

IDAHO ADMINISTRATIVE BULLETIN

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Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a monthly compilation of all administrative rule-making documents in Idaho. The Bulletin publishes the official rulemaking notices and administrative rule text of state agency rulemakings and other official documents as necessary.

State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Rulemaking Notice published in the Bulletin. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rule-making activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin 06-1 refers to the first Bulletin issued in calendar year 2006; Bulletin 07-1 refers to the first Bulletin issued in calendar year 2007. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 07-1 refers to January 2007; Volume No. 07-2 refers to February 2007; and so forth. Example: The Bulletin published in January of 2007 is cited as Volume 07-1. The December 2006 Bulletin is cited as Volume 06-12.

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 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 only published in the Bulletin and **not** printed in the Administrative Code.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Rulemaking Index of Idaho Administrative Rules**, 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 requires that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. In cases where the text of the temporary rule is the same as 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 rule that is being vacated, the agency, in most instances, should rescind the temporary rule.

PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it becomes a final, enforceable rule.

When a pending rule is published in the Bulletin, the agency is required to include certain information in the "Notice of Pending 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 reviewed by the legislature and not rejected, amended or modified becomes 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 83720-0306, 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 a table 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://adm.idaho.gov/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 38.05.01.200.02.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.*

*"**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 "-", (38-0501-0701). 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 number:

"DOCKET NO. 38-0501-0701"

"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).

"0701" denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rule-making action published in calendar year 2007. A subsequent rulemaking on this same rule chapter in calendar year 2007 would be designated as "0702". The docket number in this scenario would be 38-0501-0702.

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" denotes the main Section number of the rule to which the citation refers.

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 2007

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
07-1	January 2007	*November 15, 2006	January 3, 2007	January 24, 2007
07-2	February 2007	January 5, 2007	February 7, 2007	February 28, 2007
07-3	March 2007	February 2, 2007	March 7, 2007	March 28, 2007
07-4	April 2007	March 2, 2007	April 4, 2007	April 26, 2007
07-5	May 2007	April 6, 2007	May 2, 2007	May 23, 2007
07-6	June 2007	May 4, 2007	June 6, 2007	June 27, 2007
07-7	July 2007	June 1, 2007	July 4, 2007	July 25, 2007
07-8	August 2007	June 29, 2007	August 1, 2007	August 22, 2007
07-9	September 2007	August 3, 2007	September 5, 2007	September 26, 2007
07-10	October 2007	**August 24, 2007	October 3, 2007	October 24, 2007
07-11	November 2007	October 5, 2007	November 7, 2007	November 28, 2007
07-12	December 2007	November 2, 2007	December 5, 2007	December 26, 2006

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2008

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
08-1	January 2008	*November 14, 2007	January 2, 2008	January 23, 2008
08-2	February 2008	January 4, 2008	February 6, 2008	February 27, 2008
08-3	March 2008	February 8, 2008	March 5, 2008	March 26, 2008
08-4	April 2008	March 7, 2008	April 2, 2008	April 23, 2008
08-5	May 2008	April 4, 2008	May 7, 2008	May 28, 2008
08-6	June 2008	May 2, 2008	June 4, 2008	June 25, 2008
08-7	July 2008	May 30, 2008	July 2, 2008	July 23, 2008
08-8	August 2008	July 3, 2008	August 6, 2008	August 27, 2008
08-9	September 2008	August 1, 2008	September 3, 2008	September 24, 2008
08-10	October 2008	**August 20, 2008	October 1, 2008	October 22, 2008
08-11	November 2008	October 3, 2008	November 5, 2008	November 26, 2008
08-12	December 2008	October 31, 2008	December 3, 2008	December 24, 2006

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

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

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**OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
IDAHO DEPARTMENT OF ADMINISTRATION**

**ADMINISTRATIVE RULES REVIEWED BY THE FIFTY-NINTH
LEGISLATURE OF THE STATE OF IDAHO
FIRST REGULAR SESSION - 2007**

NOTICE OF CORRECTION TO OMNIBUS RULEMAKING

CORRECTION SUMMARY: This notice corrects errors made in the Omnibus Rulemaking Notice that listed all the administrative rules reviewed by the legislature during the 2007 legislative session. During the publication of the Omnibus Notice some of the dates of the Concurrent Resolutions were listed incorrectly.

AUTHORITY: In compliance with Sections 67-5224(5) and 67-5291, Idaho Code, notice is hereby given by the Office of the Administrative Rules Coordinator that the Fifty-ninth Legislature in the First Regular Session - 2007, reviewed the pending rules listed here in the following table. The Concurrent Resolutions of the affected rulemakings and their effective dates are listed below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the notice:

Pursuant to Section 67-5224(5), Idaho Code, the following list of Concurrent Resolutions was adopted during the Fifty-ninth Legislature in the First Regular Session - 2007 of the state of Idaho.

The following table lists the Concurrent Resolutions and the corrected dates.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this notice contact Dan Graves or Ed Hawley (208) 332-1820.

DATED this 24th day of May, 2007.

Dan Graves
Administrative Rules Specialist
Office of the Administrative Rules Coordinator
Department of Administration
P.O. Box 83720
Boise, ID 83720-0306
Phone: (208) 332-1820
Fax: (208) 332-1896

CONCURRENT RESOLUTIONS WITH CORRECTED DATES					
Docket Number	Bulletin Vol. No. Pending Rule	Bulletin Vol. No. Proposed Rule	Final Rule Effective Date	Rejected Sections	Action Taken by Concurrent Resolution
02-0631-0601	07-1	06-10	(3-19-07)	---	Fee Approved by SCR 117
02-0633-0601	07-1	06-10	(3-19-07)	---	Fee Approved by SCR 117
07-0501-0602	06-12	06-10	(3-19-07)	---	Fee Approved by SCR 117
09-0135-0601	06-12	06-9	(3-22-07)	112.03.b, 112.03.c, 112.03.d, 112.03.e	Partially Rejected by SCR 115
11-0201-0502	06-8	05-12	(3-19-07)	---	Fee Approved by SCR 117

CONCURRENT RESOLUTIONS WITH CORRECTED DATES					
Docket Number	Bulletin Vol. No. Pending Rule	Bulletin Vol. No. Proposed Rule	Final Rule Effective Date	Rejected Sections	Action Taken by Concurrent Resolution
11-0501-0601	06-12	06-10	(3-6-07)	010.03	Partially Rejected by SCR 105
11-1001-0601	06-12	06-10	(3-19-07)	---	Fee Approved by SCR 117
13-0104-0601	07-1	06-10	(3-8-07)	505.02.e.i.	Partially Rejected by HCR 016
16-0310-0602	07-1	06-8	(3-19-07)	112.02.d, 112.03.a	Partially Rejected by SCR 112
16-0318-0601	07-1	06-8	(3-19-07)	---	Fee Approved by SCR 117
16-0318-0602	07-1	06-10	(3-19-07)	---	Fee Approved by SCR 117
16-0612-0601	07-1	06-10	(3-19-07)	Entire Docket	Rejection by HCR 021
16-0612-0602	07-1	06-10	(3-19-07)	Entire Docket	Rejection by SCR 117
17-0208-0602	07-1	06-10	(3-12-07)	031.2.b	Partially Rejected by SCR 114
18-0144-0601	06-11	06-8	(3-19-07)	---	Fee Approved by SCR 117
20-0314-0601	06-11	06-8	(3-19-07)	---	Fee Approved by SCR 117
22-0104-0601	07-1	06-10	(3-19-07)	---	Fee Approved by SCR 117
24-0401-0601	06-12	06-10	(3-19-07)	---	Fee Approved by SCR 117
24-1201-0601	06-12	06-10	(3-19-07)	---	Fee Approved by SCR 117
24-1301-0601	06-12	06-10	(3-19-07)	---	Fee Approved by SCR 117
24-1501-0602	06-12	06-11	(3-19-07)	---	Fee Approved by SCR 117
24-1901-0601	06-12	06-10	(3-19-07)	---	Fee Approved by SCR 117
27-0101-0602	06-10	06-8	(3-19-07)	Entire Docket	Rejection by SCR 113
33-0101-0601	06-12	06-9	(3-19-07)	---	Fee Approved by SCR 117
39-0222-0601	07-1	06-10	(3-19-07)	---	Fee Approved by SCR 117
39-0321-0601	07-1	06-9	(3-19-07)	---	Fee Approved by SCR 117
39-0362-0601	07-1	06-10	(3-19-07)	---	Fee Approved by SCR 117
39-0364-0601	07-1	06-10	(3-19-07)	---	Fee Approved by SCR 117
41-0101-0601	07-1	06-10	(3-27-07)	100.3.e, 100.3.f	Partially Rejected by SCR 121
47-0102-0601	06-12	06-10	(3-14-07)	100.02, 100.04.c, 100.04.d	Partially Rejected by HCR 019
48-0101-0601	06-12	06-10	(3-19-07)	---	Fee Approved by SCR 117
58-0101-0303	07-1	06-9	(3-19-07)	---	Fee Approved by SCR 117
58-0112-0501	06-4	06-1	(3-19-07)	---	Fee Approved by SCR 117

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2006-45

ESTABLISHING THE IDAHO 25 X '25 RENEWABLE ENERGY COUNCIL

WHEREAS, it is the policy of the State of Idaho to utilize to the fullest extent possible the natural resources we possess to increase our energy supply and diversity in an economically efficiently; and

WHEREAS, the presence of an affordable, reliable and plentiful energy supply is critical for our state and national economy; and

WHEREAS, the development of renewable energy sources, including but not limited to bio-diesel, biomass, ethanol, methane digesters, wind power and solar; would be beneficial to farmers and rural communities by establishing additional markets for agricultural commodities, creating added-value for crop and livestock products and creating new job opportunities; and

WHEREAS, agriculture and forestry are an important part of Idaho's economy and heritage; and

WHEREAS, Idaho's farms, ranches and forests can help Idaho and the nation to lessen dependence on foreign oil; and

WHEREAS, to this end, it is the goal of the State of Idaho that 25% of Idaho's energy needs be provided through renewable sources by the year 2025 from our farm, ranch, timber and other working lands, while continuing to produce abundant, safe and affordable food and fiber;

NOW, THEREFORE, I, JAMES E. RISCH, Governor of the State of Idaho, by the authority vested in me under the Constitution and the laws of the State of Idaho do hereby order the following:

1. *The establishment of Idaho 25 x '25 Renewable Energy Council (the Council) as a joint effort between local, tribal, State, and federal governments, as well as the profit and not-for-profit private sectors. The purpose of the Council is to foster coordinated approaches that support the 25 x '25 initiative for Idaho's agricultural and forestry sectors to produce 25 percent of the State's energy requirements from renewable sources by the year 2025.*
2. *The Council's responsibilities shall be:*
 - A. *To provide policy level direction and planning for increasing the State's production of renewable energy from agricultural and forestry sources.*
 - B. *To improve cooperation, collaboration and information sharing among the State's public and private sector entities in the area of renewable energy.*
 - C. *To participate in and support the 25 x '25 Work Group.*
 - D. *To further explore and define the overarching contribution which the agricultural and forestry sectors can make as producers of energy.*
 - E. *To consider ways to increase production of renewable energy in Idaho.*
3. *Membership shall include a representative from the Office of the Governor and the directors of the following State entities or their designees:*

- A. *Department of Agriculture*
 - B. *Department of Environmental Quality*
 - C. *Department of Lands*
 - D. *Department of Water Resources*
 - E. *Department of Commerce and Labor*
 - F. *Idaho Transportation Department*
4. *Representatives and members of federal government, local government organizations, tribal governments, Idaho universities and private and not-for-profit organizations with an interest in the energy future of Idaho pertaining to renewable energy will be encouraged to participate.*
 5. *Additional members may be added by the Governor.*
 6. *The Council shall meet no less than twice annually. The chairman of the council shall be the director of the Idaho Department of Agriculture or his/her representative.*
 7. *The Council shall submit a report of its activities to the Governor and the Legislature annually.*



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 28th day of December in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred thirty-first and of the Statehood of Idaho the one hundred seventeenth.

JAMES E. RISCH
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2007-04

**RELATING TO FUNCTIONS OF THE DIVISION OF HUMAN RESOURCES AND
REQUIRING A REPORT FROM THE OFFICE OF THE STATE CONTROLLER**

WHEREAS, the supreme executive power of the State is vested in the Governor by Section 5, Article IV of the Constitution of the State of Idaho; and

WHEREAS, civil administrative departments and divisions have been created for the Governor to exercise a portion of his executive authority to ensure that the laws of the State are faithfully executed; and

WHEREAS, Title 67, section 5301 of the Idaho Code, established the Division of Human Resources in the Office of the Governor; and

WHEREAS, the Division of Human Resources is authorized and directed by the laws of the State of Idaho to administer a personnel system for classified Idaho employees; and

WHEREAS, an opportunity exists to improve the means whereby classified employees of the State of Idaho are examined, selected, retained and promoted on the basis of merit, thus effecting economy and efficiency in the administration of state government;

NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by the authority vested in me by the Constitution and laws of this State do hereby direct the Division of Human Resources to:

1. *Enter into an agreement with the Department of Labor whereby the Department will:*
 - a) *Recruit and screen applicants for classified positions in state government;*
 - b) *Establish and maintain hiring registers for classified positions in state government;*
 - c) *Conduct annual salary and benefit surveys at the direction of the Division of Human Resources; and*
 - d) *Maintain an automated system for recruiting and tracking applicants for classified positions in state government.*
2. *Enter into an agreement with and delegate to the Division of Professional-Technical Education the authority to train certain state employees on human resource related topics applicable to all state agencies including, but not limited to, supervision of employees, employee evaluations, dispute resolution and stress management.*
3. *Delegate one or more of the following functions to any state agency if the Division of Human Resources determines that the agency has a qualified human resource staff based on criteria developed by the Division:*
 - a) *Hiring;*
 - b) *Salary administration;*
 - c) *The classification of positions within the agency and the compensation paid to its employees in accordance with law and any guidelines of the Office of the Governor;*
 - d) *The maintenance, management and retention of personnel records; and*
 - e) *Other administrative human resource functions related to the agency as determined by the Division of Human Resources.*

All remaining duties and responsibilities for the state personnel system, including, but not limited to, the responsibility to promulgate administrative rules, shall be retained by the Division of Human Resources.



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 19th day of April in the year of our Lord two-thousand and seven and of the Independence of the United States of America the two hundred thirty-first and of the Statehood of Idaho the one hundred seventeenth.

C.L. "BUTCH" OTTER
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

IDAPA 08 - STATE BOARD OF EDUCATION

08.01.11 - OUT-OF-STATE INSTITUTIONS, IN-STATE NON-ACCREDITED INSTITUTIONS AND CORRESPONDENCE OR PRIVATE COURSES

DOCKET NO. 08-0111-0601 (CHAPTER REPEAL)

VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 33-105, 33-2402, and 33-2403, Idaho Code.

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

After publication of the repeal and subsequent rewrite of these rules in 2006, the State Board of Education (SBOE) received many comments from affected stakeholders. The SBOE determined that it would be best to allow the temporary rule to expire at the end of the legislative session and to not proceed with the proposed rulemaking. This allowed the SBOE to receive additional comments from the stakeholders and make further amendments to the rule. A new rulemaking is also published in the Administrative Bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Dana Kelly at 332-1574 or Stuart Tennent at 332-1563.

DATED this 15th day of May, 2007.

Karen L. Echeverria
Deputy Director
State Board of Education
650 West State Street
PO Box 83720-0037
Boise, ID 83720-0037
(208) 332-1567 phone
(208) 334-2632 FAX

IDAPA 08 - STATE BOARD OF EDUCATION
08.01.11 - REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS
AND PROPRIETARY SCHOOLS
DOCKET NO. 08-0111-0602 (CHAPTER REWRITE)
VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 33-105, 33-2402, and 33-2403, Idaho Code.

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

After publication of the repeal and subsequent rewrite of these rules in 2006, the State Board of Education (SBOE) received many comments from affected stakeholders. The SBOE determined that it would be best to allow the temporary rule to expire at the end of the legislative session and to not proceed with the proposed rulemaking. This allowed the SBOE to receive additional comments from the stakeholders and make further amendments to the rule. A new rulemaking is also published in the Administrative Bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Dana Kelly at 332-1574 or Stuart Tennent at 332-1563.

DATED this 15th day of May, 2007.

Karen L. Echeverria
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IDAPA 08 - STATE BOARD OF EDUCATION

08.01.11 - OUT-OF-STATE INSTITUTIONS, IN-STATE NON-ACCREDITED INSTITUTIONS AND CORRESPONDENCE OR PRIVATE COURSES

DOCKET NO. 08-0111-0701 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 20, 2007.

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 33-105, 33-2402, and 33-2403, 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 June 20, 2007.

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 chapter is being repealed in its entirety and will be replaced by the chapter adopted in Docket No. 08-0111-0702. The new chapter of rules is published in this Bulletin.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To be in compliance with amendments to governing law or federal programs.

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 these rules needed to be adopted in order to be in compliance with amendments to law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dana Kelly at 332-1574 or Stuart Tennent at 332-1563.

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 June 28, 2007.

DATED this 5th day of May, 2007.

Karen L. Echeverria
Deputy Director
State Board of Education
650 West State Street
PO Box 83720-0037
Boise, ID 83720-0037
(208) 332-1567 phone
(208) 334-2632 FAX

IDAPA 08.01.11 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 08 - STATE BOARD OF EDUCATION

**08.01.11 - REGISTRATION OF POST SECONDARY EDUCATIONAL INSTITUTIONS
AND PROPRIETARY SCHOOLS**

DOCKET NO. 08-0111-0702 (FEE RULE - CHAPTER REWRITE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 20, 2007.

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 33-105, 33-2402, and 33-2403, 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 June 20, 2007.

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:

Title 33, Chapter's 1 and 24, Idaho Code, were amended to clarify that post secondary institutions need to register to ensure they are legitimate degree granting institutions and that proprietary schools are legitimate. Criteria for evaluating these institutions and schools are set forth in this rule. Criteria are essential for determining the legitimacy of the institution for degree granting purposes and the legitimacy of proprietary schools.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To be in compliance with amendments to governing law or federal programs.

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:

Post secondary institutions will be charged \$100 per course with a \$2000 maximum. Proprietary schools will be charged \$100 per school. Fees will be used to investigate schools that have submitted an application to operate in Idaho under this portion of Idaho Code. Institutions must be thoroughly investigated and evaluated to ensure they are legitimate degree granting institutions and not diploma mills.

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 conducted by working with representatives of degree-granting post secondary institutions to establish qualified accreditation agencies that would be accepted by the State Board of Education.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dana Kelly at 332-1574 or Stuart Tennent at 332-1563.

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 June 27, 2007.

DATED this 5th day of May, 2007.

Karen L. Echeverria
Deputy Director
State Board of Education
650 West State Street
PO Box 83720-0037
Boise, ID 83720-0037
(208) 332-1567 phone
(208) 334-2632 FAX

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0111-0702

IDAPA 08
TITLE 01
CHAPTER 11

**08.01.11 - REGISTRATION OF POST SECONDARY EDUCATIONAL
INSTITUTIONS AND PROPRIETARY SCHOOLS**

000. LEGAL AUTHORITY.

The following rules are made under authority of sections 33-105, 33-107, 33-2402, and 33-2403, Idaho Code, to implement the provisions of Chapter 24, Title 33, Idaho Code. (4-20-07)T

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 08.01.11, "Registration of Post Secondary Educational Institutions and Proprietary Schools." (4-20-07)T

02. Scope. This rule sets forth the registration requirements for post secondary educational institutions that are required to register with the Idaho State Board of Education ("Board") under Section 33-2402, Idaho Code, and for proprietary schools required to register with the Board under Section 33-2403, Idaho Code. In addition, this rule describes the standards and criteria for Board recognition of accreditation organizations, for registration purposes and for acceptance of academic credit. Finally, this rule describes the process the Board will use to evaluate courses or courses of study for acceptance for academic credit at Idaho's public post secondary institutions. (4-20-07)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of this rule. (4-20-07)T

003. ADMINISTRATIVE APPEALS.

The Administrative Procedure Act, Chapter 52, Title 67, Idaho Code, applies to any denial of registration of any post secondary educational institution or proprietary school. Hearings and appeals shall be governed according to the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (4-20-07)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference. (4-20-07)T

005. OFFICE INFORMATION.

01. Office Hours. The offices of the Board are open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. (4-20-07)T

02. Mailing Address. The mailing address of the Board is P.O. Box 83720, Boise, Idaho 83720-0037. (4-20-07)T

03. Street Address. The offices of the Board are located at 650 W. State Street, Boise, Idaho. (4-20-07)T

04. Telephone. The telephone number of the Board is (208) 334-2270. (4-20-07)T

05. Facsimile. The facsimile number of the Board is (208) 334-2632. (4-20-07)T

06. Electronic Address. The electronic address of the Board is boardofed.idaho.gov. (4-20-07)T

006. PUBLIC RECORDS ACT COMPLIANCE.
This rule is subject to the provisions of the Public Records Act, Title 9, Chapter 3, Idaho Code. (4-20-07)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Accredited. Defined in Section 33-2401(1), Idaho Code, and means that a post secondary educational institution has been recognized or approved as meeting the standards established by an accrediting organization recognized by the Board. (4-20-07)T

02. Agent. Defined in Section 33-2401(2), Idaho Code, and means any individual within the state of Idaho who solicits students for or on behalf of a proprietary school. (4-20-07)T

03. Agent's Permit. Defined in section 33-2401(3), Idaho Code, and means a nontransferable written document issued to an agent by the Board or its designee. (4-20-07)T

04. Course. Defined in Section 33-2401(5), Idaho Code, and means instruction imparted in a series of lessons or class meetings to meet an educational objective. (4-20-07)T

05. Course or Courses of Study. Defined in Section 33-2401(6), Idaho Code, and means either a single course or a set of related courses for which a student enrolls, either for academic credit or otherwise. A course of study is sometimes also referred to in this rule as a program. (4-20-07)T

06. Degree. Defined in Section 33-2401(7), Idaho Code, and means any academic, vocational, professional-technical or honorary title or designation, mark, appellation, series of letters, numbers, or words such as, but not limited to, "bachelor's," "master's," "doctorate," or "fellow," which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, vocational, professional-technical, educational or professional program of study beyond the secondary school level or for a recognized title conferred for meritorious recognition, and an associate of arts or associate of science degree awarded by a community college or other public or private post secondary educational institution or other entity which may be used for any purpose whatsoever. (4-20-07)T

07. Post Secondary Educational Institution. Sometimes referred to in this rule simply as an institution, is defined in Section 33-2401(8), Idaho Code, and means an individual, or educational, business or other entity, whether legally constituted or otherwise, which maintains a presence within or which operates or purports to operate, from a location within the state of Idaho, and which provides courses or programs that lead to a degree, or which provides, offers or sells degrees. (4-20-07)T

08. Proprietary School. Sometimes referred to in this rule simply as a school, is defined in Section 33-2401(9), Idaho Code, and means an individual, or educational, business or other entity, whether legally constituted or

otherwise, which maintains a presence within or which operates or purports to operate, from a location within the state of Idaho and which conducts, provides, offers or sells a course or courses of study, but which does not provide, offer or sell degrees. (4-20-07)T

011. -- 099. (RESERVED).

100. RECOGNITION OF ACCREDITATION ORGANIZATIONS.

01. Registration of Post Secondary Educational Institutions. For purposes of registration of post secondary educational institutions, the Board recognizes the regional accreditation organizations listed in subsections 100.01.a. through 100.01.f., below. In addition, the Board recognizes institutional accreditation organizations which are also recognized by both the United States Department of Education and by the Council for Higher Education Accreditation, and which accredit entire colleges or universities, and which do not accredit only courses or courses of study (such as specialized accreditation organizations). (4-20-07)T

a. Middle States Association of Schools and Colleges (MSA), Commission on Higher Education - Accredits institutions of higher education in Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, and the U.S. Virgin Islands. (4-20-07)T

b. New England Association of Schools and Colleges, Commission on Institutions of Higher Education (NEASC-CIHE) - Accredits institutions of higher education in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. (4-20-07)T

c. North Central Association of Colleges and Schools, The Higher Learning Commission (NCA-HLC) - Accredits degree-granting institutions of higher education in Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, West Virginia, Wisconsin, and Wyoming, including schools of the Navaho Nation. (4-20-07)T

d. Northwest Commission on Colleges and Universities (NWCCU) - Accredits post secondary educational institutions in Alaska, Idaho, Montana, Nevada, Oregon, Utah, and Washington. (4-20-07)T

e. Southern Association of Colleges and Schools (SACS), Commission on Colleges - Accredits degree-granting institutions of higher education in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia. (4-20-07)T

f. Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities (WASC-ACSCU) - Accredits senior colleges and universities in California, Hawaii, the United States territories of Guam and American Samoa, the Republic of Palau, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and the Republic of the Marshall Islands. (4-20-07)T

02. Acceptance of Academic Credit. (4-20-07)T

a. For purposes of acceptance of academic credit at Idaho public post secondary educational institutions, the Board recognizes the accreditation organizations described in Subsection 100.01 of this rule. (4-20-07)T

b. The Board will determine whether to accept specialized or other accreditation organizations, which accredit courses or courses of study, for purposes of acceptance of academic credit on a case-by-case basis. A request for recognition of other accreditation organizations for purposes of acceptance of academic credit should be made to the Board's Chief Higher Education Academic Officer, who will review and evaluate the request with the input and advice of the Board's Committee on Academic Affairs and Programs (CAAP). The Board will make a final determination based on such evaluation and review. (4-20-07)T

101. -- 199. (RESERVED).

200. REGISTRATION OF POST SECONDARY EDUCATIONAL INSTITUTIONS.

01. Registration Requirement. (4-20-07)T

a. Unless exempted by statute or this rule, as provided herein, a post secondary educational institution which maintains a presence within the state of Idaho, or which operates or purports to operate from a location within the state of Idaho, shall register and hold a valid certificate of registration issued by the Board. An institution shall not conduct, provide, offer, or sell a course or courses of study, or degree unless registered. An institution shall not solicit students on behalf of such institution, or advertise in this state, unless registered. (4-20-07)T

b. Initial registration shall be for the period beginning on the date of issue of a certificate of registration and continue through June 30 of the next succeeding year. Initial registration shall mean an institution's initial registration under this rule, even if an institution has previously registered with the Board. A registered post secondary educational institution must renew its certificate of registration annually, and renewal of registration is not automatic. Renewal of registration shall be for the period beginning on July 1 of any year, and continue through June 30 of the next succeeding year. (4-20-07)T

02. Idaho Presence. An institution shall be deemed to have a presence in Idaho, or to be operating or purporting to be operating from a location within the state of Idaho, if it owns, rents, leases, or uses any office or other type of physical location in Idaho, including a mailing or shipping center, or if it represents in any way, such as on an electronic or Internet website, to have an Idaho street or mailing address, including a post office box in Idaho. (4-20-07)T

03. Institutions Exempt from Registration. (4-20-07)T

a. Idaho public post secondary educational institutions. Section 33-2402(1), Idaho Code, provides that a public institution supported primarily by taxation from either the state of Idaho or a local source in Idaho shall not be required to register. (4-20-07)T

b. Certain Idaho private, non-profit, post secondary educational institutions. A private, non-profit, post secondary educational institution that is already established and operational as of the effective date of this rule and located within the state of Idaho, and that is accredited by an accreditation organization recognized by the Board, as set forth in Subsection 100.01 of this rule, shall not be required to register. A private, non-profit, institution is located within the state of Idaho only if it has been lawfully organized in the state of Idaho and its principal place of business is located within the state of Idaho. (4-20-07)T

04. Institutions That Must Register. (4-20-07)T

a. Out-of-state public post secondary educational institutions. A public institution that is supported primarily by taxation from another state, or from a local source not within the state of Idaho, must register as provided herein. (4-20-07)T

b. Out-of-state private, non-profit, post secondary educational institutions. An out-of-state private, non-profit, post secondary educational institution must register as provided herein. (4-20-07)T

c. Certain Idaho private, non-profit, post secondary educational institutions. A private, non-profit, post secondary educational institution that is located within the state of Idaho, but that is not exempt under Subsection 200.03.b. of this rule, must register as provided herein. (4-20-07)T

d. For-profit post secondary educational institutions. A post secondary educational institution that operates for profit, or which is an operating subsidiary of a publicly or privately held corporation that operates for profit, must register as provided herein. (4-20-07)T

05. Exception to Registration Requirement for Certain Post Secondary Institutions. (4-20-07)T

a. A post secondary educational institution that demonstrates to the satisfaction of the Board that its primary mission and objectives are to offer courses or courses of study that do not lead to the awarding of degrees, may instead register as a proprietary school, in accordance with Section 400 of this rule. (4-20-07)T

b. A request to register as a proprietary school must be submitted in writing to the Board by the first business day of December preceding a registration year. A decision on such request will be issued by the Board within thirty (30) days after it is received. A request to register as a proprietary school must be made on an annual basis. (4-20-07)T

06. Application. A post secondary educational institution that is required to register under this rule must submit to the Board office an application for registration (either an application for initial registration, or renewal of registration, as applicable), on a form approved by the Board. The application must include a list of each course, course of study, and degree the applicant institution intends to conduct, provide, offer, or sell in Idaho during the registration year. (4-20-07)T

07. Registration Fees. The Board shall assess an annual registration fee for initial registration, or renewal of registration, of a post secondary educational institution. The registration fee must accompany the application for registration, and shall be in the amount of one hundred dollars (\$100) for each course that the institution intends to conduct, provide, offer or sell during the registration year, as set forth in the registration application, not to exceed two thousand dollars (\$2,000). Registration fees are not refundable. (4-20-07)T

08. Deadline for Registration. An initial application for registration may be submitted to the Board at anytime. An institution should expect the Board's review process for an initial registration to take approximately three (3) to five (5) months. An application for renewal of registration must be submitted to the Board on or before the first business day of May that precedes a registration year. (4-20-07)T

09. Information Required. Such application must include the information requested on the application form, as well as the following information: (4-20-07)T

a. If an institution that is required to register under this rule is accredited by an accreditation organization recognized by the Board in Subsection 100.01 of this rule, such institution must submit documentation demonstrating that it has received accreditation status, and that it will maintain its accreditation from such agency during the entire registration year. An institution that is so accredited qualifies for a streamlined registration process, and will not be required to submit information and/or documentation that documents compliance with Standards I through VI, set forth in Subsections 200.10.a. through 200.10.f. of this rule. Such institution must submit the following information and/or documentation with its application for registration: (4-20-07)T

- i. Copy of most recent accreditation report; (4-20-07)T
- ii. Current list of chief officers - e.g. president, board chair, chief academic officer, chief fiscal officer; (4-20-07)T
- iii. Most recent copy of strategic plan; (4-20-07)T
- iv. Enrollment data for current and past two (2) years; (4-20-07)T
- v. Copy of annual audited financial statement; (4-20-07)T
- vi. Any additional information that the Board may request. (4-20-07)T

b. All other institutions applying for registration must submit information and/or documentation with its application for registration that documents compliance with all of the Standards I through VI, set forth in Subsections 200.10.a. through 200.10.f. of this rule. (4-20-07)T

c. The Board may, in connection with a renewal of registration, request that an institution only submit information that documents changes from the previous year, provided that the institution certifies that all information and/or documentation submitted in a previous registration year remains current. The annual registration fee, described in Subsection 200.07 of this rule, shall remain applicable. (4-20-07)T

10. Approval Standards for Post Secondary Educational Institutions. An institution applying for registration must meet, or demonstrate that it will meet, all of the following standards: (4-20-07)T

a. Standard I - Legal Status and Administrative Structure. The institution must be in compliance with all local, state, and federal laws, administrative rules, and other regulations applicable to post secondary educational institutions. (4-20-07)T

i. The institution must have a clearly stated mission and objectives that are consistent with educational offerings under consideration for approval by the Board. The institution must demonstrate how its stated mission and objectives are being accomplished. (4-20-07)T

ii. The governing board or the board of directors must be comprised of at least five (5) members who are selected to represent students, faculty, and other constituents of the institution. Board members must be given the responsibility for assuring that the mission and objectives are achieved, for establishing policies and overseeing their implementation, and for providing oversight for the entire institution, including the financial stability of the institution. Board members should generally not be affiliated with the institution from an employment, contractual, familial, or financial standpoint. Any affiliation or financial interest in the institution must be fully disclosed, and provisions must be made to address any conflicts of interest. (4-20-07)T

iii. There must be sufficient distinction between roles and responsibilities of the institution's governing board and the administration, faculty, and staff to ensure appropriate separation and independence. (4-20-07)T

iv. Each of the administrative officers must be appropriately qualified with educational credentials to ensure programs are of high quality and that the rights of students are protected. In particular, the chief academic officer of the institution must be academically prepared at least at the Master's degree level, and have a minimum of five (5) years of post secondary educational experience at an accredited institution. (4-20-07)T

v. Administrators must be paid a fixed salary. Commissions may not be used for any portion of the compensation or to supplement an administrative salary. (4-20-07)T

vi. Policies must have been established to govern admissions, hiring procedures, and working conditions; evaluation/assessment of all employees and instructional offerings; awarding of credit and grades that are comparable to other institutions; academic freedom; student and faculty rights and responsibilities; grievance procedures; approval of the curriculum and other academic procedures, etc.; to ensure the quality of educational offerings. (4-20-07)T

vii. The administration must establish procedures for evaluating the effectiveness of the entire institution and for assessing the quality of instruction through established and recognized methods of instructional assessment. Evaluation and assessment results must be used to improve institutional programs and services. Evaluative/assessment processes must involve internal constituents from the institution and appropriate external representatives. (4-20-07)T

b. Standard II - Educational Program and Curriculum. Instruction must be the primary focus of the institution, and all instructional activities must be clearly related to the achievement of the institution's mission and objectives. (4-20-07)T

i. The requirements for all instructional programs must be defined clearly, including applicable completion requirements for courses, credits, clinicals, etc. Faculty must be given the responsibility for developing the curriculum for all courses or courses of study or degrees, designing effective learning strategies for students, identifying and organizing all instructional materials and specialized facilities, identifying instructional assessment methods, and evaluating the effectiveness of the course offerings. (4-20-07)T

ii. The institution must identify the number of credits required to earn a degree based on the following guidelines. Forty-five (45) clock-hours of student involvement are required for each semester credit, which includes a minimum of fifteen (15) student contact hours for each semester credit. Degrees are: (4-20-07)T

(1) Associate of Applied Science Degree: A credential awarded for completion of requirements entailing at least two (2) years, but less than four (4) years, of full-time professional-technical study with a minimum of sixty (60) semester credits (includes a minimum of sixteen (16) general education credits) and includes mastery of

specific competencies drawn from requirements of business/industry; (4-20-07)T

(2) Associate Degree: A credential awarded for completion of requirements entailing at least two (2) years, but normally less than four (4) years, of full-time academic work; (4-20-07)T

(3) Baccalaureate Degree: A credential awarded for completion of requirements entailing at least four (4) years of full-time academic work; (4-20-07)T

(4) Master's Degree: A credential awarded for completion of requirements entailing at least one (1) year, but normally not more than two (2) years, of full-time academic work beyond the baccalaureate degree, including any required research; and (4-20-07)T

(5) Doctoral Degree: A credential awarded for completion of requirements entailing at least three (3) years of full-time academic work beyond the baccalaureate degree, including any required research. (4-20-07)T

iii. Written course descriptions must be developed for all courses and for all courses within a program or degree and include the following: course overview, learning objectives and outcomes, course content, assessment, and grading criteria. A written inventory must be maintained for all course descriptions, and course descriptions must be provided to the faculty. Faculty must be expected to follow course descriptions. A syllabus must be developed for each course and distributed to students at the beginning of the course. (4-20-07)T

iv. For each course or courses of study leading to a degree, the institution shall assure that such courses will be offered with sufficient frequency to enable students to complete the courses of study and degree within the minimum time for completion. (4-20-07)T

c. Standard III - Student Support Services. The institution must have clearly defined written policies that are distributed to students through a variety of print and electronic means. Policies must address students' rights and responsibilities, grievance procedures, and must define what services are available to support students and instructional programs. (4-20-07)T

i. The institution must develop a written admissions policy. The admission of students must be determined through an orderly process using published criteria which must be uniformly applied. Admissions must take into account the capacity of the student to undertake a course of study and the capacity of the institution to provide instructional and other support services the student needs to complete the program. (4-20-07)T

ii. There must be a clearly defined policy for the readmission of students dismissed from the institution for academic reasons. The readmission of students dismissed under this policy should be consistent with the recognized academic standards of admission to the institution. (4-20-07)T

iii. The institution must establish and adhere to a clear and fair policy regarding due process in disciplinary matters, and publish this policy in a handbook, which must include other rights and responsibilities of the students and the grievance procedure. This handbook must be supplied to each student upon enrollment in the institution. The institution must provide the name and contact information for the individual who is responsible for dealing with student grievances and other complaints and for handling due process procedures. (4-20-07)T

iv. The institution must provide an effective program of academic advising for all students enrolled. The program must include orientation to the academic program, academic and personal counseling, career information and planning, placement assistance, and testing services. (4-20-07)T

v. The institution must provide students, prospective students prior to enrollment, and other interested persons with a catalog containing, at a minimum, the following information: the institution's mission; admissions policies; information describing the purpose, length, and objectives for the courses or courses of study or degrees offered by the institution; credit requirements for all courses or courses of study or degrees offered by the institution; procedures for awarding credit for work completed outside the collegiate setting; policies for acceptance of transfer credit; the schedule of tuition, fees, and all other charges and expenses necessary for completion of the courses or courses of study or degrees; cancellation and refund policies; a definition of the unit of credit as it applies at the institution; an explanation of satisfactory progress, including an explanation of the grading/assessment system; the

institution's calendar, including the beginning and ending dates for each instructional term, holidays, and registration dates; a complete listing of each regularly employed faculty member showing name, area of assignment, rank, and each earned degree held, including degree level, degree designation, and institution that awarded the degree; a complete listing of each administrator showing name, title, area of assignment, and each earned degree held, including degree level, degree designation, and institution that awarded the degree; a statement of legal control with the names of the trustees, directors, and officers of the institution or corporation or other entity; a complete listing of all scholarships offered, if any; a statement describing the nature and extent of available student services; complete and clearly stated information about the transferability of credit to other post secondary educational institutions, including two-year and four-year colleges and universities; and any such other material facts concerning the institution and the courses or courses of study as are reasonably likely to affect the decision of the student to enroll at the institution. (4-20-07)T

vi. Accurate and secure records must be kept for all aspects of the student academic record including, at a minimum, admissions information, transcripts, and financial transactions. Standards established by the American Association of Collegiate Registrars and Admissions Officers (AACRAO) must be used as a basis for establishing, maintaining, securing, and retaining student records. (4-20-07)T

vii. The institution must provide to each prospective student, newly-enrolled student, and returning student, complete and clearly presented information indicating the institution's current graduation rate by courses of study, and job placement rate by course of study. (4-20-07)T

d. Standard IV - Faculty Qualifications, Duties, and Compensation. Faculty qualifications must be clearly defined for each discipline and the assigned location for each faculty member must be identified. (4-20-07)T

i. Faculty must be qualified through academic preparation appropriate to their assigned classes and degree level; i.e., for bachelor degree programs, faculty must have a master's degree from an accredited institution; at the graduate level, a doctoral degree from an accredited institution. Relevant teaching experience or evidence to indicate they will be successful in the classroom must also be considered. Relevant work experience must also be considered. Transcripts for all faculty must be obtained, reviewed, and retained at the institution. Faculty must be recruited from a variety of institutions and backgrounds to enhance diversity and to avoid hiring a disproportionate number of individuals who are graduates of institutional programs. (4-20-07)T

ii. There shall be a sufficient number of full-time faculty members to maintain the continuity and stability of academic programs and policies. At least one full-time faculty must be located in Idaho for each course or courses of study or degree, unless the institution can demonstrate specifically why this is not feasible, and identify what provisions have been, or will be, made to serve students effectively. (4-20-07)T

iii. A group of faculty must be organized and given responsibility in conjunction with the institution's chief academic officer for reviewing and approving all courses and courses of study and degrees offered by the institution. This group must also be responsible for overseeing instructional assessment activities and setting standards for program review/evaluation. The group must be of sufficient size to effectively represent a variety of instructional disciplines and faculty perspectives. (4-20-07)T

iv. The ratio of faculty to students in each course must be sufficient to assure effective instruction. (4-20-07)T

v. Faculty must be paid a fixed salary. Commissions may not be used for any portion of the compensation, to supplement faculty salaries, or be connected to recruitment or retention of students. (4-20-07)T

vi. Procedures for evaluating faculty must be established, including provisions for promoting faculty and recognizing scholarly contributions to their academic discipline. (4-20-07)T

vii. A faculty development program must be established to encourage professional advancement and to enhance one's knowledge and instructional expertise. (4-20-07)T

e. Standard V - Resources, Financial Resources, and Facilities. The institution must have adequate financial resources to accomplish its educational mission and objective. (4-20-07)T

i. A financial officer in a managerial position must be designated for the institution and given responsibility for overseeing all of the financial aspects of the institution. (4-20-07)T

ii. Adequate financial resources must be provided to accomplish the institutional mission and to effectively support the instructional programs, including teaching facilities (i.e., classrooms, labs), instructional materials, supplies and equipment, faculty, staff, library, and the physical and instructional technology infrastructure (4-20-07)T

iii. The institution must have sufficient reserves so that, together with tuition and fees, it is able to complete its educational obligations to currently enrolled students, even if it were unable to admit any new students. (4-20-07)T

iv. Financial records and reports of the institution must be kept and made separate and distinct from those of any affiliated or sponsoring person or entity. Financial records and reports at a public or non-profit institution must be kept in accordance with the most current guidelines from the National Association of College and University Business Officers. Financial records and reports of a for-profit institution must be kept in accordance with generally accepted accounting principles. A for-profit institution must organize its reports and records under categories or cost centers comparable to accounting funds identified in the most current guidelines from the National Association of College and University Business Officers. (4-20-07)T

v. An annual independent audit of all fiscal accounts of the educational institution must be authorized by the governing board, and must be performed by a properly authorized certified public accountant. (4-20-07)T

f. Standard VI - Library and Instructional Resources. The institution must obtain and properly catalog library and other learning resources and make these resources readily available to its students and faculty. These holdings must be of sufficient quality and depth to support its mission and achievement of student and faculty learning objectives. (4-20-07)T

i. The institution must have adequate library facilities for the library holdings, space for study, and workspace for the librarian and library staff. (4-20-07)T

ii. Library services and resources must be available for student and faculty use with sufficient regularity, and at appropriate hours, to support the mission of the institution and its instructional offerings. (4-20-07)T

iii. If the institution relies on other institutions or entities to provide library resources, or this is done through electronic means, the institution must demonstrate how these arrangements effectively meet the needs of students and faculty. These arrangements must be documented through written agreements. Student and faculty use must be documented and frequently evaluated to ensure quality services are being provided. (4-20-07)T

iv. The library must be administered by professionally trained staff supported by sufficient personnel. (4-20-07)T

11. Additional Information. If the Board is unable to determine the nature and activities of an institution on the basis of the information provided by the institution under this rule, then the Board may notify the institution of additional information that it will be required to provide in connection with the application for registration. (4-20-07)T

12. Verification of Information. The Board may verify the accuracy of submitted information by inspection, visitation, or any other means it considers necessary. The applicant institution shall be responsible for any costs the Board incurs, including travel, associated with this review. (4-20-07)T

13. Criteria for Approval or Denial of Registration. To be approved for registration, the institution must demonstrate that it is in compliance with Chapter 24, Title 33, Idaho Code and this rule, including all of the standards described in Subsections 200.10.a. through 200.10.f. of this rule. An institution must remain in compliance for the registration year. (4-20-07)T

14. Public Information. All information submitted to the Board in connection with the application is public information, and is subject to disclosure as set forth in the Public Records Act, Title 9, Chapter 3, Idaho Code. (4-20-07)T

15. Certificate of Registration. (4-20-07)T

a. A certificate of registration will be issued to a post secondary educational institution that has paid its registration fee and has been approved under this rule. A certificate evidencing initial registration will be effective the date it is issued, and continue through June 30 of the next succeeding year. A renewal certificate will be for the period July 1 through June 30 of the next succeeding year. No institution that is registered with the Board shall advertise or represent in any manner that it is accredited by the Board. An institution may only represent that it is: "Registered with the Idaho State Board of Education." Registration is not an endorsement of the institution. (4-20-07)T

b. If an institution wishes to offer additional courses, courses of study, or degrees during the course of a registration year that were not included in its application to the Board prior to issuance of the certificate of registration, then the institution may submit a supplemental application to the Board, on a form approved by the Board, and pay any additional registration fees that are applicable. If approved, the Board will issue a revised certificate of registration evidencing such approval. (4-20-07)T

16. Disapproval and Appeal. If a post secondary educational institution's request for initial registration, or renewal of registration, is disapproved by the Board, then the institution may appeal such decision in accordance with Chapter 52, Title 67, Idaho Code. The request must be in writing and made to the office within thirty (30) days of the date the institution is notified of the disapproval. (4-20-07)T

17. Withdrawal of Approval. (4-20-07)T

a. The Board may refuse to renew, or may revoke or suspend approval of, an institution's registration by giving written notice and the reasons therefore to the institution. The institution may request a hearing relating to such decision under IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (4-20-07)T

b. Withdrawal of approval may be for one or more of the following reasons: (4-20-07)T

i. Violation of Chapter 24, Title 33, Idaho Code or this rule; (4-20-07)T

ii. Providing false, misleading, deceptive, or incomplete information to the Board; (4-20-07)T

iii. Presenting to prospective or current students information about the institution which is false, fraudulent, misleading, deceptive, or inaccurate in a material respect; or (4-20-07)T

iv. Refusing to allow reasonable inspection or to supply reasonable information after a written request by the Board has been received. (4-20-07)T

c. If any information contained in the application submitted by the institution becomes incorrect or incomplete, then the registered institution shall notify the Board of such change within thirty (30) days. An institution that ceases operation during the course of a registration year shall immediately inform the Board of this event. (4-20-07)T

201 -- 299. (RESERVED).

300. ACCEPTANCE OF ACADEMIC CREDIT AT IDAHO PUBLIC POST SECONDARY EDUCATIONAL INSTITUTIONS.

01. Authority. Section 33-107(6)(b), Idaho Code, provides that the Board has the power to determine whether a course or courses of study for academic credit is transferable to, and will be accepted by, a public post

secondary educational institution in Idaho. (4-20-07)T

02. Criteria. Academic credit shall not be transferred into any Idaho public post secondary institution from a post secondary educational institution that is not accredited by an organization recognized by the Board, as set forth in Subsections 100.02.a. and 100.02.b. of this rule. A course or courses of study for academic credit shall be evaluated and reviewed to determine whether such course is comparable to a course offered by an Idaho public post secondary educational institution. (4-20-07)T

03. Procedure. (4-20-07)T

a. A determination of whether a course or courses of study will be accepted for academic credit at an Idaho public higher education institution will be made after evaluation and review. An institution seeking such evaluation and review will be required to submit to the Board's Chief Higher Education Academic Officer the documentation and/or information related to such course or courses of study, who will review and evaluate the request with the input and advice of CAAP. (4-20-07)T

b. Should a course or courses of study be evaluated as acceptable or comparable to a course or course of study offered by an Idaho public institution, then it will be accepted for academic credit by the Board and thus accepted by the public post secondary institutions in Idaho. (4-20-07)T

c. A course or courses of study that are evaluated and determined not to be acceptable or comparable to a course or courses of study offered by an Idaho public institution shall not be accepted for academic credit at an Idaho public post secondary institution. (4-20-07)T

301. -- 399. (RESERVED).

400. REGISTRATION OF PROPRIETARY SCHOOLS.

01. Delegation. Section 33-2403, Idaho Code, provides that a proprietary school must hold a valid certificate of registration issued by the Board or its designee. The Board delegates authority to the Idaho Division of Professional-Technical Education (PTE) to register proprietary schools, in accordance with this rule. (4-20-07)T

02. Registration Requirement. (4-20-07)T

a. Unless exempted by statute or this rule, as provided herein, a proprietary school which maintains a presence within the state of Idaho, or which operates or purports to operate from a location within the state of Idaho, shall register annually and hold a valid certificate of registration issued by PTE. A school shall not conduct, provide, offer, or sell a course or courses of study unless registered. A school shall not solicit students for or on behalf of such school, or advertise in this state, unless registered. (4-20-07)T

b. Initial registration shall be for the period beginning on the date of issue of a certificate of registration and continue through June 30 of the next succeeding year. A registered proprietary school must renew its certificate of registration annually and renewal of registration is not automatic. Renewal of registration shall be for the period beginning on July 1 of any year, and continue through June 30 of the next succeeding year. (4-20-07)T

03. Exemptions from Registration. The following individuals or entities are specifically exempt from the registration requirements of this rule: (4-20-07)T

a. An individual or entity that offers instruction or training solely a vocational or recreational in nature, as determined by the Board. (4-20-07)T

b. An individual or entity that offers courses recognized by the Board which comply in whole or in part with the compulsory education law. (4-20-07)T

c. An individual or entity that offers a course or courses of study sponsored by an employer for the training and preparation of its own employees, and for which no tuition fee is charged to the student. (4-20-07)T

d. An individual or entity which is otherwise regulated, licensed, or registered with another state agency pursuant to title 54, Idaho Code. (4-20-07)T

e. Aviation school or instructors approved by and under the supervision of the Federal Aviation Administration. (4-20-07)T

f. An individual or entity that offers intensive review courses designed to prepare students for certified public accountancy tests, public accountancy tests, law school aptitude tests, bar examinations or medical college admissions tests, or similar instruction for test preparation. (4-20-07)T

g. An individual or entity offering only workshops or seminars lasting no longer than three (3) calendar days. (4-20-07)T

h. A parochial or denominational institution providing instruction or training relating solely to religion and for which degrees are not granted. (4-20-07)T

i. An individual or entity that offers post secondary credit through a consortium of public and private colleges and universities under the auspices of the western governors. (4-20-07)T

04. Application. A proprietary school that is required to register under this rule must submit to PTE an application for registration (either an application for initial registration, or renewal of registration, as applicable), on a form approved by PTE. The application must include a list of each course or courses of study the applicant school intends to conduct, provide, offer or sell in Idaho during the registration year. (4-20-07)T

05. Registration Fees and Costs. A registration fee shall accompany each application for initial registration or renewal of registration. The fixed portion of such annual registration fee shall be in the amount of one hundred dollars (\$100) for each school. The variable portion of such annual registration fee shall be in the amount of one hundred dollars (\$100) for each course to be offered by the school during the registration year. Fees are not refundable. (4-20-07)T

06. Deadline for Registration. An initial application for registration may be submitted to PTE at anytime. A school should expect PTE's review process for an initial registration to take approximately three (3) to five (5) months. An application for renewal of registration must be submitted to PTE on or before the first business day of May that precedes a registration year. (4-20-07)T

07. Information Required. (4-20-07)T

a. Such application must include the information requested on the application form. In addition, a school applying for registration must submit information and/or documentation with its application for registration that documents compliance with all of the Standards, I through V, set forth in Subsections 400.08.a. through 400.08.e. of this rule. (4-20-07)T

b. PTE may, in connection with a renewal of registration, request that a school only submit information that documents changes from the previous year, provided that the school certifies that all information and/or documentation submitted in a previous registration year remains current. The annual registration fee, described in Subsection 400.05 of this rule, shall remain applicable. (4-20-07)T

08. Approval Standards for Registration of Proprietary Schools. The Board and its designee accepts the responsibility for setting and maintaining approval standards for proprietary schools that plan to offer courses or a set of related courses in or from Idaho in order to protect consumers and to ensure quality educational programs are provided throughout the state. A school must meet all of the standards prior to issuance of a certificate of registration and the school must provide required evidence to document compliance with the standards as identified in the application form. A certificate of registration may be denied if all of the standards are not met. (4-20-07)T

a. Standard I - Legal Status and Administrative Structure. The school must be in compliance with all local, state and federal laws, administrative rules, and other regulations applicable to proprietary schools. (4-20-07)T

i. The school must have a clearly stated educational purpose that is consistent with the courses or a set of related courses under consideration for approval by PTE. (4-20-07)T

ii. The ownership of the school, its agents, and all school officials must be identified by name and title. (4-20-07)T

iii. Each owner, agent, and school official must be appropriately qualified to ensure courses are of high quality and the rights of students are protected. (4-20-07)T

iv. Policies must have been established to govern admissions, hiring procedures, and working conditions; evaluation/assessment of all employees and instructional offerings; student and instructor rights and responsibilities; grievance procedures; approval of the curriculum and other academic procedures to ensure the quality of educational offerings. (4-20-07)T

v. Procedures for assessing/evaluating the effectiveness of instruction must be established. Evaluation and assessment results must be used to improve courses or courses of study. (4-20-07)T

b. Standard II - Courses or Courses of Study. Instruction must be the primary focus of the school, and all instructional activities must be clearly related to the achievement of the stated instructional objectives. All courses or courses of study must prepare students to enter employment upon completion of the program or prepare them for self-employment. (4-20-07)T

i. The requirements for each course or courses of study must be defined clearly including applicable completion requirements or other requirements such as practicums, clinicals, etc. Instructors must be given the responsibility for developing the curriculum for all courses or courses of study, designing effective learning strategies for students, identifying and organizing all instructional materials and specialized facilities, identifying instructional assessment methods, and evaluating the effectiveness of the course offerings. (4-20-07)T

ii. Written course descriptions must be developed for all courses or courses of study including: course overview, learning objectives and outcomes, course content, assessment, and grading criteria. A written inventory must be maintained for all course descriptions and course descriptions must be provided to instructors. Instructors must be expected to follow course descriptions. A syllabus must be developed for each course and distributed to students at the beginning of the course. (4-20-07)T

iii. The school must assure that a course or courses of study will be offered with sufficient frequency to enable students to complete courses or courses of study within the minimum time for completion. (4-20-07)T

iv. The school must clearly state the cost of each course or courses of study and identify the payment schedule. This information must be provided in written form to students, and the refund policy must also be given to students in writing. (4-20-07)T

v. All advertising, pamphlets, and other literature used to solicit students and all contract forms must accurately represent the purpose of the school, its courses or courses of study, job opportunities, and other relevant information to assist students in making an informed decision to enroll. The school must provide to each prospective student, newly-enrolled student, and returning student, complete and clearly presented information indicating the school's current completion and job placement rate. (4-20-07)T

c. Standard III - Student Support Services. The school must have clearly defined written policies that are distributed to students through a variety of print and electronic means. Policies must address students rights and responsibilities, grievance procedures, and define what services are available to support students. (4-20-07)T

i. The school must develop a written admissions policy. The admission of students must be determined through an orderly process using published criteria which must be uniformly applied. Admissions must take into account the capacity of the student to undertake a course or courses of study and the capacity of the school to provide instructional and other support services the student needs to complete the program. (4-20-07)T

ii. There must be a clearly defined policy for the readmission of students dismissed from the school. The readmission of students dismissed under this policy must be consistent with the recognized standards of admission to the school. (4-20-07)T

iii. The school must establish and adhere to a clear and fair policy regarding due process in disciplinary matters, and publish this policy in a handbook, which must include other rights and responsibilities of the students and the grievance procedure. This handbook must be supplied to each student upon enrollment in the school. The school must provide the name and contact information for the individual who is responsible for dealing with student grievances and other complaints and for handling due process procedures. (4-20-07)T

iv. The school must provide written information to prospective students prior to enrollment to include the following: information describing the purpose, length, and objectives of the courses or courses of study; completion requirements for the courses or courses of study; the schedule of tuition, fees, and all other charges and all expenses necessary for completion of the courses or courses of study; cancellation and refund policies; an explanation of satisfactory progress, including an explanation of the grading/assessment system; the calendar of study including registration dates, beginning and ending dates for all courses, and holidays; a complete list of instructors and their qualifications; a listing of available student services; and other information about the courses or courses of study that are likely to affect the decision of the student to enroll in the school. (4-20-07)T

v. Accurate and secure records must be kept for all aspects of the student record including, at minimum, admissions information, and the courses each student completed. (4-20-07)T

d. Standard IV - Faculty Qualifications and Compensation. (4-20-07)T

i. Instructor qualifications (training and experience) must be described and the assigned location for each instructor must be identified. (4-20-07)T

ii. There must be a sufficient number of full-time instructors to maintain the continuity and stability of courses. (4-20-07)T

iii. The ratio of instructors to students in each course must be sufficient to assure effective instruction. (4-20-07)T

iv. Instructors must be paid a fixed salary. Commissions may not be used for any portion of the compensation, to supplement faculty salaries, or be connected to recruitment or retention of students. (4-20-07)T

v. Procedures for evaluating instructors must be established. Provisions for student evaluation are recommended. (4-20-07)T

e. Standard V - Resources, Finance, Facilities, and Instructional Resources. (4-20-07)T

i. Adequate financial resources must be provided to accomplish instructional objectives and to effectively support the instructional program, including teaching facilities (i.e., classrooms, labs), instructional materials, supplies and equipment, instructors, staff, library, and the physical and instructional technology infrastructure. (4-20-07)T

ii. The school must have sufficient reserves so that, together with tuition and fees, it is able to complete its educational obligations to currently enrolled students, even if it were unable to admit any new students. If the school is unable to fulfill its obligations to students, the school must make arrangements with another proprietary school to have students complete a comparable course or courses of study (a teach-out provision). (4-20-07)T

iii. Financial records and reports of the school must be kept and made separate and distinct from those of any affiliated or sponsoring person or entity. Financial records and reports at a school shall be kept in accordance recognized financial accounting methods. (4-20-07)T

iv. The school must have adequate instructional resource materials available to students, either on site

or through electronic means. These materials must be housed in a designated area and be available for students and instructors with sufficient regularity and at appropriate hours to support achievement of course objectives or to promote effective teaching. (4-20-07)T

v. If the school relies on other schools or entities to provide library resources or instructional resources, the school must demonstrate how these arrangements effectively meet the needs of students and faculty. These arrangements must be documented through written agreements. Student and faculty use must be documented and frequently evaluated to ensure quality services are being provided. (4-20-07)T

09. Additional Information. If PTE is unable to determine the nature and activities of a school on the basis of the information provided by the school under this rule, then PTE may notify the school of additional information that it will be required to provide in connection with the application for registration. (4-20-07)T

10. Verification of Information. PTE may verify the accuracy of submitted information by inspection, visitation, or any other means it considers necessary. The applicant school shall be responsible for any costs PTE incurs including travel, associated with this review. (4-20-07)T

11. Criteria for Approval or Denial of Registration. To be approved for registration, the school must demonstrate that it is in compliance with Chapter 24, Title 33, Idaho Code and this rule, including all of the standards described in Subsections 400.08.a. through 400.08.e. of this rule. A school must remain in compliance for the registration year. (4-20-07)T

12. Public Information. All information submitted to PTE is public information, and is subject to disclosure as set forth in the Public Records Act, Title 9, Chapter 3, Idaho Code. (4-20-07)T

13. Certificate of Registration. (4-20-07)T

a. A certificate of registration will be issued to a proprietary school that has paid its registration fee and been approved under this rule. A certificate evidencing initial registration will be effective the date it is issued, and continue through June 30 of the next succeeding year. A renewal certificate will be for the period July 1 through June 30 of the next succeeding year. No school that is registered with PTE shall advertise or represent in any manner that it is accredited by PTE. An institution may only represent that it is: "Registered with Idaho Division of Professional-Technical Education." Registration is not an endorsement of the school. (4-20-07)T

b. If a school wishes to offer additional courses or courses of study during the course of a registration year that were not included in its application to PTE prior to issuance of the certificate of registration, then the school may submit a supplemental application to PTE, on a form approved by PTE, and pay any additional registration fees that are applicable. If approved, PTE will issue a revised certificate of registration evidencing such approval. (4-20-07)T

14. Disapproval and Appeal. If a proprietary school's request for initial registration or a renewal of registration is disapproved by PTE, then the school may appeal such decision in accordance with Chapter 52, Title 67, Idaho Code. The request must be in writing and made to PTE within thirty (30) days of the date the school is notified of the disapproval. (4-20-07)T

15. Withdrawal of Approval. (4-20-07)T

a. PTE may refuse to renew, or may revoke or suspend approval of a school's registration by giving written notice and the reasons therefore to the school. The school may request a hearing under IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (4-20-07)T

b. Withdrawal of approval may be for one or more of the following reasons: (4-20-07)T

i. Violation of Chapter 24, Title 33, Idaho Code or this rule. (4-20-07)T

ii. Providing false, misleading, deceptive, or incomplete information to PTE. (4-20-07)T

iii. Presenting to prospective or current students information about the school which is false, fraudulent, misleading, deceptive, or inaccurate in a material respect; or (4-20-07)T

iv. Refusing to allow reasonable inspection or to supply reasonable information after a written request by PTE has been received. (4-20-07)T

c. If any information contained in the application submitted by the school becomes incorrect or incomplete, then the registered school shall notify PTE of such change within thirty (30) days. A school that ceases operation during the course of a registration year shall immediately notify PTE of this event. (4-20-07)T

16. Agent's Permit. Each proprietary school shall ensure that its agents have a valid permit, and that all of its agents are in compliance with Section 33-2404, Idaho Code. (4-20-07)T

17. Annual Agent's Permit Fee. The annual fee for the agent's permit shall be fifty dollars (\$50.00). The agent's permit must be renewed annually upon reapplication and proper qualifications, as required by Section 33-2404, Idaho Code. (4-20-07)T

18. Surety Bond. Each proprietary school shall obtain a surety bond and comply with the provisions in Section 33-2406, Idaho Code. (4-20-07)T

19. Student Tuition Recovery Account. Each proprietary school shall comply with the provisions of Section 33-2407, Idaho Code, relating to a student tuition recovery account. (4-20-07)T

401. -- 999. (RESERVED).

**OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
IDAHO DEPARTMENT OF ADMINISTRATION**

IDAPA 09 - DEPARTMENT OF LABOR

DOCKET NO. 09-0000-0701

**NOTICE OF LEGISLATIVE ACTION DEVOLVING THE MERGER OF THE DEPARTMENTS OF
COMMERCE AND LABOR AND REINSTITUTING SEPARATE AGENCIES - HOUSE BILL NO. 222**

EFFECTIVE DATE: The effective date of this action is July 1, 2007.

AUTHORITY: In compliance with Sections 67-5203 and 67-5220, Idaho Code, notice is hereby given by the Office of the Administrative Rules Coordinator that the Fifty-Ninth Legislature in the First Regular Session - 2007, passed House Bill 222 and that said bill was signed into law by Governor C.L. "Butch" Otter, Session Law Chapter 360, thereby devolving and separating the Department of Commerce and Labor into two separate agencies.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the notice and the legislative action:

House Bill 222 amended and added to existing law to devolve the Department of Commerce and Labor into two separate agencies and to provide for the authority and duties of the director of the Department of Commerce and to provide for the authority and duties of the director of the Department of Labor.

This will allow the director of the Department of Commerce more time to focus on recruiting and retention of small business, international trade, and specific issues related to economic development activity. By focusing on commerce related issues entirely, the director will then have more time to work directly with the Governor on the economic development of the state. The director of the Department of Labor can then focus on assuring regulatory compliance with employment security regulations, unemployment insurance, wage and hour compliance, and disability determinations as required by the Social Security Act.

This notice, in accordance with Section 67-5203, Idaho Code, complies with the Legislative intent of House Bill 222 by reinstating the authority of the affected chapters of rules currently indexed under IDAPA 09, Title 01, Title 03.01 and Title 05.03 Department of Commerce and Labor. These rules will retain their IDAPA 09 designation under the Department of Labor.

Notwithstanding the provisions of Title 67, Chapter 52, Idaho Code, and further complying with the legislative intent of House Bill 222, non-substantive changes will be made to update all references and citations within the rules now under the authority of the Department of Commerce and Labor and include, but are not limited to, the following:

All citations and references to IDAPA 09 relating to the affected chapters under Title 01, Title 03.01 and Title 05.03 will retain the IDAPA 09 designation, and include the following chapters:

- IDAPA 09.01.01**, "Rules of the Executive Division";
- IDAPA 09.01.04**, "Rules of the Benefit Payment Control Bureau";
- IDAPA 09.01.06**, "Rules of the Appeals Bureau";
- IDAPA 09.01.08**, "Disclosure of Information";
- IDAPA 09.01.30**, "Rules of the Benefits Bureau";
- IDAPA 09.01.35**, "Rules of the Employer Accounts Bureau";
- IDAPA 09.01.50**, "Rules of the Wage and Hour Section";
- IDAPA 09.01.60**, "Complaint Procedures Under The Workforce Investment Act";
- IDAPA 09.03.01**, "Rules of the Rural Broadband Development Matching Fund Program"; and
- IDAPA 09.05.03**, "Bargaining Representatives."

Citations and references to the Department of Commerce and Labor rules under IDAPA 09 relating to the affected chapters under Title 01, Title 03.01 and Title 05.03 as referenced above, now refer to the Department of Labor.

The applicable references to Department of Commerce and Labor now mean the "Department of Commerce" or the "Department of Labor." This includes references to "Commerce" and to "Labor" used to define or refer to the "Department."

Pursuant to Section 67-5204, Idaho Code, all of the above listed changes will be incorporated into and published in the current Idaho Administrative Code.

ASSISTANCE ON QUESTIONS: For assistance on questions concerning this notice, contact Marlene Klein at the Department of Commerce and Labor at (208) 332-3570 ext. 3190, or the Office of the Administrative Rules Coordinator at (208) 332-1820.

DATED this 25th day of April, 2007.

Dan Graves
Administrative Rules Specialist
Office of the Administrative Rules Coordinator
Department of Administration
State of Idaho
P.O. Box 83720
Boise, ID 83720-0306
Phone: (208) 332-1820
Fax: (208) 334-2395

IDAPA 09 - DEPARTMENT OF COMMERCE AND LABOR
09.01.35 - UNEMPLOYMENT INSURANCE TAX ADMINISTRATION RULES
DOCKET NO. 09-0135-0601
NOTICE OF RULEMAKING - FINAL RULE

AUTHORITY: In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on this rulemaking under Docket No. 09-0135-0601. This agency action for this final rulemaking is authorized pursuant to Section 67-4702, Idaho Code.

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

Pursuant to Senate Concurrent Resolution No. 115, Docket No. 09-0135-0601 is not consistent with legislative intent and is being amended accordingly. In accordance with the concurrent resolution, the following changes are being made to the final rule:

IDAPA 09.01.35, Unemployment Insurance Tax Administration Rules, under Section 112, relating to Determining Status of Worker, Subsections 03.b, 03.c, 03.d and 03.e were rejected and declared null, void and of no force and effect. The remaining text of this rule includes the approved codified text prior to this rulemaking and the new text approved by the 2007 legislature that is now final and effective. Only the Section affected is being printed in this Bulletin.

The original text of the proposed rule was published in the September 6, 2006, Idaho Administrative Bulletin, Vol. 06-9, page(s) 31 through 39. The pending rule was published in the December 6, 2006, Idaho Administrative Bulletin, Vol. 06-12, page(s) 45 through 46.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Don Arnold, UI Compliance Bureau Chief, (208) 332-3570 ext. 3258.

DATED this 11th day of May, 2007.

Don Arnold
UI Compliance Bureau Chief
Idaho Department of Commerce and Labor
317 W. Main Street
Boise, ID 83735
(208) 332-3570 ext. 3258
(208) 334-6301 fax

THE FOLLOWING IS THE FINAL TEXT OF DOCKET NO. 09-0135-0601

112. DETERMINING STATUS OF WORKER.

01. Determining if Worker Is an Employee. In making a determination as to whether a worker is performing services in covered employment, it shall be determined whether the worker is an employee. To determine whether a worker is an employee, the following factors may be considered: (3-22-07)

a. The way in which the business entity represented its relationship with the worker prior to the investigation or litigation, including representations to the Internal Revenue Service; (3-19-99)

- b.** Statements made to the department; (3-19-99)
- c.** Method of payment to the worker, in particular whether federal, state, and FICA taxes are withheld from paychecks; and (3-19-99)
- d.** Whether life, health, or other benefits are provided to the worker at the business entity's expense. (3-19-99)

02. Determining if Worker Is an Independent Contractor. If it cannot be determined that a worker is an employee pursuant to Subsection 112.01 above, then a determination shall be made whether the worker is an "independent contractor" pursuant to the terms of Section 72-1316(4), Idaho Code. For the purposes of that section and these rules, an independent contractor is a worker who meets the requirements of both Sections 72-1316(4)(a) and (b), Idaho Code. (3-19-99)

03. Proving Worker Is Free from Control or Direction in His Work. To meet the requirement of Section 72-1316(4)(a), Idaho Code, the alleged employer must prove that a worker has been and will continue to be free from control or direction in the performance of his work, both under his contract of service and in fact. The following factors may be considered in this determination: (3-22-07)

- a.** Whether the alleged employer has control over: (3-19-99)
 - i.** The details of the work; (3-19-99)
 - ii.** The manner, method or mode of doing the work; and (3-19-99)
 - iii.** The means by which the work is to be accomplished, but without reference to having control over the results of the work. (3-19-99)
- b.** The freedom from direction and control must exist in theory (under a contract of service) and in fact; and (4-11-06)
- c.** The employer must demonstrate that it lacked a right to control the worker. (4-11-06)

04. Proving Worker Is Engaged in Independently Established Business. To meet the requirement of Section 72-1316(4)(b), Idaho Code, it must be proven that a worker is engaged in an independently established trade, occupation, profession or business. The following factors may be considered in this determination: (3-22-07)

- a.** Skills, qualifications, and training required for the job; (3-19-99)
- b.** Method of payment, benefits, and tax withholding; (3-19-99)
- c.** Right to negotiate agreements with other workers; (3-19-99)
- d.** Right to choose sales techniques or other business techniques; (3-19-99)
- e.** Right to determine hours; (3-19-99)
- f.** Existence of outside businesses or occupations; (3-19-99)
- g.** Special licensing or regulatory requirements for performance of work; (3-19-99)
- h.** Whether the work is part of the employer's general business; (3-19-99)
- i.** The nature and extent of the work; (3-19-99)
- j.** The term and duration of the relationship; (3-19-99)

- k.** The control of the premises; (3-19-99)
 - l.** Whether the worker has the authority to hire subordinates; (3-19-99)
 - m.** Whether the worker owns or leases major items of equipment or incurs substantial unreimbursed expenses, provided, that in a case where a worker leases major items of equipment from the alleged employer: (3-19-99)

 - i.** The terms of the lease; and (3-19-99)
 - ii.** The actions of the parties pursuant to those terms must be commercially reasonable as measured by applicable industry standards. (3-19-99)
 - n.** Whether either party would be liable to the other party upon peremptory or unilateral termination of the business relationship; and, (3-19-99)
 - o.** Other factors which, viewed fairly in light of all the circumstances in a given case, may indicate the existence or lack of an independently established trade occupation, profession or business. (3-19-99)
- 05. Meeting Criteria for Covered Employment.** A worker who meets one (1), but not both, of the tests in Subsections 112.03 and 112.04 above shall be found to perform services in covered employment. (3-19-99)
- 06. Evidence of Contractual Liability for Termination.** For purposes of making a determination under Section 72-1316(4), Idaho Code, and this regulation, the party alleging that summary termination by either party would result in contractual liability must present some evidence upon which to base such allegation. Ref. Sec. 72-1316(4), Idaho Code. (3-19-99)

IDAPA 11 - IDAHO STATE POLICE

11.05.01 - RULES GOVERNING ALCOHOL BEVERAGE CONTROL

DOCKET NO. 11-0501-0601

NOTICE OF RULEMAKING - FINAL RULE

AUTHORITY: In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on this rulemaking under Docket No. 11-0501-0601. This agency action for this final rulemaking is authorized pursuant to Sections 23-932, 23-946(b), 23-1330 and 23-1408, Idaho Code.

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

Pursuant to Senate Concurrent Resolution No. 105, Docket No. 11-0501-0601 is not consistent with legislative intent and is being amended accordingly. In accordance with the concurrent resolution the following changes are being made to the final rule: IDAPA 11.05.01, "Rules Governing Alcohol Beverage Control," Section 010, relating to Definitions, Subsection 03, "Multipurpose Arena" only, Rules of the Idaho State Police as adopted as a pending rule under Docket Number 11-0501-0601, is deleted.

The original text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 126 through 132. The pending rule was published in the December 6, 2006, Idaho Administrative Bulletin, Vol. 06-12, page 51.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lieutenant Bob Clements, Idaho State Police Alcohol Beverage Control, (208) 884-7060 or Robert.Clements@isp.idaho.gov.

DATED this 8th day of May, 2007.

Colonel G. Jerry Russell, Director
Idaho State Police
700 S. Stratford Dr.
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7003, Fax (208) 884-7090

THE FOLLOWING IS THE FINAL TEXT OF DOCKET NO. 11-0501-0601

010. DEFINITIONS.

01. Licensee. Any person who has received a license from the Director under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. (7-1-93)

02. Licensed Premises. Any premises for which a license has been issued under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. All areas included on the floor plan submitted to the Director with the licensee's application for a license constitute the licensed premises. In the event of loss or move of the physical licensed premises, the licensee has ninety (90) days to secure and occupy a new premises in which to display the

license. All licenses must be prominently displayed in a suitable premises and remain in actual use by the licensee and available for legitimate sales of alcoholic beverages by the drink. An additional sixty (60) days may be granted by the Director, upon petition by the license holder. (3-6-07)

03. New Licenses. For purposes of Section 23-908(4), Idaho Code, a “new license” is one that has become available as an additional license within a city’s limits under the quota system after July 1, 1980. The requirement of Section 23-908(4), Idaho Code, that a new license be placed into actual use by the licensee and remain in use for at least six (6) consecutive months is satisfied if the licensee makes actual sales of liquor by the drink during at least eight (8) hours per day, no fewer than six (6) days per week. (3-6-07)

04. Partition. A partition, as used in Section 23-944 Idaho Code, is defined as a structure separating the place from the remainder of the premises. Access through the structure to the place will be controlled to prevent minors from entering the place. The structure must be: (3-6-07)

- a.** Permanently fixed from the premises ceiling to the premises floor. (3-6-07)
- b.** Made or constructed of solid material such as glass, wood, metal or a combination of those products. (3-6-07)
- c.** Designed to prevent an alcoholic beverage from being passed over, under or through the structure. (3-6-07)
- d.** All partitions must be approved by the Director. (3-6-07)

05. Place. For the purposes of Section 23-943, Idaho Code, “Place” as defined by Section 23-942(b), for a one (1) room restaurant without a barrier or partition, refers to the immediate bar area wherein there is seating alongside a counter or barrier that encloses bar supplies and equipment that are kept, and where alcoholic beverages are mixed, poured, drawn or served for consumption. (3-6-07)

06. Restaurant. The term Restaurant, as defined by Section 23-942(c), Idaho Code, is further defined as an establishment maintained, advertised and held out to the public as primarily a food eating establishment, where individually priced meals are prepared and regularly served to the public, primarily for on-premises consumption. The establishment must also have a dining room or rooms, kitchen and cooking facilities for the preparation of food, and the number, and type of employees normally used in the preparing, cooking and serving of meals. Primarily as defined for the purposes of Section 010, also includes that the licensee must show to the director the following: (3-6-07)

- a.** An established menu identifying the individually priced meals for consumption; (3-20-04)
- b.** Food service and preparation occurs on the premises by establishment employees; (3-20-04)
- c.** Stoves, ovens, refrigeration equipment or such other equipment usually and normally found in restaurants are located on the premises of the establishment; (3-20-04)
- d.** The licensee must demonstrate to the satisfaction of the Director, through appropriate business records, that the establishment is advertised and held out to the public as primarily a food eating establishment, or that at least forty percent (40%) of the establishments consumable purchases are derived from purchases of food and non-alcoholic beverages. (3-20-04)

07. Stock Transfer. For the purposes of Section 23-908, Idaho Code, the sale or exchange of stock in a closely held corporation holding a license is deemed a transfer of the license. However, the sale or exchange of shares in a family corporation among family members, is not a transfer. (3-6-07)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0601

NOTICE OF RULEMAKING - FINAL RULE

AUTHORITY: In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on this rulemaking under Docket No. 13-0104-0601. This agency action for this final rulemaking is authorized pursuant to Sections 36-104(b) and 36-408, Idaho Code.

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

Pursuant to House Concurrent Resolution No. 16, Docket No. 13-0104-0601, "Rules Governing Licensing," Section 505, relating to Deer and Elk Tag Allocation, Subsection 02.e.i., only, is not consistent with legislative intent and is rejected. Therefore, IDAPA 13.01.04.505.02.e.i. is being amended to return to the original language. Only the Section affected is being printed in this Bulletin.

The original text of the proposed rule was published in the October 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 158 through 167 (IDAPA 13.01.04.505.02.e.i. is on page 164). The pending rule was published in the January 2007 Idaho Administrative Bulletin, Vol. 07-01, page 52.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sharon Kiefer (208) 287-2870.

DATED this 10th day of May, 2007.

W. Dallas Burkhalter
Deputy Attorney General
Idaho Department of Fish and Game
600 S. Walnut
PO Box 25
Boise, ID 83707
Telephone: 208-334-2715
FAX: 208-334-2148

THE FOLLOWING IS THE FINAL TEXT OF DOCKET NO. 13-0104-0601

505. DEER AND ELK TAG ALLOCATION.

01. Allocation of Tags. Pursuant to Idaho Code, Section 36-408, the Fish and Game Commission may allocate a number of deer and/or elk tags for use by hunters with signed agreements with licensed outfitters in zones with limited numbers of tags. The allocation will be calculated on a zone basis with reductions or increases in hunting opportunities to be proportionate among resident hunters, nonoutfitted nonresident hunters, and outfitted hunters. When the number of hunters in a general hunt unit or zone becomes restricted, the Department will calculate the initial number of allocated tags for each zone using the Idaho Outfitters and Guides Licensing Board's records of average historic use during the previous five (5) year period. Where it is biologically feasible, any reductions in the number of tags available within a zone which exceeds twenty percent (20%) will be spread over a three (3) year period with a maximum reduction of fifty percent (50%) taken in the first year and twenty-five percent (25%) in the

second year. When an area becomes controlled, hunt application and eligibility rules will apply to allocated tags in controlled hunts. Only those units or zones with licensed outfitted areas with historic use will be considered for tag allocation. (3-8-07)

02. Controlled Hunt Areas. Only those controlled hunt areas with historic licensed deer and/or elk outfitted area(s) may be considered for a tag/permit allocation. The allocation will be calculated on a controlled hunt area basis with reductions or increases in hunting opportunities to be proportionate among resident hunters, non-outfitted nonresident hunters, and outfitted hunters. (3-8-07)

a. The number of allocated tags will be in addition to from the number of tags authorized by the Commission within each controlled hunt area with historic licensed deer and/or elk outfitter areas. (3-8-07)

b. Prior to submitting an application for an outfitter allocated controlled hunt, the applicant must have a written agreement with an outfitter licensed in the hunt area. Successful applicants of an outfitter allocated controlled hunt must hunt with an outfitter licensed for the hunt area. The outfitter must purchase the successful applicant's permit and tag by August 20. Successful applicants authorize the Department to provide names and addresses to the outfitter(s) licensed for that controlled hunt. (3-8-07)

c. Successful applicants who do not want to participate in the outfitted hunt can decline the hunt upon written notification to the Department. Those declining the hunt will then be eligible to participate in a general season or leftover controlled hunt. Those drawing an outfitted controlled hunt and then declining the controlled hunt will be subject to the appropriate waiting period. (5-3-03)

d. Successful applicants that do not secure the services of an Idaho licensed outfitter and have not purchased the controlled hunt permit and tag by August 20 will forfeit the opportunity to purchase a controlled hunt permit. The forfeited controlled hunt permit will then be listed as a leftover permit. The Department will inform the Idaho Outfitters and Guides Board that a permit is available. After securing a client, the outfitter(s) may then purchase the leftover controlled hunt permit at a Department regional or headquarters office. (5-3-03)

e. The number of allocated tag/permits will be determined by using one (1) of the following options: (3-30-01)

i. The number of tags available within the controlled hunt area will be based on the average historic use during the previous five (5) year period and calculated tag numbers will be rounded up when permits equal or exceed zero point six (0.6) and rounded down when permits are less than zero point six (0.6); or (3-30-01)

ii. No tags will be allocated. (7-1-99)

**IDAPA 15 - OFFICE OF THE GOVERNOR
DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

DOCKET NO. 15-0401-0601

NOTICE OF RULEMAKING - AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is March 22, 2007.

AUTHORITY: In compliance with Sections 67-5226 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on this rulemaking under Docket No. 15-0401-0601. This agency action for this temporary rulemaking is authorized pursuant to Section 67-5309, Idaho Code.

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

Pursuant to Senate Concurrent Resolution No. 120, Docket No. 15-0401-0601 is not consistent with legislative intent and is being amended accordingly. In accordance with the concurrent resolution, Subsections 071.03 concerning Merit Increase Matrix, 073.05.b. concerning Calculation of Pay, 077.02.c. concerning Bonuses; Section 078 concerning Retention Awards only, and subsection 260.03 concerning Overtime, are being removed from the temporary rule. Only the affected Sections are being published in this Bulletin.

The original text of the rule was published in the December 6, 2006, Idaho Administrative Bulletin, Vol. 06-12, pages 58 through 84.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Daniel Steckel 429-5507.

DATED this 8th day of May, 2007.

Judie Wright
Acting Administrator
Division of Human Resources
700 West State Street
P.O. Box 83720
Boise, ID 83720-0066
(208)429-5500
(208)334-3182 (fax)

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 15-0401-0601

071. MERIT INCREASE MATRIX.

01. Salary Increases. Salary increases must be based on a merit increase matrix approved by DHR. Shift and geographic premium pay, bonuses, reinstatements, transfers, promotions and recruitment and retention awards are not subject to a matrix. (10-18-06)T

02. Temporary Merit Increases. Temporary merit increases shall be based on performance and distributed using a matrix model unless an exception has been granted pursuant to Subsection 071.03 (10-18-06)T

~~03. **Exceptions to Use of a Matrix.** such as equity adjustments, can be made on a case-by-case basis, subject to the approval of the administrator. (10-18-06)T~~

(BREAK IN CONTINUITY OF SECTIONS)

073. CALCULATION OF PAY.

01. Standard Calculation of Pay. For other than police, correctional officers, or fire employees, pay shall be calculated in the following order: (3-30-01)

- a.** Holiday pay; (12-10-90)
- b.** All hours worked on a holiday as overtime; (12-10-90)
- c.** All hours worked over forty (40) in the workweek as overtime, excluding occasional or sporadic work and traded time; (12-10-90)
- d.** Vacation, sick and other paid or unpaid leaves; and (12-10-90)
- e.** All remaining hours worked at the employee's regular rate of pay, with the optional use of earned administrative leave. Shift differential pay shall be calculated according to Rule 075 and paid in addition to any other compensation. (Ref. Sections 67-5302(20), 67-5328, Idaho Code; Rules 010.34, 010.41, 010.42, 010.48, 010.50, and 073.03) (10-18-06)T

02. Calculation of Pay for Police, Correctional Officers, and Fire Employees. Police, Correctional Officers, and fire employees on a twenty-eight (28) day work schedule shall be compensated as described above, except that overtime shall be calculated based on one hundred sixty (160) hours in a twenty eight (28) day period instead of forty (40) hours in a workweek, and earned administrative leave shall be calculated based on eighty (80) hours in a biweekly pay period instead of on a weekly basis. (3-30-01)

03. Holiday Pay Calculation. (7-1-87)

- a.** Paid time off for holidays is a benefit, and as such, must be allocated in a substantially similar manner to all employees in the same classification. (10-18-06)T
- b.** A full-time employee shall receive holiday pay in accordance with the number of hours the employee works on a regular workday. If the employee's schedule is so irregular that a regular workday cannot be determined, the employee shall receive eight (8) hours of holiday pay. An employee must receive some paid leave, wages or salary for the pay period in which the holiday occurs to receive the holiday benefit. (3-16-04)
- c.** A part-time employee who has a regular work schedule shall be paid for a holiday in the same ratio as eight (8) hours is to a forty (40) hour work week, which for calculation purposes converts to two tenths (.20) x hours normally worked. (3-16-04)
- d.** If a part-time employee's hourly schedule is so irregular that a normal workweek cannot be determined, the holiday benefit is in the same proportion that the hours the employee works during a week in which a holiday occurs relate to forty (40). (3-16-04)
- e.** Schedules resulting in holiday time off in excess of eight (8) hours may be approved by the appointing authority if included in the agency compensation plan. Appointing authorities may also suspend flex schedules during holiday weeks or may grant administrative leave or otherwise adjust work schedules to ensure internal consistency. (10-18-06)T

04. Reduction of Salary. The salary of an employee receiving more than the minimum of the pay

grade for his or her classification may be reduced to a lower rate within the pay grade by the appointing authority for disciplinary reasons enumerated in Rule 190. (10-18-06)T

05. Salary Administration (a/k/a Compensation Plans). Each department director or appointing authority shall develop a compensation plan. Each agency compensation plan must be designed to consider recruitment and retention and ensure pay equity within the organization. (10-18-06)T

a. Agency compensation plans are developed and reviewed on an annual basis, and resubmitted to DHR for approval. Agencies may request assistance from DHR on plan development, and/or use a model policy provided by DHR. (10-18-06)T

b. ~~Agency distribution plans may be separate from compensation plans and relate to a specific distribution of ongoing or one-time funds. Each distribution plan requiring a matrix must be approved by DHR.~~ Demotions (Rule 179). ~~(10-18-06)T(3-22-07)T~~

06. Salaries for Temporary Appointments. Except as provided by the following rule, salaries for employees hired under temporary and project-exempt appointments will be governed by Section 59-1603, Idaho Code. (4-5-85)

(BREAK IN CONTINUITY OF SECTIONS)

077. BONUSES.

01. Performance Bonuses. Up to a total of two thousand dollars (\$2,000) may be awarded each fiscal year, in recognition of exemplary performance. In extraordinary circumstances, exceptions to the two thousand dollar (\$2,000) limit may be granted if approved in advance by the State Board of Examiners. Documentation of the exemplary performance and related bonus award shall be provided to the employee and placed in their agency personnel file. (Ref. Section 59-1603(7) and Section 67-5309D(1), Idaho Code) (10-18-06)T

02. Employee Suggestion Award. Appointing authorities may award up to a total of twenty-five percent (25%) of the savings realized from an employee's idea to save taxpayer dollars, not to exceed two thousand dollars (\$2,000). (Ref. Section 67-5309D, Idaho Code) (10-18-06)T

a. Each participating agency should develop an internal procedure that encourages participation, sets guidelines and procedures and provides prompt consideration and distribution of awards. DHR can assist agencies in developing a procedure. (10-18-06)T

b. Suggestions must be intended to increase productivity; conserve state resources; reduce state costs; or improve the morale of state employees. (10-18-06)T

~~**c.** Eligibility. (10-18-06)T~~

~~**i.** All state employees are eligible to submit suggestions. (10-18-06)T~~

~~**ii.** Employees are not eligible for awards who have a clear and specific responsibility to offer suggestions for improvement, etc., as part of their normal job duties. (10-18-06)T~~

~~**iii.** Elected officials of the state are not eligible for award pay. (Ref. Section 59-1603(8) and Section 67-5309D(2), Idaho Code). (10-18-06)T~~

~~**d.** The suggestion must be implemented to be eligible for award. (10-18-06)T~~

i. Suggestions that may be deserving of an award larger than two thousand dollars (\$2,000) and suggestions aimed at saving money outside the employee's state agency should be submitted through the employee's

agency first for screening and support, and then routed to the Division of Human Resources for centralized coordination and tracking. Awards greater than two thousand dollars (\$2,000) must be approved in advance by the State Board of Examiners. (10-18-06)T

ed. Employee suggestion awards may be funded from the expense category (personnel, operating, or capital) from which the savings were realized. (Ref. Section 67-3511(1), Idaho Code) (10-18-06)T

(BREAK IN CONTINUITY OF SECTIONS)

078. ~~RETENTION AWARDS (RESERVED).~~

~~**01. *Appointing Authority.* An appointing authority may authorize award pay in order to retain valuable employees.**~~ (10-18-06)T

~~**02. *Performance and Market Related.* Retention awards are performance and market related, and specific to the individual employee.**~~ (10-18-06)T

~~**03. *Appointing Authorities.* Appointing Authorities may make such awards when an employee has completed at least 6 months of work that achieves performance standards, regardless of probationary status.**~~ (10-18-06)T

~~**04. *Clearly Identified.* The awards must be clearly identified to comply with annual reporting requirements.**~~ (10-18-06)T

~~**05. *Award Impact.* These awards do not impact performance bonus or employee suggestion award eligibility.**~~ (10-18-06)T

(BREAK IN CONTINUITY OF SECTIONS)

260. OVERTIME.

01. *Employing Agencies.* The state is considered as one (1) employer for determining the number of hours an employee works. If an employee works for more than one (1) department, the department(s) employing the employee when the overtime occurs shall be liable for compensatory time off or cash compensation as provided by law. (7-1-87)

02. *Compensation for Overtime.* Overtime accrual and compensation for classified employees is covered by Sections 67-5328, Idaho Code, and Section 59-1607 for nonclassified employees. Overtime is defined in Section 67-5302(20), Idaho Code. (10-18-06)T

~~**03. *Forfeiture of Compensatory Time.* Employees who become executives within their current agency as set forth by Idaho Code Section 67-5302(12) shall have six (6) months from the date of appointment to use any compensatory time balance. After six (6) months, any remaining compensatory time will be forfeited. Separation or transfer will continue to result in forfeiture of compensatory time.**~~ (10-18-06)T

~~**043. *Modification of Workweek or Schedule.*** No department shall alter a previously established work week for the purpose of avoiding overtime compensation. A department may modify the employee's regular schedule of work to avoid or minimize overtime. (7-1-87)~~

**IDAPA 15 - OFFICE OF THE GOVERNOR
DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

DOCKET NO. 15-0401-0701

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 20, 2007.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 67-5309, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for adopting a temporary:

This temporary rule will help reduce liability costs to the state by eliminating the accrual of earned administrative leave. The rule will allow for limited use of earned administrative leave for law enforcement and firefighting purposes; eliminate earned administrative leave for all other employees; allow for additional pay if extra hours are worked during a holiday week and; prohibit use of leaves if they result in additional compensation.

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

Temporary rules are necessary to confer a benefit to the state and state employees.

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: For assistance on technical questions concerning the temporary rule, contact Judie Wright 429-5549.

DATED this 10th day of May, 2007.

Judie Wright
Acting Administrator
Division of Human Resources
700 West State Street
P.O. Box 83720
Boise, ID 83720-0066
(208)429-5500
(208)334-3182 (fax)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0401-0701

010. DEFINITIONS.

Each of the terms defined in these rules shall have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

01. Administrator. The Administrator of the Division of Human Resources in the Office of the Governor. (3-16-04)

- 02. Allocation.** The assignment of a classification to a pay grade in the compensation schedule. (3-16-04)
- 03. Appeal.** Any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest. (3-16-04)
- 04. Appellant.** An employee, appointing authority, or applicant filing an appeal or a petition for review with the Commission. (3-16-04)
- 05. Appointing Authority.** “Appointing Authority” means the officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to hire, dismiss or otherwise significantly impact the employment status of individuals in any department. (Ref. Section 67-5302(3), Idaho Code) (3-16-04)
- 06. Appointment, Limited.** The appointment of a person to a classified, position where the work is projected to be of limited duration, for which the person has qualified by examination. (3-16-04)
- 07. Appointment, Nonclassified.** The appointment of a person to a position exempt from the application of these rules by the provisions of Section 67-5303, Idaho Code. (7-1-87)
- 08. Appointment, Initial.** Means the first time a qualified veteran is hired by the state. “Initial appointment” shall not include: (Ref. Section 65-502(4), Idaho Code and Rule 102.04) (10-18-06)T
- a.** Jobs held by patients, inmates or students employed at a state institution; (10-18-06)T
 - b.** Temporary or casual employment; or (10-18-06)T
 - c.** An office filled by election. (10-18-06)T
- 09. Appointment, Permanent.** The appointment of a person to a classified position who has been certified by the appointing authority to have successfully completed the required probationary period and whose employment is permanent, subject to removal or discipline only under the provisions of Chapter 53, Title 67, Idaho Code, and the rules of the Division of Human Resources and Idaho Personnel Commission. (3-16-04)
- 10. Appointment, Probationary.** The appointment of a person to a classified position for which the person has qualified by examination but is serving a work trial period as a condition for certification to permanent appointment. (4-5-85)
- 11. Appointment, Project Exempt.** The appointment of a person to a nonclassified position established under federal grants, which by law restricts employment eligibility to specific individuals or groups on the basis of non-merit selection requirements. (Ref. Section 67-5303(m), Idaho Code) (3-16-04)
- 12. Appointment, Provisional.** The appointment of a person to a position in classified service for which the person has not qualified by examination pending the establishment of a register for the classification of such position. (3-16-04)
- 13. Appointment, Seasonal.** An appointment to a regular position in classified service with intermittent work periods. (Ref. Section 67-5302(31), Idaho Code) (3-16-04)
- 14. Appointment, Temporary.** The appointment of a person to a nonclassified position which is limited in duration, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period for any one (1) department. Such appointments also may occur for intermittent periods of time and include recurring assignments. (Ref Section 67-5302(33), Idaho Code) (10-18-06)T
- 15. Base Pay.** The rate of pay for performing a job which does not include bonuses, shift differentials, geographic differentials, overtime or other compensation premiums. (10-18-06)T

16. Bureau Chief or Equivalent. An employee assigned responsibility for managing a bureau. A bureau is typically a principal unit of a division with several subordinate sections. A classification can be designated as equivalent to a bureau chief by the Administrator if it is structured similarly in terms of organization and level of responsibility. Such positions will typically have seven hundred (700) or greater Hay evaluation points. (10-18-06)T

17. Certifiable Range. An examination score and a rank on an eligibility register sufficiently high to be among the top ten (10) available names, plus names of all individuals with scores identical to the tenth ranking eligible, for certification to fill a position in the classification for which the register was established. (3-16-04)

18. Classification Specification. A written statement of the purpose and responsibilities characteristic of a classification, which includes the title, principal accountabilities, and minimum qualifications of education, training and experience, abilities, knowledge, skill, and other qualifications required to perform the work of the classification. (3-16-04)

19. Classification Schedule. All classification specifications utilized in classified service listed by title, classification code, and pay grade to which allocated. (3-16-04)

20. Classified Service. That body of positions in state departments subject to Chapter 53, Title 67, Idaho Code, as defined therein and excludes temporary, project exempt, and nonclassified appointments. (7-1-87)

21. Compa-Ratio. The percentage difference between salary and salary range mid point. Compa-ratio is derived by dividing an employee's base pay rate by the salary range mid point. (10-18-06)T

22. Compensation Plan. The overall system of salary administration for classified service including Sections 67-5309A, 67-5309B and 67-5309C, Idaho Code; the classification and compensation schedules; Division of Human Resources and Idaho Personnel Commission rules and policies; and departmental policies governing employee pay. (10-18-06)T

23. Compensation Schedule. The pay grades established by the Division of Human Resources by rule per Section 67-5309B(1), Idaho Code, and associated rates of pay. (10-18-06)T

24. Consultant. An independent contractor who provides professional or technical advice, counsel, or service on a set fee basis. (Ref. Rule 050) (3-16-04)

25. Demotion. The reduction of an employee from a position which the employee occupies in one (1) classification to a position in another classification in a lower pay grade. (3-16-04)

26. Departmental Classification. A classification of positions that is unique to a department. (3-16-04)

27. Dismissal. The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Rule 190. (7-1-87)

28. Due Process. As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard. (Ref. Section 67-5315, Idaho Code). (3-16-04)

29. Earned Administrative Leave (EAL). Paid leave for hours worked which exceed the regularly scheduled hours but do not result in overtime. ~~These hours may accrue after hours worked and hours on paid leave exceed forty (40) hours in one (1) workweek. In the case of those employees engaged in law enforcement, correctional, and firefighting activities characterized by irregular shift work schedules, EAL hours may accrue after hours worked and hours on paid leave exceed one hundred and sixty (160) hours in a period of twenty-eight (28) consecutive days.~~ (3-30-01)(5-20-07)T

a. Eligibility to earn EAL. Employees engaged in law enforcement, correctional, and firefighting activities characterized by irregular shift work schedules, can accrue earned administrative leave, if hours earned but

not worked exceed one hundred and sixty (160) hours in a period of twenty-eight (28) consecutive days. All other employees are ineligible to accrue EAL. (5-20-07)T

- 30. Employee.** Any person in the employ of a state department who is paid a salary or wages. (4-5-85)
- 31. Employment History.** The information available to the public without the employee's consent in accordance with Section 9-340(C), Idaho Code, for every agency for which a current or former public official works, including the official reason(s) for separation from employment but not including accrued leave balances or usage. (3-30-01)
- 32. Examination.** The application of written tests, oral interviews, performance tests, investigation, physical evaluation, evaluation of education and experience, or any other measure of job-related knowledge and ability, including performance in probationary periods. (4-5-85)
- 33. Factoring.** The assignment of evaluation points to a classification in accordance with Rule 074. (10-18-06)T
- 34. General Classification.** A classification of positions that is common to more than one participating department. (3-16-04)
- 35. Good Cause.** The conduct of a reasonable person in the same or similar circumstances. (7-1-87)
- 36. Hay System.** The methodology currently used by the state of Idaho for establishing the relative value of jobs and is used as a dimension of the pay system. The Hay system makes use of compensable factors or job attributes as a basis for evaluating the relative worth of one job against another. (10-18-06)T
- 37. Hiring List.** A hiring list is a subset of a register (Rule 010.61). A hiring list consists of the top ten (10) individuals, plus all individuals tied for the tenth position, certified as eligible for a specific recruitment. Candidates for reinstatement and/or transfer may be considered and are provided in addition to the top ten. (3-16-04)
- 38. Hours Worked:** (7-1-87)
- a.** Those hours actually spent in the performance of the employee's job, excluding holidays, vacation, sick leave or other approved leaves of absence, and excluding on-call time. (Ref. Rule 010.49) (10-18-06)T
- b.** Travel time shall be compensated pursuant to policy set forth by the Board of Examiners. (3-30-01)
- c.** Attendance at lectures, meetings, training programs and similar activities outside of the employee's regular working hours when attendance has been directed by the appointing authority or designee. (5-15-85)
- 39. Incumbent.** Any person holding a classified or non-classified position in state service. (7-1-87)
- 40. Independent Contractor.** Any person, firm, or corporation meeting the Internal Revenue Service's test for an independent contractor or a self-employed person. (Ref. Rule 010.21) (3-16-04)
- 41. Interested Person.** A person or department directly affected by a rule, statute or department action or inaction. (6-30-78)
- 42. Intoxication.** Being under the influence of alcohol, or misuse of medication or controlled substances. (Ref. Rule 190.01.f.) (3-30-01)
- 43. Involuntary Transfer.** A significant change in work location, shift and/or organizational unit made as a result of a management decision as opposed to an employee's request or agreement to transfer. (3-30-01)
- 44. Key Employee.** For veteran purposes, an individual specifically hired for an "at will" or nonclassified position for which there is no or a limited selection process, such as a position as a private secretary or deputy to an official who holds a confidential relationship to the appointing or employing officer. (Ref. Section 65-

502(5), Idaho Code).

(10-18-06)T

45. Layoff. An involuntary reduction in hours of work or separation of an incumbent in the classified service either by reduction in force due to shortage of work or funds, or abolishment of positions. (4-5-85)

46. Layoff Unit (Organizational Unit). A smaller geographic, programmatic, or other identified subdivision of a department determined by the appointing authority and approved by the administrator for the purpose of conducting a reduction in force (Rule 140). (3-16-04)

47. Leave of Absence with Pay. A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall be compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following leaves: vacation leave, sick leave, special leave situations, and compensatory time off for overtime worked. (3-30-01)

48. Leave of Absence Without Pay. A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall not be compensated. (7-1-87)

49. Light or Limited Duty. A general term describing a temporary limited assignment in relation to recovery from injury, illness or other limiting condition as approved by the appointing authority. (3-16-04)

50. Merit Increase. The advancement of an employee's base pay compensation in accordance with Section 67-5309B, Idaho Code. (10-18-06)T

51. Merit Increase Matrix. A pay distribution tool adopted by the state of Idaho used to advance employees pay based on performance and market data. (10-18-06)T

52. Military Duty. For veteran preference points. Training and service performed by an inductee, enlistee or reservist or any entrant into the armed forces of the United States, provided "military duty" shall not include active duty training as a reservist in the armed forces of the United States or as a member of the National Guard of the United States where the call is for training only. (Ref. Section 65-502(6), Idaho Code.) (10-18-06)T

53. Minimum Qualification Specialty. A minimum qualification required for one (1) or more positions in a classification that is in addition to the other minimum qualifications required for all positions in the classification. (3-16-04)

54. New Classification. A classification that is not essentially described by any existing job classification. (3-16-04)

55. Occasional or Sporadic Work. Work that is voluntarily performed by an employee in a different capacity from the employee's regular work and is infrequent, irregular or occurring in scattered instances. (7-1-87)

56. On-Call Time. Time when an employee is required to carry a pager, cellular phone, or to leave word at home or with the department where the employee may be reached if needed to work, and the employee can use the time effectively for personal purposes. (3-30-01)

57. Overtime. Those hours defined as such in Section 67-5302(20), Idaho Code, excluding any time, such as traded time and occasional or sporadic work, that is specifically excluded from the overtime calculation by federal law. (10-18-06)T

58. Pay Line Exception. A temporary assignment of pay grade, pursuant to Section 67-5309D, Idaho Code, in excess of the pay grade allocated pursuant to Section 67-5309B, Idaho Code, as approved by the administrator. (10-18-06)T

59. Permanent. An employee in the classified service who has successfully completed entrance probation. Such employees remain subject to separation as set forth in these rules and Idaho Code. (10-18-06)T

60. Position, Classified. A position subject to Chapter 53, Title 67, Idaho Code, and these rules in which one (1) person is hired as a full-time or part-time employee; or in which two (2) or more persons share in the aggregate of the position. (7-1-87)

61. Promotion. The advancement through the competitive process of an employee with permanent status from a position which he or she occupies in one (1) classification to a position in another classification having a higher paygrade. (3-16-04)

62. Promotion, In-Grade. To reflect unique agency organization design, an agency may choose to request an internal competitive process to recognize the advancement of an employee with permanent status from a position which he or she occupies in one classification to a position in another classification having greater evaluation points, more responsibility, or a unique specialty area, but within the same pay grade. With the approval of the administrator, an in-grade promotion will be treated in all regards as a promotion. (10-18-06)T

63. Rating/Job Point Factoring. The number of evaluation points assigned to a classification in accordance with Rule 074. (10-18-06)T

64. Reasonable Accommodation. An adjustment made to a job and/or work environment that enables a qualified individual with a disability to perform the essential functions of the position and would not cause undue hardship on the operation of the department. (Ref. Rule 190.01.c.) (7-1-87)

65. Reclassification of a Position. A change of a position from the classification to which it is assigned to another classification. (3-16-04)

66. Reclassification of an Employee. A change in the classification assigned to the employee to properly reflect the duties and responsibilities assigned to that employee by an appointing authority. (10-18-06)T

67. Recruitment. The process of seeking applicants for employment. (3-16-04)

68. Reduction in Pay. A reduction of an employee's salary from one (1) pay rate to a lower rate within the pay grade to which the employee's classification is allocated. (3-16-04)

69. Register. A list of names of persons or the name of one (1) person who has been determined to be eligible for employment in a classification on the basis of examination and merit factors as established by the administrator. An adequate register lists at least five (5) names of eligible candidates currently available for consideration for each vacancy in the classification for which the register was established. (3-16-04)

70. Reinstatement. The reappointment of a former or current classified employee pursuant to Rule 124. (3-16-04)

71. Resignation. The voluntary quitting or abandonment of state employment, excluding retirement. (Ref. Rule 244) (3-16-04)

72. Respondent. The party whose interests are adverse to those of the appellant. (7-1-93)

73. Sample Merit Increase Matrix.

Sample Merit Increase Matrix				
Employees Total Salaries	Does Not Achieve Performance Standards	Achieves Performance Standards	Solid/Sustained Performance	Exemplary Performance
Performance Percentage Guideline	3%	17%	60%	20%
Compa Ratio	Percentage Increase			
120% to 125%	0%	0.50%	1.50%	2.50%
115% to 119%	0%	1.00%	2.00%	3.00%
110% to 115%	0%	1.50%	2.50%	3.50%
105% to 109%	0%	2.00%	3.00%	4.00%
100% to 104%	0%	2.50%	3.50%	4.50%
95% to 99%	0%	3.00%	4.00%	5.00%
90% to 94%	0%	3.50%	4.50%	5.50%
85% to 89%	0%	4.00%	5.00%	6.00%
80% to 84%	0%	4.50%	5.50%	6.50%
75% to 79%	0%	5.00%	6.00%	7.00%

(10-18-06)T

74. Status. The character of an employee’s appointment. (7-1-77)

75. Suspension. An enforced period of absence, with or without pay, for disciplinary purposes, for felony charges, or pending investigation of charges made against an employee pursuant to Rule 190. (7-1-87)

76. Termination. The separation of an entrance or voluntary probationary employee from classified service for unsatisfactory service during the probationary period without cause assigned by the appointing authority pursuant to Rule 152. (3-16-04)

77. Traded Time. Those hours an employee agrees to substitute for another employee during scheduled hours of work, where both work in the same capacity, the agreement to substitute is solely at the employees’ option, and the agreement is approved by the agency by whatever manner is customary. (7-1-87)

78. Transfer. A change of work location of an employee in which the employee changes from one (1) position to another in the same classification or to another classification in the same pay grade. (3-16-04)

79. Underfill. The filling of a classification of position with an employee in a classification of lower pay grade to accommodate a training period as approved by the administrator. (3-16-04)

80. USERRA. Uniformed Services Employment and Reemployment Rights Act, 38 United States Code, Sections 4301-4333. (10-18-06)T

81. Veteran. Rule 020 defines veteran for the purpose of selection, hiring, and retention preference. (3-16-04)

- 82. Workweek.** A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Rule 073)
(12-10-90)

(BREAK IN CONTINUITY OF SECTIONS)

250. SPECIAL LEAVES.

- 01. Leave of Absence Without Pay.** (7-1-93)

a. Approval. In addition to workers' compensation, family medical leave, disability, or other statewide leave policies, the appointing authority may grant an employee leave without pay for a specified length of time when such leave would not have an adverse effect upon the department. The request for leave must be in writing and must establish reasonable justification for approval. (3-16-04)

b. Reemployment. The appointing authority approving the leave of absence assumes full responsibility for returning the employee to the same position or to another position in a classification allocated to the same pay grade for which the employee meets minimum qualifications. (7-1-87)

c. Exhaustion of Accrued Leave. Unless prohibited by workers compensation, family medical leave, disability, or other statewide leave policies, the appointing authority has discretion on whether the employee is required to exhaust accrued vacation leave, earned administrative leave or compensatory time off for overtime before commencing leave without pay. (Ref. Rule 240) (3-16-04)

d. Resignation. If vacation leave, earned administrative leave and compensatory time off for overtime are not exhausted and the employee resigns from state service while on leave, he or she shall be paid for such accruals in accordance with Sections 67-5334 and 67-5328, Idaho Code. (10-18-06)T

- 02. Leave of Absence to Assume a Nonclassified Position.** (7-1-93)

a. Approval. An appointing authority may approve a leave of absence from classified service to a classified employee to assume a nonclassified position. Such leave of absence shall not extend beyond the time the employee would be eligible for reinstatement to classified service or ninety (90) days past the service of the appointing authority, whichever comes first. (Ref. Rule 124.01.a.) (3-16-04)

b. Credited State Service. An employee on leave of absence to assume a nonclassified position continues to accrue credited state service. (3-16-04)

- c.** Compensatory time will not accrue but can continue to be used if assuming an "executive" position. (10-18-06)T

03. Leave Defaults. When an employee does not have accrued sick leave to cover an entire absence the following leave types shall be used to the extent necessary to avoid leave without pay: accrued compensatory time; earned administrative leave; vacation. If abuse of sick leave is suspected see Rule 240.08. (3-16-04)

04. Military Leave With Pay. Employees who are members of the national guard or reservists in the armed forces of the United States engaged in military duty ordered or authorized under the provisions of law, shall be entitled each calendar year to fifteen (15) days of military leave of absence from their respective duties without loss of pay, credited state service or evaluation of performance. Such leave is separate from vacation, sick leave, holiday, or compensatory time off for overtime. (Ref. Section 46-216, Idaho Code). (10-18-06)T

- 05. Military Leave Without Pay.** (10-18-06)T

- a.** An employee whose employment is reasonably expected to continue indefinitely, and who leaves

his or her position either voluntarily or involuntarily to perform active military duty, has reemployment rights as defined in Rule 124.05. The employee may elect a leave of absence or separation. If on leave of absence, the employee may choose to use accrued vacation or compensatory time. (10-18-06)T

b. Health Insurance for National Guard or Reservist Deployment. All employees who are members of the national guard or reservists in the armed forces of the United States shall be entitled to their existing medical benefits for the first thirty (30) days of a deployment ordered or authorized under the provisions of the National Defense Act. Use of vacation, EAL or compensatory time leave shall not be required for an employee to receive this health insurance benefit. However, an employee may choose to use such existing accrued leave to pay for the employee's share of the health insurance premium (Ref. Section 46-225, Idaho Code, Rules 230.0e, 250.07 and 073 and USERRA). (10-18-06)T

06. Administrative Leave with Pay. At the discretion of the appointing authority, an employee may be granted administrative leave with pay when such leave is in the best interest of the department. (4-5-85)

~~**07. Earned Administrative Leave.** (7-1-93)~~

~~**a.** Authority for Use. In any week that an employee would be compensated an amount greater than forty (40) hours times the employee's regular rate of pay, an appointing authority may allow the employee to accumulate earned administrative leave to the extent necessary to reduce the cash compensation to forty (40) hours. An appointing authority may allow a part-time employee to accumulate earned administrative leave for the hours worked between the regularly scheduled hours and forty (40) hours. Earned administrative leave shall be calculated based on one hundred sixty (160) hours for police, correctional officers, and fire employees pursuant to Rule 073-02. (3-30-01)~~

~~**b.** Ineligible Employees. Employees who are ineligible for cash compensation and compensatory time for overtime work are ineligible for earned administrative leave. (Ref. Section 67-5329(l), Idaho Code). (12-10-90)~~

~~**c.** Payment and Credited State Service. Earned administrative leave (EAL) balances shall be paid upon transfer or separation. Hours of EAL shall accrue credited state service when worked. (3-30-01)~~

~~**087. Court and Jury Services and Problem-Solving and Due Process Leave.** (7-1-98)~~

a. Connected with Official State Duty. When an employee is subpoenaed or required to appear as a witness in any judicial or administrative proceeding in any capacity connected with official state duty, he or she shall not be considered absent from duty. The employee shall not be entitled to receive compensation from the court. Expenses (mileage, lodging, meals, and miscellaneous expenses) incurred by the employee shall be reimbursed by his or her respective department in accordance with department travel regulations. (3-16-04)

b. Private Proceedings. When an employee is required to appear as a witness or a party in any proceeding not connected with official state duty, the employee shall be permitted to attend. The employee may use accrued leave or leave without pay. (3-30-01)

c. Jury Service. When an employee is summoned by proper judicial authority to serve on a jury, he or she shall be granted a leave of absence with pay for the time which otherwise the employee would have worked. The employee shall be entitled to keep fees and mileage reimbursement paid by the court in addition to salary. Expenses in connection with this duty are not subject to reimbursement by the state. (7-1-87)

d. Problem-solving and due process procedures. Any employee who has been requested to serve as a mediator as provided by a departmental problem-solving or due process procedure or to appear as a witness or representative during such a proceeding shall be granted leave with pay, without charge to vacation leave or compensatory time off for overtime, to perform those duties. (7-1-98)

e. Notification. An employee summoned for court and jury service or requested to serve as a grievance panelist, witness, or representative shall notify his or her supervisor as soon as possible to obtain authorization for leave of absence. (7-1-87)

~~098.~~ **Election Leave.** When requested by an employee, an appointing authority shall grant leave with pay, without charge to vacation leave or compensatory time off for overtime, for voting in primary, general, municipal, school, or special elections in those instances where the employee's work would interfere with his or her being able to vote. (4-5-85)

~~109.~~ **Religious Leave.** Appointing authorities shall make reasonable accommodations to an employee's need for leave for religious observances. Such leave shall be charged to the employee's accrued vacation leave or compensatory time off for overtime. (4-5-85)

~~140.~~ **Leave During Facility Closure or Inaccessibility.** (7-1-93)

a. Authorization. When a state facility is closed or declared inaccessible because of severe weather, civil disturbances, loss of utilities or other disruptions, affected employees shall be authorized administrative leave with pay (Ref. Rule 250.06) to cover their scheduled hours of work during the closure or inaccessibility. (4-5-85)

b. Compensation for extra hours worked. An employee who works at a state facility during declared closure or inaccessibility shall be, in addition to regular salary, granted time off equal to the number of hours worked. If overtime is involved, it shall be compensated as provided by Section 67-5328, Idaho Code. (10-18-06)T

c. Early release. When the appointing authority or designated representative authorizes early release of employees pursuant to Rule 250.11.a., the resulting time off shall be charged to administrative leave with pay. (Ref. Rule 250.06) (3-16-04)

~~121.~~ **Red Cross Disaster Services Leave.** Employees who have been certified by the American Red Cross as disaster service volunteers shall be granted up to one hundred twenty (120) hours of paid leave in any twelve (12) month period to participate in relief services pursuant to Section 67-5338, Idaho Code. (3-30-01)

~~132.~~ **Employee Assistance Program Leave.** Up to two (2) hours per visit shall be granted for utilization of the Employee Assistance Program (EAP) during normal working hours. This leave is limited to the number of free program visits provided in the state's Behavioral Health Program. EAP leave shall be coded as MDA. (Ref. Rule 240.04). (3-30-01)

~~143.~~ **Bone Marrow and Organ Donor Leave with Pay.** (10-18-06)T

a. Approval. Upon request, a full-time employee shall be granted five (5) work days leave with pay to serve as a bone marrow donor or thirty (30) work days leave with pay to serve as an organ donor. The employee must provide the appointing authority with written verification that the employee is the person serving as the donor. Paid leave as provided in this rule is limited to one-time bone marrow and one-time organ donor leave per employee. (Ref. Section 67-5343, Idaho Code.) (10-18-06)T

b. Use. An employee who is granted such leave of absence shall receive compensation without interruption during the leave period. For purposes of determining credited state service, pay advancement, performance awards, and/or any benefit affected by a leave of absence, the service of the employee shall be considered uninterrupted by the paid leave of absence. (Ref. Section 67-5343, Idaho Code.) (10-18-06)T

~~251. -- 2598.~~ **(RESERVED).**

259. COMPENSABLE HOURS.

01. Biweekly Employees. With the exception of holiday leave, no leave may be used if it will result in pay in excess of the employee's regularly scheduled work week. (5-20-07)T

02. Ineligible Employees. Employees who are "executive" as defined by Section 67-5302(12), Idaho Code, are ineligible to earn or receive payment for hours worked or accrued beyond their regularly scheduled work week. (5-20-07)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

**16.02.19 - FOOD SAFETY AND SANITATION STANDARDS FOR FOOD ESTABLISHMENTS
(THE IDAHO FOOD CODE)**

DOCKET NO. 16-0219-0701

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking is in response to questions from vendors who sell food at farmers' and community markets.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Monday, June 11, 2007

1:00 - 3:30 p.m.

Best Western Coeur d'Alene Inn

414 W Appleway - Idaho South Rm.

Coeur d'Alene, ID 83714

Phone: (208) 765-3200

Tuesday, June 12, 2007

2:00 - 4:30 p.m.

Ameritel Inn

749 W Overland - Robie Cr. Rm.

Boise, ID 83209

Phone: (208) 323-2500

Thursday, June 14, 2007

2:00 - 4:30 p.m.

Idaho Falls Red Lion

475 River Pkwy, Yellowstone Rm.

Idaho Falls, ID 83402

Phone: (208) 523-8000

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may:

1. Attend the negotiated rulemaking and participate in the negotiation process;
2. Provide oral or written recommendations, or both at the negotiated rulemaking;
3. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

To help protect the public against food-borne illnesses, the Department of Health and Welfare has established rules governing food safety and sanitation standards known as "The Idaho Food Code." The Department is initiating negotiated rulemaking to make the rules easier to understand and to improve the consistency of how they are applied to vendors at farmers' or community markets. Vendors that sell prepared foods at farmers' or community markets are required to meet these food safety standards and the Department is asking for input to better assure these rules are appropriate and effective for these settings.

ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking contact Patrick Guzzle at (208) 334-5938.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments should be directed to Patrick Guzzle, P.O. Box 83720, Boise, ID 83720-0036 and delivered on or before July 6, 2007.

DATED this 3rd day of May, 2007.

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@dhw.idaho.gov - e-mail

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.02 - RULES AND MINIMUM STANDARDS FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

DOCKET NO. 16-0302-0701

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is in response to the conclusion of the pilot project for criminal history and background checks in long-term care settings.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Date: Monday, June 11, 2007
Time: 9 a.m. - 12 p.m.
Place: Department of Health & Welfare - Medicaid Offices
3232 Elder Street, Conference Room D-East
Boise, ID

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may:

1. Attend the negotiated rulemaking and participate in the negotiation process;
2. Provide oral or written recommendations, or both at the negotiated rulemaking;
3. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Currently, skilled nursing and intermediate care facilities are participating in a pilot project for criminal history and background checks for workers having direct access to residents in long-term care facilities. The pilot project and federal funding expire on September 30, 2007. The Department is conducting negotiated rulemaking to determine whether criminal history and background checks should be included as a permanent part of the rules governing licensing or certification of health care entities or residential facilities.

ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking contact Randy May at (208) 334-5747.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and delivered on or before June 20, 2007.

DATED this 3rd day of May, 2007.

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@dhw.idaho.gov - e-mail

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND, AND DISABLED (AABD)

DOCKET NO. 16-0305-0703

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is in response to the Department's assurance to the 2007 Senate Health and Welfare Committee that we would enter into negotiated rulemaking with stakeholders.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Date: Wednesday, June 20, 2007
Time: 1 p.m. - 4 p.m. Mountain Standard Time (MST)
Place: Department of Health & Welfare - Central Office
Pete T. Cenarrusa Bldg.
450 W. State Street, 3rd Floor - Conference Rm. 3A
Boise, ID

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may:

1. Attend the negotiated rulemaking and participate in the negotiation process;
2. Participation through telephone conference call, (Contact Susie Cummins at 208-732-1419 for the conference call numbers);
3. Provide oral or written recommendations, or both at the negotiated rulemaking;
4. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The Department is initiating formal negotiated rulemaking in IDAPA 16.03.05 "Rules Governing Eligibility for Aid to the Aged Blind and Disabled." The following are the sections of rules on which the Department will negotiate:

Section 005 - Definitions.
Section 276 - Excluded Real Estate Contract.
Section 280 - Inheritance.
Section 737 - Resources Excluded from Assessment.
Section 744 - Income Counted First for CSRA Revision.
Section 745 - Upward Revision of CSRA.
Section 837 - Life Estate as Asset Transfer.
Section 838 - Annuity as Asset Transfer.
Section 841 - Penalty Exceptions for Asset Transfers.
Section 871 - Treatment of Trusts.
Section 872 - Exempt Trusts.

These rules may be accessed through the Department of Administration's website at <http://adm.idaho.gov/adminrules/rules/idapa16/0305.pdf>.

ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking contact Susie Cummins at (208) 732-1419. Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and delivered on or before June 27, 2007.

DATED this 3rd day of May, 2007.

Sherri Kovach, Program Supervisor,
450 West State Street
(208) 334-5564 phone; (208) 332-7347 fax,

DHW - Administrative Procedures Section
10th Floor, P.O. Box 83720, Boise, Idaho 83720-0036
kovachs@dhw.idaho.gov - e-mail

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.07 - RULES FOR HOME HEALTH AGENCIES

DOCKET NO. 16-0307-0701

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULE

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is in response to the conclusion of the pilot project for criminal history checks in long-term care settings.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Date: Tuesday, June 12, 2007
Time: 1:00 - 4:00 p.m.
Place: Department of Health & Welfare - Medicaid Offices
3232 Elder Street, Conference Room D-East
Boise, ID

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may:

1. Attend the negotiated rulemaking and participate in the negotiation process;
2. Provide oral or written recommendations, or both at the negotiated rulemaking;
3. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Currently home health agencies are participating in a pilot project for criminal history and background checks for workers having direct access to residents living in their own homes. The pilot project and federal funding expire on September 30, 2007. The Department is conducting negotiated rulemaking to determine whether criminal history and background checks should be included as a permanent part of the rules governing licensing or certification of health care entities or residential facilities.

ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking contact Randy May at (208) 334-5747.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and delivered on or before June 20, 2007.

DATED this 3rd day of May, 2007.

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@dhw.idaho.gov - e-mail

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-0702

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 56-202(b), 56-203(g), and 56-257, Idaho Code.

MEETING SCHEDULE: A public negotiated rulemaking meeting will be held as follows:

Date: Monday, June 11, 2007
Time: 9 a.m. to 11 a.m.
Place: Division of Medicaid
Conference Room "B"
3232 Elder Street
Boise, ID

METHOD OF PARTICIPATION: Persons who wish to participate in the negotiated rulemaking may do any or all of the following:

1. Attend the negotiated rulemaking and participate in the negotiation process;
2. Provide oral or written recommendations, or both, at the negotiated rulemaking;
3. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

This negotiated rulemaking is being conducted at the request of primary care industry stakeholders. The purpose of the negotiated rulemaking is to define the methodology used by the Department for establishing Medicaid reimbursement rates for:

1. New Federally Qualified Health Centers (FQHCs); and
2. Existing FQHCs when they make changes in the scope of services they provide that will affect those rates.

Note that a "change in the scope of services" includes such things as the addition of new services, deletion of existing services, or other changes in the scope or intensity of services offered by an FQHC that could significantly change the maximum amount an FQHC may charge for each patient visit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Sheila Pugatch at (208) 364-1817.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, June 27, 2007.

DATED this 2nd day of May, 2007.

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) 334-6558 fax
kovachs@dhw.idaho.gov e-mail

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0702

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. The action is authorized pursuant to Sections 56-202(b), and 56-250 through 56-257, 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 June 20, 2007.

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

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

These rules are being amended in response to 2007 legislation which rejected certain subsections of rules relating to eligibility criteria for mental health services for children and adults. This rule change establishes eligibility criteria for the Enhanced Plan mental health services to facilitate the appropriate placement of qualified participants with services that match their health needs. The following rule changes are being made:

1. To be eligible to receive Enhanced Plan mental health services for psychotherapy, adults must meet the eligibility criteria of "serious mental illness," as defined in federal regulations.
2. Children must meet the eligibility criteria of "serious emotional disturbance," as defined in Section 16-2403, Idaho Code.
3. When determining whether an individual meets the diagnostic and functional eligibility criteria for Enhanced Plan mental health services for psychotherapy, the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition, Text Revision (DSM-IV-R) will be used for both children and adults along with a comprehensive assessment.

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 fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

There is no anticipated fiscal impact as this rule conforms the eligibility criteria with the 2006 House Concurrent Resolution 48. Current budget appropriations for these services were based on this legislation.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The negotiations were at the request of the 2007 Legislature, and no Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin. On February 8, 2007, representatives from the Idaho Mental Health Providers Association and the Department met for negotiations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Pat Guidry, (208) 364-1813.

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 June 27, 2007.

DATED this 27th day of April, 2007.

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) 334-6558 fax
kovachs@dhw.idaho.gov e-mail

Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

**This docket has been previously published as a Temporary Rule.
The temporary effective date is July 1, 2006.**

**The original text of the Temporary Rule was published in the Idaho
Administrative Bulletin, Volume 06-4, April 4, 2006,
pages 15 through 18.**

THE FOLLOWING IS THE TEXT OF DOCKET 16-0310-0702

112. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES - PARTICIPANT ELIGIBILITY.

~~In order to~~ To qualify for Enhanced Outpatient Mental Health Services, a participant must obtain a Comprehensive Assessment as described in Section 113 of these rules. The comprehensive assessment for PSR, Partial Care, and Psychotherapy must ~~provide~~ include documentation of the medical necessity for each service to be provided. For partial care services, the comprehensive assessment must also contain documentation that shows the participant is currently at risk for an out-of-home placement, further clinical deterioration that would lead to an out-of-home placement, or further clinical deterioration that would interfere with the participant's ability to maintain his current level of functioning. (3-21-07)(____)

01. General Participant Criteria. In order for a participant to be eligible for Enhanced Outpatient Mental Health services, the following criteria must be met and documented: (3-21-07)

a. Other services have failed or are not appropriate for the clinical needs of the participant. (3-21-07)

b. ~~For each participant,~~ The services can reasonably be expected to improve the participant's condition or prevent further regression so that the current level of care is no longer necessary or may be reduced. (3-21-07)(____)

c. Participants identified in ~~the list below are disqualified from participating~~ Subsections 112.01.c.i. through 112.01.c.iii. of this rule cannot participate in Enhanced Outpatient Mental Health services: (3-21-07)(____)

i. ~~Persons~~ Participants at immediate risk of self-harm or harm to others who cannot be stabilized; (3-21-07)(____)

ii. ~~Persons~~ Participants needing more restrictive care or inpatient care; and (3-21-07)(____)

iii. ~~Persons~~ Participants who have not fulfilled the requirements of Subsections 112.02 or 112.03 of these rules. (3-21-07)(____)

02. Eligibility Criteria for Children. ~~Individuals~~ To be eligible for services, a participant under the age of eighteen (18) ~~who must~~ have a serious emotional disturbance (SED). The following definition of the SED target population is based on the definition of SED found in the Children's Mental Health Services Act, Section 16-2403, Idaho Code. (3-21-07)(____)

a. Presence of an emotional or behavioral disorder, according to the DSM-IV-TR ~~or subsequent revisions to the DSM~~, which results in a serious disability; and (3-21-07)(____)

b. Requires sustained treatment interventions; and (3-21-07)

c. Causes the child's functioning to be impaired in thought, perception, affect, or behavior. (3-21-07)

d. A substance abuse disorder, or conduct disorder, or developmental disorder, alone, does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance. (3-21-07)

03. Eligibility Criteria for Adults. ~~Individuals~~ To be eligible for services, a participant must be eighteen (18) years or older ~~who and~~ have a ~~severe and persistent~~ serious mental illness (SMPI) as defined in Volume 58 of the Federal Register, 29422-02, June 24, 1999. The following criteria are required to be a member of the target population based on the guidelines taken from the Federal Register under Section 1912(e) of the Public Health Services Act and as amended by Public Law 102-321 "adults with a serious mental illness." (3-21-07)(____)

~~a. The psychiatric disorder must be of sufficient severity to cause a substantial disturbance in role performance or coping skills in at least two (2) of the following areas on either a continuous or an intermittent (at least once per year) basis: (3-21-07)~~

~~i. Vocational/educational; (3-21-07)~~

~~ii. Financial; (3-21-07)~~

~~iii. Social relationships/support; (3-21-07)~~

~~iv. Family; (3-21-07)~~

~~v. Basic living skills; (3-21-07)~~

~~vi. Housing; (3-21-07)~~

~~vii. Community/legal; or (3-21-07)~~

~~viii. Health/medical. (3-21-07)~~

a. Currently or at any time during the year, he must have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet the diagnostic criteria specified in the DSM-IV-TR; and (____)

b. He must have a functional impairment which substantially interferes with or limits one (1) or more major life activities. Functional impairment is defined as difficulties that substantially interfere with or limit role functioning with an individual's basic daily living skills, instrumental living skills, and functioning in social, family, vocational or educational contexts. An adult who met the functional impairment criteria during the past year without the benefit of treatment or other support services is considered to have a serious mental illness. (____)

04. Participant Criteria Specific to Partial Care. ~~The comprehensive assessment must contain further documentation showing that the participant is presently at risk for an out-of-home placement, further clinical~~

~~deterioration that would lead to an out-of-home placement, or further clinical deterioration which would interfere with the participant's ability to maintain current level of functioning.~~ **Level of Care Criteria - Mental Health Clinics.** To be eligible for mental health clinic services, a participant must meet the criteria as described in Subsections 112.04.a. and 112.04.b. of this rule. (3-21-07)()

a. Children must meet Subsections 112.01 and 112.02 of this rule. ()

b. Adults must meet Subsections 112.01 and 112.03 of this rule. ()

05. Level of Care Criteria - Psychosocial Rehabilitation (PSR) Agencies and Partial Care Services for Children. To be eligible for the services of PSR or Partial Care, a child must meet the criteria of SED and Subsection 112.04.a. of this rule and must experience a substantial impairment in functioning. Functional impairment must be assessed using the Child and Adolescent Functional Assessment Scale/Preschool and Early Childhood Functional Assessment Scale (CAFAS/PECFAS). Substantial impairment requires a full eight (8) scale score of eighty (80) or higher with moderate impairment in at least one (1) of the following three (3) scales in Subsections 112.05.a. through 112.05.c. of this rule. ()

a. Self-harmful behavior; ()

b. Moods/Emotions; or ()

c. Thinking. ()

06. Level of Care Criteria - Psychosocial Rehabilitation (PSR) Agencies and Partial Care Services for Adults. To be eligible for services of PSR or Partial Care, an adult must meet the criteria of SMI and Subsection 112.04.b. of this rule. In addition, the following criteria in Subsections 112.06.a. and 112.06.b. of this rule must be met. ()

a. The participant must have a diagnosis under DSM-IV-TR, of Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis; and ()

b. The psychiatric disorder must be of sufficient severity to cause a substantial disturbance in role performance or coping skills in at least two (2) of the following areas in Subsection 112.05.b.i. through 112.05.b.viii. of this rule on either a continuous or an intermittent, at least once per year, basis: ()

i. Vocational/educational; ()

ii. Financial; ()

iii. Social relationships/support; ()

iv. Family; ()

v. Basic living skills; ()

vi. Housing; ()

vii. Community/legal; or ()

viii. Health/medical. ()

057. Criteria Following Discharge For Psychiatric Hospitalization. Children and adults discharged from psychiatric hospitalization and who meet the diagnostic criteria of the target population in these rules are eligible for enhanced outpatient mental health clinic and PSR services. (3-21-07)

a. Children and adults discharged from psychiatric hospitalization and who meet the diagnostic criteria of the target population in these rules, described in Subsection 112.02 of ~~these~~ this rules for children, and in Subsection 112.03 of ~~these~~ this rules for adults, are considered immediately eligible for PSR services for a period of at least one hundred and twenty (120) days following discharge from the hospital. The individualized treatment plan must be completed and submitted to the Department for prior authorization within ten (10) days of discharge.

~~(3-21-07)~~(____)

i. Up to two (2) hours of plan development hours may be for coordinating with hospital staff and others the participant chooses. These plan development hours are to be used for the development of an individualized treatment plan based solely on the participant's hospital records and past history. The provider agency does not have to perform any additional assessment nor does the participant need to qualify as described in Subsection 113.01 of these rules.

(3-21-07)

ii. Upon submission of the completed individualized treatment plan to the Department or its designee, PSR services may be prior authorized for no more than one hundred twenty (120) days. For services to continue beyond one hundred twenty (120) days, the requirements of Section 129 of these rules must be met by the provider agency.

(3-21-07)

b. A mental health clinic may serve a participant with Enhanced Plan services following a psychiatric hospitalization after a comprehensive assessment has been completed, ~~that has~~ The assessment must established that the participant meets the criteria ~~for Serious Emotional Disturbance (SED) or Severe and Persistent Mental Illness (SPMI) as described in Subsections 112.01 through 112.06 of this rule, and is appropriate for the participant's age and level of care that is medically necessary.~~ The mental health clinic provider does not need to submit form H0002 because the participant is already in the Enhanced Plan.

~~(3-21-07)~~(____)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.11 - RULES GOVERNING INTERMEDIATE CARE FACILITIES
FOR THE MENTALLY RETARDED (ICF/MR)

DOCKET NO. 16-0311-0701

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is in response to the conclusion of the pilot project for criminal history checks in long-term care settings.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Date: Monday, June 11, 2007
Time: 1 p.m. - 4 p.m.
Place: Department of Health & Welfare - Medicaid Offices
3232 Elder Street, Conference Room D-East
Boise, ID

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may:

1. Attend the negotiated rulemaking and participate in the negotiation process;
2. Provide oral or written recommendations, or both at the negotiated rulemaking;
3. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Currently skilled nursing and intermediate care facilities participate in a pilot project for criminal history and background checks for workers with direct access to residents in long-term care facilities. The pilot project and federal funding expire on September 30, 2007. The Department is conducting negotiated rulemaking to determine whether criminal history and background checks should be included as a permanent part of the rules governing licensing or certification of health care entities or residential facilities.

ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking contact Randy May at (208) 334-5747.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and delivered on or before June 20, 2007.

DATED this 2nd day of May, 2007.

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@dhw.idaho.gov - e-mail

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.15 - RULES AND MINIMUM STANDARDS GOVERNING SEMI-INDEPENDENT GROUP RESIDENTIAL FACILITIES FOR THE DEVELOPMENTALLY DISABLED OR MENTALLY ILL

DOCKET NO. 16-0315-0701

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is in response to the conclusion of the pilot project for criminal history checks in long-term care settings.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Date: Wednesday, June 13, 2007
Time: 3 p.m. - 5 p.m.
Place: Department of Health & Welfare - Medicaid Offices
3232 Elder Street, Conference Room D-East
Boise, ID

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may:

1. Attend the negotiated rulemaking and participate in the negotiation process;
2. Provide oral or written recommendations, or both at the negotiated rulemaking;
3. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Currently semi-independent group residential facilities are participating in a pilot project for criminal history and background checks for workers with direct access to residents in long-term care facilities. The pilot project and federal funding expire on September 30, 2007. The Department is conducting negotiated rulemaking to determine whether criminal history and background checks should be included as a permanent part of the rules governing licensing or certification of health care entities or semi-independent group residential facilities.

ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking contact Randy May at (208) 334-5747.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and delivered on or before June 20, 2007.

DATED this 2nd day of May, 2007.

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@dhw.idaho.gov - e-mail

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.22 - RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES IN IDAHO

DOCKET NO. 16-0322-0701

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is in response to the conclusion of the pilot project for criminal history checks in long-term care settings.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Date: Tuesday, June 12, 2007
Time: 9 a.m. - 12 p.m.
Place: Department of Health & Welfare - Medicaid Offices
3232 Elder Street, Conference Room D-East
Boise, ID

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may:

1. Attend the negotiated rulemaking and participate in the negotiation process;
2. Provide oral or written recommendations, or both at the negotiated rulemaking;
3. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Currently residential care and assisted living facilities are participating in a pilot project for criminal history and background checks for workers with direct access to residents in long-term care facilities. The pilot project and federal funding expire on September 30, 2007. The Department is conducting negotiated rulemaking to determine whether criminal history and background checks should be included as a permanent part of the rules governing licensing or certification of health care entities or residential facilities.

ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking contact Randy May at (208) 334-5747.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and delivered on or before June 20, 2007.

DATED this 2nd day of May, 2007.

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@dhw.idaho.gov - e-mail

IDAPA 20 - DEPARTMENT OF LANDS

20.03.04 - RULES GOVERNING THE REGULATION OF BEDS, WATERS, AND AIRSPACE OVER NAVIGABLE LAKES IN THE STATE OF IDAHO

DOCKET NO. 20-0304-0701

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code and IDAPA 20.01.01, "Rules of Practice and Procedure Before the State Board of Land Commissioners," (Board), Sections 811 through 815, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking is authorized pursuant to Idaho Code Section 58-104(6).

DESCRIPTIVE SUMMARY: The Idaho Department of Lands (IDL) is initiating this rulemaking partly in response to changes in Title 58, Chapter 13, Idaho Code made during the 2006 legislative session. These changes allow higher fees to be collected after the rules are changed. This rulemaking is also needed to clear up the numerous conflicts between the rules and Title 58, Chapter 13, Idaho Code and to clarify several unclear sections that hinder effective program administration. The issues to be addressed by this rulemaking include, but are not limited to, increasing the permit fees, clarifying the definitions of commercial and community marinas, changing some hearing processes, specifying floathome standards, and simplifying enforcement actions. This rulemaking will be conducted in conjunction with the IDAPA 20.03.17 rulemaking.

Upon conclusion of negotiations, IDL intends to present a rule to the Board for approval to proceed with proposed rulemaking in August 2007. If approved by the Board, IDL will initiate proposed rulemaking by publishing the rule in the October 2007 issue of the Idaho Administrative Bulletin. In order to meet this rulemaking schedule, IDL intends to conclude negotiations by July 23, 2007.

PRELIMINARY DRAFT: The preliminary draft rule can be obtained at <http://www.idl.idaho.gov/adminrule/rulemaking.html> or by contacting the undersigned.

MEETING SCHEDULE: Initial public meetings on the negotiated rulemaking are scheduled as follows:

June 12, Idaho Department of Lands, 2550 Highway 2 West, Pend Oreille
June 13, Idaho Department of Lands, 3780 Industrial Ave S., Coeur d'Alene

Locations may change to accommodate large numbers, and additional meetings will be scheduled as needed. Please check the above website for updates through the end of July, 2007. Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. Written comments may also be sent to the address below.

ASSISTANCE ON TECHNICAL QUESTIONS, AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact the undersigned.

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. Written comments on the preliminary draft must be received by June 15, 2005.

For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

DATED this 20th day of April, 2007.

Eric Wilson
Navigable Waters/Minerals Program Manager
Idaho Department of Lands
954 West Jefferson St., Boise, Idaho 83720
(208) 334-0261/ Fax (208) 334-3698
ewilson@idl.idaho.gov

IDAPA 20 - DEPARTMENT OF LANDS

20.03.17 - RULES GOVERNING LEASES ON STATE-OWNED SUBMERGED LANDS AND FORMERLY SUBMERGED LANDS

DOCKET NO. 20-0317-0701

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code and IDAPA 20.01.01, "Rules of Practice and Procedure Before the State Board of Land Commissioners," (Board), Sections 811 through 815, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking is authorized pursuant to Idaho Code Section 58-104(6).

DESCRIPTIVE SUMMARY: The Idaho Department of Lands (IDL) is initiating this rulemaking to provide continuity with IDAPA 20.03.04 and to address significant issues created by development pressure and escalating resource demands. The issues to be addressed by this rulemaking include, but are not limited to, changing definitions to match those of IDAPA 20.03.04, clarifying the definitions of commercial and community marinas, and specifying what types of rental rates should be used. This rulemaking will be conducted in conjunction with the IDAPA 20.03.04 rulemaking.

Upon conclusion of negotiations, IDL intends to present a rule to the Board for approval to proceed with proposed rulemaking in August 2007. If approved by the Board, IDL will initiate proposed rulemaking by publishing the rule in the October 2007 issue of the Idaho Administrative Bulletin. In order to meet this rulemaking schedule, IDL intends to conclude negotiations by July 23, 2007.

PRELIMINARY DRAFT: The preliminary draft rule can be obtained at <http://www.idl.idaho.gov/adminrule/rulemaking.html> or by contacting the undersigned.

MEETING SCHEDULE: Initial public meetings on the negotiated rulemaking will be held as follows:

June 12, Idaho Department of Lands, 2550 Highway 2 West, Pend Oreille
June 13, Idaho Department of Lands, 3780 Industrial Ave S., Coeur d'Alene

Locations may change to accommodate large numbers, and additional meetings will be scheduled as needed. Please check the above website for updates through the end of July, 2007. Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. Written comments may also be sent to the address below.

ASSISTANCE ON TECHNICAL QUESTIONS, AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact the undersigned.

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. Written comments on the preliminary draft must be received by June 15, 2005.

For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

DATED this 20th day of April, 2007.

Eric Wilson
Navigable Waters/Minerals Program Manager
Idaho Department of Lands
954 West Jefferson St., Boise, Idaho 83720
(208) 334-0261/ Fax (208) 334-3698
ewilson@idl.idaho.gov

IDAPA 22 - STATE BOARD OF MEDICINE

22.01.05 - RULES GOVERNING THE LICENSURE OF PHYSICAL THERAPISTS AND PHYSICAL THERAPY ASSISTANTS

DOCKET NO. 22-0105-0601 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2008 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-1806(2), Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 06-12, December 6, 2006, page 90.

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

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

DATED this 21st day of May, 2007.

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

DOCKET NO. 22-0105-0601 - ADOPTION OF PENDING RULE

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 06-12, December 6, 2006, page 90.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.

IDAPA 22 - STATE BOARD OF MEDICINE

22.01.06 - RULES FOR EMS PERSONNEL

DOCKET NO. 22-0106-0601 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2008 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-1806(2) Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 06-12, December 6, 2006, page 91.

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

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

DATED this 21st day of May, 2007.

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

DOCKET NO. 22-0106-0601 - ADOPTION OF PENDING RULE

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 06-12, December 6, 2006, page 91.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2008 Idaho State Legislature as a final rule.

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-0602

NOTICE OF RULEMAKING - FINAL RULE

AUTHORITY: In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on this rulemaking under Docket No. 27-0101-0602. This agency action for this final rulemaking is authorized pursuant to Sections 54-1717 and 37-2715, Idaho Code.

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

Pursuant to Senate Concurrent Resolution No. 113, Docket No. 27-0101-0602 is not consistent with legislative intent and is being rejected in its entirety.

The original text of the proposed rule was published in the August 2, 2006 Idaho Administrative Bulletin, Vol. 06-8, pages 74 through 78. The pending rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, page 425.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact R. K. "Mick" Markuson, Director, (208) 334-2356.

DATED this 9th day of May 2007.

R. K. "Mick" Markuson, Director
Idaho State Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356; Fax: (208) 334-3536

**OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR
IDAHO DEPARTMENT OF ADMINISTRATION**

IDAPA 28 - DEPARTMENT OF COMMERCE

DOCKET NO. 28-0000-0701

**NOTICE OF LEGISLATIVE ACTION DEVOLVING THE MERGER OF THE DEPARTMENTS OF
COMMERCE AND LABOR AND REINSTITUTING SEPARATE AGENCIES - HOUSE BILL NO. 222**

EFFECTIVE DATE: The effective date of this action is July 1, 2007.

AUTHORITY: In compliance with Sections 67-5203 and 67-5220, Idaho Code, notice is hereby given by the Office of the Administrative Rules Coordinator that the Fifty-Ninth Legislature in the First Regular Session - 2007, passed House Bill 222 amending Chapter 47, Title 67, Idaho Code, and that said bill was signed into law by Governor C.L. "Butch" Otter, Session Law Chapter 360, thereby devolving the merger and separating the Department of Commerce and Labor into two separate agencies.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the notice and the legislative action:

House Bill 222 amended and added to existing law to devolve the merger of the Department of Commerce and Labor into two separate agencies, hereby known as the Department of Commerce and the Department of Labor.

This will allow the director of the Department of Commerce more time to focus on recruiting and retention of small business, international trade, and specific issues related to economic development activity. By focusing on commerce related issues entirely, the director will then have more time to work directly with the Governor on the economic development of the state. The director of the Department of Labor can then focus on assuring regulatory compliance with employment security regulations, unemployment insurance, wage and hour compliance, and disability determinations as required by the Social Security Act.

This notice, in accordance with Section 67-5203, Idaho Code, complies with the Legislative intent of House Bill 222 by reinstating the authority of the affected chapters of rules currently indexed under IDAPA 09, Title 02 and Title 03.04, Department of Commerce and Labor, to IDAPA 28, the Department of Commerce. These rules are hereby assigned to the Department of Commerce under the agency rule designation number, IDAPA 28, and the affected chapters are now indexed under and renumbered as IDAPA 28. The remaining chapters indexed under IDAPA 09, Title 01, Title 03.01 and Title 05.03 shall remain with the Department of Labor.

Notwithstanding the provisions of Title 67, Chapter 52, Idaho Code, and further complying with the legislative intent of House Bill 222, non-substantive changes will be made to update all references and citations within the rules now under the authority of the Department of Commerce and Labor and include, but are not limited to, the following:

All citations and references to IDAPA 09 relating to the affected chapters under Title 02 and Title 03.04 now mean IDAPA 28, and are hereby redesignated and renumbered as follows:

- IDAPA 28.02.01**, "Idaho Community Development Block Grant Program (ICDB)" (formerly 09.02.01);
- IDAPA 28.02.03**, "Rules of the Idaho Regional Travel and Convention Grant Program" (formerly 09.02.03);
- IDAPA 28.02.04**, "Idaho Gem Grant Program" (formerly 09.02.04);
- IDAPA 28.02.05**, "Rural Community Block Grant Program (RCBGP)" (formerly 09.02.05); and
- IDAPA 28.03.04**, "Rules of the Business and Jobs Development Grant Fund" (formerly 09.03.04).

Citations and references to the Department of Commerce and Labor rules under IDAPA 09 relating to the affected chapters under Title 02 and Title 03.04, as referenced above, now refer to the IDAPA 28, Department of Commerce.

The applicable references to Department of Commerce and Labor now mean the "Department of Commerce" or the "Department of Labor." This includes references to "Commerce" and to "Labor" used to define or refer to the "Department."

Pursuant to Section 67-5204, Idaho Code, all of the above listed changes will be incorporated into and published in the current Idaho Administrative Code.

OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR*Docket No. 28-0000-0701 - Devolving the
Department of Commerce* *Merger of the Dept's of Commerce & Labor*

ASSISTANCE ON QUESTIONS: For assistance on questions concerning this notice, contact Marlene Klein at the Department of Commerce and Labor (208) 332-3570 ext. 3190, or the Office of the Administrative Rules Coordinator at (208) 332-1820.

DATED this 25th day of April, 2007.

Dan Graves
Administrative Rules Specialist
Office of the Administrative Rules Coordinator
Department of Administration
State of Idaho
P.O. Box 83720
Boise, ID 83720-0306
Phone: (208) 332-1820
Fax: (208) 334-2395

IDAPA 41 - PUBLIC HEALTH DISTRICTS

41.01.01 - RULES OF PUBLIC HEALTH DISTRICT #1

DOCKET NO. 41-0101-0601

NOTICE OF RULEMAKING - FINAL RULE

AUTHORITY: In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on this rulemaking under Docket No. 41-0101-0601. This agency action for this final rulemaking is authorized pursuant to Section 39-416, Idaho Code.

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

Pursuant to Senate Concurrent Resolution No.121, Docket No. 41-0101-0601 is not consistent with legislative intent and is being amended accordingly. In accordance with the Concurrent Resolution the following changes are being made to the final rule: Subsections 100.03.e. and 100.03.f. of the proposed rule relating to water quality control, were deleted. Only the sections affected are published in this bulletin.

The original text of the proposed rule was published in the October 4, 2006, Idaho Administrative Bulletin, Vol. 06-10, pages 539 through 563. The pending rule was published in the January 3, 2007, Idaho Administrative Bulletin, Vol. 07-1, page 292. Additionally, notices of public hearing were published in the November 1, 2006, Idaho Administrative Bulletin, Vol. 06-11, p. 136 and the December 6, 2006, Idaho Administrative Bulletin, Vol. 06-12, p. 130.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Jerry Cobb (Shoshone County/Bunker Hill), 114 West Riverside, Kellogg, ID (208) 783-0707 or Dale Peck, (all other changes) 8500 N. Atlas Road, Hayden, ID 83835; (208) 415-5210.

DATED this 10th day of May, 2007.

Jeanne Bock, Director
Public Health District #1
8500 North Atlas Road
Hayden, ID 83835
Phone: (208) 415-5100
Fax (208) 415-5106

THE FOLLOWING IS THE FINAL TEXT OF DOCKET NO. 41-0101-0601

100. WATER QUALITY CONTROL.

01. Sewage and Waste Disposal -- Political Subdivisions. Any political subdivision within the District may enter into a sewage management plan agreement with the District, the purpose of which will be to establish permanent sewage disposal practices that will fulfill the needs and goals of the political subdivision and the responsibilities of the District. The Board shall have authority to enforce the provisions of sewage management plan agreements. (7-1-93)

02. Sewage and Waste Disposal -- Public Sewage Treatment. All public sewage treatment facilities shall be constructed and operated in accordance with applicable state and federal laws. All public sewage treatment facilities constructed after the effective date of this rule shall be owned, operated, or maintained by a political subdivision of the state of Idaho, as defined in Idaho Code or by such entity as may be deemed acceptable by the Board. All public sewage treatment facilities incorporating subsurface disposal in the design must include two (2)

disposal fields, each sized for the design loading and capable of being alternately loaded; in addition, a third acceptable site, large enough to install an additional replacement field, must be available. (7-1-93)

03. Sewage and Waste Disposal -- Private Sewage Disposal. No residence, place of business, or other building where persons congregate, reside, or are employed shall hereafter be constructed or altered until the owner or builder or agent thereof shall have first been issued a permit to construct sanitary disposal facilities by the Health Officer. (7-1-93)

a. This rule shall not apply to any construction on a street or alley in which there is a public sanitary sewer or to any construction within two-hundred (200) feet of a public sanitary sewer where connection with such sewer is actually made. In such case, the residence, place of business, or other building shall connect to the sewer. (7-1-93)

b. The application for a permit to construct sanitary disposal facilities shall include all applicable information as set forth in the Idaho Department of Environmental Quality Rules for Individual and Subsurface Sewage Disposal Systems, and by a fee as set in the fee schedule. (3-27-07)

c. No drywells or drainfields deeper than four (4) feet below ground level shall be permitted for the disposal of domestic sewage waste. No sewage holding or retention tanks shall be allowed as a method of sewage disposal for residential purposes unless the operation and maintenance, including pumping of the facility, is conducted by or under the authority of a political subdivision as defined in Idaho Code. (7-1-93)

d. No dwelling or building shall be occupied until the sanitary disposal facilities have been constructed, inspected, and approved by the Health Officer or his agents. The sanitary disposal facilities shall not be covered with dirt or otherwise completed until inspected and approved. (7-1-93)

04. Sewage and Waste Disposal -- Septage Disposal Site. It shall be unlawful for any person engaged in the business, firm or corporation to clean any septic tank, sewage pit, or other means of sewage disposal, or to operate a septage disposal site within the limits of Panhandle Health District 1 without first having been issued a registration permit by the Health Officer. (7-1-93)

a. Application shall be made upon a form provided by the Health Officer and shall be accompanied by a fee as set in the fee schedule. The registration permit shall be issued yearly and shall be revocable for failure to comply with the rules governing sewage disposal. Each permit shall be only for the unexpired portion of the calendar year for which the permit is issued, and at the end of the calendar year all permits shall expire becoming void and of no further effect. (7-1-93)

b. Any person engaged in the business of removing and transporting sewage shall comply with all applicable rules governing removal, transportation, and disposal of sewage or sewage sludge issued by the Idaho State Department of Health and Welfare and with all applicable rules hereinafter adopted. (7-1-93)

c. All applications for permits to operate septage land disposal sites must be accompanied by a plan of operations which shall include details relative to application rates and methods, access control, odor control, control of surface water runoff, cropping, and vegetation. All land disposal sites must not be closer than three-hundred (300) feet from a property line, nor closer than one quarter (1/4) mile from a residence at the time the site is established. All disposal sites must provide access for all-weather operation. All land disposal sites established after the effective date of these rules may be required to have an engineering report prepared by a licensed engineer detailing such items as site topography, site boundaries, property boundaries, direction and distance to nearest residence(s), depth, and type of soil strata, depth to ground water, direction of prevailing winds, and such other information as may be deemed necessary by the Health Officer. All required information must be submitted to and approved by the Health Officer prior to the issuance of a permit. (7-1-93)

05. Sewage and Waste Disposal -- Prohibited Conditions. (7-1-93)

a. Domestic sewage, septage, sanitary sewage, industrial waste, agricultural waste, sewage effluent, or human excreta shall not be allowed to remain open to the atmosphere or on the surface of the ground in such a manner so as to be a source of noxious or offensive odors, to be dangerous to health, or to be a public nuisance.

(7-1-93)

b. Domestic sewage, sanitary sewage, septage, industrial sewage, industrial waste, agricultural waste, sewage effluent, or human excreta shall not be allowed to endanger any source or supply of drinking water, or cause damage to any public or private property. (7-1-93)

c. Raw or untreated sewage, septage, or industrial waste, or agricultural waste shall not be allowed in any body of water, water course, or any underground water drain, any storm water drain, channel, or other surface water drain. (7-1-93)

06. Sewage and Waste Disposal. Expansion or Replacement of a Structure with Existing Waste Disposal System (Vested Rights). (3-27-07)

a. The square footage of habitable space will be used to determine a vested right for expansion or replacement of a structure with an existing wastewater system. (3-27-07)

b. An increase in square footage of habitable space by more than ten percent (10%) when replacing or remodeling an existing structure with an existing wastewater system will require a septic system that meets current standards. (3-27-07)

c. An application for a subsurface sewage disposal repair permit is required for all remodeling or replacement of an existing structure served by a sewage disposal system which fails to have both a septic permit and an approved final inspection. The sewage disposal system must be upgraded to current standards if possible. If this is not possible, the sewage disposal system must be upgraded to the best possible system given the constraints of the property. The remodeled or replacement structure will be limited to no more than one hundred ten percent (110%) of the original structure's square footage of habitable space. An alternative system may be required. (3-27-07)

d. If a system has ceased to receive wastewater for one year or more, the system is considered abandoned. The abandoned site must be inspected to determine if it is in compliance with current regulations. If system is in compliance with current regulations, it can be used for the current approved habitable space. If system is not in compliance with current regulations, a repair permit will be required, and the system must be upgraded to current standards if possible. If current standards cannot be met, the best possible system given the constraints of the property must be installed. This may require the use of an alternative system. Once the system has been upgraded, it can be connected to. If the upgrade cannot meet current standards, the dwelling will be limited to no more than one hundred ten percent (110%) of the current approved habitable space. (3-27-07)

07. Sewage and Waste Disposal. Authorization to Connect to an Installed System. (3-27-07)

a. This applies to connection to an approved drainfield installation that has never received wastewater flows. (3-27-07)

b. Application must be made, and an authorization to connect permit issued, to determine that the site has not been compromised and continues to meet the standards under which the original permit was issued. A fee for such inspection may be set by the Board. From July 1, 2007, and thereafter, no permit shall be issued for a septic system separate from a concurrent request for a permit to establish a specific use and structure to be served by the requested septic system. (3-27-07)

IDAPA 41 - PUBLIC HEALTH DISTRICT
41.01.01 - RULES OF PUBLIC HEALTH DISTRICT #1

DOCKET NO. 41-0101-0701

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. The action is negotiated rulemaking authorized pursuant to Section(s) 39-416, Idaho Code,

MEETING SCHEDULE: Public meeting(s) on the negotiated rulemaking will be held at the Hayden District office located at 8500 N. Atlas Road, Hayden, ID 83835, on the dates and at the times listed as follows:

Development interests: June 5, 2007 (9 a.m.)
Design professionals: June 7, 2007 (9 a.m.)
Citizen groups: June 12, 2007 (5:30 p.m.)
Public agency personnel: June 14, 2007 (9 a.m.)
All groups: June 27, 2007 (5:30 p.m.)

A formal public hearing is scheduled for August 22, 2007 at 6 p.m.

METHOD OF PARTICIPATION: Persons wishing to participate in the informal negotiated rulemaking may:

1. Attend the negotiated rulemaking meeting and participate in the negotiation process as a representative of the interests invited on a particular date;
2. Provide oral or written recommendations, or both, at the negotiated rulemaking meetings;
3. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The negotiated rulemaking process will address revisions to the standards for on-site wastewater disposal in order to provide protection of ground and surface waters by development and adoption of dependable standards and consistency in administrative process. Additionally, the District will work with interests associated with the mining industry to clarify the relationship between mining and the Institutional Controls Program in the Couer d'Alene Basin (OU-3).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of a proposed rule in the course of development, contact Dale Peck, (wastewater changes) 8500 N. Atlas Road, Hayden, ID 83835; (208) 415-5210 or Jerry Cobb (Institutional Controls Program), 114 West Riverside, Kellogg, ID (208) 783-0707.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments should be directed to the persons designated in the forgoing section of this notice and must be delivered on or before 5 p.m., June 27, 2007.

DATED this 2nd day May, 2007.

Jeanne Bock, Director
Public Health District #1
8500 North Atlas Road
Hayden, ID 83835
Phone: (208) 415-5100
Fax (208) 415-5106

IDAPA 47- DIVISION OF VOCATIONAL REHABILITATION

47.01.02 - RULES AND MINIMUM STANDARDS GOVERNING EXTENDED EMPLOYMENT SERVICES

DOCKET NO. 47-0102-0601

NOTICE OF RULEMAKING - FINAL RULE

AUTHORITY: In compliance with Sections 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on this rulemaking under Docket No. 47-0102-0601. This agency action for this final rulemaking is authorized pursuant to 33-2211 and 33-2303, Idaho Code.

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

Pursuant to House Concurrent Resolution No. 019, Docket No. 47-0102-0601 is not consistent with legislative intent and is being amended accordingly. In accordance with the concurrent resolution the following changes are being made to the final rule:

IDAPA 47.01.02, Standards Governing Extended Employment Services, Section 100, relating to Certification of Providers, Subsections 02, 04.c and 04.d, only, Rules of the Division of Vocational Rehabilitation, adopted as pending rules under Docket Number 47-0102-0601, are hereby rejected and declared null, void and of no force and effect. Only the Section affected is being published in this Bulletin.

The original text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 10-06 page(s) 585 through 593. The pending rule was published in the December 6, 2006 Idaho Administrative Bulletin, Vol. 06-12, page(s) 133 through 135.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this final rule, contact Lynn Fischer at 208-883-8410.

DATED this 5th day of May, 2007.

Karen L. Echeverria
Deputy Director
State Board of Education
650 West State Street
PO Box 83720-0037
Boise, ID 83720-0037

THE FOLLOWING IS THE FINAL TEXT OF DOCKET NO. 47-0102-0601

100. CERTIFICATION OF PROVIDERS.

01. Certification Required. A provider must apply for and receive certification from IDVR, as provided herein, to provide Extended Employment Services to Clients. Such certification shall be for only the Extended Employment Services Program region in which such provider intends to provide services, and for which approval is granted by IDVR. (3-15-07)

02. Timeline. For purposes of these rules, the Extended Employment Services Program fiscal year is June 1 of a given year through May 31 of the next succeeding year. An application for certification for a fiscal year

must be submitted on or before the first business day of April preceding the fiscal year for which certification is sought. A written decision on certification status in regard to such application will be issued by IDVR on or before the first business day of May preceding such fiscal year. If approved by IDVR, certification status for a provider becomes effective on June 1, the first day of such fiscal year. An application that is denied may be reconsidered during the course of a fiscal year if there have been significant developments in a region that require IDVR to add a new or additional provider after June 1. In such event, IDVR will give preference to denied applications based on date of application. (3-15-07)

03. Criteria. IDVR will determine to grant or deny certification based on the following criteria: (3-15-07)

a. The provider must be accredited by CARF or RSAS; (3-15-07)

b. The provider must meet and maintain all the requirements for provider qualifications, specified in Section 300 of these rules; (3-15-07)

04. Grandfather Provision for Current Providers. Upon the effective date of adoption of these rules, providers that have been paid by IDVR for Extended Employment Services that were provided to Clients during the month of May, 2006, and which comply in all respects with Section 300 of these rules, shall be grandfathered and deemed to be certified to provide Extended Employment Services in the region(s) in which they have provided services during such month. (3-15-07)

05. Duration. Once certified, an Extended Employment Service Provider (including a provider that is grandfathered under subsection 100.04.05 of these rules) retains certified status unless or until the certification is terminated or revoked by IDVR. (3-15-07)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.24 - STANDARDS AND PROCEDURES FOR APPLICATION OF RISK BASED CORRECTIVE ACTION AT CHEMICAL RELEASE SITES

DOCKET NO. 58-0124-0701

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Chapter 1, Title 39, Idaho Code.

MEETING SCHEDULE: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. For information regarding participation by telephone or scheduling of additional meetings, contact the undersigned.

**June 21, 2007, 9 a.m. to 5 p.m.
Department of Environmental Quality, Conference Room D
1410 N. Hilton, Boise, Idaho**

PRELIMINARY DRAFT: A preliminary draft of the rule can be obtained at http://www.deq.idaho.gov/rules/risk/58_0124_0701_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: DEQ is faced with the task of selecting and overseeing appropriate response actions at hundreds of contaminated sites across the state. In June 2004 DEQ issued the Idaho Risk Evaluation Manual (REM). This manual describes an integrated risk evaluation process for managing chemical release sites that assists DEQ in determining the need for corrective action and, when necessary, the site-specific cleanup levels protective of human health and the environment. The manual also describes the key methodologies and elements of the risk evaluation process. This rulemaking has been initiated to formalize the critical elements of the REM in order to enhance consistent decision-making across DEQ programs with respect to corrective action at chemical release sites.

This rule will describe standards and procedures for application of risk based corrective action at chemical release sites. The text of the rule will be developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the promulgation of these rules. Cities, counties, bankers, lenders, realtors, petroleum marketers, consultants, and members of the public may be interested in participating in this rulemaking.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in September 2007 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in November 2007. If adopted, the pending rule will be reviewed by the 2008 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the negotiated rulemaking, contact Bruce Wicherski at bruce.wicherski@deq.idaho.gov, (208)373-0246.

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. Written comments on the preliminary draft must be received by June 29, 2007.

For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 27th day of April, 2007.

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 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.07 - MISCELLANEOUS RULES OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0107-0701

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5222(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, 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 June 20, 2007.

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

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

This rule will more closely balance the interest credited to member accounts with the actual net earnings of the fund over time as compared with current rules. The current rules were adopted in 1999 to make the PERSI benefit more portable. They provide that all member accounts receive the greater of net returns to the fund, or an average of 90 day treasury rates. This allowed members who took a separation benefit before retirement to benefit from the extraordinary gains of the 1990s. Prior to 1999, members' accounts accrued interest only at money market rates.

After PERSI experienced negative returns in 2001 and 2002 it became apparent that the current interest floor resulted in separating employees receiving a disproportionate share of returns and not sharing the risk of losses to the fund. This new rule governing accrual of interest to member accounts is needed to protect the fund from negative market conditions similar to those in 2001 and 2002 and affects primarily members who do not retire from the system, and their beneficiaries. It does not affect the benefit of a member who retires from the system. This rule moderates the interest that will accrue to members' accounts at both ends of the spectrum by reducing regular interest to 90 percent of actual returns of the fund net of expenses and by lowering the floor to 1% -- the floor essentially being funded by the 10% reduction in regular interest.

The rule also amends the address of PERSI's Coeur d' Alene office.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rules, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

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 June 27, 2007.

DATED this 29th day of March, 2007.

Alan H. Winkle
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-334-3365
FAX: 208-334-3804

THE FOLLOWING IS TEXT OF DOCKET NO. 59-0107-0701

002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES (RULE 2).

Written interpretations of these rules, to the extent they exist, are available from PERSI, at the following locations:

PERSI Boise Office
607 North Eighth Street
Boise, Idaho 83702
Phone: 208/334-3365 or 1-800-451-8228
Fax: 208/334-4026

PERSI Pocatello Office
850 E. Center, Suite D
Pocatello, Idaho 83201
Phone: 208/236-6225 or 1-800-762-8228
Fax: 208/236-6159

PERSI Coeur d'Alene Office
2005 Ironwood Parkway, Suite ~~14226~~
Coeur d'Alene, Idaho 83814
Phone: 208/769-1474 or 1-800-962-8228
Fax: 208/769-1476

~~(5-6-94)~~()

(BREAK IN CONTINUITY OF SECTIONS)

100. REGULAR INTEREST (RULE 100).

Regular interest for each calendar year shall be the greater of ninety percent (90%) of the rate of return on the PERSI fund net of all expenses for the fiscal year ending immediately prior to the calendar year as reported in the actuary's annual valuation report or ~~the average interest rate of 13-week United States Treasury Bills on the last business day of each calendar quarter of the fiscal year ending immediately prior to the calendar year as reported in the "Money Rates" section of the Wall Street Journal~~ one percent (1%). (Amended 3-30-01) ~~(3-30-01)~~()

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LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

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 latest publication of the state Administrative Bulletin.

IDAPA 08 – STATE BOARD OF EDUCATION PO Box 83720, Boise, ID 83720-0037

08-0111-0701, *Out-of-State Institutions, In-State Non-Accredited Institutions and Correspondence or Private Courses.* (Temporary & Proposed) Repeals entire chapter. Comment by: 6/27/07.

IDAPA 08 – STATE BOARD OF EDUCATION PO Box 83720, Boise, ID 83720-0037

08-0111-0702, *Registration of Postsecondary Educational Institutions and Proprietary Schools* (Temporary & Proposed) Rewrites entire chapter, establishing criteria for determining legitimacy of proprietary schools and degree granting. Comment by: 6/27/07.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE PO Box 83720, Boise, ID 83720-0036

16-0310-0702, *Medicaid Enhanced Plan Benefits.* (Proposed) Establishes eligibility criteria for the Enhanced Plan mental health services to facilitate appropriate placement of participants with services to match their health needs. Comment by: 6/27/07.

IDAPA 24 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO 607 North 8th St., Boise, ID 83702

59-0107-0701, *Miscellaneous Rules of the Public Employee Retirement System of Idaho.* (Proposed) Proposes to more closely balance the interest credited to members accounts with actual net earnings of the PERSI fund. Comment by: 6/27/07.

(Temporary Rules Have Been Adopted in the Following Rulemakings)

Division of Human Resources and Personnel Commission

15-0401-0601 and 15-0401-0701, Rules of the Division of Human Resources and Personnel Commission

Department of Health and Welfare

16-0309-0602, Rules Governing the Medical Assistance Program

Negotiated Rulemaking Meetings Are Being Held on the Following Dockets:

(See June Bulletin for dates, times, and locations)

Department of Health and Welfare

16-0219-0701, Food Safety and Sanitation Standards for Food Establishments

16-0302-0701, Rules and Minimum Standard for Skilled Nursing and Intermediate Care Facilities

16-0305-0703, Rules Governing Eligibility for Aid to the Aged, Blind and Disabled

16-0307-0701, Rules for Home Health Agencies

16-0309-0702, Medicaid Basic Plans Benefits

16-0311-0701, Rules Governing Intermediate Care Facilities for the Mentally Retarded

16-0315-0701, Rules and Minimum Standard Governing Semi-Independent Group Residential Facilities for the Developmentally Disabled or Mentally Ill

16-0322-0701, Residential Care of Assisted Living Facilities in Idaho

Department of Lands

20-0304-0701, Rules Governing the Regulation of Beds, Waters and Airspace over Navigable Lakes in the State of Idaho

20-0317-0701, Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands

Public Health District #1

41-0101-0701, Rules of Public Health district #1

Department of Environmental Quality

58-0124-0701, Standards and Procedures for Application of Risk Based Corrective Action at Chemical Release Sites

Please refer to the Idaho Administrative Bulletin, **June 6, 2007, Volume 07-6** 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 view the Bulletin or Code or for information on purchasing the Bulletin and other rules publications, visit our website at www.adm.idaho.gov/adminrules/ or call (208) 332-1820 or write the Dept. of Administration, Office of Administrative Rules, 650 W. State St., Room 100, Boise, ID 83720-0306.

Copies of the Administrative Bulletin and other rules publications are available for purchase. For subscription information and ordering see our website or call (208) 332-1820 or write the Office of Administrative Rules, Department of Administration, 650 W. State St., Room 100, Boise, ID 83720-0306. Visa and MasterCard accepted for most purchases.

The Idaho Administrative Bulletin and Administrative Code are available on-line at: www.adm.idaho.gov/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
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