or approval; (4-1-88)
- e.** A topographic map of the facility site identifying and showing the location and extent of: (4-1-88)
- i.** Wastewater inlets, outlets, and storage structures and facilities; (4-1-88)
- ii.** Wells, springs, wetlands, and surface waters; (4-1-88)
- iii.** Twenty-five (25), fifty (50), and one hundred (100) year flood plains, as available through the Federal Insurance Administration of the Federal Emergency Management Agency; (4-1-88)
- iv.** Service roads; (4-1-88)
- v.** Natural or man-made features necessary for treatment; (4-1-88)
- vi.** Buildings and structures; and (4-1-88)
- vii.** Process chemicals and residue storage facilities. (4-1-88)
- f.** A topographic map which may be separate from or combined with the facility site map, extending one quarter (1/4) mile beyond the outer limits of the facility site. The map shall identify and show the location and extent of the following: (4-1-88)
- i.** Wells, springs, wetlands, and surface waters; (4-6-05)
- ii.** Public and private drinking water supply sources and source water assessment areas (public water system protection area information); (4-6-05)
- iii.** Public roads; and (4-1-88)
- iv.** Dwellings and private and public gathering places. (4-1-88)
- g.** If the facility site or any portion thereof is leased or rented, a copy of that lease or rental agreement; (4-1-88)
- h.** The volume of wastewaters to be treated and the time distribution of flows; (4-1-88)
- i.** The physical, chemical, and biological characteristics of the wastewater; (4-1-88)
- j.** The climatic, hydrogeologic, and soil characteristics of the facility site. (4-1-88)
- k.** Other information may also be required. The Idaho Guidance for Land Application Reclamation and Reuse of Municipal and Industrial Wastewater is intended to provide assistance to permit applicants in obtaining a wastewater-land-application reclamation and reuse permit and may be considered in determining the need for other information. (4-6-05)(____)
- 06. Existing Land Application Reclamation and Reuse Facility Plan of Operation.** Any existing land-application reclamation and reuse facility ~~or other reclaimed wastewater facility~~ shall be required to have a plan of operation which describes in detail the operation, maintenance, and management of the wastewater treatment system. (4-6-05)(____)
- 07. New Land Application Reclamation and Reuse Facility Plan of Operation.** Any new proposed land-application reclamation and reuse facility ~~or other reclaimed wastewater facility~~ shall be required to have a detailed plan of operation at the fifty percent (50%) completion point of construction. In addition, after one (1) year of operation the plan must be updated to reflect actual operating procedures. A general outline of the plan of operation must be provided with the permit application which will satisfy the intent of these rules. (4-6-05)(____)

(BREAK IN CONTINUITY OF SECTIONS)

401. PLAN AND SPECIFICATION REVIEW.

The current edition of the "Recommended Standards for Wastewater Facilities - Great Lakes-Upper Mississippi River Board of State Sanitary Engineers," "Idaho Standards for Public Works Construction," and other Department guidance shall be used as guides for the development of plans and specifications for all waste treatment facilities ~~in accordance with IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," Section 402.~~ The Department may review the project plans and specifications and the permit application materials concurrently. Plans and specifications may require modification prior to a final permit being issued. (4-6-05)(____)

01. Requirement for Single Point of Contact Responsible for Entire Wastewater Project. The Applicant (Permittee) shall designate a single point of contact who is responsible for all submissions to the Department related to the wastewater reclamation and reuse facilities ~~construction project~~. This single point of contact shall be identified in the permit application. (4-6-05)(____)

02. Requirement for Preparation of Plans and Specifications. All plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other waste treatment or disposal facilities or modification or expansion to same shall be submitted to and approved by the Director before construction can begin in accordance with Chapter 1, Title 39, Idaho Code, and IDAPA 58.01.0216, ~~"Water Quality Standards and Wastewater Treatment Requirements, Rules" Section 402.~~ (4-6-05)(____)

03. Requirement for Professional Engineer's Seal. All plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other waste treatment or disposal facilities or modification or expansion to same, wherein the public welfare or the safeguarding of life, health, or property is involved, shall bear the seal, signature and date of a registered professional engineer licensed in the state of Idaho in accordance Chapter 12, Title 54, Idaho Code. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

600. SPECIFIC PERMIT CONDITIONS.

01. Basis for Specific Permit Conditions. Conditions necessary for the protection of the environment and the public health may differ from facility to facility because of varying environmental conditions and wastewater compositions. The Director may establish, on a case-by-case basis, specific permit conditions. Specific conditions shall be established in consideration of characteristics specific to a facility and inherent hazards of those characteristics. Such characteristics include, but are not limited to: (4-1-88)

- a. Chemical, biological, physical, and volumetric characteristics of the wastewater; (4-1-88)
- b. Geological and climatic nature of the facility site; (4-1-88)
- c. Size of the site and its proximity to population centers and to ground and surface water; (4-1-88)
- d. Legal considerations relative to land use and water rights; (4-1-88)
- e. Techniques used in wastewater distribution and the disposition of that vegetation exposed to wastewaters; (4-1-88)
- f. Abilities of the soils and vegetative covers to treat the wastewater without undue hazard to the environment or to the public health; and (4-1-88)

g. The need for monitoring and record keeping to determine if the facility is being operated in conformance with its design and if its design is adequate to protect the environment and the public health. (4-1-88)

02. Duration of Permit. The permit shall be effective for a fixed term of not more than five (5) years. (4-1-88)

03. Limitations to Operation. Conditions of the permit may specify or limit: (4-1-88)

a. Wastewater composition; (4-1-88)

b. Method, manner, and frequency of wastewater treatment; (4-1-88)

c. Wastewater pretreatment requirements; (4-1-88)

d. Physical, chemical, and biological characteristics of a land ~~application~~ treatment facility; and ~~(4-1-88)~~(____)

e. Any other condition the Director finds necessary to protect public health or environment. (4-1-88)

04. Compliance Schedules. The Director may establish a compliance schedule for existing facilities as part of the permit conditions including: (4-1-88)

a. Specific steps or actions to be taken by the permittee to achieve compliance with applicable requirements or final permit conditions; (4-1-88)

b. Dates by which those steps or actions are to be taken; and (4-1-88)

c. In any case where the period of time for compliance exceeds one (1) year the schedule may also establish interim requirements and the dates for their achievements. (4-1-88)

05. Monitoring Requirements. Any facility may be subject to monitoring requirements including, but not limited to: (4-1-88)

a. The installation, use, and maintenance of monitoring equipment; (4-1-88)

b. Monitoring or sampling methodology, frequency, and locations; (4-1-88)

c. Monitored substances or parameters; (4-1-88)

d. Testing and analytical procedures; and (4-1-88)

e. Reporting requirements including both frequency and form. (4-1-88)

06. Rapid Infiltration Systems. The following minimum treatment requirements are established for land application of wastewater using rapid infiltration methods and systems. ~~(4-1-88)~~(____)

a. Suspended solids content of wastewater which includes organic and inorganic particulate matter shall not exceed a thirty (30) day average concentration of one hundred (100) mg/l. (4-1-88)

b. Nitrogen (total as N) content of wastewater shall not exceed a thirty (30) day average concentration of twenty (20) mg/l. (4-1-88)

07. Direct Use of Municipal Reclaimed Wastewater. Treatment requirements applicable to direct use of municipal reclaimed wastewater include, but are not limited to, the following. The applicable treatment requirements, buffer zones, access restrictions, disinfection requirements, uses, and other requirements are further described in the Classification Table in Subsection 600.08. (4-6-05)

a. Class A effluent is municipal reclaimed wastewater that may be used under particular circumstances for irrigation, including residential irrigation at individual homes ~~(controlled only by the system operator)~~, ground water recharge, using surface spreading, seepage ponds, or other unlined surface water features, and other appropriate uses acceptable to the Department. Class A effluent shall be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. ~~Enhanced~~ ~~Filtration~~ approval requirements, nutrient removal requirements, turbidity limits requirements, monitoring requirements, reliability and redundancy requirements, and distribution system requirements also apply. Class A treatment systems are required to be pilot tested at full scale prior to sewer hookups, lifting of sanitary restrictions, and start-up or otherwise approved by the Department per Subsection 601.04 of these rules. Class A effluent shall be considered adequately disinfected if, at the point of compliance, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, and does not exceed twenty-three (23) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. For ground water recharge, surface spreading, seepage ponds, and other unlined water features, IDAPA 58.01.11, "Ground Water Quality Rule," requirements apply. For Class A effluent, analysis shall be based on daily sampling during periods of use. The point of compliance for Class A effluent for total coliform shall be in the distribution at any point in the system following final treatment, final storage and disinfection contact time. It is recommended but not required that the effluent also be disinfected following storage. Class A effluent for residential irrigation ~~should~~ shall be applied only during periods of non-use. (4-6-05)(____)

b. Class B effluent is municipal reclaimed wastewater that may contact any edible portion of raw food crops or is used to irrigate golf courses, parks, playgrounds, schoolyards and other areas where children are more likely to have access or exposure. Class B effluent shall be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. New Class B treatment systems are required to be pilot tested at full scale and approved by the Department prior to sewer hookups, lifting of sanitary restrictions, and start-up. Class B effluent shall meet the following turbidity limits. The daily arithmetic mean of all daily measurements of turbidity shall not exceed two (2) NTU, and turbidity shall not exceed five (5) NTU at any time. Turbidity shall be measured continuously. The turbidity standard shall be met prior to disinfection. For those systems that have in-line turbidimeters that are operating full-time, no additional monitoring for total suspended solids (TSS) is required. Class B effluent shall be considered adequately disinfected if, at the point of compliance, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, and does not exceed twenty-three (23) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. For Class B effluent, analysis shall be based on daily sampling during periods of application. The point of compliance for Class B effluent for total coliform shall be in the distribution at any point in the system following final treatment, final storage and disinfection contact time. It is recommended but not required that the effluent also be disinfected following storage. Residual chlorine at the point of compliance shall be not less than one (1) mg/L free chlorine after a contact time of thirty (30) minutes at peak flow. If an alternative disinfection process is used, it must be demonstrated to the satisfaction of the Department that the alternative process is comparable to that achieved by chlorination with one (1) mg/L free chlorine after thirty (30) minutes contact time. Class B effluent shall be applied only during periods of non-use by the public. (4-6-05)(____)

c. Class C effluent is municipal reclaimed wastewater that will only contact the ~~inedible~~ inedible portion of raw food crops, or is used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground or will only contact the ~~inedible~~ inedible portion of raw food crops, or is used to irrigate cemeteries, ~~roadside~~ vegetation on sides and medians of highways, and other areas where individuals have access or exposure. Class C effluent shall be oxidized and adequately disinfected. Class C effluent shall be considered adequately disinfected if, at the point of compliance, the median number of total coliform organisms does not exceed twenty-three (23) per one hundred (100) milliliters, and does not exceed two hundred thirty (230) per one hundred (100) milliliters in any confirmed sample as determined from the bacteriological results of the last five (5) days for which analyses have been completed. For Class C effluent, analysis shall be based on weekly sampling during periods of application. The point of compliance for Class C effluent for total coliform shall be at ~~the entrance to the distribution~~ any point in the system following final treatment and disinfection contact time, but before storage. Class C effluent shall be applied only during periods of non-use by the public. (4-6-05)(____)

d. Class D effluent is municipal reclaimed wastewater that is used to irrigate fodder, seed, or processed food crops and is oxidized and adequately disinfected. Class D effluent shall be considered adequately

disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters, not to exceed two thousand three hundred (2300) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last three (3) days for which analyses have been completed. For Class D effluent, analysis shall be based on monthly sampling during periods of application. The point of compliance for Class D effluent for total coliform shall be at any point in the system following final treatment and disinfection contact time. Animals shall not be grazed on land where Class D municipal wastewater is applied, and animals shall not be fed harvested vegetation irrigated in this manner within two (2) weeks of application. ~~(4-6-05)~~(____)

e. Class E effluent is municipal reclaimed wastewater that is used to irrigate ~~fodder, seed, or processed food crops or~~ forested sites where public access is restricted and the municipal wastewater shall be of at least primary effluent quality. Animals shall not be grazed on land where Class E municipal wastewater is applied, and animals shall not be fed harvested vegetation irrigated in this manner within four (4) weeks of application. ~~(4-6-05)~~(____)

08. Direct Use of Municipal Reclaimed Wastewater - Classification Table. The following table further describes the requirements for direct use of municipal reclaimed wastewater outlined in Subsection 600.07.

Classification Table					
Classification	Class A	Class B	Class C	Class D	Class E
Treatment	This is a partial list - see Section 601 for more detail: Oxidized, <u>clarified, and</u> coagulated, clarified, with enhanced filtration approval requirements or treated by an equivalent process, plus nutrient removal requirements, turbidity limits requirements, adequately disinfected and not tested.	Oxidized, coagulated, clarified, <u>and</u> filtered, or treated by an equivalent process and adequately disinfected and not tested.	Oxidized and adequately disinfected	Oxidized and adequately disinfected	At least primary effluent quality
Disinfection	Total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters	Total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters	Total coliform organisms does not exceed twenty three (23) per one hundred (100) milliliters	Total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters	Total coliform organisms up to "too numerous to count"

Classification Table					
Classification	Class A	Class B	Class C	Class D	Class E
Uses	Residential irrigation at individual homes, ground water recharge, <u>using</u> surface spreading, seepage ponds, other unlined <u>surface</u> water features, or Class B, C, D, or E uses. Other requirements apply for groundwater uses.	May contact any edible portion of raw food crops, or is used to irrigate golf courses, parks, playgrounds, schoolyards or Class C, D, or E uses.	Used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground, or will only contact the unedible portion of raw food crops, or is used to irrigate cemeteries, roadside vegetation or Class D or E uses.	Used to irrigate fodder, seed, or processed food crops or Class E uses.	Used to irrigate fodder, seed, processed food crops, or forested sites.
Access Restriction	Irrigated during periods of non-use.	Irrigated during periods of non-use by the public.	Irrigated during periods of non-use by the public.	Public access restricted.	Public access restricted.
Signing and Posting	See Subsection 601.02	Site specific - See Idaho Guidance for <u>Land Application The Reclamation and Reuse</u> of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for <u>Land Application The Reclamation and Reuse</u> of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for <u>Land Application The Reclamation and Reuse</u> of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for <u>Land Application The Reclamation and Reuse</u> of Municipal and Industrial Wastewater

Classification Table					
Classification	Class A	Class B	Class C	Class D	Class E
Buffer Zones Distances	No effluent is allowed to be applied into or over natural waterways, or other conveyances that drain into natural waterways without an NPDES Permit.	Site specific - See Idaho Guidance for <u>Land Application The Reclamation and Reuse of Municipal and Industrial Wastewater. No effluent is allowed to be applied into or over natural waterways, or other conveyances that drain into natural waterways, without an NPDES Permit.</u>	Site specific - See Idaho Guidance for <u>Land Application The Reclamation and Reuse of Municipal and Industrial Wastewater. No effluent is allowed to be applied into or over natural waterways, or other conveyances that drain into natural waterways, without an NPDES Permit.</u>	Site specific - See Idaho Guidance for <u>Land Application The Reclamation and Reuse of Municipal and Industrial Wastewater. No effluent is allowed to be applied into or over natural waterways, or other conveyances that drain into natural waterways, without an NPDES Permit.</u>	1000 ft. to inhabited dwellings and areas accessible to the public. <u>No effluent is allowed to be applied into or over natural waterways, or other conveyances that drain into natural waterways, without an NPDES Permit.</u>
Grazing	Grazing allowed only with approved grazing management plan.	Grazing allowed only with approved grazing management plan.	Grazing allowed only with approved grazing management plan.	Grazing not allowed.	Grazing not allowed.

(4-6-05)()

601. CLASS A EFFLUENT MUNICIPAL RECLAIMED WASTEWATER - ADDITIONAL REQUIREMENTS.

01. Engineering Report. Engineering reports and application materials for new Class A effluent municipal reclaimed wastewater systems or major upgrades to Class A effluent municipal reclaimed wastewater systems shall be submitted to the Department with the application and must be approved by the Department prior to permit issuance. The engineering report shall include, but not be limited to, the following items as applicable: purpose; approach; development of alternatives; technical, financial, managerial, and legal issues; emergency response and security; operation and maintenance; pilot testing; client use issues; potential markets for reclaimed wastewater; potential sources of wastewater; public involvement and perception; targeted markets for reclaimed wastewater; allocation of reclaimed wastewater; preliminary investigations; staff development; treatment system upgrades to meet Class A requirements; distribution system development and schedule; new development infrastructure; reservoir or booster capacity; water balance calculations; costs; applicable regulations; and potential funding sources. This engineering report shall be stamped, dated and signed in accordance with Idaho Board of Registration of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.02, "Rules of Professional Responsibility".

(4-6-05)()

02. Distribution System Requirements. Class A distribution systems and the continued distribution

systems of all of its customers shall have specific requirements including, but not limited to: (4-6-05)

a. Any person or agency that is planning to construct all or part of the distribution system must obtain a plan and specification approval from the Department prior to beginning construction. Where Class A effluent is to be provided by pressure pipeline, the following applicable standards shall be used as guidance: the current edition of "Recommended Standards for Wastewater Facilities - Great Lakes-Upper Mississippi River Board of State Sanitary Engineers," the "AWWA Manual M24" Chapter 4 for dual water systems, and the current edition of "Idaho Standards for Public Works Construction". The above guidance documents shall be used for all new systems constructed after April 1, 2005. Requirements for irrigation systems proposed for conversion from use of non-Class A effluent water to use with Class A effluent will be considered on a case-by-case basis considering protection of public health and the environment. (4-6-05)

b. Distribution Lines. (4-6-05)

i. Minimum Separation. (4-6-05)

(1) Horizontal Separation. Class A effluent distribution mains parallel to potable (culinary) water mains shall be installed in accordance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06. Class A effluent distribution mains parallel to sanitary sewer mains shall be installed at least five (5) feet horizontally from the sanitary sewer main if the sanitary sewer main is located above the Class A effluent main, and three (3) feet horizontally from the sanitary sewer main if the sanitary sewer main is located below the Class A effluent main. (4-6-05)

(2) Vertical Separation. At crossings of Class A effluent distribution mains with potable water mains and sanitary sewer mains, the order of the mains from lowest in elevation to highest should be: sanitary sewer main, Class A effluent main, and potable water main. A minimum of eighteen (18) inches vertical separation between each of these utilities shall be provided as measured from outside of pipe to outside of pipe. The crossings shall be arranged so that the Class A effluent main joints will be equidistant and as far as possible from the water main joints and the sewer main joints. If the Class A effluent water main must cross above the potable water main, the vertical separation shall be a minimum eighteen (18) inches, the Class A effluent main shall be supported to prevent settling, and the Class A effluent main shall be encased in a continuous pipe sleeve to a distance on each side of the crossing equal to ten (10) feet. If the Class A effluent main must cross below the sanitary sewer main, the vertical separation shall be a minimum eighteen (18) inches and the Class A effluent main shall be encased in a continuous pipe sleeve to a distance on each side of the crossing equal to ten (10) feet. (4-6-05)

(3) Special Provisions. Where the horizontal and/or vertical separation as required above cannot be maintained, special construction requirements shall be provided in accordance with requirements in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06, for protection of potable water mains. (4-6-05)

ii. Class A Effluent Pipe Identification. (4-6-05)

(1) General. All new buried pipe, including service lines, valves, and other appurtenances, shall be colored purple, Pantone 512 or equivalent. If fading or discoloration of the purple pipe is experienced during construction, identification tape or locating wire along the pipe is required. Label piping every ten (10) feet "Caution: Reclaimed Water - Do Not Drink". (4-6-05)

(2) Identification Tape. If identification tape is installed along with the purple pipe, it shall be prepared with white or black printing on a purple field, color Pantone 512 or equivalent, having the words, "Caution: Reclaimed Water - Do Not Drink". The overall width of the tape shall be at least three (3) inches. Identification tape shall be installed eighteen (18) inches above the transmission pipe longitudinally, shall be centered over the pipe, and shall run continuously along the length of the pipe. (4-6-05)

iii. Conversion of Existing Drinking Water or Irrigation Water Lines. Existing water lines that are being converted to use with Class A effluent shall first be accurately located and comply with leak test standards in accordance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06, and in coordination with the Department. The pipeline must be physically disconnected from any potable water lines and

brought into compliance with current state cross connection rules and requirements (IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.07), and must meet minimum separation requirements in Subsection 601.02.b. of these rules. If the existing lines meet approval of the water supplier and the Department based upon the requirements set forth in Subsection 601.02.b.iii. of these rules, the lines shall be approved for Class A effluent distribution. If regulatory compliance of the system (accurate location and verification of no cross connections) cannot be verified with record drawings, televising, or otherwise, the lines shall be uncovered, inspected, and identified prior to use. All accessible portions of the system must be retrofitted to meet the requirements of these rules. After conversion of the water or irrigation line to a wastewater effluent line, the lines shall be marked as stated in Subsection 601.02.b.ii.(2) of these rules. (4-6-05)

iv. Valve Boxes and Other Surface Identification. All valves ~~covers~~ shall ~~be of~~ have locking valve covers that are non-interchangeable ~~shape~~ with ~~locking~~ potable water valve covers, and shall have an inscription cast on the top surface stating "Reclaimed Water". Valve boxes shall meet the requirements of IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06. All above ground pipes and pumps shall be consistently color coded (purple, Pantone 512) and marked to differentiate Class A effluent facilities from potable water facilities. ~~(4-6-05)~~()

v. Blow-off Assemblies. If either an in-line type or end-of-line type blow-off or drain assembly is installed in the system, a plan for proposed discharge or runoff locations shall be submitted to the Department for review and approval. (4-6-05)

c. Storage. If storage or impoundment of Class A effluent is provided, the following requirements apply: (4-6-05)

i. Fencing. No fencing is required by these rules, but may be required by local laws or ordinances. (4-6-05)

ii. Identification. All storage facilities shall be identified by signs prepared according to the requirements of Subsection 601.02.e.v. of these rules. Signs shall be posted on the surrounding fence at minimum five hundred (500) foot intervals and at the entrance of each facility. If there is no fence, signs shall be located at a minimum on each side of the facility or at minimum two hundred fifty (250) foot intervals or at all accessible points. (4-6-05)

iii. For systems supplying irrigation water for residential lawn irrigation, minimum storage requirements shall include sufficient volume for daily use patterns, precipitation events, etc., and an alternate disposal point during non-irrigation season. (4-6-05)

d. Pumping Facilities. (4-6-05)

i. Marking. All exposed and above ground piping, risers, fittings, pumps, valves, etc., shall be painted purple, Pantone 512. In addition, all piping shall be identified using an accepted means of labeling reading "Warning: Reclaimed Water - Do Not Drink". In a fenced pump station area, signs shall be posted on the fence on all sides. (4-6-05)

ii. Seal Water. Any potable water used as seal water for reclaimed water pump seals shall be protected from backflow with a Department approved backflow prevention device or air gap. (4-6-05)

e. Other Requirements. (4-6-05)

i. Backflow Protection. In no case shall a direct connection be made between the potable and Class A effluent system. If it is necessary to put potable water into the Class A effluent distribution system, a Department approved reduced pressure principal device or air gap must be provided to protect the potable water system. (4-6-05)

ii. Drinking fountains, picnic tables, food establishments, and other public eating facilities shall be placed out of any spray irrigation area in which Class A effluent is used, or shall be otherwise protected from contact with the Class A effluent. Exterior drinking fountains, picnic tables, food establishments, and other public eating

facilities shall be shown and called out on the construction plans. If no exterior drinking fountains, picnic tables, food establishments, or other public eating facilities are present in the design area, then it shall be specifically stated on the plans that none are to exist. (4-6-05)

iii. Equipment and Facilities. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with Class A effluent shall not be used with potable water or sewage. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with sewage shall not be used with Class A effluent or potable water. (4-6-05)

iv. Warning Labels. Warning labels shall be installed on designated facilities such as, but not limited to, controller panels and washdown or blow-off hydrants on water trucks, hose bibs, and temporary construction services. The labels shall read, "Warning: Reclaimed Wastewater - Do Not Drink". (4-6-05)

v. Warning signs. Where reclaimed water is stored or impounded, or used for irrigation in public areas, warning signs shall be installed and contain, at a minimum, one (1) inch purple letters (Pantone 512 or equivalent) on a white or other high contrast background notifying the public that the water is unsafe to drink. Signs may also have a purple background with white or other high contrast lettering. Warning signs and labels shall read, "Warning: Reclaimed Wastewater - Do Not Drink". The signs shall include the international symbol for Do Not Drink. (4-6-05)

03. Other Permits Addressed as Necessary. The following other permits may be necessary for a particular facility but are not regulated under these rules: (4-6-05)

- a. NPDES permits from the Environmental Protection Agency for surface water discharge. (4-6-05)
- b. Injection well permits from Idaho Department of Water Resources. (4-6-05)

04. Filtration Technology Approval Requirements. All Class A effluent projects in Idaho must have written approval from the Department for their proposed filtration technology prior to submitting plans and specifications for approval. The following approaches are methods by which this written approval may be obtained from the Department. (4-6-05)

- a. Department approval based on previous similar projects in Idaho. (4-6-05)
- b. National approval by National Reuse Association, Water Environment Federation Research Foundation, NSF International, or other organization approved by the Department. (4-6-05)
- c. The State of California Department of Health Services Treatment Technology Report for Recycled Water. (4-6-05)
- d. Other methods approved by the Department, including pilot testing. (~~4-6-05~~)(____)

05. Nutrient Removal Requirements. Total nitrogen at the point of compliance shall not exceed ten (10) mg/L for ground water recharge systems, and thirty (30) mg/L for residential irrigation and other non-recharge systems, based on a monthly arithmetic mean as determined from daily weekly composite sampling. ~~This value~~ These limits may be much lower depending on the results of any applicable nutrient-pathogen studies that may be required. (~~4-6-05~~)(____)

06. Turbidity Limits and Monitoring Requirements. (4-6-05)

- a. One (1) in-line, continuously monitoring, recording turbidimeter is required for each treatment train. (4-6-05)
- b. Class A effluent shall meet the following turbidity limits. The daily arithmetic mean of all daily measurements of turbidity shall not exceed two (2) NTU, and turbidity shall not exceed five (5) NTU at any time. Turbidity shall be measured continuously. The turbidity standard shall be met prior to disinfection. (4-6-05)

07. Reliability and Redundancy Requirements. (4-6-05)

a. ~~Class A treatment systems shall have redundant treatment capabilities able to treat peak flow and provide for an alternative disposal option or diversion to adequate lined storage capable of storing seven (7) days of effluent or equivalent back-up system~~ must be automatically activated if turbidity exceeds or chlorine residual drops below the instantaneous required value for more than ~~two~~ five (25) minutes. Peak flow is defined for the purpose of this rule to mean the peak flow of the plant anticipated for the season in which Class A effluent is being produced. The maximum number of times a facility could exceed on this basis is twice in one (1) week, both of which times are required to be immediately reported. Failure to report or exceeding more than twice in one (1) week are sufficient grounds for the Department to require the system to be shut down for inspection and repair. ~~(4-6-05)()~~

b. Redundant facilities, including, but not limited to, monitoring equipment and treatment trains shall be required. (4-6-05)

c. Standby Power sufficient to maintain all treatment and distribution works shall be required for the Class A effluent use. An alternative to this is to provide standby power sufficient for basic treatment and for automatic by-pass of filtration directly to an alternative disposal option or diversion to lined storage. (4-6-05)

d. Standby treatment filter units in fully operable condition capable of treating peak flow shall be plumbed and wired in place for immediate use. Peak flow is defined for the purpose of this rule to mean the peak flow of the plant anticipated for the season in which Class A effluent is being produced. An alternative to this is automatic by-pass of filtration directly to an alternative disposal option or diversion to lined storage. ~~(4-6-05)()~~

08. Other Class A Effluent Requirements. (4-6-05)

a. Minimum treatment system size shall be ten thousand (10,000) gallons per day of wastewater flow being treated. ()

~~**b.** Five (5) Day Biochemical Oxygen Demand (BOD5) shall not exceed five (5) mg/L and Total Organic Carbon (TOC) shall not exceed five (5) mg/L for ground water recharge systems, and ten (10) mg/L each for residential irrigation and other non-recharge systems, based on a monthly arithmetic mean as determined from daily weekly composite sampling. Composite samples shall be comprised of at least six (6) flow proportionate samples taken over a one (1) day period at the point of compliance.~~ ~~(4-6-05)()~~

~~**b.** Total Suspended Solids (TSS) prior to disinfection shall not exceed five (5) mg/L based on a monthly arithmetic mean as determined from daily composite sampling. Composite samples shall be comprised of at least six (6) flow proportionate samples taken over a one (1) day period at the point of compliance.~~ (4-6-05)

c. The pH as determined by daily grab samples or continuous monitoring shall be between six point zero (6.0) and nine point zero (9.0) inclusive. ~~(4-6-05)()~~

d. Residual Chlorine at the point of compliance shall be not less than one (1) mg/L free chlorine after a contact time of thirty (30) minutes at peak flow. If an alternate disinfection process is used, it must be demonstrated to the satisfaction of the Department that the alternative process is comparable to that achieved by chlorination with a one (1) mg/L free chlorine residual after thirty (30) minutes contact time. (4-6-05)

e. For any type of ground water recharge system, the Class A effluent must also meet ground water quality standards per IDAPA 58.01.11, "Ground Water Quality Rule," at the point of compliance, and comply with the remaining sections of the "Ground Water Quality Rule". For these types of ground water recharge systems utilizing Class A effluent municipal reclaimed wastewater, the applicant shall propose to the Department for review and approval, the applicable testing requirements for the effluent as it relates to the primary and secondary ground water standards, as well as background ground water quality. Ground water recharge site locations shall be a minimum of ~~two~~ one thousand (21000) feet from any down gradient drinking water extraction well and shall also provide for a minimum of ~~one (1) year of storage~~ six (6) months time of travel in the aquifer prior to withdrawal. The minimum requirements for site location and aquifer storage time may also be greater depending on any source water assessment zone studies for public drinking water wells in the area. The owners of these systems must control the ownership of this down gradient area to prohibit future wells from being drilled in the impact zone of the ground

water recharge system. The Idaho Department of Water Resources requires additional permits for ground water injection wells. (4-6-05)(____)

f. A filter to waste operational criteria is required for all Class A effluent filtration facilities for each time a filter starts up. The filter will automatically filter to waste until the effluent meets the required turbidity standard. (4-6-05)

g. Additional information in the form of reports by qualified soil scientists, professional geologists, professional engineers, or other qualified individuals relating to environmental assessments, nutrient management plans, or water rights issues shall be submitted to the Department at the pre-application conference or with the application and must be approved by the Department prior to permit issuance. (4-6-05)

h. Requirements for Class A effluent distribution system operators. All operators of Class A effluent distribution systems, including operators of the distribution system from the wastewater treatment plant to the point of compliance or point of use or point of sale, as applicable, and those operators that are employed by buyers of the Class A effluent for subsequent use, including homeowners, shall ~~have the following qualifications. Operators shall have a high school diploma or GED or equivalent. Operators shall be trained, by a qualified manufacturer's representative, in the use and repair of the particular distribution system to be operated. Operators shall be trained in the concepts and safety issues of wastewater reuse, including viral infection issues, by the licensed operator of the particular wastewater treatment plant providing the Class A effluent to the particular system in use~~ be required to sign a utility user agreement provided by the utility providing the Class A effluent that states that the user acknowledges that the user understands the origin of the effluent and the concept of agronomic rate for applying the Class A effluent. Contracts for sale of Class A effluent for subsequent use shall also ~~require these standards~~ include these requirements. Individual homeowners ~~shall not~~ are allowed to operate or maintain Class A effluent distribution systems. Providers of the Class A effluent shall undertake a public education program within its service area to teach potential customers the benefits and responsibilities of using Class A effluent. (4-6-05)(____)

602. DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY OF CLASS A EFFLUENT RECLAIMED WASTEWATER SYSTEMS.

No person shall proceed, or cause to proceed, with construction of a new class A effluent reclaimed wastewater system until it has been demonstrated to the Department that the new Class A effluent reclaimed wastewater system will have adequate technical, financial, and managerial capacity. Demonstration of capacity shall be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 601.02.a. of these rules. The Applicant must obtain Department approval of the new system capacity demonstration prior to permit issuance and construction. (4-6-05)

01. Technical Capacity. In order to meet this requirement, the Class A effluent reclaimed wastewater system shall submit documentation to demonstrate the following: (4-6-05)

a. The system meets the relevant design, construction, operating and maintenance requirements of these rules; (4-6-05)

b. The system has an adequate and consistent source of wastewater; (4-6-05)

c. A security plan is in place to protect the wastewater source and deal with emergencies; (4-6-05)

d. The system has trained personnel with an understanding of the technical and operational characteristics of the system; (4-6-05)

e. A plan for cross-connection control; (4-6-05)

f. Procedures for emergency response; and (4-6-05)

g. Quality assurance and quality control plans. (4-6-05)

02. Financial Capacity. A demonstration of financial capacity must include, but is not limited to, the following information: (4-6-05)

a. Documentation that organizational and financial arrangements are adequate to construct and operate the Class A effluent reclaimed wastewater distribution system in accordance with these rules. This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement; (4-6-05)

b. Demonstration of revenue sufficiency that includes, but is not limited to, billing and collection procedures, a proposed rate structure which is affordable and ensures availability of operating funds, revenues for depreciation and reserves, and the ability to accrue a capital replacement fund. A preliminary operating budget shall be provided; (4-6-05)

c. Adequate fiscal controls shall be demonstrated; and (4-6-05)

d. Equipment inventory controls shall be in place. (4-6-05)

03. Managerial Capacity. In order to demonstrate adequate managerial capacity, the owner and/or operator of a new Class A effluent reclaimed wastewater system shall submit at least the following information to the Department: (4-6-05)

a. Clear documentation of legal ownership of the Class A effluent reclaimed wastewater system, including collection, treatment and effluent distribution systems, and any plans that may exist for transfer of that ownership on completion of construction or after a period of operation; (4-6-05)

b. The name, address, and telephone number of the person who will be accountable for ensuring that the Class A effluent reclaimed wastewater system is in compliance with these rules; (4-6-05)

c. The name, address, and telephone number of the system operator; (4-6-05)

d. A description of the manner in which the wastewater system will be managed. By-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organization structure are a means of providing this information; (4-6-05)

e. Personnel management policies and a description of staffing, including training, experience, certification or licensing, and continuing education completed by the Class A effluent reclaimed wastewater system staff; (4-6-05)

f. An explanation of how the wastewater system operators will establish and maintain effective communications and relationships between the wastewater system management, its customers, professional service providers, and any applicable regulatory agencies; and (4-6-05)

g. Evidence of short-term and long-term planning for future growth, equipment repair and maintenance, and long term replacement of system components. (4-6-05)

~~**04. Submittal Form.** The Department shall provide a standard form to be used in preparing a new system capacity demonstration. (4-6-05)~~

054. Consolidation. In demonstrating new system capacity, the owner of the proposed new Class A effluent reclaimed wastewater system shall investigate the feasibility of obtaining water service from an established public water system. If such service is available, but the owner elects to proceed with an independent system, the owner shall explain why this choice is in the public interest in terms of environmental protection, affordability to water users, and protection of public health. (4-6-05)

065. Exclusion. New Class A effluent reclaimed wastewater systems which are public utilities as defined in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, shall meet the regulatory requirements of the Idaho Public Utilities Commission (IPUC) in Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, "Rules of Procedure of the Idaho Public

Utilities Commission". Such wastewater systems shall not be required to meet any requirements of Section 602 which are in conflict with the provisions and requirements of the Idaho Public Utilities Commission. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

940. WAIVERS.

Waivers from the requirements of these rules may be granted by the Director on a case-by-case basis upon full demonstration by the person requesting the waivers that such activities for which the waivers are granted will not have a detrimental effect upon existing water quality and uses are adequately protected; and: (4-1-88)(____)

01. Effect. ~~That such waivers will not have a detrimental effect upon existing water quality and uses are adequately protected; and~~ That the proposed loadings on the site will be di minimus in both quantity and quality; (4-1-88)(____)

02. Treatment Requirements. That the treatment requirements are: (4-1-88)

a. Unreasonable with current technology; or (4-1-88)

b. Economically prohibitive. (4-1-88)

941. -- ~~949999.~~ (RESERVED).

~~950. PUBLIC AND CONFIDENTIAL INFORMATION.~~

~~**01. Accessibility.** Except as provided in this section or other applicable law, information obtained or submitted pursuant to these rules will be available to the public for inspection and copying during normal working hours. Anyone requesting Department assistance in collecting, copying or mailing public information must tender, in advance, the reasonable cost of those services. (4-1-88)~~

~~**02. Confidentiality.** Information concerning a pollution source and submitted to the Director, Board, or Hearing Officer pursuant to these rules which, as certified by the owner or operator of such source, relates to production or sales figures or to processes or production unique to the owner or operator, or tends to adversely affect the competitive position of such owner or operator, shall be only for the confidential use of the Board, Director and Hearing Officer unless: (4-1-88)~~

~~**a.** The Board, after a hearing, determines that a claim of uniqueness or adverse effect is unwarranted; (4-1-88)~~

~~**b.** The owner or operator expressly consents to disclosure; or (4-1-88)~~

~~**c.** Disclosure is required for prosecution of a violation of the Idaho Environmental Protection and Health Act, these rules or a permit, or order issued thereunder. (4-1-88)~~

~~**03. Department Discretion.** The Department may decline to release to the public: (4-1-88)~~

~~**a.** Inconclusive preliminary data or reports generated as part of ongoing studies; and (4-1-88)~~

~~**b.** Information obtained as part of ongoing investigations when release would: (4-1-88)~~

~~**i.** Interfere with enforcement proceedings; (4-1-88)~~

~~**ii.** Deprive a person of a fair or impartial adjudication; (4-1-88)~~

~~**iii.** Discourage informants from disclosing information to the Department; (4-1-88)~~

iv. Disclose investigative techniques or proceedings; or (4-1-88)

v. Endanger the safety of Department personnel. (4-1-88)

~~951. — 995. (RESERVED).~~

SECTION 996 HAS BEEN MOVED TO SECTION 004

SECTION 997 HAS BEEN MOVED TO SECTION 005

~~998. INCLUSIVE GENDER AND NUMBER.~~

~~For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate. (12-31-91)~~

~~999. SEVERABILITY.~~

~~The provision of these rules are severable and if a provision or its application is declared invalid for any reason, that declaration will not affect the validity of the remaining provisions. (4-1-88)~~

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.17 - WASTEWATER-LAND APPLICATION PERMIT RULES

DOCKET NO. 58-0117-0502

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Chapter 1, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before August 17, 2005. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The Wastewater-Land Application Permit Rules do not currently require the Department of Environmental Quality (DEQ) to provide public notice or an opportunity for public comment during the wastewater land application permitting process although DEQ has been providing for this. The purpose of this rulemaking is to set out in rule the public participation provisions for the permitting process and to revise the permitting schedule to allow the director 60 days after issuance of a draft permit to issue the final permit. The rules currently allow the director 30 days to issue the final permit. In order to maintain the 180 day permitting schedule, the number of days allowed for the director to make an application completeness determination would decrease from 60 to 30 days. This proposed rule also adds a provision allowing for additional information or consultation between the applicant and the Department if necessary to clarify, modify, or supplement the application.

Idaho Association of Commerce and Industry, Idaho Association of Cities, consulting engineers, existing and potential permittees, and the development community may be interested commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2005 for adoption of a pending rule. The rule is expected to be final and effective upon the adjournment of the 2006 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to the Wastewater-Land Application Permit Rules. Therefore, the proposed changes to these rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government”. The proposed rule changes the public participation provisions in an existing program authorized by the Idaho Legislature. It does not propose to expand a regulatory program to an area or activity not regulated by the federal government. Therefore, the rule change itself does not appear to be subject to the requirements of Section 39-107D, Idaho Code.

While the proposed rule just changes the public participation provisions in an existing program, and does not propose to expand regulation to a new activity, the existing program does regulate activities not regulated by the federal government. This existing rule chapter was first adopted in 1988 and therefore was not subject to the requirements of Section 39-107D, Idaho Code, which was enacted in 2002 and amended in 2003. This rulemaking does not propose a standard necessary to protect human health and the environment.

IDAHO CODE SECTION 67-5221(1)(c) FISCAL IMPACT STATEMENT: No negative impact occurs from this rulemaking; provision is not applicable.

NEGOTIATED RULEMAKING: On June 1, 2005 the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 05-6, page 49, and a preliminary draft negotiated rule was made available for public comment. A meeting was held on June 14, 2005. No members of the public attended the meeting; however,

one written comment was received during the negotiated rulemaking period. The proposed rule has been drafted in response to the concerns raised in the written comment.

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 AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Rick Huddleston at (208)373-0561, richard.huddleston@deq.idaho.gov.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before August 31, 2005.

Dated this 1st day of July, 2005.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE TEXT OF DOCKET NO. 58-0117-0502

400. APPLICATION PROCESSING PROCEDURE.

01. Complete Application. If the application is determined to be complete the Director shall provide written notice to the applicant within ~~sixty~~ thirty (~~60~~) days after receipt of the application which shall specify: (4-1-88)()

- a. The effective date of application, which will be the date of the notice; and (4-1-88)
- b. A projected schedule for processing the permit which lists the tentative dates for: (4-1-88)
 - i. Publication of the preliminary permit decision or application denial; and (4-1-88)
 - ii. The date of issuance of a final permit. (4-1-88)

02. Incomplete Application. If the application is determined to be incomplete the Director shall provide written notice to the applicant within ~~sixty~~ thirty (~~60~~) days after receipt of the application which specifies deficiencies and specifies additional required information. The Director shall not process an application until it is determined to be complete in accordance with these rules. (4-1-88)()

03. Preliminary Decision/Application Denial. Within thirty (30) days of the effective date of the application the Director shall issue a preliminary decision to prepare a draft permit, or issue a decision denying the application. The applicant shall be notified in writing of the Director's preliminary decision or application denial. Notification shall include a staff analysis of the application and a draft permit if appropriate. (4-1-88)

04. Contents of the Staff Analysis. The staff analysis shall briefly state the principal facts and the significant questions considered in preparing the draft permit conditions or the intent to deny, and a summary of the basis for the draft conditions or denial with references to applicable requirements and supporting materials. (4-1-88)

05. Information or Consultation Before Issuance of Draft Permit or Application Denial. After the application is determined to be complete, additional information or consultation between the applicant and the Department may be needed to clarify, modify, or supplement the application. This action may be initiated by the Director or the applicant. ()

056. Issuance and Contents of the Draft Permit. ()

a. Issuance and Contents of the Draft Permit. The Director shall issue a draft permit to the applicant within sixty (60) days of issuing a preliminary decision to prepare a draft permit. The draft permit shall be in the same form as a final permit and shall specify conditions of operation and management which will be required for the issuance of the permit. Permit conditions shall protect the environment and the public health from the hazard potential of an existing or proposed wastewater treatment system. (4-1-88)()

b. Public Comments. The Department shall provide notice to the public of its issuance of a draft permit. The public may provide written comments for a period of time and in a manner specified in the Department's notice. The Department may, in its discretion, provide an opportunity for the public to provide oral comments.()

~~**06. Information Requested After Effective Date of Application.** *The Director may, by written request, require additional information after the effective date of application to clarify, modify, or supplement the application.* (4-1-88)~~

07. Issuance of the Final Permit. The Director shall issue a final permit decision in writing to the applicant within ~~thirty~~ sixty (60) days from the issuance of the draft permit, except the Director may issue the decision at ~~either an earlier or~~ a later date in response to a written request ~~by the applicant~~ to extend the public comment period. (4-1-88)()

08. Effective Date of Final Permit. The final permit shall become effective upon date of issue unless a later effective date is specified in the permit. (4-1-88)

Subjects Affected Index

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.01 - Rules Governing the Pure Seed Law

Docket No. **02-0601-0501** (Fee Rule)

000. Legal Authority.....	22
002. Written Interpretations.....	22
004. Incorporation By Reference.....	22
005. Office – Office Hours – Mailing Address And Street Address.....	22
006. Public Records Act Compliance.....	22
007. -- 009. (Reserved).....	22
010. Definitions.....	22
011. (Reserved).....	22
012. Methods Of Sampling -- General Procedure.....	22
113. -- 049. (Reserved).....	24
500. Service Testing Fees - Purity, Germination And Tetrazolium Fees.....	24
501. Service Testing Fees - Special Tests.....	28
502. Service Testing Fees - Miscellaneous Fees.....	29
503. -- 599. (Reserved).....	30
600. Seed Dealer's License Fees.....	30

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.03 - Rules Governing Thoroughness

Docket No. **08-0203-0501**

004. Incorporation By Reference.....	35
217. -- 999. (Reserved).....	35

Docket No. **08-0203-0502**

111. Assessment In The Public Schools.....	87
--	----

Docket No. **08-0203-0503**

111. Assessment In The Public Schools.....	92
--	----

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR

09.01.04 - Rules of the Benefit Payment Control Bureau

Docket No. **09-0104-0501**

000. Legal Authority.....	97
001. Title And Scope.....	97
002. Written Interpretations.....	97

09.01.30 - Rules of the Benefits Bureau

Docket No. **09-0130-0501**

001. Title And Scope.....	99
---------------------------	----

Docket No. **09-0130-0502**

425. New Claims/Additional Claims.....	100
575. Seeking Work.....	104

Docket No. **09-0130-0503**

000. Legal Authority.....	108
425. New Claims/Additional Claims.....	108
575. Seeking Work.....	111

Docket No. 09-0130-0504	
425. New Claims/Additional Claims.	115
Docket No. 09-0130-0505	
010. Definitions.	120
Docket No. 09-0130-0506	
010. Definitions.	123
250. Determinations/Appellate Processes.	125
425. New Claims/Additional Claims.	125
Docket No. 09-0130-0507	
175. Available For Work.	130
09.01.35 - Rules of the Employer Accounts Bureau	
Docket No. 09-0135-0501	
040. Compromise Of Penalty And Civil Penalty.	134
Docket No. 09-0135-0502	
134. Professional Employer Organizations.	136
Docket No. 09-0135-0503	
000. Legal Authority.	137
001. Title And Scope.	138
002. Written Interpretations.	138
011. General Provisions.	138
106. Claims Of Exemption.	139
132. Status.	140
166. Field Operations Control.	140
186. Accounting And Delinquency Control.	141
231. Experience Rating - Qualifying Period.	142
232. -- 240. (Reserved).	142
241. Board, Lodging, Meals.	142
275. UI Delivery Systems.	142
Docket No. 09-0135-0504	
056. Application Of Payments On Delinquent Accounts.	145
Docket No. 09-0135-0505	
061. Definitions.	146
Docket No. 09-0135-0506	
096. Employer Status Report.	151
Docket No. 09-0135-0507	
081. Employer Records.	153
Docket No. 09-0135-0508	
221. Transfer Of Experience Rating.	155
09.02.01 - Idaho Community Development Block Grant Program	
Docket No. 09-0201-0501	
016. Benefit To Low And Moderate Income Persons.	157
053. Grant Application Process.	159
065. Presentation To Economic Advisory Council.	160

066.	Invitation To Submit Application Addenda	160
067.	Economic Advisory Council Points.....	160
072.	Format.....	161
073.	(Reserved).....	161
074.	Sections.....	161
084.	Program Impact.....	163
090.	Project Categories.....	166
091.	Economic Advisory Council Points.....	168
092.	Award Process.....	169
094.	Application.....	169
096.	Review And Ranking Narrative For Business Expansion Projects.....	170
097.	Review And Ranking Of Downtown Revitalization.....	173
098.	Award Process.....	175
101.	Review And Ranking Process.....	176
102. -- 105.	(Reserved).....	179
106.	Economic Advisory Council Points.....	179
107.	Award Process.....	179
118.	Technical Assistance.....	179
119. -- 134.	(Reserved).....	179
153.	Procurement.....	179
154. -- 163.	(Reserved).....	180
 09.02.03 - Rules of the Idaho Regional Travel and Convention Grant Program		
Docket No. 09-0203-0501		
204.	Plan Requirements.....	183

IDAPA 12 - DEPARTMENT OF FINANCE**12.01.10 - Rules Pursuant to the Idaho Residential Mortgage Practices Act**Docket No. **12-0110-0501** (Fee Rule)

002.	Written Interpretations -- Agency Access -- Filings (Rule 2).....	187
005.	Incorporation By Reference (Rule 5).....	187
006.	Definitions (Rule 6).....	187
007. -- 009.	(Reserved).....	188
010.	Requirements For Continuing Professional Education (Rule 10).....	188
011.	Education Providers And Content Of Continuing Professional Education (Rule 11).....	191
012.	Presumptive Accreditation (Rule 12).....	193
013. -- 039.	(Reserved).....	194
040.	Deceptive Advertising (Rule 40).....	194
041. -- 049.	(Reserved).....	195
050.	Written Disclosures (Rule 50).....	195
051. -- 059.	(Reserved).....	195
060.	Prohibited Practices (Rule 60).....	195
061. -- 089.	(Reserved).....	196
090.	Borrowers Unable To Obtain Loans (Rule 90).....	196
091. -- 999.	(Reserved).....	197

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**16.02.03 - Rules Governing Emergency Medical Services**Docket No. **16-0203-0501**

010.	Definitions And Abbreviations.....	199
401. -- 404.	(Reserved).....	201
405.	Standards For The Appropriate Use Of Air Medical Agencies By Certified EMS Personnel At Emergency Scenes. 201	

406. -- 414. (Reserved).....	202
415. Air Medical Response Criteria.....	202
416. -- 419. (Reserved).....	203
420. Communications.....	203
421. -- 424. (Reserved).....	204
425. Landing Zone And Safety.....	204
426. -- 429. (Reserved).....	204
430. Patient Destination.....	204
431. -- 434. (Reserved).....	205
435. Periodic Review Of EMS System Data.....	205
436. -- 499. (Reserved).....	205
 16.03.09 - Rules Governing the Medical Assistance Program	
Docket No. 16-0309-0504	
061. -- 063. (Reserved).....	207
064. Coverage Of Investigational Procedures Or Treatments.....	207
065. Services, Treatments, And Procedures Not Covered By Medical Assistance.....	208
081. Organ Transplants.....	209
 16.04.11 - Rules Governing Developmental Disabilities Agencies	
Docket No. 16-0411-0502 (Chapter Rewrite)	
000. Legal Authority.....	213
001. Title And Scope.....	213
002. Written Interpretations.....	213
003. Administrative Appeals.....	213
004. Incorporation By Reference.....	214
005. Office Hours -- Mailing Address -- Street Address -- Telephone -- Website.....	214
006. Confidentiality Of Records And Public Records Requests.....	214
007. -- 008. (Reserved).....	214
009. Mandatory Criminal History And Background Check Requirements.....	214
010. Definitions -- A Through O.....	214
011. Definitions -- P Through Z.....	217
012. -- 199. (Reserved).....	218
200. DDA Certification.....	218
201. Application For Initial Certification.....	219
202. Changes Each DDA Is Required To Report.....	220
203. Issuance Of Certificate.....	221
204. Renewal And Expiration Of The Certificate.....	222
205. -- 299. (Reserved).....	222
300. Enforcement Process.....	222
301. Revocation Of Certificate.....	223
302. Notice Of Enforcement Remedy.....	224
303. Hearing Rights.....	224
304. -- 399. (Reserved).....	224
400. General Staffing Requirements For Agencies.....	224
401. -- 404. (Reserved).....	225
405. Standards For Paraprofessionals Providing Developmental Therapy And IBI.....	225
406. -- 414. (Reserved).....	225
415. General Training Requirements For DDA Staff.....	225
416. -- 419. (Reserved).....	227
420. Staff Who Are Qualified To Provide Services For Agencies.....	227
421. Volunteer Workers In A DDA.....	231
422. -- 499. (Reserved).....	231

500. Facility Standards For Agencies Providing Center-Based Services.....	231
501. Vehicle Safety Requirements.....	233
502. -- 509. (Reserved).....	233
510. Health Requirements.....	233
511. Medication Standards And Requirements.....	234
512. -- 519. (Reserved).....	235
520. Setting Requirements For Agencies Delivering Community-Based Services.....	235
600. Comprehensive Assessments Conducted By The DDA.....	236
601. General Requirements For Assessment Records.....	236
602. Requirements For Current Assessments.....	236
603. Assessments For Adults.....	237
604. Types Of Comprehensive Assessments.....	237
605. Requirements For Specific Skill Assessments.....	239
606. -- 699. (Reserved).....	239
700. Requirements For A DDA Providing Services To Persons Eighteen Years Of Age Or Older And ISSH Waiver Participants.....	239
701. Requirements For A DDA Providing Services To Children Ages Three Through Seventeen And Adults Receiving EPSDT Services.....	240
702. Requirements For A DDA Providing Services To Children Birth To Three Years Of Age (Infant Toddler).....	242
703. Program Implementation Plan Requirements.....	245
704. Program Documentation Requirements.....	246
705. Record Requirements.....	246
706. Requirements For Collaboration With Other Providers.....	247
707. Accessibility Of Agency Records.....	248
710. Required Services.....	248
711. Developmental Therapy.....	249
712. Psychotherapy.....	249
713. Occupational Therapy.....	250
714. Physical Therapy.....	250
715. Speech And Hearing Therapy.....	250
716. -- 719. (Reserved).....	250
720. Optional Services.....	250
721. Pharmacological Management.....	250
722. Psychiatric Diagnostic Interview.....	250
723. Community Crisis Supports.....	251
724. Collateral Contact.....	251
725. Intensive Behavioral Intervention (IBI).....	251
726. -- 799. (Reserved).....	251
800. Intensive Behavioral Intervention (IBI).....	251
801. IBI Authorization And Review.....	252
802. Comprehensive IBI Assessment.....	252
803. IBI Transition Plan.....	253
804. IBI Consultation.....	254
805. -- 899. (Reserved).....	254
900. Requirements For An Agency's Quality Assurance Program.....	254
901. -- 904. (Reserved).....	255
905. Participant Rights.....	255
906. -- 909. (Reserved).....	256
910. Obligation To Report Abuse, Neglect, Exploitation, And Injuries.....	256
911. -- 914. (Reserved).....	256
915. Policies Regarding Development Of Social Skills And Appropriate Behaviors.....	256
916. -- 919. (Reserved).....	257

920. Annual Plan.....	257
921. -- 999. (Reserved).....	257
16.05.05 - Criminal History and Background Checks in Long Term Care Settings	
Docket No. 16-0505-0501 (New Chapter)	
000. Legal Authority.....	259
001. Title, Scope And Policy.....	259
002. Written Interpretations.....	259
003. Administrative Appeals.....	259
004. Incorporation By Reference.....	259
005. Office -- Office Hours -- Mailing Address -- Street Address -- Internet Website.....	260
006. Confidentiality Of Records And Public Records Requests.....	260
007. -- 009. (Reserved).....	260
010. Definitions And Abbreviations.....	260
011. -- 049. (Reserved).....	261
050. Fees And Costs For Criminal History And Background Checks.....	261
051. -- 099. (Reserved).....	261
100. Criminal History And Background Checks.....	261
101. Procedures For Compliance With Mandatory Criminal History And Background Requirements.....	261
102. -- 999. (Reserved).....	261
16.06.08 - Rules and Minimum Standards for DUI Evaluators	
Docket No. 16-0608-0501	
000. Legal Authority.....	263
001. Title And Scope.....	263
002. Written Interpretations.....	263
003. Administrative Appeals.....	263
004. Incorporation By Reference.....	263
005. Office -- Office Hours -- Mailing Address -- Street Address -- Telephone Number -- Internet Website.....	263
006. Confidentiality Of Records And Public Records Requests.....	264
007. -- 009. (Reserved).....	264
010. Definitions.....	264
011. -- 199. (Reserved).....	265
200. Licensure.....	265
201. -- 224. (Reserved).....	267
225. Qualifications.....	267
226 -- 249. (Reserved).....	268
250. Renewal Of License.....	268
251. -- 274. (Reserved).....	268
275. Denial, Suspension Or Revocation Of License.....	268
276. -- 299. (Reserved).....	269
300. Inspections.....	270
301. -- 499. (Reserved).....	270
500. Dui Evaluations.....	270
501. -- 599. (Reserved).....	271
600. Statistical Reporting.....	271
601. -- 699. (Reserved).....	271
700. Quality Assurance, Peer And Technical Review.....	271
701. -- 799. (Reserved).....	271
800. Advisory Board.....	271
801. -- 999. (Reserved).....	272

IDAPA 18 - DEPARTMENT OF INSURANCE**18.01.09 - Senior Consumer Protection in Annuity Transactions**Docket No. **18-0109-0501** (New Chapter)

000. Legal Authority.	274
001. Title And Scope.	274
002. Written Interpretations.	274
003. Administrative Appeals.	274
004. Incorporation By Reference.	274
005. Office -- Office Hours -- Mailing Address And Street Address.	275
006. Public Records Act Compliance.	275
007. -- 009. (Reserved).	275
010. Definitions.	275
011. Exemptions.	275
012. -- 014. (Reserved).	276
015. Duties Of Insurers And Of Producers.	276
016. Supervisory Duties Of Insurer.	277
017. -- 020. (Reserved).	278
021. Recordkeeping.	278
022. -- 024. (Reserved).	278
025. Violations.	278
026. -- 999. (Reserved).	278

18.01.10 - Producers Handling of Fiduciary FundsDocket No. **18-0110-0501** (New Chapter)

000. Legal Authority.	280
001. Title And Scope.	280
002. Written Interpretations.	280
003. Administrative Appeals.	280
004. Incorporation By Reference.	280
005. Office -- Office Hours -- Mailing Address And Street Address.	280
006. Public Records Act Compliance.	281
007. -- 009. (Reserved).	281
010. Definitions.	281
011. -- 013. (Reserved).	281
014. Fiduciary Fund Account.	281
015. Deposit Of Other Funds In Account.	282
016. Types Of Accounts Permitted.	282
017. Account Designation.	282
018. Interest Earnings.	283
019. Permissible Distribution Of Fiduciary Funds.	283
020. Audit Of Fiduciary Funds.	283
021. Prohibited Practices.	283
022. Timely Disbursement Of Fiduciary Funds.	284
023. Violations.	284
024. - 999. (Reserved).	284

18.01.18 - Open Lines for Export - Surplus LinesDocket No. **18-0118-0501**

003. Administrative Appeals.	286
012. Severability.	286
013. Open Lines For Export - Surplus Lines.	286
014. -- 999. (Reserved).	294

IDAPA 35 - STATE TAX COMMISSION**35.01.03 - Idaho Property Tax Administrative Rules**Docket No. **35-0103-0501**

960. Definitions (Rule 960).....	295
Docket No. 35-0103-0502	
645. Land Actively Devoted To Agriculture Defined (Rule 645).....	299
962. Taxation Of Forestlands Under The Productivity Option (Rule 962).....	300
964. Yield Tax On Applicable Forest Products (Rule 964).....	302

IDAPA 36 - IDAHO BOARD OF TAX APPEALS**36.01.01 - Idaho Board of Tax Appeals Rules**Docket No. **36-0101-0501**

030. Representation And Practice Before The Board (Rule 30).....	305
045. Notice Of Appeal -- Contents (Rule 45).....	305

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**58.01.01 - Rules for the Control of Air Pollution in Idaho**Docket No. **58-0101-0503**

006. General Definitions.....	309
007. Definitions For The Purposes Of Sections 200 Through 228 And 400 Through 461.....	321
008. Definitions For The Purposes Of Sections 300 Through 386.....	323
133. Startup, Shutdown And Scheduled Maintenance Requirements.....	325
134. Upset, Breakdown And Safety Requirements.....	327
135. Excess Emissions Reports.....	329
155. Circumvention.....	329
213. Pre-Permit Construction.....	330
220. General Exemption Criteria For Permit To Construct Exemptions.....	331
440. Requirements For Alternative Emission Limits (Bubbles).....	331
441. Demonstration Of Ambient Equivalence.....	332
442. -- 459. (Reserved).....	332
460. Requirements For Emission Reduction Credit.....	332
511. Applicability.....	333
512. Definitions.....	333
513. Requirements.....	335
560. Notification To Sources.....	335
561. General Rules.....	335
575. Air Quality Standards And Area Classification.....	337
581. Prevention Of Significant Deterioration (PSD) Increments.....	337
679. Averaging Period.....	339

Docket No. **58-0101-0505**

008. Definitions For The Purposes Of Sections 300 Through 386.....	341
107. Incorporations By Reference.....	343
200. Procedures And Requirements For Permits To Construct.....	345
204. Permit Requirements For New Major Facilities Or Major Modifications In Nonattainment Areas.....	345
205. Permit Requirements For New Major Facilities Or Major Modifications In Attainment Or Unclassifiable Areas.....	346
209. Procedure For Issuing Permits.....	347

Docket No. **58-0101-0506**

006. General Definitions.....	351
-------------------------------	-----

007.	Definitions For The Purposes Of Sections 200 Through 228 And 400 Through 461.....	351
209.	Procedure For Issuing Permits.....	355
404.	Procedure For Issuing Permits.....	359
58.01.05 - Rules and Standards for Hazardous Waste		
Docket No. 58-0105-0501		
002.	Incorporation By Reference Of Federal Regulations.	363
004.	Hazardous Waste Management System.....	363
005.	Identification And Listing Of Hazardous Waste.....	363
006.	Standards Applicable To Generators Of Hazardous Waste.....	366
007.	Standards Applicable To Transporters Of Hazardous Waste.	367
008.	Standards For Owners And Operators Of Hazardous Waste Treatment, Storage And Disposal Facilities.....	367
009.	Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage And Disposal Facilities.	367
010.	Standards For The Management Of Specific Hazardous Wastes And Specific Types Of Hazardous Waste Facilities.	367
011.	Land Disposal Restrictions.....	367
012.	Hazardous Waste Permit Program.	367
013.	Procedures For Decision-Making (State Procedures For RCRA Or HWMA Permit Applications).	368
015.	Standards For The Management Of Used Oil.....	368
016.	Standards For Universal Waste Management.	368
58.01.13 - Rules for Ore Processing by Cyanidation		
Docket No. 58-0113-0501		
000.	Legal Authority.	370
001.	Title, Scope And Intent.....	370
002.	Definitions.	370
003. --	009. (Reserved).....	373
010.	Applicability To Facilities With Existing Permits.	374
011. --	049. (Reserved).....	375
050.	Conceptual Design Approval.....	375
051. --	099. (Reserved).....	375
100.	Permit And Permit Application.	375
101. --	199. (Reserved).....	378
200.	Requirements For Water Quality Protection.	378
201. --	299. (Reserved).....	379
300.	Application Processing Procedure.	379
301. --	399. (Reserved).....	380
400.	Public Involvement In Permit Procedures.	380
401. --	449. (Reserved).....	381
450.	final permit decision.	381
451. --	499. (Reserved).....	382
500.	Permit Issuance And Conditions.	382
501.	Completion Of Permanent Closure.	384
502.	Decision To Approve Or Disapprove Of A Permanent Closure Report.....	385
503. --	649. (Reserved).....	385
650.	Financial Assurance.	385
651. --	749. (Reserved).....	388
750.	Permit Modification.....	388
58.01.17 - Wastewater-Land Application Permit Rules		
Docket No. 58-0117-0501		

001. Title And Scope.....	391
003. Incorporation By Reference.....	391
004. Administrative Provisions.....	392
005. Confidentiality Of Records.....	392
006. Office Hours -- Mailing Address And Street Address.....	392
007. -- 099. (Reserved).....	392
100. Applicability.....	392
101. -- 199. (Reserved).....	392
200. Definitions.....	392
201. -- 299. (Reserved).....	395
300. Permit Requirements And Application.....	395
401. Plan And Specification Review.....	397
600. Specific Permit Conditions.....	397
601. Class A Effluent Municipal Reclaimed Wastewater - Additional Requirements.....	402
602. Demonstration Of Technical, Financial, And Managerial Capacity Of Class A Effluent Reclaimed Wastewater Systems.....	407
940. Waivers.....	409
941. -- 999. (Reserved).....	409
 Docket No. 58-0117-0502	
400. Application Processing Procedure.....	412

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 02 - DEPARTMENT OF AGRICULTURE PO Box 790, Boise, ID 83701-0790

02-0601-0501, Rules Governing the Pure Seed Law. Increases germination fees by an average of \$3.85, purity fees by an average of \$5.05, and tetrazolium fees by an average of \$16.45. Increases the rush fee from \$20 to \$25. Increases the hourly fee from \$38.50 to \$40. Increases the Out-of State Seed Dealer's License from \$250 to \$350. Comment by: 8/24/05.

IDAPA 08 - IDAHO STATE BOARD OF EDUCATION PO Box 83720, Boise, ID 83720-0037

08-0203-0501, Rules Governing Thoroughness. Achievement Standards, currently in the rule, will be deleted from rule, placed in a manual, and incorporated by reference into the rule. Comment by: 8/24/05.

08-0203-0502, Rules Governing Thoroughness. Allows Limited English Proficient (LEP) students to take the ISAT with accommodations and adaptations until they test proficient on a language proficiency test and exit the program. Comment by: 8/24/05.

08-0203-0503, Rules Governing Thoroughness. Adds the National Assessment Governing Board (NAGB) 12th grade National Assessment of Educational Progress (NAEP) test as a requirement. Comment by: 8/24/05.

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR PO Box 8372, Boise, ID 83720-0093

09-0104-0501, Rules of the Benefit Payment Control Bureau. Reflects housekeeping and name changes due to the reorganization of the department. Comment by: 8/24/05.

09-0130-0501, Rules of the Benefit Bureau. Renames chapter to "Unemployment Insurance Benefits Administration Rules". Comment by: 8/24/05.

09-0130-0502, Rules of the Benefit Bureau. Requires interstate claimants to register for work in the State in which they reside. Requires registration for work, and report on work-seeking activity. Comment by: 8/24/05.

09-0130-0503, Rules of the Benefit Bureau. Amends citation of the Department's rulemaking authority. Changes references to "Job Service" to "local office" or "Department." Requires claimants to register for work with a local office. Deletes "length of unemployment" as a criteria for determining the category of work-seeking activity. Comment by: 8/24/05.

09-0130-0504, Rules of the Benefit Bureau. Gives claimant 2 business days if notified by phone, or 5 business days if notified by mail to provide proof of identity, before benefits may be denied. Comment by: 8/24/05.

09-0130-0505, Rules of the Benefit Bureau. Clarifies that State government and cost reimbursement employers are included in the total wages paid in covered employment. Comment by: 8/24/05.

09-0130-0506, Rules of the Benefit Bureau. Changes references for reestablishing eligibility for benefits from 12 times to 14 times the weekly benefit amount. Comment by: 8/24/05.

09-0130-0507, Rules of the Benefit Bureau. Incorporates the changes in the statute, Clarifies term “compelling personal circumstances”. Comment by: 8/24/05.

09-0135-0501, Rules of the Employer Account Bureau. Provides uniformity in the application of the compromise provision. Comment by: 8/24/05.

09-0135-0502, Rules of the Employer Account Bureau. Brings professional employer organizations (PEOs) under the same guidelines already established for other entities. Comment by: 8/24/05.

09-0135-0503, Rules of the Employer Account Bureau. Reflects housekeeping and name changes due to the reorganization of the Department's tax and benefit overpayment bureaus. Comment by: 8/24/05.

09-0135-0504, Rules of the Employer Account Bureau. Clarifies that interest on civil penalties and civil penalties imposed will be paid after tax interest, tax penalty and tax have been paid for each calendar quarter. Comment by: 8/24/05.

09-0135-0505, Rules of the Employer Account Bureau. Adds definition for “casual labor”. Clarifies the application of the casual labor exemption. Comment by: 8/24/05.

09-0135-0506, Rules of the Employer Account Bureau. Provides online registration as a method for employer business registration reporting. Comment by: 8/24/05.

09-0135-0507, Rules of the Employer Account Bureau. Provides authority for the Department to request employer records for a variety of statutorily required investigations. Comment by: 8/24/05.

09-0135-0508, Rules of the Employer Account Bureau. Replaces the current quantitative explanation with examples of factors to be considered when determining whether the successor business is substantially the same as the predecessor business. Comment by: 8/24/05.

****09-0201-0501, Idaho Community Development Block Grant Program.** Eliminates inaccurate or redundant language and requirements. Changes the point values for ranking applications. Removes biases against project applications. Encourages applications for preferred types of projects. Allows for teleconferencing and electronic submission of information. Requires use state and federal procurement standards. Comment by: 8/24/05.

09-0203-0501, Rule of the Idaho Regional Travel and Convention Grant Program. Updates the website address and corrects clerical errors. Comment by: 8/24/05.

**IDAPA 12 - DEPARTMENT OF FINANCE
PO Box 83720, Boise, ID 83720-0031**

12-0110-0501, Rules Pursuant to the Idaho Residential Mortgage Practices Act. Establishes continuing education requirements and criteria for approving courses. Removes provisions related to trust accounts, the financial condition of licensees, and entities exempt from licensure. Amends provisions related to written disclosures. Adds provisions related to procedures and prohibited practices. Imposes a fee of \$250 for the review of applications for accreditation of course material, and a fee of \$25 for the examination of records on completion of continuing professional education courses. Comment by: 8/24/05.

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
PO Box 83720, Boise, ID 83720-0036**

16-0203-0501, Rules Governing Emergency Medical Services. Adds section outlining clinical and operational factors influencing air medical use and decision making by EMS personnel. Comment by: 8/24/05.

16-0309-0504, Rules Governing the Medical Assistance Program. Allows for Medicaid coverage of investigational medical treatments and procedures based on a medical review process. Comment by: 8/24/05.

****16-0411-0501, Rules Governing Developmental Disabilities Agencies.** This entire chapter of rules is being repealed. Comment by: 8/24/05.

****16-0411-0502, Rules Governing Developmental Disabilities Agencies.** Complete rewrite to make rules easier for staff and providers to use. Comment by: 8/24/05.

16-0505-0501, Criminal History and Background Checks in Long Term Care Settings. New chapter identifies individuals with direct patient access requiring criminal history and background checks. Comment by: 8/24/05.

16-0608-0501, Rules and Minimum Standards for DUI Evaluators. Clarifies the criteria for initial application and renewal of a license. Provides clear information on the licensure process, continuing education requirements, and statistical reporting. Comment by: 8/24/05.

**IDAPA 18 – DEPARTMENT OF INSURANCE
PO Box 83720, Boise, ID 83720-0043**

18-0109-0501, Senior Consumer Protection in Annuity Transactions. New chapter sets standards and procedures for recommendations to senior consumers regarding transactions involving annuity products. Comment by: 8/24/05.

18-0110-0501, Producers Handling of Fiduciary Funds. New chapter implements requirements that all insurance producers maintain a trust account to hold all fiduciary funds received by the producer. Comment by: 8/24/05.

18-0118-0501, Producers Handling of Fiduciary Funds. Changes listing of lines of insurance considered to be “open lines” for purposes of treatment as surplus lines insurance. Replaces outdated or unnecessary wording. Comment by: 8/24/05.

**IDAPA 35 - IDAHO STATE TAX COMMISSION
PO Box 36, Boise, ID 83722-0410**

35-0103-0502, Idaho Property Tax Administrative Rules. Clarifies references and definitions. Provides consistency. Comment by: 8/24/05.

**IDAPA 36 - IDAHO BOARD OF TAX APPEALS
PO Box 83720, Boise, ID 83720-0088**

36-0101-0501, Idaho Board of Tax Appeals Rules. Eliminates third party non-attorney representation before the Board. Comment by: 8/24/05.

**IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY
1410 N. Hilton, Boise, ID 83706-1255**

****58-0101-0503, Rules for the Control of Air Pollution in Idaho.** Defines “Regulated Air Pollutant”. Clarifies permit requirements for consistency with federal Clean Air Act (CAA) requirements. Comment by: 9/7/05.

****58-0101-0505, Rules for the Control of Air Pollution in Idaho.** Updates citations to federal regulations incorporated by reference. Corrects reference in rule. Comment by: 9/7/05.

****58-0101-0506, Rules for the Control of Air Pollution in Idaho.** Revises definitions to provide consistency between the major and minor air quality permitting programs. Allows for the transfer of permit to construct and Tier II operating permits. Comment by: 9/7/05.

58-0105-0501, Rules and Standards for Hazardous Waste. Annual update to maintain consistency with the U.S. EPA's regulations implementing the Resource Conservation and Recovery Act (RCRA). Comment by: 8/31/05.

58-0113-0501, Rules for Ore Processing by Cyanidation. Implements the legislative changes to Idaho Code with respect to bonding, closure plans, and time frames for rejecting or approving permits for ore processing facilities using cyanide. Comment by: 8/31/05.

58-0117-0501, Wastewater-Land Application Permit Rules. Modifies and clarifies existing water quality limits and other requirements for the various classes of municipal reclaimed wastewater. Adds and clarifies various definitions. Renames chapter to “Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater”. Comment by: 8/

31/05.

58-0117-0502, Wastewater-Land Application Permit Rules. Allows public participation for the permitting process. Increases the number of days the director has to issue a final permit after the issuance of a draft permit from 30 to 60. Decreases the number of days the director has to make an application completeness determination from 60 to 30. Allows for additional information or consultation between the applicant and the Department. Comment by: 8/31/05.

****A Public Hearing Has Been Scheduled for the Following Rulemaking:**

Dept. of Commerce and Labor

09-0201-0501, Idaho Community Development Block Grant Program.

Dept. of Health and Welfare

16-0411-0501, Rules Governing Developmental Disabilities Agencies.

16-0411-0502, Rules Governing Developmental Disabilities Agencies.

Dept. of Environmental Quality

58-0101-0503, Rules for the Control of Air Pollution in Idaho.

58-0101-0505, Rules for the Control of Air Pollution in Idaho.

58-0101-0506, Rules for the Control of Air Pollution in Idaho.

Please refer to the Idaho Administrative Bulletin, **August 3, 2005, Volume 05-8** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at the county law libraries or online.

To subscribe to the Administrative Bulletin and other rules publications see our website or call (208) 332-1820 or write the Office of Administrative Rules, Department of Administration, 650 W. State St., Room 100, Boise, ID 83720-0306. Visa and MasterCard accepted for most purchases.

The Idaho Administrative Bulletin and Administrative Code are available on-line at: <http://www2.state.id.us/adm/adminrules/>

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

**FOR THE ABOVE LINK TO WORK YOU HAVE
TO BE CONNECTED TO THE INTERNET**

**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.**

Subject Index

A

- Acceptance of Credit Hours for Presumptively Accredited Instruction, Presumptive Accreditation 194
- Accessibility Of Agency Records, General Requirements For The Delivery Of DDA Services 248
- Accessibility, Facility Standards for Agencies Providing Center-Based Services 231
- Accessibility, Setting Requirements for Agencies Delivering Community-Based Services 235
- Accessible Records, DDA Certification 219
- Account Designation 282
- Accounting & Delinquency Control 141
- Accounts in Federally Insured Financial Institutions, Types of Accounts Permitted 282
- Accredited Instruction 187
- Accrual of Credit Hours, Requirements for Continuing Professional Education 190
- Act 187
- Actual Emissions, Requirements for Alternative Emission Limits (Bubbles) 331
- Actual HAP/TAP Emissions, Requirements for Alternative Emission Limits (Bubbles) 332
- Additional Claim 120, 123
- Additional Clinical Information, Coverage of Investigational Procedures or Treatments 207
- Additional Forms, Statistical Reporting 271
- Additional Information From Applicant 163
- Additional Procedures for Specified Sources, Procedure for Issuing Permits 356
- Additional Requirements for Participants Birth to Three Years of Age, Program Documentation Requirements 246
- Additional Requirements for Participants Birth to Three Years of Age, Record Requirements 247
- Additional Requirements for Participants Eighteen Years or Older & for ISSH Waiver Participants, Program Documentation Requirements 246
- Additional Requirements for Participants Eighteen Years or Older & for ISSH Waiver Participants, Record Requirements 247
- Additional Requirements for Participants Seven Through Sixteen, Program Documentation Requirements 246
- Additional Requirements for Participants Three through Seventeen, Record Requirements 247
- Additional Requirements, Requirements for an Agency's Quality Assurance Program 255
- Additional Training Requirements for IBI Professionals & IBI Paraprofessionals, General Training Requirements For DDA 226
- Adequate Management, Plan Requirements 184
- Administration of Medications, Medication Standards & Requirements 235
- Administrative Office 120, 123
- Administrative Staffing, General Staffing Requirements for Agencies 224
- Adult 214
- Advanced Emergency Medical Technician-Ambulance (AEMT-A) 199
- Advanced Life Support (ALS) 199
- Advancing Funds Sufficient to Pay Bank Charges, Deposit of Other Funds In Account 282
- Adverse Impact on Visibility 321, 351
- Advertising, Deceptive, Mortgage Practices Act 194
- Advisement of Changes 143
- Advisory Board 271
- Affected States 323, 341
- Agency 215
- Agricultural Activities & Services 321, 352
- Air Medical Response 199
- Air Medical Response Criteria 202
- Air Quality Standards & Area Classification 337
- All Other Fiduciary Funds, Fiduciary Fund Account 281
- Allowable Emissions, Requirements for Emission Reduction Credit 332
- Allowance 323, 341
- Alternate Permanent Work 130
- Ambient Air Quality Violation 309
- Ambulance 199
- Ambulance-Based Clinicians 199
- Annual 215
- Annual Plan, Quality Assurance, Participant Rights, Required Policies, Etc. 257
- Annuity 275
- Appeal Filed by an Attorney, or Representative 305
- Appealed Claim 120, 123
- Applicability 333
- Applicability To Facilities With Existing Permits 374
- Applicability to Reclamation & Reuse Facilities 392
- Applicable Laws, Rules, & Regulations, Vehicle Safety Requirements 233
- Applicable Requirement 323, 341
- Applicable Requirement Prohibition, Requirements for Alternative Emission Limits (Bubbles) 332
- Applicable Requirements 392
- Applicant 392
- Application Contents, Permit Requirements & Application 395
- Application For Initial Certification, Certification Requirements for Developmental Disabilities Agencies 219
- Application Of Payments On Delinquent Accounts 145
- Application Processing Procedure 379, 412
- Application Required, Permit Requirements & Application 395
- Application Review 265
- Application for Certification, DDA Certification 218
- Application for a License 265
- Application for a Small Cyanidation Processing Facility & Pilot Facility, Permit & Permit Application 378
- Application, Economic Development Grant 169
- Appropriate Use of Interventions, Policies Regarding Development of Social Skills & Appropriate Behaviors 257
- Area Benefit Activity 157
- As-Built Plans & Specifications, Permit Conditions 383
- Assessment In The Public Schools 87, 92
- Assessment Must Be Completed Within Forty-Five Days, Comprehensive Assessments Conducted by the DDA 236
- Assessments For Adults, Required Assessments For Delivery Of DDA

Services 237
Assessments, Requirements for a DDA
 Providing Services to Children Ages
 Three Through Seventeen & Adults
 Receiving EPSDT Services 241
Assessments, Requirements for a DDA
 Providing Services to Persons
 Eighteen Years of Age or Older &
 ISSH Waiver Participants 240
Assistance with Medication, Medication
 Standards & Requirements 235
Assurances 163
Atmospheric Stagnation Advisory 309
Attainment Area 309
Attitude & Behavior, Claimant Seeking
 Work 104, 111
Audiologist, Licensed, Staff Who are
 Qualified to Provide Services for
 Agencies 227
Audit Of Fiduciary Funds 283
Authorized Attorneys 305
Availability Requirements 130
Availability of Certificate, Issuance of
 Certificate 221
Availability of Fluid Models & Field
 Studies, Procedure for Issuing
 Permits 360
Availability of Referenced
 Material 363
Availability of Written Procedures,
 Patient Destination 205
Available For Work 130
Average Annual Wage 120, 123
Average Weekly Wage 120, 123
Averaging Period, Fuel Burning
 Equipment 339
Award Process 179
Award Process, Downtown
 Revitalization 175
Award Process, PFH 169

B

Bags, Sampling 23
Bare Forestland 297
Baseline 215
Baseline Actual Emissions 352
Baseline Statement, Program
 Implementation Plan
 Requirements 245
Baseline, Area, Concentration, &
 Date 309
Basis for Permit Denial, Application
 Processing Procedure 380
Basis for Specific Permit
 Conditions 397
Begin Actual Construction 353
Begin Construction, Permit
 Conditions 384

Behavior Replacement, Policies
 Regarding Development of Social
 Skills & Appropriate Behaviors 257
Beneficial Use 370
Benefit Balance 120, 123
Benefit To Low & Moderate Income
 Persons 157
Best Management Practices
 (BMPs) 371
Board Must be Informed of Any
 Changes in Address or Phone
 Number 305
Board, Lodging, Meals 142
Borrowers Unable to Obtain Loans,
 Mortgage Practices Act 196
Breakdown 310
Buffer Distances 393
Bulk, Seed or Screenings 23

C

Calculation, Yield Tax on Applicable
 Forest Products 302
Cancellation of Refund Warrants 141
Casual Labor 149
Cause for Permit Modification 388
Causes for Revocation of the Certificate,
 Revocation of Certificate 223
Certificate Not Transferable, Issuance
 of Certificate 221
Certificate of Completion 187
Certificate, Issuance of Certificate 221
Certification 199
Certification Required, Application For
 Initial Certification 219
Certification Requirements for
 Developmental Disabilities
 Agencies 218
Certified Personnel 199
Certified, Credentialed or Licensed
 Alcohol/Drug Counselor 264
Change in Geographic Service Area,
 Changes Each DDA is Required to
 Report 221
Change in Optional Services, Changes
 Each DDA is Required to
 Report 221
Change of Ownership or Physical
 Location, Changes Each DDA is
 Required to Report 221
Changes Each DDA Is Required To
 Report, Certification Requirements
 for Developmental Disabilities
 Agencies 220
Chargeability Determination 120, 123,
 125
Child Care, Availability for Work 130
Circumvention 329
Claim 120, 123

Claims Of Exemption 139
Claims for Benefits, Delayed
 Filing 101, 108, 115, 125
Class A Capacity 393
Class A Effluent Distribution
 System 393
Class I, II & III Areas, Prevention of
 Significant Deterioration (PSD)
 Increments 337
Classification of Forest Lands, Taxation
 of Large Size Forest Tracts 301
Clean Air Act 310
Clinical Opinion, Comprehensive IBI
 Assessment 253
Clinical Social Worker, Licensed, Staff
 Who are Qualified to Provide
 Services for Agencies 231
Closing, Legally Binding
 Documents 187
Code AH Accident & Health 286
Code AL Auto Liability 287
Code AP Auto Physical Damage 287
Code AV Aviation & Aircraft 287
Code FA Fire & Allied Lines 288
Code GL General Liability 289
Code IM Inland Marine 292
Code MS Miscellaneous Specialty
 Lines 292
Code OM Ocean Marine 292
Code PL Professional Liability &
 Malpractice (Includes Errors &
 Omissions) 293
Collateral Contact, Optional Services
 Agencies May Provide 251
Collected Information, Statistical
 Reporting 271
Collection Efficiency 310
Collection of Information, Duties of
 Insurers & of Producers 276
Combined Wage Claim 120, 123
Commence Construction or
 Modification 310
Communicable Disease 215
Communications 203
Community Crisis Supports, Optional
 Services Agencies May Provide 251
Compelling Personal
 Circumstances 130
Compensable Claim 120, 123
Complete Application, Application
 Processing Procedure 412
Complete Determination 310
Completion Of Permanent Closure 384
Completion of Assessments, General
 Requirements for Assessment
 Records 236
Compliance Schedule Extension,

- Requirements For Alternative Emission Limits (Bubbles) 332
 - Compliance Schedules, Specific Permit Conditions 398
 - Compliance Status, Permit Requirements for New Major Facilities or Major Modifications in Nonattainment Areas 346
 - Complies With the Requirements to Supervise, Supervisory Duties of Insurer 277
 - Composite Samples 23
 - Comprehensive Assessment 215
 - Comprehensive Assessment & Plan Requirements, Required Service 248
 - Comprehensive Assessment Program Schedule 89, 93
 - Comprehensive Assessments Conducted By The DDA, Required Assessments For Delivery Of DDA Services 236
 - Comprehensive Assessments, Comprehensive Assessments Conducted By The DDA 236
 - Comprehensive Developmental Assessment, Types of Comprehensive Assessments 237
 - Comprehensive IBI Assessment, Requirements For The Delivery Of Intensive Behavioral Intervention (IBI) 252
 - Comprehensive Intensive Behavioral Intervention (IBI) Assessment, Types of Comprehensive Assessments 237
 - Compromise Of Penalty 134
 - Conceptual Design Approval 375
 - Conditions, Permit Issuance & Conditions 382
 - Conducted by Agency Professionals, Collateral Contact 251
 - Conducted by Qualified Professionals, Requirements for Specific Skill Assessments 239
 - Confidential Information 138
 - Confidentiality of Records 392
 - Conflict of Interest, Denial, Suspension or Revocation of License 269
 - Conscientious Objection 130
 - Consolidation, Technical, Financial, & Managerial Capacity of Class A Effluent Wastewater Systems 408
 - Construction 310
 - Construction & Operation of Cyanidation Facility, Permit Conditions 383
 - Containment Design Criteria, Requirements for Water Quality Protection 378
 - Content 87, 92
 - Content of Application for Certification, Application For Initial Certification 219
 - Contents Of Application, Permit & Permit Application 376
 - Contents of Excess Emissions Reports 329
 - Contents of the Staff Analysis, Application Processing Procedure 413
 - Contested Claim 120, 123
 - Contingencies, Deposit of Other Funds In Account 282
 - Continued Claim 120, 123
 - Continued Predecessor Employment for Liquidation 155
 - Continuing Education 264
 - Continuing Education Credits, Renewal of License 268
 - Continuing Training Requirements for IBI Professionals & IBI Paraprofessionals, General Training Requirements For DDA 226
 - Continuing a Claim During Appellate Procedures 125
 - Contract Obligation 130
 - Contracts Used to Fund, Exemptions 275
 - Contribution Due Date 138
 - Contribution Reports 139
 - Control Equipment 310
 - Controlled Emission 310
 - Corporations 305
 - Corrected Monetary Determination 125
 - Cost Analysis 168
 - Cost/Benefit Analysis, Coverage of Investigational Procedures or Treatments 207
 - Costs Paid by the State 89, 94
 - Costs of Additional Services 89, 94
 - Counselor, Licensed Clinical Professional, Staff Who are Qualified to Provide Services for Agencies 227
 - Counselor, Licensed Professional, Staff Who are Qualified to Provide Services for Agencies 227
 - County Average Forestland Levy Rate 297
 - Coverage Determination, Coverage of Investigational Procedures or Treatments 208
 - Coverage Limitations, Organ Transplants, Medical Assistance 210
 - Coverage Of Investigational Procedures Or Treatments 207
 - Credit Hour 188
 - Credit Statement & Printing Identification, Plan Requirements 184
 - Criminal History & Background Check 260
 - Criminal History & Background Checks 261
 - Criteria Air Pollutant 310
 - Critical Care Transfer (CCT) 199
 - Current Assessments Required, Comprehensive Assessments Conducted by the DDA 236
 - Current Assessments for Ongoing Services, Requirements for Current Assessments 237
 - Current Copy of Certification or License, Renewal of License 268
 - Custodial Expenses 295
 - Cyanidation 371
 - Cyanidation Facility 371
- D**
- DDA Certification, Certification Requirements for Developmental Disabilities Agencies 218
 - DDA Services 215
 - DUI 264
 - DUI Evaluations 270
 - DUI Evaluator Examination 265
 - Data Reported Monthly, Statistical Reporting 271
 - Date, Signature, & Credential Requirements, Comprehensive Assessments Conducted by the DDA 236
 - Deadline for Excess Emissions Reports 329
 - Deadline, Economic Development Grant 169
 - Deceptive Advertising, Mortgage Practices Act 194
 - Decision To Approve Or Disapprove Of A Permanent Closure Report 385
 - Decision, Application Processing Procedure 380
 - Defendant 264
 - Deficiency 215
 - Deficient Areas, Taxation of Large Size Forest Tracts 302
 - Definitions -- A Through O, Developmental Disabilities Agencies (DDA) 214
 - Definitions -- P Through Z,

- Developmental Disabilities Agencies (DDA) 217
- Definitions & Abbreviations, Criminal History & Background Checks In Long Term Care Settings 260
- Definitions, IDAPA 09.01.30, Rules Of The Benefits Bureau 120, 123
- Definitions, IDAPA 09.01.35, Rules Of The Employer Accounts Bureau 146
- Definitions, IDAPA 12.01.10, Rules Pursuant To The Idaho Residential Mortgage Practices Act 187
- Definitions, IDAPA 16.02.03, Rules Governing Emergency Medical Services 199
- Definitions, IDAPA 16.06.08, Rules & Minimum Standards For DUI Evaluators 264
- Definitions, IDAPA 18.01.09, Senior Consumer Protection in Annuity Transactions 275
- Definitions, IDAPA 18.01.10, Producers Handling of Fiduciary Funds 281
- Definitions, IDAPA 35.01.03, Property Tax Administrative Rules 295
- Definitions, IDAPA 58.01.13, Rules For Ore Processing By Cyanidation 370
- Definitions, IDAPA 58.01.17, Wastewater-Land Application Permit Rules 392
- Definitions, Sections 200 Through 225 & 400 Through 461 321, 351
- Definitions, Sections 300 Through 387 323, 341
- Definitions, Sections 500 Through 516 333
- Demographic Information 90, 94
- Demonstration Of Ambient Equivalence 332
- Demonstration Of Technical, Financial, & Managerial Capacity Of Class A Effluent Wastewater Systems 407
- Denial of Renewal, Renewal of License 268
- Denial, Suspension Or Revocation Of License 268
- Department Review of Application, Application For Initial Certification 220
- Department's Written Decision, Application For Initial Certification 220
- Deposit Of Other Funds In Account 282
- Designated Facility 310
- Designated Representative 324, 342
- Designation of a Fiduciary Fund, Account Designation 283
- Determination of Any Illegal Act, Denial, Suspension or Revocation of License 269
- Determination of Destination Will Honor Patient Preference, Patient Destination 205
- Determination of Fraud or Gross Negligence, Denial, Suspension or Revocation of License 269
- Determination of Misrepresentation of Application, Denial, Suspension or Revocation of License 269
- Determination of Payment Date 139
- Determinations 139
- Determinations/Appellate Processes 125
- Determine Baselines, Requirements for Specific Skill Assessments 239
- Determine a Participant's Skill Level, Requirements for Specific Skill Assessments 239
- Developmental 228
- Developmental Disabilities Agency (DDA) 215
- Developmental Disability 215
- Developmental Specialist 216
- Developmental Specialist for Adults, Staff Who are Qualified to Provide Services for Agencies 227
- Developmental Specialist for Children Birth to Three, Staff Who are Qualified to Provide Services for Agencies 228
- Developmental Specialist for Children Three through Seventeen, Staff Who are Qualified to Provide Services for Agencies 228
- Developmental Therapy 216
- Developmental Therapy Paraprofessionals Delivering Services to Children Birth to Three, Staff Who are Qualified to Provide Services for Agencies 229
- Developmental Therapy Paraprofessionals Delivering Services to Participants Age Three & Older, Staff Who are Qualified to Provide Services for Agencies 228
- Developmental Therapy, Required Services Each Agency Must Provide 249
- Direct Patient Access Individual 260
- Direct Patient Access Individuals, Criminal History & Background Checks 261
- Direct Response Solicitations, Exemptions 275
- Direct Use of Municipal Reclaimed Wastewater, Specific Permit Conditions 400
- Direct Use of Municipal Wastewater, Specific Permit Conditions 398
- Director's Ability to Enforce the Provisions 278
- Director's Determination to Disapprove a Permanent Closure Report 385
- Discharge 371
- Discharge Response, Permit Conditions 384
- Dischargers, Permit Requirements & Application 395
- Discretionary Reduction or Cessation Provisions, Upset, Breakdown & Safety Requirements 328
- Dispersion Technique 333
- Disposal or Abandonment of Leached Ore, Requirements for Water Quality Protection 379
- Dispute of Entitlement of Funds, Timely Disbursement of Fiduciary Funds 284
- Distance to Work 130
- Document the Receipt of Fiduciary Funds, Fiduciary Fund Account 282
- Documentation of Plan Changes, Requirements for a DDA Providing Services to Children Ages Three Through Seventeen & Adults Receiving EPSDT Services 242
- Documentation of Plan Changes, Requirements for a DDA Providing Services to Persons Eighteen Years of Age or Older & ISSH Waiver Participants 240
- Documentation of Program Changes, Requirements for a DDA Providing Services to Children Birth to Three Years of Age (Infant Toddler) 245
- Documentation, Grant Application Process 160
- Documentation, Qualifications 267
- Domestic Circumstances 130
- Domestic Employment 148
- Draft Permit 324, 342
- Dual Enrollment 90, 94
- Duration of Permit, Final Permit Decision 382
- Duration of Permit, Specific Permit Conditions 398
- Duration of a Small Cyanidation Processing Facility Permit, Final Permit Decision 382

Duration of the Pilot Facility Permit,
Final Permit Decision 382
Duties Of Insurers & Of Producers 276

E

EMS Bureau 200
EMS Standards Manual 200
EPA Approval, Requirements for
Alternative Emission Limits
(Bubbles) 332
Economic Advisory Council
Points 160, 175, 179
Economic Advisory Council Points,
PFH 168
Education Provider 188
Education Providers & Content Of
Continuing Professional
Education 191
Effect of Previous Revocation or Denial
of a Certificate or License, DDA
Certification 219
Effect on Visibility, Permit
Requirements for New Major
Facilities or Major Modifications in
Nonattainment Areas 346
Effective Date of Backdated
Claims 101, 108, 115, 125
Effective Date of Final Permit,
Application Processing
Procedure 413
Effective Dose Equivalent 311
Effort to Secure Employment 104, 111
Eligibility Determination, Requirements
For A DDA Providing Services To
Children Ages Three Through
Seventeen & Adults Receiving
EPSDT Services 240
Eligibility Determination, Requirements
for a DDA Providing Services to
Children Birth to Three Years of Age
(Infant Toddler) 243
Eligibility Determination, Requirements
for a DDA Providing Services to
Persons Eighteen Years of Age or
Older & ISSH Waiver
Participants 239
Eligible Activity Priority Ranking 165
Emergency 199, 324, 342
Emergency Medical Services
(EMS) 200
Emergency Medical Technician- Basic
(EMT-B) 200
Emergency Medical Technician-
Ambulance (EMT-A) 200
Emergency Medical Technician-
Intermediate (EMT-I) 200
Emergency Medical Technician-
Paramedic (EMT-P) 200

Emergency Scene 200
Emission 311
Emission Rate Calculation,
Requirements for Emission
Reduction Credit 332
Emission Reductions, Requirements for
Alternative Emission Limits
(Bubbles) 332
Emission Standard 311
Emissions Increase 353
Emissions Unit 311
Employee Education Program,
Requirements for Water Quality
Protection 379
Employees, Health Requirements 234
Employer Quarterly Report Forms 140
Employer Records 153
Employer Status Report 151
Employer's Hiring Practices 104, 111
Employment 120, 123
Enforcement Process, Rule
Enforcement Process &
Remedies 222
Enforcement Remedies, Enforcement
Process 222
Entry & Access, Permit
Conditions 383
Environment, Facility Standards for
Agencies Providing Center-Based
Services 232
Environment, Setting Requirements for
Agencies Delivering Community-
Based Services 235
Environmental Remediation
Source 312
Erroneous Wage Reports 141
Establishing Reserves for Payment of
Return Premiums, Deposit of Other
Funds In Account 282
Establishing a Good Engineering Stack
Height, Procedure for Issuing
Permits 357
Evacuation Plans, Facility Standards for
Agencies Providing Center-Based
Services 232
Evaluation of Proposal, Downtown
Revitalization 175
Evidence of Progress, IBI
Consultation 254
Evidence, Proof of Availability for
Work 130
Examination, Qualifications 268
Exceed the Federally Insured Limits,
Types of Accounts Permitted 282
Exceedances, Prevention of Significant
Deterioration (PSD) Increments 338
Exceptions, Duties of Insurers & of

Producers 276
Excess Emissions 312
Excess Emissions Minimization &
Notification, Upset, Breakdown &
Safety Requirements 327
Excess Emissions Procedures, Startup,
Shutdown, or Scheduled
Maintenance 326
Excess Emissions Procedures, Upset,
Breakdown & Safety
Requirements 328
Excess Emissions Reports 329
Excessive Concentration 334
Excluded Facilities 392
Excluded Individuals, Criminal History
& Background Checks 261
Excluded Wastes, Identification &
Listing of Hazardous Waste 364
Exclusion, Technical, Financial, &
Managerial Capacity of Class A
Effluent Wastewater Systems 408
Exclusions From Wages 147
Exclusions, Prevention of Significant
Deterioration (PSD) Increments 338
Execution Against Assets 141
Exempt Entities, Mortgage Practices
Act 197
Exemptions 275
Existing Reclamation & Reuse Facility
Plan of Operation 396
Existing Stationary Source or
Facility 312
Experience Rating - Qualifying
Period 142
Experience or Training 131
Experimental Treatments or Procedures,
Services, Treatments, & Procedures
Not Covered by Medical
Assistance 209
Expiration Without Timely Request for
Renewal, Renewal & Expiration of
the Certificate 222
Expired License, Renewal of
License 268

F

Face to Face or by Telephone, Collateral
Contact 251
Facility 312
Facility Standards For Agencies
Providing Center-Based Services,
Facility, Safety, & Health
Standards 231
Facility, Safety, & Health
Standards 231
Fact Sheet, Application Processing
Procedure 380
Failure to Comply, Denial, Suspension

or Revocation of License 269
Failure to Comply, Enforcement Process 223
Failure to Furnish Data, Information or Records, Denial, Suspension or Revocation of License 269
Federal Class I Area 312
Federal Land Manager 312
Federal Pilot Project 260
Fees & Costs For Criminal History & Background Checks 261
Felony Conviction, Denial, Suspension or Revocation of License 269
Fiduciary Fund Account 281
Fiduciary Funds 281
Field Operations Control 140
Filing of Excess Emissions Procedures, Scheduled Startup, Shutdown, or Maintenance 327
Filing of Excess Emissions Procedures, Upset, Breakdown & Safety Requirements 329
Filing of New Claims 101, 108, 115, 126
Filing of an Additional Claim or Reopening a Claim 103, 110, 117, 127
Filing of an Employer Appeal 138
Final Permit 324, 342
Final Permit Decision 381
Financial Assurance 385
Financial Assurance Required 385
Financial Capacity, Technical, Financial, & Managerial Capacity of Class A Effluent Wastewater Systems 407
Fire & Safety Standards, Facility Standards for Agencies Providing Center-Based Services 232
First Quarter Review, IBI Authorization & Review 252
First Responder 200
Focused Case Review, Coverage of Investigational Procedures or Treatments 207
Food Safety & Storage, Facility Standards for Agencies Providing Center-Based Services 232
Forest Land Management Plan 297
Forest Valuation Zones, Taxation of Large Size Forest Tracts 301
Forestland Valuation Process 300
Form, Recordkeeping 278
Format 161
Forwarding & Receipt of Official Samples 24
Fourth Quarter or Annual Review &

Authorization, IBI Authorization & Review 252
Free Cyanide 371
Free Flowing Seed 23
Frequency of Audits 140
Frequency of Supervision, Standards For Paraprofessionals Providing Developmental Therapy & IBI 225
Fuel-Burning Equipment 312
Fugitive Dust 312
Fugitive Dust Trades, Requirements for Alternative Emission Limits (Bubbles) 332
Fugitive Emissions 312
Full-Time Employment 120, 123
Full-Time/Part-Time Work 131
Functional Assessment, Policies Regarding Development of Social Skills & Appropriate Behaviors 257
Funding, Grant Application Process 160
Funds Held for More Than Ninety Days, Timely Disbursement of Fiduciary Funds 284
Further Assessment, Requirements for Specific Skill Assessments 239

G

General Definitions, IDAPA 58.01.01, Rules For The Control Of Air Pollution In Idaho 309, 351
General Exemption Criteria For Permit To Construct Exemptions 331
General Exemption Criteria, For Permit to Construct Exemptions 331
General Permit 324, 342
General Project Description 162
General Provisions 138
General Records Requirements 247
General Requirements For Assessment Records, Required Assessments For Delivery Of DDA Services 236
General Requirements for Program Documentation, Program Documentation Requirements 246
General Requirements for the Delivery of DDA Services 239
General Rule, Duties of Insurers & of Producers 276
General Rules, Emergency Episode Stage 335
General Staffing Requirements For Agencies, Staffing Requirements & Provider Qualifications 224
General Training Requirements For DDA Staff, Staffing Requirements & Provider Qualifications 225
Generator Emergency Notification,

Standards Applicable to Generators of Hazardous Waste 367
Glasgow Coma Score (GCS) 200
Goals/Objectives, Plan Requirements 183
Good Engineering Practice (GEP) Stack Height 334
Grain Elevator 312
Grain Storage Elevator 312
Grain Terminal Elevator 312
Grant Application Process 159
Granting of Accreditation of Professional Education Courses 192
Ground Transport Time 200
Groundwater 371
Guiding Discount Rate 297

H

Habilitation 216
Handling of Participant's Medication, Medication Standards & Requirements 234
Hazardous Air Pollutant (HAP) 313
Hazardous Waste 313
Hazardous Waste Management System 363
Hazardous Waste Permit Program 367
Health Requirements, Facility, Safety, & Health Standards 233
Hearing Assessment, Types of Comprehensive Assessments 238
Hearing Rights, Rule Enforcement Process & Remedies 224
Homesite Assessment, Land Actively Devoted to Agriculture 299
Hot-Mix Asphalt Plant 313
Housekeeping & Maintenance Services, Facility Standards for Agencies Providing Center-Based Services 233
Housing Activity 158
How Often Will the Department Conduct a Review of Air Medical Criteria, Periodic Review of EMS System Data 205

I

IBI Authorization & Review, Requirements For The Delivery Of Intensive Behavioral Intervention (IBI) 252
IBI Consultation, Requirements For The Delivery Of Intensive Behavioral Intervention (IBI) 254
IBI Implementation Plans, Program Implementation Plan Requirements 245
IBI Paraprofessionals Delivering

- Services to Children Birth to Three, Staff Who are Qualified to Provide Services for Agencies 230
- IBI Paraprofessionals Delivering Services to Participants Three to Twenty-One, Staff Who are Qualified to Provide Services for Agencies 229
- IBI Professionals Delivering Services to Children Birth to Three, Staff Who are Qualified to Provide Services for Agencies 230
- IBI Service Eligibility, Intensive Behavioral Intervention 251
- IBI Transition Plan, Requirements For The Delivery Of Intensive Behavioral Intervention (IBI) 253
- ICDBG Application Information Form 161
- ICDBG Budget Form Fully Completed by the Applicant 163
- ICDBG Dollars Per Person 164
- Idaho Board of Alcohol/Drug Counselor's Certification, Inc. (IBADCC) 264
- Idaho Guidance for the Reclamation & Reuse of Municipal & Industrial Wastewater 393
- Identification & Listing Of Hazardous Waste 363
- Immediate Effect of the Permit, Final Permit Decision 382
- Immediate Jeopardy, Enforcement Process 222
- Implementation of a Permanent Closure Plan 384
- Implementation, Downtown Revitalization 173
- Imposed Reductions, Local, State & Federal, Requirements for Emission Reduction Credit 333
- Impoundment 371
- Impoundment Design, Requirements for Water Quality Protection 378
- In Addition to Disclosures Required, Written Disclosures 195
- In-State Seed Dealer's License Fees 30
- Inadequate Knowledge or Performance, Denial, Suspension or Revocation of License 269
- Incarceration/Work Release 131
- Incident Reports, Health Requirements 234
- Inclusion in Testing or Development 143
- Incomplete Application, Application Processing Procedure 412
- Incorporated Federal Program Requirements, Permit Requirements for New Major Facilities or Major Modifications in Nonattainment Areas 345
- Incorporation By Reference Of Federal Regulations 363
- Incorporations By Reference 343
- Indian Governing Body 313
- Individual DUI Evaluation 270
- Individual Program Plan (IPP) 216
- Individual Program Plan (IPP) Definitions, Requirements for a DDA Providing Services to Children Ages Three Through Seventeen & Adults Receiving EPSDT Services 241
- Individual Program Plan (IPP), Requirements for a DDA Providing Services to Children Ages Three Through Seventeen & Adults Receiving EPSDT Services 241
- Individual Service Plan (ISP) 216
- Individual Service Plan (ISP), Requirements for a DDA Providing Services to Persons Eighteen Years of Age or Older & ISSH Waiver Participants 240
- Individualized & Comprehensive Interventions, Intensive Behavioral Intervention 251
- Individualized Family Service Plan (IFSP) 216
- Individualized Family Service Plan (IFSP), Requirements for a DDA Providing Services to Children Birth to Three Years of Age (Infant Toddler) 243
- Individualized, IBI Consultation 254
- Industrial Wastewater 393
- Information Provided Within Three Days, Written Disclosures 195
- Information Required for Conceptual Design Approval 375
- Information or Consultation Before Issuance of Draft Permit or Application Denial, Application Processing Procedure 413
- Initial Claim 121, 124
- Initial Reviews, IBI Authorization & Review 252
- Innovative Control Technology 321, 353
- Inspections 270
- Instructional Courses Presumptively Accredited, Presumptive Accreditation 193
- Insufficiency, Financial Assurance 388
- Insurer 275
- Insurer, General Agent or Independent Agency, Supervisory Duties of Insurer 277
- Intake, Requirements for a DDA Providing Services to Children Birth to Three Years of Age (Infant Toddler) 243
- Intake, Requirements for a DDA Providing Services to Persons Eighteen Years of Age or Older & ISSH Waiver Participants 239
- Integral Vista 321, 353
- Integration 216
- Intelligence Quotient (IQ) Tests, Requirements for Current Assessments 237
- Intensive Behavioral Intervention (IBI) 216
- Intensive Behavioral Intervention (IBI) Professional Delivering Services to Participants Three to Twenty-One 229
- Intensive Behavioral Intervention (IBI), Optional Services Agencies May Provide 251
- Intensive Behavioral Intervention (IBI), Requirements For The Delivery Of Intensive Behavioral Intervention (IBI) 251
- Interest Earnings 283
- Interest Rate Lock-In Agreement Not Entered, Mortgage Practices Act 195
- Interim Status Standards For Owners & Operators Of Hazardous Waste Treatment, Storage & Disposal Facilities 367
- Interstate Claim 121, 124
- Interviews, Comprehensive IBI Assessment 253
- Intestinal Transplants, Patients With Irreversible Intestinal Failure, Medical Assistance 210
- Intrastate Claim 121, 124
- Issuance & Contents of the Draft Permit, Application Processing Procedure 413
- Issuance Of Certificate, Certification Requirements for Developmental Disabilities Agencies 221
- Issuance of the Final Permit, Application Processing Procedure 413
- Issuance, Permit Issuance & Conditions 382

Issuing the Decision, Final Permit Decision 381
Itinerant Claims 101, 109, 116, 126
Itinerant Point 121, 124

J

Job Attachment Classifications 104, 111
Job Creation or Retention Activity 158
Jobs Availability 104, 111
Joint Ownership 297
Joint Transfer of Experience Rate 136
Jury Duty/Subpoenas 131

K

Kidney Transplants, Medical Assistance 209
Kraft Pulping 313

L

LAER, Permit Requirements for New Major Facilities or Major Modifications in Nonattainment Areas 345
Land Actively Devoted To Agriculture Defined 299
Land Application 371, 393
Land Disposal Restrictions 367
Land Treatment 393
Landing Zone & Safety 204
Landowner's Report, Yield Tax on Applicable Forest Products 303
Liability Determination 121, 124
Liability Insurance, Vehicle Safety Requirements 233
License Granted Prior to July 1, 2006, Qualifications 268
License Renewed for One Year, Renewal of License 268
Licensed DUI Evaluator 264
Licensed EMS Services 200
Licensee 264
Licensee Enters Into a Lock-In Agreement, Mortgage Practices Act 195
Licensee, Requirements for Continuing Professional Education 189
Licenses & Certifications for Drivers & Vehicles, Vehicle Safety Requirements 233
Licensing or Government Restrictions 131
Licensure 265
Lien Interest 138
Limitations to Operation, Specific Permit Conditions 398
Limitations to Service Provision by a Paraprofessional, Standards For

Paraprofessionals Providing Developmental Therapy & IBI 225
Limitations, IBI Consultation 254
Limited Clientele Activity 157
Limits to Paraprofessional Activities, Standards For Paraprofessionals Providing Developmental Therapy & IBI 225
Liner 371
Liner Criteria, Requirements for Water Quality Protection 379
Living Kidney Donor Costs, Medical Assistance 210
Local Incident Management System 200
Local Matching Funds Per Person 164
Local Office 121, 124
Local/Regional Support, Plan Requirements 184
Long Term Care Settings 260
Lowest Achievable Emission Rate (LAER) 313

M

Mail Claim 121, 124
Maintaining Records, Recordkeeping 278
Major Facility 324, 342
Management or Ownership or Control Substantially the Same 155
Managerial Capacity, Technical, Financial, & Managerial Capacity of Class A Effluent Wastewater Systems 408
Mandatory Federal Class I Area 322, 353
Mandatory Transfer of Rate 155
Marriage & Family Therapist, Licensed, Staff Who are Qualified to Provide Services for Agencies 227
Masters Social Worker, Licensed, Staff Who are Qualified to Provide Services for Agencies 231
Material Modification or Material Expansion 371
Material Stabilization 372
Meals & Lodging Not Included in Gross Wages 142
Meals or Lodging for Employer Convenience 142
Measurable Progress, IBI Consultation 254
Medical Assessments, Types of Comprehensive Assessments 238
Medical, Social, & Developmental Assessment Summary 217
Medical/Social Histories & Medical Assessments, Requirements for

Current Assessments 237
Medical/Social History 217
Medical/Social History, Types of Comprehensive Assessments 238
Medication Policy, Medication Standards & Requirements 234
Medication Standards & Requirements, Facility, Safety, & Health Standards 234
Member of the Public 313
Method of Informing Participants of Their Rights, Participant Rights 256
Methods Of Sampling -- General Procedure 22
Minimum Criteria 170
Minimum Requirements, Requirements for Continuing Professional Education 190
Misreporting Fiduciary Funds, Prohibited Practices 284
Mobile Sources, Requirements for Emission Reduction Credit 333
Modification Procedure, Permit Modification 388
Modification at Request of Director, Permit Modification 388
Modification at Request of Permittee, Permit Modification 388
Modification, Stationary Source or Facility 313, 351
Monetary Determination 121, 124
Monitoring Requirements, Specific Permit Conditions 398
Monitoring, Air Pollution Control 314
Moving to Remote Area 131
Multiple Chamber Incinerator 314
Municipal Wastewater 393

N

NTU, Nephelometric Turbidity Unit 394
Name, Program Implementation Plan Requirements 245
National Registry of Emergency Medical Technicians (NREMT) 200
Natural Persons 305
Nearby Structures or Terrain Features 335
Net Emissions Increase 322, 353
Neutralization 372
New Activity 393
New Claim 121, 124
New Claims/Additional Claims 100, 108, 115, 125
New Reclamation & Reuse Facility Plan of Operation 396
New Stationary Source or Facility 314
No Employment Prospects 104, 111

- No Immediate Jeopardy, Enforcement Process 223
- Non-Contact Cooling Water 394
- Non-Free Flowing Seed 23
- Non-Monetary Determination 121, 124, 125
- Non-Transport 200
- Nonattainment Area 314
- Noncondensibles 314
- Notice & Hearing, Denial, Suspension or Revocation of License 269
- Notice Of Appeal -- Contents 305
- Notice Of Enforcement Remedy, Rule Enforcement Process & Remedies 224
- Notice of Conceptual Design Approval or Disapproval, Conceptual Design Approval 375
- Notice to DDA, Notice of Enforcement Remedy 224
- Notice to Public, Notice of Enforcement Remedy 224
- Notice to the Professional Licensing Boards, Notice of Enforcement Remedy 224
- Notification To Sources 335
- Notification of Audits 140
- Notification of Underpayments 141
- Notification to Liable Employers 140
- Notifications, Permit Conditions 383
- Nurse Practitioner, Staff Who are Qualified to Provide Services for Agencies 230
- O**
- Objective 217
- Objectives & Plans, Policies Regarding Development of Social Skills & Appropriate Behaviors 257
- Objectives, Program Implementation Plan Requirements 245
- Obligation To Report Abuse, Neglect, Exploitation, & Injuries, Quality Assurance, Participant Rights, Required Policies, Etc. 256
- Observation of the Child, Comprehensive IBI Assessment 253
- Occupational Therapist, Staff Who are Qualified to Provide Services for Agencies 230
- Occupational Therapy Assessment, Types of Comprehensive Assessments 237
- Occupational Therapy, Required Services Each Agency Must Provide 250
- On Plan of Service, Psychiatric Diagnostic Interview 250
- On the Plan of Service, Collateral Contact 251
- Ongoing Assessment of the Child, Requirements for a DDA Providing Services to Children Birth to Three Years of Age (Infant Toddler) 244
- Opacity 314
- Open Application, Application For Initial Certification 219
- Open Lines For Export - Surplus Lines 286
- Operating Permit 314
- Optional Services Agencies May Provide 250
- Optional Services, Optional Services Agencies May Provide 250
- Organ Transplants 209
- Organization, Downtown Revitalization 173
- Other Requirements of Service Provision, Required Service 248
- Other Trades, Demonstration of Ambient Equivalence 332
- Out-of-Hospital 201
- P**
- PM-10 315
- PM-10 Emissions 315
- PPM (Parts Per Million) 315
- Packets, Sampling 23
- Paraprofessional 217
- Parental Consent & Right to Decline Service, Requirements for a DDA Providing Services to Children Birth to Three Years of Age (Infant Toddler) 244
- Parents of Participants, General Staffing Requirements for Agencies 225
- Part 70, Unless Specified Otherwise, 40 CFR Part 70 Incorporated by Reference 325, 343
- Partial Experience Rate Transfers 155
- Participant 188, 217
- Participant Involvement, Policies Regarding Development of Social Skills & Appropriate Behaviors 257
- Participant Rights, Quality Assurance, Participant Rights, Required Policies, Etc. 255
- Particulate Matter 315
- Particulate Matter Emissions 315
- Partnerships, Joint Ventures & Trusts 305
- Patient Assessment 201
- Patient Destination 204
- Pay Charges Imposed, Permissible Distribution of Fiduciary Funds 283
- Payable to a Policyholder, Fiduciary Fund Account 281
- Payable to an Insurer, Fiduciary Fund Account 281
- Penalties & Interest on Bankruptcy 138
- Penalty & Interest During Controversy 138
- Percentage of ICDBG Dollars in Total Project 164
- Percentage of Local Matching Funds 164
- Periodic Review Of EMS System Data 205
- Permanent Closure 372
- Permanent Closure Plan 372
- Permissible Distribution Of Fiduciary Funds 283
- Permit 372, 394
- Permit & Permit Application 375
- Permit Issuance & Conditions 382
- Permit Issuance, Requirements for Emission Reduction Credit 333
- Permit Modification 388
- Permit Required, Permit & Permit Application 375
- Permit Requirements & Application 395
- Permit Requirements For New Major Facilities Or Major Modifications In Attainment Or Unclassifiable Areas 346
- Permit Requirements For New Major Facilities Or Major Modifications In Nonattainment Areas 345
- Permit Revision 325, 343
- Permit Revision or Renewal, Procedure for Issuing Permits 360
- Permit to Construct 315
- Permit to Construct Procedures for Pre-Permit Construction, Pre-Permit Construction 330
- Permit to Construct Procedures for Tier I Sources, Procedure for Issuing Permits 347, 357
- Permittee 372, 394
- Person-Centered Planning Team 217
- Personal Identification Number (PIN) 121, 124
- Pharmacological Management, Optional Services Agencies May Provide 250
- Phase II Source 325, 343
- Phase II Unit 325, 343
- Philosophy 87, 92
- Physical Conditions, CC & SR Applications 176
- Physical Therapist, Staff Who are

- Qualified to Provide Services for Agencies 230
- Physical Therapy Assessment, Types of Comprehensive Assessments 237
- Physical Therapy, Required Services Each Agency Must Provide 250
- Physician Assistant, Staff Who are Qualified to Provide Services for Agencies 230
- Physician Requirement, Psychiatric Diagnostic Interview 250
- Physician, Staff Who are Qualified to Provide Services for Agencies 230
- Pilot Facility 372
- Pilot Plant 322, 354
- Plan & Specification Review 397
- Plan Developer 217
- Plan Monitor 217
- Plan Requirements 183
- Plan of Service 217
- Planning & Schedule, CC & SR Applications 177
- Planning, Previous Actions & Schedule 166
- Point of Compliance 394
- Policies Regarding Development Of Social Skills & Appropriate Behaviors, Quality Assurance, Participant Rights, Required Policies, Etc. 256
- Pollutant 372
- Portable Equipment 315
- Positive Social Skills, Policies Regarding Development of Social Skills & Appropriate Behaviors 257
- Post-Closure 372
- Potential to Emit/Potential Emissions 315
- Practitioner of the Healing Arts, Licensed 217
- Pre-Application Conference, Permit Requirements & Application 395
- Pre-Hospital 201
- Pre-Permit Construction 330
- Pre-Permit Construction Eligibility 330
- Preapplication Conference, Conceptual Design Approval 375
- Preliminary Decision/Application Denial, Application Processing Procedure 412
- Premium 281
- Prescribed Fire Management Burning 315
- Present Use 295
- Presentation To Economic Advisory Council 160
- Presumptive Accreditation 193
- Preventative Maintenance Program, Vehicle Safety Requirements 233
- Prevention Of Significant Deterioration (PSD) Increments 337
- Prevention Strategies, Policies Regarding Development of Social Skills & Appropriate Behaviors 257
- Previous Grant Versus New Application, Plan Requirements 184
- Primary Ambient Air Quality Standard 315
- Primary Effluent 394
- Prior Authorization (PA) 217
- Probe 217
- Procedure For Issuing Permits 347, 355
- Procedure For Issuing Permits, Tier II Operating Permit 359
- Procedures & Requirements For Permits To Construct 345
- Procedures For Compliance With Mandatory Criminal History & Background Requirements 261
- Procedures For Decision-Making (State Procedures For RCRA Or HWMA Permit Applications) 368
- Procedures for Destination Protocol & Medical Direction, Patient Destination 205
- Process Waters 373
- Process Weight 316
- Process Weight Rate 316
- Process or Process Equipment 316
- Processed Food Crop 394
- Procurement, Services From Outside Sources 179
- Producer 275, 281
- Professional Employer Organizations 136
- Professional Observation, Standards For Paraprofessionals Providing Developmental Therapy & IBI 225
- Professionals, General Staffing Requirements for Agencies 224
- Program Documentation Requirements, General Requirements For The Delivery Of DDA Services 246
- Program Impact 163
- Program Implementation Plan 217
- Program Implementation Plan Requirements, General Requirements For The Delivery Of DDA Services 245
- Prohibited Practices 193, 283
- Prohibited Practices, Mortgage Practices Act 195
- Project Categories, PFH Applications 166
- Project, Grant Application Process 159
- Proposed Permit 325, 343
- Prospects for Work 131
- Protected Rights, Policies Regarding Development of Social Skills & Appropriate Behaviors 257
- Provide Information, Permit Conditions 383
- Provider 217
- Provider Status Review 218
- Provisional Certificate 218
- Provisional Certificate, Issuance of Certificate 221
- Psychiatric Diagnostic Interview, Optional Services Agencies May Provide 250
- Psychiatric Diagnostic Interview, Types of Comprehensive Assessments 239
- Psychiatric Nurse, Certified, Staff Who are Qualified to Provide Services for Agencies 231
- Psychiatrist, Staff Who are Qualified to Provide Services for Agencies 231
- Psychological Assessment, General Requirements for Assessment Records 236
- Psychological Assessment, Types of Comprehensive Assessments 238
- Psychological Testing, Types of Comprehensive Assessments 238
- Psychologist Extender, Staff Who are Qualified to Provide Services for Agencies 231
- Psychologist, Staff Who are Qualified to Provide Services for Agencies 231
- Psychotherapy 218
- Psychotherapy, Required Services Each Agency Must Provide 249
- Public Comment & Public Meetings, Public Involvement in Permit Procedures 381
- Public Involvement In Permit Procedures 380
- Public Notice Information, Public Involvement in Permit Procedures 381
- Public Notice of Permit Actions, Public Involvement in Permit Procedures 380
- Public Officers 305
- Public Official 131
- Public Service 131
- Purpose of the Quality Assurance Program, Requirements for an Agency's Quality Assurance

- Program 254
- Q**
- Qualifications Of Staff, DUI Evaluator 267
- Qualifications, DUI Evaluator 267
- Qualified Professional 218
- Quality Assurance Process 265
- Quality Assurance Process Participation 267
- Quality Assurance Program Components, Requirements for an Agency's Quality Assurance Program 254
- Quality Assurance, Participant Rights, Required Policies, Etc. 254
- Quality Assurance, Peer & Technical Review 271
- Quarterly Reporting 138
- Questionable Availability 131
- R**
- Radionuclide 316
- Ranking Criteria, FTE 170
- Ranking, Downtown Revitalization 175
- Rapid Infiltration System 394
- Rapid Infiltration Systems, Specific Permit Conditions 398
- Raw Food Crop 394
- Real Estate Settlement Procedures Act 188
- Real Price Appreciation of Stumpage 297
- Reasonable Further Progress (RFP) 322, 354
- Rebuttal Procedure 125
- Receive 281
- Reclaimed Water 394
- Reclamation 394
- Reclamation & Reuse Facility or Facility 394
- Recommendation 275
- Recommendation of Remedy, Enforcement Process 222
- Record Requirements, General Requirements For The Delivery Of DDA Services 246
- Record System, DUI Evaluations 270
- Recordkeeping 278
- Recordkeeping & Reporting of Accrued Credit Hours, Requirements for Continuing Professional Education 191
- Records to be Made Available 153
- Reestablishing Eligibility After a Determination of Ineligibility 125
- Refund Received From the Insurer, Timely Disbursement of Fiduciary Funds 284
- Refusal to Participate in Quality Assurance Process, Denial, Suspension or Revocation of License 269
- Register for Work 112
- Registering & Reporting on Work-Seeking Activity 104
- Registration for Work 102, 109, 116, 126
- Registration/Reporting Requirements - Interstate Claimants 102, 109, 116, 126
- Regular Claim 121, 124
- Regulated Air Pollutant 316
- Regulation X 188
- Regulation Z 188
- Rehabilitation 218
- Reimburse Voluntary Deposits, Permissible Distribution of Fiduciary Funds 283
- Reinstatement of Accreditation 193
- Related to a Goal, Requirements for Specific Skill Assessments 239
- Release of Lien Upon Payment in Full 139
- Relief of Indebtedness 141
- Remit Premiums, Permissible Distribution of Fiduciary Funds 283
- Remit Premiums, Timely Disbursement of Fiduciary Funds 284
- Removal of Evaluator's Name From Directory, Renewal of License 268
- Renewal & Expiration Of The Certificate, Certification Requirements for Developmental Disabilities Agencies 222
- Renewal Application, Renewal of License 268
- Renewal Of License 268
- Renewal of Approval of Accredited Instruction 193
- Renewal of Certificate, Renewal & Expiration of the Certificate 222
- Repeat Deficiencies, Enforcement Process 223
- Repeat Deficiency 218
- Replicable 317
- Reporting Period 188
- Reporting, Permit Conditions 383
- Representation & Practice Before The Board 305
- Required Assessments for Delivery of DDA Services 236
- Required Health Policies & Procedures, Health Requirements 233
- Required Information 153
- Required Offsets, Permit Requirements for New Major Facilities or Major Modifications in Nonattainment Areas 346
- Required Psychotherapy Services 249
- Required Services Each Agency Must Provide 248
- Required Services, Required Services Each Agency Must Provide 248
- Requirement for Preparation of Plans & Specifications, Plan & Specification Review 397
- Requirement for Professional Engineer's Seal, Plan & Specification Review 397
- Requirement for Single Point of Contact Responsible for Entire Wastewater Project, Plan & Specification Review 397
- Requirement to Provide Information 102, 109, 116, 126
- Requirement to Report Pending Investigations or Charges 214
- Requirements 335
- Requirements For A DDA Providing Services To Children Ages Three Through Seventeen & Adults Receiving EPSDT Services, General Requirements For The Delivery Of DDA Services 240
- Requirements For A DDA Providing Services To Children Birth To Three Years Of Age (Infant Toddler), General Requirements For The Delivery Of DDA Services 242
- Requirements For A DDA Providing Services To Persons Eighteen Years Of Age Or Older & ISSH Waiver Participants, General Requirements For The Delivery Of DDA Services 239
- Requirements For Alternative Emission Limits (Bubbles) 331
- Requirements For An Agency's Quality Assurance Program, Quality Assurance, Participant Rights, Required Policies, Etc. 254
- Requirements For Collaboration With Other Providers, General Requirements For The Delivery Of DDA Services 247
- Requirements For Continuing Professional Education 188
- Requirements For Current Assessments, Required Assessments For Delivery Of DDA Services 236

- Requirements For Emission Reduction Credit 332
- Requirements For Specific Skill Assessments, Required Assessments For Delivery Of DDA Services 239
- Requirements For Water Quality Protection 378
- Requirements for Participants Birth to Three Years of Age, Requirements for Collaboration With Other Providers 248
- Requirements for Participants Three to Twenty-One, Requirements for Collaboration With Other Providers 247
- Requirements for the Delivery of Intensive Behavioral Intervention (IBI) 251
- Response to Public Comments, Final Permit Decision 381
- Responsibility of Licensee 267
- Restricted Public Access 394
- Restricting Work to Within the Home 131
- Restriction on Certification, DDA Certification 218
- Restrictions, Economic Development Grant 169
- Result of Department Action, Denial, Suspension or Revocation of License 269
- Results of the Psychological or Psychiatric Assessment, Program Implementation Plan Requirements 245
- Return Money Received, Timely Disbursement of Fiduciary Funds 284
- Return Premiums, Permissible Distribution of Fiduciary Funds 283
- Return of Certificate, Issuance of Certificate 221
- Return of License, Denial, Suspension or Revocation of License 269
- Reuse 394
- Review & Approval, Policies Regarding Development of Social Skills & Appropriate Behaviors 257
- Review & Ranking Narrative 163
- Review & Ranking Narrative For Business Expansion Projects 170
- Review & Ranking Of Downtown Revitalization 173
- Review & Ranking Process, CC & SR Applications 176
- Review of Accredited Instruction 192
- Review of Existing Assessments & Relevant Histories, Comprehensive IBI Assessment 252
- Revisions of Permits to Construct, Procedure for Issuing Permits 357
- Revocation Of Certificate, Rule Enforcement Process & Remedies 223
- Revocation of the DDA's Certificate, Revocation of Certificate 223
- Right to Claim Benefits 102, 109, 116, 127
- Routine Maintenance & Repairs, Upset, Breakdown & Safety Requirements 327
- Rule Enforcement Process & Remedies 222
- S**
- Safety Measure 317
- Salvage Operation 317
- Sample, Representative 23
- Scheduled Maintenance 318
- School Attendance or a Training Course 131
- Scoring & Report Formats 88, 93
- Seasonal Availability 104, 112
- Seasonal Closure 373
- Seasonal Closure, Requirements for Water Quality Protection 379
- Second Quarter Review & Authorization, IBI Authorization & Review 252
- Second Revocation, Denial, Suspension or Revocation of License 269
- Secondary Ambient Air Quality Standard 318
- Secondary Emissions 322, 354
- Section 502(B)(10) Changes 325, 343
- Sections 161
- Seed Dealer's License Fees 30
- Seeking Work 104, 111
- Seize Money From a Fiduciary Fund, Prohibited Practices 284
- Self-Administration of Medication, Medication Standards & Requirements 234
- Senior Consumer 275
- Sensitive Receptor 322, 354
- Separate Fiduciary Funds Account, Types of Accounts Permitted 282
- Separation Information 102, 110, 117, 127
- Separation Notice 102, 110, 117, 127
- Service 218
- Service Categories Not Covered, Medical Assistance 208
- Service Coordination 218
- Service Coordinator 218
- Service Delivery Qualification, IBI Consultation 254
- Service Environments, Program Implementation Plan Requirements 245
- Service Testing Fees - Miscellaneous Fees 29
- Service Testing Fees - Purity, Germination & Tetrazolium Fees 24
- Service Testing Fees - Special Tests 28
- Services 89, 94
- Services in the Natural Environment, Requirements for a DDA Providing Services to Children Birth to Three Years of Age (Infant Toddler) 245
- Services that Require Licensed Professionals, Health Requirements 234
- Services, Treatments, & Procedures Not Covered By Medical Assistance 208
- Serving the Public Notice, Public Involvement in Permit Procedures 381
- Setting Requirements For Agencies Delivering Community-Based Services, Facility, Safety, & Health Standards 235
- Setting, IBI Transition Plan 253
- Sewage 395
- Short Term Source 322, 354
- Shutdown 318
- Signature, Signed 121, 124
- Significant 318
- Significant Contribution 319
- Silviculture 295
- Size of Sample 23
- Sludge 395
- Slum & Blight, Downtown Revitalization 174
- Small Cyanidation Processing Facility 373
- Smoke Management Plan 319
- Smoke Management Program 320
- Social Worker, Licensed, Staff Who are Qualified to Provide Services for Agencies 231
- Source Operation 320
- Special Remuneration 153
- Special Resource Water 373
- Specific Permit Conditions 397
- Specific Procedures, Procedure for Issuing Permits 359
- Specific Skill Assessment 218
- Speech & Hearing Therapy, Required Services Each Agency Must Provide 250
- Speech & Language Assessment, Types

- of Comprehensive Assessments 237
Speech-Language Pathologist,
Licensed, Staff Who are Qualified to
Provide Services for Agencies 231
Stack 320
Stack in Existence 335
Staff Qualifications for Psychotherapy
Services 249
Staff Qualifications, Psychiatric
Diagnostic Interview 250
Staff Who Are Qualified To Provide
Services For Agencies, Staffing
Requirements & Provider
Qualifications 227
Staffing Requirements & Provider
Qualifications 224
Stage 1 - Air Pollution Forecast &
Caution, Emergency Episode
Stage 336
Stage 2 - Alert, Emergency Episode
Stage 336
Stage 3 - Warning, Emergency Episode
Stage 336
Stage 4 - Emergency, Emergency
Episode Stage 336
Standard Conditions 320
Standards Applicable To Generators Of
Hazardous Waste 366
Standards Applicable To Transporters
Of Hazardous Waste 367
Standards For Owners & Operators Of
Hazardous Waste Treatment, Storage
& Disposal Facilities 367
Standards For Paraprofessionals
Providing Developmental Therapy &
IBI, Staffing Requirements &
Provider Qualifications 225
Standards For The Appropriate Use Of
Air Medical Agencies By Certified
EMS Personnel At Emergency
Scenes 201
Standards For The Management Of
Specific Hazardous Wastes &
Specific Types Of Hazardous Waste
Facilities 367
Standards For The Management Of
Used Oil 368
Standards For Universal Waste
Management 368
Startup 320
Startup, Shutdown & Scheduled
Maintenance Requirements 325
State Health Officer 201
Stationary Source 320
Statistical Reporting 271
Status Determination 140
Status Information Required 140
Status, Employer Taxable Status 140
Statute of Limitations for Audits &
Inspections of Employer
Records 140
Statute of Limitations for Collections of
Contributions, Penalty &
Interest 141
Storage Requirements, Requirements
for Water Quality Protection 379
Submission of Continuing Professional
Education Courses for Accreditation
by the Director 192
Submittal of a Permanent Closure
Report 384
Subsistence Remuneration 142
Substance Related Violation 265
Substance-Related Violation, Denial,
Suspension or Revocation of
License 269
Substantially Incomplete Applications,
Application Processing
Procedure 379
Sufficient Quantity & Quality, Required
Service 248
Sufficient Training, General Training
Requirements For DDA 226
Supervision 218
Supervisory Duties Of Insurer 277
Supports 218
Suspension of Accreditation 193
- T**
- TRS (Total Reduced Sulfur) 321
Target Date, Program Implementation
Plan Requirements 245
Taxation Of Large Size Forest
Tracts 300
Technical Assistance 179
Technical Capacity, Technical,
Financial, & Managerial Capacity of
Class A Effluent Wastewater
Systems 407
Technical Review 265
Telephone Claim 121, 124
Temporary Absence From Local Labor
Market to Seek Work 131
Temporary Closure 373
Temporary Closure Plan, Permit
Conditions 384
Termination, Recordkeeping 278
Test Security, Validity &
Reliability 89, 94
Testing 142
Testing Population 87, 92
The ICDBG Project, Downtown
Revitalization 174
Third Party Contracting, Supervisory
Duties of Insurer 277
Third Party, Supervisory Duties of
Insurer 277
Third Quarter Review, IBI
Authorization & Review 252
Tier I Operating Permit 325, 343
Tier I Source 320
Time 131
Time Distribution of Flows 395
Timely Disbursement Of Fiduciary
Funds 284
Timing of Emission Reduction,
Requirements for Emission
Reduction Credit 332
To Whom Will the EMS Bureau Report
the Aggregate Data & Findings,
Periodic Review of EMS System
Data 205
Tolerance Amount 147
Tolling of Statute of Limitations 140
Total Benefit Amount 121, 124
Total Suspended Particulates 320
Toxic Air Pollutant 320
Toxic Air Pollutant Carcinogenic
Increments 320
Toxic Air Pollutant Non-Carcinogenic
Increments 321
Toxic Air Pollutant Reasonably
Available Control Technology (T-
RACT) 323, 355
Toxic Substance 321
Trade Requirements, Alternative
Emission Limits (Bubbles) 332
Trade Waste 321
Training Group Session Size, Setting
Requirements for Agencies
Delivering Community-Based
Services 235
Training of New Therapists or Other
Persons, IBI Transition Plan 253
Transfer Funds, Permissible
Distribution of Fiduciary Funds 283
Transfer Of Experience Rating 155
Transfer of Permits to Construct,
Procedure for Issuing Permits 358
Transfer of Tier II Permit, Procedure for
Issuing Permits 360
Transfer or Withdraw Accrued Interest,
Permissible Distribution of Fiduciary
Funds 283
Transfer or Withdraw Actual
Commissions, Permissible
Distribution of Fiduciary Funds 283
Transportation Difficulties 132
Transportation Safety Policy, Vehicle
Safety Requirements 233
Travel or Employee Business
Expenses 153

Treatment 373
Treatment Requirements, Waivers 409
Treatment of Limited Liability
Companies 148
Trust Fund Account, Account
Designation 283
Truth In Lending Act 188
Types Of Accounts Permitted 282
Types Of Comprehensive Assessments,
Required Assessments For Delivery
Of DDA Services 237
Types of Treatments & Procedures Not
Covered 208

U

UI Delivery Systems 142
Unable to Meet the Certification
Criteria, Supervisory Duties of
Insurer 277
Unclassifiable Area 321
Uncontrolled Emission 321
Unemployment 121, 124
Unreasonable Restrictions on Working
Conditions 132
Update of Assessments, General
Requirements for Assessment
Records 236
Updated Assessments, Requirements
for Current Assessments 237
Upon Receipt of a Residential Mortgage
Loan Application, Written
Disclosures 195
Upset 321
Upset, Breakdown & Safety
Requirements 327
Use Fiduciary Funds as a Personal
Asset, Prohibited Practices 283
Use of Wage Credits 103, 111, 118,
128
Used Oil as a Dust Suppressant,
Management of Used Oil 368

V

VOC Trades, Demonstration of
Ambient Equivalence 332
Vacation 132
Valid Claim 103, 111, 118, 128
Valuing Land, Land Actively Devoted
to Agriculture, Excluding the
Homesite 299
Vehicle Safety Requirements, Facility,
Safety, & Health Standards 233
Visibility Impairment 323, 355
Volunteer Workers In A DDA, Staffing
Requirements & Provider
Qualifications 231

W

Wage Paid by Predecessor 155
Wages 132, 147
Waiver of One-Year Training
Limitation 132
Waivers 409
Wastewater 395
Water Balance 373
Water Management Plan 373
Water Quality Monitoring,
Requirements for Water Quality
Protection 379
Waters of the State 373
Weak Acid Dissociable (WAD)
Cyanide 373
Weekly Benefit Amount 121, 124
What Clinical Conditions Require
Written Criteria, Air Medical
Response 202
What Complicating Conditions Require
Written Criteria, Air Medical
Response 202
What Information Must Be Given When
Requesting an Air Medical Response,
Communications 203
What Information Must Be Provided
During the Review of Air Medical
Response Criteria, Periodic Review
of EMS System Data 205
What Is the Deadline for Obtaining
Training as Landing Zone Officers,
Landing Zone & Safety 204
What Is the Deadline for Training as a
Landing Zone Officer for EMS
Recertification, Landing Zone &
Safety 204
What May Be Included During the
Review of Air Medical Criteria,
Periodic Review of EMS System
Data 205
What Operational Conditions Require
Written Guidance for an Air Medical
Response 202
What Training is Required for Landing
Zone Officers, Landing Zone &
Safety 204
What Written Criteria is Required for
EMS Service Licensure 201
What are the Responsibilities of
Landing Zone Officers, Landing
Zone & Safety 204
When Can Certified EMS Personnel
Cancel an Air Medical
Response 201
When a Required Service Is Not
Available, Required Service 249
Who Establishes Training Curricula &

Continuing Education Requirements
for Air Medical Criteria 201
Who Has the Final Decision to Use an
Established Landing Zone, Landing
Zone & Safety 204
Who Is Notified of a Request for an Air
Medical Response,
Communications 203
Who Is Provided the Estimated Time of
Arrival at the Specified Landing
Zone, Communications 203
Who Is Responsible for Requesting an
Air Medical Response 201
Who Is Responsible for Requesting an
Air Medical Response,
Communications 203
Who Is Responsible for Selecting an
Appropriate Air Medical
Service 201
Who Is Responsible for Setting Up
Landing Zone Procedures, Landing
Zone & Safety 204
Who May Establish Criteria for
Simultaneous Dispatch 201
Who Must Confirm Availability of an
Air Medical Response,
Communications 204
Who Must Establish Written Criteria
Guiding Decisions to Request an Air
Medical Response 201
Withhold Issue of Money From a
Fiduciary Fund Account, Prohibited
Practices 284
Wood Stove Curtailment
Advisory 321
Work-Seeking Requirement
Categories 104, 112
Written Disclosures, Mortgage
Practices Act 195
Written Informed Consent, Policies
Regarding Development of Social
Skills & Appropriate Behaviors 257
Written Instructions to Staff, Program
Implementation Plan
Requirements 245
Written Procedures, Supervisory Duties
of Insurer 277

Y

Yearly Training, General Training
Requirements For DDA 225
Yield Tax On Applicable Forest
Products 302

Z

n 321, 351