

IDAHO ADMINISTRATIVE BULLETIN

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Preface

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

State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of 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 Notice of Rulemaking 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 07-1 refers to the first Bulletin issued in calendar year 2007; Bulletin 08-1 refers to the first Bulletin issued in calendar year 2008. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 08-1 refers to January 2008; Volume No. 08-2 refers to February 2008; and so forth. Example: The Bulletin published in January 2008 is cited as Volume 08-1. The December 2007 Bulletin is cited as Volume 07-12.

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, even when published in conjunction with a temporary rule, and therefore, is not enforceable. An agency may vacate a proposed rulemaking if it decides not to proceed beyond the proposed rulemaking step, and stops the formal rulemaking 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 "-", (38-0501-0801). 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. 38-0501-0801"

"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).

"0801" 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 2008. A subsequent rulemaking on this same rule chapter in calendar year 2008 would be designated as "0802". The docket number in this scenario would be 38-0501-0802.

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 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
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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, 2008

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2009

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
09-1	January 2009	*November 14, 2008	January 7, 2009	January 28, 2009
09-2	February 2009	January 9, 2009	February 4, 2009	February 25, 2009
09-3	March 2009	February 6, 2009	March 4, 2009	March 25, 2009
09-4	April 2009	March 6, 2009	April 1, 2009	April 22, 2009
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09-10	October 2009	**August 28, 2009	October 7, 2009	October 28, 2009
09-11	November 2009	October 2, 2009	November 4, 2009	November 25, 2009
09-12	December 2009	November 6, 2009	December 2, 2009	December 23, 2009

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

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

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THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2008-04

**ESTABLISHING THE GOVERNOR'S NEIGHBORHOOD STABILIZATION
PROGRAM STEERING COMMITTEE**

WHEREAS, Congress has passed the Housing and Economic Recovery Act (HERA) of 2008, which authorized a one-time supplemental appropriation of federal funding for the Neighborhood Stabilization Program (NSP); and

WHEREAS, Idaho expects to receive federal money under this program to provide financing mechanisms for purchasing and redeveloping foreclosed residential properties, purchase, redevelop and rehab foreclosed and abandoned homes and establish land banks for foreclosed residences within the State; and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) has promulgated regulations for States concerning the expenditure of federal funds under the NSP; and

WHEREAS, there are a broad array of state, local and private entities with expertise and insight critical to the success of a state program to implement the NSP; and

WHEREAS, individuals in Idaho can utilize this program to help stabilize and restore communities and neighborhoods;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me under the Idaho Constitution and the laws of the State of Idaho do hereby order:

- 1. The establishment of the Governor's Neighborhood Stabilization Program Steering Committee (Committee).*
- 2. Members of the Committee shall be appointed by and serve at the pleasure of the Governor. The members shall include:*
 - The director of the Department of Finance;*
 - The President / Executive Director of the Idaho Housing and Finance Association;*
 - The Community Development Manager of the Department of Commerce; and*
 - Four individuals from the public at large.*
- 3. The chair of the Committee shall be appointed by and serve at the pleasure of the Governor.*
- 4. The duties and responsibilities of the Committee shall include:*
 - Developing an action plan for the use of federal funds, consistent with federal and state law and regulations, for the Governors review by November 21, 2008;*
 - Identifying an entity to administer the funding within eighteen (18) months of the enactment of HERA;*
 - Developing a process and procedure to oversee and review the expenditure of funds for four (4) years following implementation; and*
 - Any additional duties or responsibilities as directed by the Governor.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho in Boise on this 10th day of October in the year of our Lord two thousand and eight, and of the independence of the United States of America the two hundred thirty-third and of the Statehood of Idaho the one hundred nineteenth.

C.L. "BUTCH" OTTER
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

IDAPA 03 - STATE ATHLETIC COMMISSION

03.01.01 - RULES OF THE STATE ATHLETIC COMMISSION

DOCKET NO. 03-0101-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-416, Idaho Code.

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

Changes to the rules are being made to set forth requirements for martial arts and mixed martial arts and to continue to outline standards for the safety of the combatants. The current rules pertain primarily to boxing and wrestling rather than martial arts and mixed martial arts. A change is being made to section 103 that will require blood test reports to be submitted with renewals as well as applications and allow the commissioner discretion with blood tests. A change is also being made to section 739.01 to correct the reference to 10 Point Must System.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 59 through 84.

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: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this October 30, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
(208) 334-3233 Ph. (208) 334-3945, fax

DOCKET NO. 03-0101-0801 - ADOPTION OF PENDING RULE

**Substantive changes have been made to the pending rule.
Italicized text is new text that has been added to the pending rule.**

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 1, pages 59 through 84.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 03-0101-0801

Subsection 103.04

103. PHYSICAL EXAMINATION OF COMBATANT.

04. Blood Testing. The Commission will not issue a license to an athlete who has tested positive for the HIV virus, ~~Hepatitis B Surface Antigen and Hepatitis C Antibody~~, or illegal drugs or other substances. A current test report must accompany ~~the~~ all license applications including renewals. Additional blood tests may be requested by the Commission at their discretion. (3-26-08)()

Subsection 111.02

111. REQUIREMENTS FOR LICENSE AS ~~REFEREE, JUDGE, TIMEKEEPER, OR GLOVER RING OFFICIAL.~~

02. Equivalent Qualifications. In lieu of the ~~examination and internship~~ above qualifications, the Commission may accept satisfactory evidence of equivalent qualifications possessed by an applicant who: (3-3-04)()

Subsections 739.01

739. MMA CONTEST SCORING.

01. 10 Point Must System. All contests will be evaluated and scored by three (3) judges. In exigent circumstances, or at the discretion of the Commission, a referee may be allowed to judge a contest. The 10 Point Must System will be the standard system of scoring a contest. In the event that a contest ends by technical decision, the judges will score the partial round. ()

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.03 - RULES GOVERNING PERMIT FEE SCHEDULE

DOCKET NO. 07-0203-0802 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2605(1) and 54-2606, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 95 through 98.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-2606, Idaho Code:

The permit fee for gray water systems will be \$130 and the permit fee for reclaimed water systems will be calculated at the same rate as industrial and commercial.

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 this pending rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 23rd day of October, 2008.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

DOCKET NO. 07-0203-0802 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 1, pages 95 through 98.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING

DOCKET NO. 07-0205-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2606, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 99 and 100.

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 this pending rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 23rd day of October, 2008.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

DOCKET NO. 07-0205-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 1, pages 99 through 100.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.03 - RULES FOR MODULAR BUILDINGS

DOCKET NO. 07-0303-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-4302, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 101 and 102.

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 this pending rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 23rd day of October, 2008.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

DOCKET NO. 07-0303-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 1, pages 101 and 102.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.05.01 - RULES OF THE PUBLIC CONTRACTORS LICENSE BOARD
DOCKET NO. 07-0501-0802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1907 and 67-2601A, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 103 through 106.

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 this pending rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 23rd day of October, 2008.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

DOCKET NO. 07-0501-0802 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 1, pages 103 through 106.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 07 - DIVISION OF BUILDING SAFETY

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

DOCKET NO. 07-0701-0802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-5005 and 54-5019, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 107 and 108.

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 this pending rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 23rd day of October, 2008.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

DOCKET NO. 07-0701-0802 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-10, October 1, 2008, Book 1, pages 107 and 108.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

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

IDAPA 08 - STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0800

NOTICE OF CORRECTION TO FINAL RULE

COORDINATOR'S NOTE: During the publication of the 2005 Idaho Administrative Code, IDAPA 08.02.02, "Rules Governing Uniformity," Section 004, Incorporation by Reference, Subsection .05, Incorporated Document, the date of the incorporated document, "The Idaho Standards for Public School Driver Education and Training," shows that this document was approved for incorporation on August 13, 2004 by the State Board of Education. This is incorrect. The Board meeting held on August 13, 2004 approved the proposed rulemaking under Docket No. 08-0202-0407. Additional amendments made to the incorporated standards manual were submitted to the State Board at its November 16, 2004 Board meeting and were approved at that meeting as part of the approval of the pending rulemaking. The date that should have been published in the pending rule for Subsection 08.02.02.004.05, as approved by the Board and by the 2005 Legislature, is November 12, 2004. Section 230 of these rules also listed the dates of the incorporated documents. These dates are now being removed as part of this correction to remove redundant language and to avoid unnecessary discrepancies within the rule itself.

AUTHORITY: In compliance with Section 67-5221(1), 67-5224 and 67-5291, Idaho Code, notice is hereby given that the Office of the Administrative Rules Coordinator is correcting a final rule.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance of this correction notice:

The notice corrects the date of the document that is incorporated by reference in IDAPA 08.02.02.004.05. The date was inadvertently left unchanged in the pending rule after additional amendments were made to the incorporated standards manual. The Administrative Procedure Act requires that all documents that are incorporated by reference into a rule must be date and edition specific. The pending rule with the changes to the standards manual was submitted to the State Board at its November 16, 2004 board meeting for approval. These changes were accepted and with an effective date of November 12, 2004. The Administrative Code is being updated to reflect that this error has been corrected. The 2005 legislature also approved this change as reflected in the House Education Committee meeting of January 20, 2005, page 3.

The text of the proposed rulemaking was published in Book 1 of the October 6, 2004 Administrative Bulletin, Vol. No. 04-10, pages 181 and 182.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the correction, contact Dennis Stevenson, Administrative Rules Coordinator, at (208) 332-1820.

DATED this 31st day of October, 2008.

Dennis R. Stevenson
Administrative Rules Coordinator
Office of the Administrative Rules Coordinator
Department of Administration
State of Idaho
650 West State Street
P.O. Box 83720
Boise, Idaho 83720-0306
(208) 332-1820
(208) 332-1896 fax

**IDAPA 11 - IDAHO STATE POLICE
IDAHO STATE RACING COMMISSION**

11.04.02 - RULES GOVERNING SIMULCASTING

DOCKET NO. 11-0402-0803

NOTICE OF RULEMAKING

RESCISSION OF TEMPORARY RULE AND VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the proposed rulemaking previously initiated under this docket and is rescinding the temporary rule previously adopted under this docket. The action is authorized pursuant to Sections 54-2506 and 54-2508, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the rescission and vacation of this rulemaking:

The Idaho State Racing Commission is rescinding this temporary rule and vacating the proposed rule so that continued study and review of the technology proposed can take place. The temporary and proposed rulemaking was done in order to implement definitions regarding Virtual Racing. The Idaho State Racing Commission wishes to withdraw these rule definitions.

The temporary rule, adopted under this docket, 11-0402-0803, by the Idaho State Racing Commission, was published in Book 1 of the October 1, 2008 Administrative Bulletin, Volume 08-10, pages 177 through 180; the proposed rule was published in Book 1 of the October 1, 2008 Administrative Bulletin, Volume 08-10, pages 177 through 180. This Notice of Rulemaking hereby rescinds the temporary rule, effective November 17, 2008, and vacates the proposed rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of proposed rulemaking and rescission of temporary rule, contact Dennis Jackson, Executive Director.

DATED this 3rd day of November, 2008

Dennis Jackson
Executive Director
Idaho State Racing Commission
700 Stratford Street
PO Box 700
Meridian, ID 83680-0700
Phone: 208-884-78/0 / Fax: 208-884-0798

**IDAPA 11 - IDAHO STATE POLICE
IDAHO STATE RACING COMMISSION**

11.04.03 - RULES GOVERNING LICENSING AND FEES

DOCKET NO. 11-0403-0801

NOTICE OF RULEMAKING

ADOPTION OF PENDING FEE RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amended temporary rule is January 1, 2008. This pending rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule and amended a temporary rule. The action is authorized pursuant to Sections 54-2506 and 54-2508, Idaho Code.

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

This temporary rule needs to be amended to include language that was inadvertently omitted and also to bring this rule chapter into uniformity with other rule chapters which have subsequently been rewritten.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Idaho State Racing Commission amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the January 2, 2008 Idaho Administrative Bulletin, Vol. 08-1, pages 58 through 71. Only those sections with changes that differ from the proposed rule are being published with this notice.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. This fee or charge is being imposed pursuant to Sections 54-2506 and 54-2508, Idaho Code. The following is a specific description of the fee or charge imposed or increased:

The Idaho State Racing Commission has been charging fees for licenses; however, the fees have never gone through the rule making process. In order to regulate racing in Idaho, charging fees for licensing is required.

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: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Dennis Jackson, Executive Director, at 884-7080.

DATED this 3rd day of November, 2008.

Dennis Jackson
Executive Director
Idaho State Racing Commission
PO Box 700
800 Stratford Drive
Meridian, ID 83680
Phone: 208-884-7080 / Fax: 208-884-7098

DOCKET NO. 11-0403-0801 - ADOPTION OF PENDING FEE RULE
AND AMENDMENT TO TEMPORARY RULE

Substantive changes have been made to the pending rule.
Italicized text that is underscored is new text that is being added.
Italicized text that is ~~struck through~~ is codified temporary text that is being removed from the temporary rule. This is also an amendment to the pending rule text.

Only those Sections with changes are being reprinted in this docket.

The text of the temporary/proposed rule was published in the Idaho Administrative Bulletin, **Volume 08-1, January, 2008, pages 58 through 71.**

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF THE PENDING RULE AND
THE AMENDED TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 11-0403-0801

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal Racing Commission actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. ~~(1-1-08)F~~(1-1-08)T

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

- 01. Add-on.** When a person adds an additional license category to an existing license. (1-1-08)T
- 02. Admissions.** ~~A~~ racing association employee who collects admission money for entrance to the racetrack. ~~(1-1-08)F~~(1-1-08)T
- 03. Authorized Agent.** A person appointed by a written instrument signed and acknowledged before a notary public empowered to transact the business of a stable owner or horse breeder. (1-1-08)T
- 04. Apprentice Jockey.** A jockey who has not ridden a certain number of winners within a specified period of time. (1-1-08)T
- 05. Announcer.** A person employed by ~~a~~ racing association to announce during the running of the races. ~~(1-1-08)F~~(1-1-08)T
- 06. Assistant Starter.** The employee of ~~a~~ racing association who, under direct supervision of the starter, helps place the starting gate for a race, leads horses into the gate, helps jockeys and handles horses while in the gate until the start. ~~(1-1-08)F~~(1-1-08)T
- ~~**07. Association.** Any person licensed by the Commission to conduct live and simulcast pari-mutuel~~

- ~~wagering.~~ (1-1-08)T
- 087. Chart Person.** An official who compiles the statistical “picture” of a race which shows the position and margin of each horse at designated points of call during the race and other data. (1-1-08)T
- 098. Clerk of Scales.** The employee of a ~~an~~ *racine* association responsible for sequestering all jockeys each racing day, weighing all jockeys out and in from races, checking their assigned riding weights versus their actual weights, and reporting all changes. (~~1-1-08~~)T(~~1-1-08~~)T
- 102. Clocker.** A person who times workouts and races. (1-1-08)T
- 11. Commission.** ~~The Idaho State Racing Commission or its designee.~~ (~~1-1-08~~)T
- 120. Concessionaire.** A person that offers goods or services for sale to the public at a racetrack. (1-1-08)T
- 131. Concession Employee.** An employee of a concessionaire or a ~~an~~ *racine* association employee offering goods or services for sale to the public. (~~1-1-08~~)T(~~1-1-08~~)T
- 142. Duplicate.** Replacement license for a license that has been lost or destroyed. (1-1-08)T
- 153. Emergency Medical Technician.** An emergency responder trained and certified to provide emergency medical services to the critically ill and injured person. (1-1-08)T
- 164. Exercise Person.** A rider who exercises horses at a racetrack. (1-1-08)T
- 175. Groom.** A person hired by a trainer who cares for a horse at a racetrack. (1-1-08)T
- 186. Horsemen’s Bookkeeper.** A bonded *racine* association employee who manages the horsemen’s accounts which covers all monies due horseman in regards to purses, stakes, rewards, claims and deposits. (~~1-1-08~~)T(~~1-1-08~~)T
- 197. Identifier.** The employee of a ~~an~~ *racine* association who checks the lip tattoo, other identification, and markings of each horse as it enters the paddock to make sure the correct horses are running in the race. (~~1-1-08~~)T(~~1-1-08~~)T
- 2018. Jockey.** A professional rider licensed to ride in races. (1-1-08)T
- 219. Jockey Agent.** A person who helps a jockey obtain mounts in return for a portion of the jockey’s earnings. (1-1-08)T
- 220. Jocks Room Custodian.** A ~~an~~ *racine* association employee authorized to regulate the conduct of the jockeys, ensure good order is maintained, and monitors the jockeys. (~~1-1-08~~)T(~~1-1-08~~)T
- 231. Maintenance.** A ~~an~~ *racine* association employee hired to maintain the grounds and facility of the racetrack. (~~1-1-08~~)T(~~1-1-08~~)T
- 242. Medical Professional.** A doctor, physician’s assistant, or emergency medical technician licensed or certified in the state of Idaho. (1-1-08)T
- 253. Mutuel Employee.** A ~~an~~ *racine* association *employee* that accepts the patrons’ money and issues the betting ticket. (~~1-1-08~~)T(~~1-1-08~~)T
- 264. Office Personnel.** A ~~an~~ *racine* association employee who works in the office of the racetrack. (~~1-1-08~~)T(~~1-1-08~~)T
- 275. Official.** Persons licensed by the state to ensure the rules of racing are enforced. (1-1-08)T

- 286. Outrider.** The employee of a *rac*ing association who leads the post parade at a racetrack and gets the horses and jockeys to the starting gates on time. ~~(1-1-08)~~F(1-1-08)T
- 297. Owner.** The person that has legal title to, or has financial control of, a horse utilized for racing in Idaho. However, an interest in the winnings of a horse does not itself constitute ownership. (1-1-08)T
- 3028. Owner/Trainer.** An owner who conditions and prepares his own horse for racing, with the absolute responsibility to ensure the physical condition and eligibility of the race horse. (1-1-08)T
- 3129. Paddock Judge.** The employee of a *rac*ing association responsible for getting jockeys and horses in order to go to the starting gate; also checks the equipment used by each horse and supervises the saddling of the horses. ~~(1-1-08)~~F(1-1-08)T
- 320. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (1-1-08)T
- 331. Photographer.** A person who takes photographs of the winning horses in the winner's circle. (1-1-08)T
- 342. Plater.** A blacksmith who shoes horses at a racetrack. (1-1-08)T
- 353. Pony Person.** A person on horseback who accompanies a horse and jockey to the starting gate. (1-1-08)T
- 364. Racetrack.** The grounds and enclosures of any *rac*ing association where horse racing or pari-mutuel betting occurs under the authority and supervision of the *Racing* Commission. ~~(1-1-08)~~F(1-1-08)T
- 35. Racing Association.** *Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering.* (1-1-08)T
- 36. Racing Commission.** *Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee.* (1-1-08)T
- 37. Racing Secretary.** The employee of a *rac*ing association, who writes the conditions for the races, assigns the weights for handicap races, receives entries, conducts the draw, and is responsible for the operation and organization of the race office. ~~(1-1-08)~~F(1-1-08)T
- 38. Stable Name.** An assumed business name used by a person for his horse racing operation. (1-1-08)T
- 39. Stall Superintendent.** A *rac*ing association employee hired to assign applicants such stabling as deemed proper to be occupied by horses in preparation for racing and shall determine all conflicting claims to stable space. ~~(1-1-08)~~F(1-1-08)T
- 40. Starter.** The employee of a *rac*ing association responsible for dispatching the horses for a race. ~~(1-1-08)~~F(1-1-08)T
- 41. State Veterinarian.** A veterinarian employed by the *Racing* Commission to serve as professional adviser and consultant to the *Racing* Commission on veterinary matters including all regulatory aspects of the application and practice of veterinary medicine at racetracks. ~~(1-1-08)~~F(1-1-08)T
- 42. Steward.** A horse racing official who presides over a race meeting, has jurisdiction over all racing officials, rules on protests and claims of foul, and imposes fines and suspensions. (1-1-08)T
- 43. Tote Employee.** An employee of a company providing the automated pari-mutuel system that

dispenses and records betting tickets, calculates and displays odds and payoffs, and provides the mechanism for cashing winning tickets. (1-1-08)T

44. Track Superintendent. The employee of a racing association responsible for maintaining acceptable racing and training track conditions during a race meet. ~~(1-1-08)T~~(1-1-08)T

45. Track Security. A person responsible to provide security at a racetrack. (1-1-08)T

46. Trainer. The person who conditions and prepares a race horse for racing, with the absolute responsibility to ensure the physical condition and eligibility of the race horse. (1-1-08)T

47. Valet. A person who attends riders and keeps their wardrobe and equipment in order. (1-1-08)T

48. Veterinarian. A private veterinary practitioner employed by owners or trainers on an individual case or contract basis. (1-1-08)T

49. Vet Assistant. A person who assists a state veterinarian. (1-1-08)T

50. Video Employee. An employee hired by a photo/video provider to operate the equipment during the running of horse races for the benefit of the stewards and racetracks. (1-1-08)T

(BREAK IN CONTINUITY OF SECTIONS)

030. REFUSAL TO ISSUE LICENSE.

The Racing Commission may refuse to issue a license and may revoke any license already issued to any person:

~~(1-1-08)T~~(1-1-08)T

01. Convicted. Who has been convicted of any felony and whose civil rights have not yet been restored pursuant to Section 18-310(2), Idaho Code. (1-1-08)T

02. Felony Probation. Who is on probation, or parole for a conviction or withheld judgment for any felony. (1-1-08)T

03. Misrepresentation. Who has made any material misrepresentation or false statement to the Racing Commission or its agents in his application for license or otherwise, or who fails to answer any material question on any application for a license. ~~(1-1-08)T~~(1-1-08)T

04. Unqualified. Who is unqualified by age, skill, knowledge or ability to engage in the activities for which a license is required. (1-1-08)T

05. Ownership. Who fails to disclose the true ownership or interest in any or all horses as required by any application. (1-1-08)T

06. Ejection. Who is subject to exclusion or ejection from the racing enclosure or is within the classes of persons prohibited from participating in pari-mutuel wagering. (1-1-08)T

07. Conduct. Who has committed an act or acts demonstrating financial instability, intemperate habits or has a bad reputation for truth, honesty and integrity, or other similar conduct contrary to the best interest of racing. (1-1-08)T

08. Narcotics. Who has been convicted of possession, use, or sale of any narcotic, dangerous drug, or marijuana if such conviction was a misdemeanor, within two (2) years prior to the date of making application for any license. (1-1-08)T

09. Drug Probation. Who is on probation or parole for a conviction or withheld judgment for misdemeanor possession, use, or sale of any narcotic, dangerous drug, or marijuana. (1-1-08)T

10. Not Permitted. Who is not permitted by law or statute to engage in the occupation for which the license is sought. (1-1-08)T

11. Violated Rules. Who has violated or who aids or abets or conspires with any person to violate any provision of the Racing Commission rules or of Sections 54-2501 through 54-2516, Idaho Code. ~~(1-1-08)F~~(1-1-08)T

12. Age. No person under sixteen (16) years of age shall be issued a license by the Racing Commission with the exception that a person under sixteen (16) years of age may be licensed as a co-owner with a parent or guardian if the person under sixteen (16) years of age submits an Assumption of Liability form signed by the parent or guardian and notarized by a notary public. This co-ownership is not intended to allow an underage person access to any areas of the track facility. ~~(1-1-08)F~~(1-1-08)T

13. Deny or Revoke. The Racing Commission may deny a license to, or revoke the license of, any person who has had a license revoked or denied by any recognized jurisdiction. ~~(1-1-08)F~~(1-1-08)T

031. -- 0439. (RESERVED).

040. CRUELTY TO ANIMALS.

No licensee shall violate Title 25, Chapter 35, Idaho Code, "Cruelty to Animal," while on the grounds of a racing association. The stewards will be the sole judges of whether or not a violation of Title 25, Chapter 35, Idaho Code, has occurred on racing association grounds. The penalty for a first offense may include a fine or a suspension or both. A second violation within a calendar year will include a mandatory suspension, the length of which will be at the discretion of the stewards. (1-1-08)T

041. -- 049. (RESERVED).

050. FINGERPRINTS.

All persons between the ages of eighteen (18) and sixty-nine (69) applying for licensing pursuant to this chapter must submit to finger printing. ~~(1-1-08)F~~(1-1-08)T

01. Existing Licensees. Any person that currently holds a valid license from the Racing Commission shall be re-fingerprinted at least every five (5) years. ~~(1-1-08)F~~(1-1-08)T

02. New Applicants. Any person that applies for a license from the Racing Commission and is not currently licensed must be fingerprinted prior to a license being issued. ~~(1-1-08)F~~(1-1-08)T

03. Fees. There is a five dollar (\$5) fee for the finger printing and a ten dollar (\$10) fee for processing the finger prints. (1-1-08)T

051. -- 089. (RESERVED).

090. APPLICATIONS.

All application forms must be filled out completely and legibly. (1-1-08)T

01. Application Forms. All applications must be submitted to the Racing Commission on forms obtained from the Racing Commission. ~~(1-1-08)F~~(1-1-08)T

02. Other Forms. All other forms required to be submitted to the Racing Commission by this chapter must be of a type approved by the Racing Commission. ~~(1-1-08)F~~(1-1-08)T

03. Age. Applicants between sixteen (16) and eighteen (18) years of age are required to submit an Assumption of Liability Form signed by their guardian and notarized by a notary public. (1-1-08)T

091. -- 094. (RESERVED).

095. ADD-ON.

Any qualified person may add an additional license category to an existing license by paying the add-on fee unless: (1-1-08)T

01. Higher Fee. The fee for the category added is higher than the fee for the existing license category. (1-1-08)T

02. Additional License. If the fee for the license category that is requested is higher than the fee for the existing license category, the person must pay the Racing Commission the higher fee. ~~(1-1-08)T~~(1-1-08)T

096. DUPLICATE LICENSE.

The Racing Commission may issue a duplicate license in the event an existing license has been lost or destroyed. ~~(1-1-08)T~~(1-1-08)T

097. -- 099. (RESERVED).

100. ADMISSIONS LICENSE.

All persons applying for an admissions license must submit a completed application signed by a racing association. ~~(1-1-08)T~~(1-1-08)T

101. -- 109. (RESERVED).

~~**110. AUTHORIZED AGENT LICENSE.**~~

~~All persons applying for an authorized agent license must submit a completed application and a notarized authorized agent form. (1-1-08)T~~

~~**111. -- 119. (RESERVED).**~~

1210. APPRENTICE JOCKEY LICENSE.

All persons applying for an apprentice jockey license must submit a completed application signed by a steward and an apprentice jockey certificate signed by a licensed starter, two (2) licensed jockeys, a licensed outrider, and a steward. (1-1-08)T

~~**1211. -- 1219. (RESERVED).**~~

1320. ANNOUNCER LICENSE.

All persons applying for an announcer license must submit a completed application signed by a racing association. ~~(1-1-08)T~~(1-1-08)T

~~**1321. -- 1329. (RESERVED).**~~

1430. ASSISTANT STARTER LICENSE.

All persons applying for an assistant starter license must submit a completed application signed by a licensed starter. (1-1-08)T

~~**131. -- 139. (RESERVED).**~~

~~**140. AUTHORIZED AGENT LICENSE.**~~

~~All persons applying for an authorized agent license must submit a completed application and a notarized authorized agent form. (1-1-08)T~~

~~**01. Each Owner Represented.** A separate authorized agent form must be filed for each owner represented. (1-1-08)T~~

~~**02. Written Instrument.** A written instrument signed by the owner must accompany the application and must clearly set forth the delegated powers of the authorized agent. The owner's signature on the written instrument~~

must be acknowledged before a notary public.

(1-1-08)T

03. **Power of Attorney.** If the written instrument is a power of attorney, it must be filed with the Racing Commission and attached to the regular application form.

(1-1-08)T

04. **Changes.** Any changes must be made in writing and filed with the Racing Commission as described in Subsection 140.02 of these rules.

(1-1-08)T

05. **Termination.** The authorized agent's appointment may be terminated by the owner, in writing, acknowledged before a notary public and filed with the Racing Commission whereupon the license is no longer valid.

(1-1-08)T

141. -- 144. (RESERVED).

145. BAD CHECKS.

Any licensee who make, draw, order or deliver a check, draft or order for the payment of money to another Idaho licensee, Racing Association, Racing Commission or employee of said Association, Racing Association or Racing Commission, which check, draft or order for the payment of money is invalid on its face or non-negotiable, or there are not sufficient funds on deposit for full payment of such check, draft or order, may be subject to suspension or disciplinary action, or both, by the Racing Commission.

(1-1-08)T

146. - 149. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

170. CLOCKER LICENSE.

All persons applying for a clocker license must submit a completed application that is signed by a ~~an~~ racing association.

~~(1-1-08)T~~(1-1-08)T

171. -- 179. (RESERVED).

180. CLERK OF SCALES LICENSE.

All persons applying for a clerk of scales license must submit a completed application signed by a ~~an~~ racing association.

~~(1-1-08)T~~(1-1-08)T

181. -- 189. (RESERVED).

190. EMERGENCY MEDICAL TECHNICIAN LICENSE.

All persons applying for an emergency medical technician license must submit a completed application signed by a ~~an~~ racing association and a copy of Emergency Medical Technician Certification.

~~(1-1-08)T~~(1-1-08)T

(BREAK IN CONTINUITY OF SECTIONS)

220. HORSEMEN'S BOOKKEEPER LICENSE.

All persons applying for a horsemen's bookkeeper license must submit a completed application signed by a ~~an~~ racing association.

~~(1-1-08)T~~(1-1-08)T

221. -- 229. (RESERVED).

230. IDENTIFIER LICENSE.

All persons applying for an identifier license must submit a completed application signed by a ~~an~~ racing association.

~~(1-1-08)T~~(1-1-08)T

231. -- 239. (RESERVED).

240. JOCKEY LICENSE.

01. **Application for License.** All persons applying for a jockey license must submit a completed application and a current physical evaluation from a medical professional. ~~(1-1-08)F(1-1-08)T~~

~~02.~~ **First Time Licensed.** The application for a person that has not been previously licensed as a jockey in Idaho must be signed by a steward, ~~and~~ ~~(1-1-08)F(1-1-08)T~~

~~02.~~ **Physical.** ~~The application must be accompanied by a current physical evaluation from a medical professional.~~ ~~(1-1-08)F~~

241. -- 249. (RESERVED).

250. JOCKEY AGENT LICENSE.

All persons applying for a jockey agent license must submit a completed application and a list of *licensed* jockeys represented. Each jockey agent may represent no more than two (2) jockeys and one (1) apprentice jockey. ~~(1-1-08)F(1-1-08)T~~

251. -- 259. (RESERVED).

260. JOCKS ROOM CUSTODIAN LICENSE.

All persons applying for a jocks room custodian license must submit a completed application signed by a ~~an~~ *rac*ing association. ~~(1-1-08)F(1-1-08)T~~

261. -- 269. (RESERVED).

270. MAINTENANCE LICENSE.

All persons applying for a maintenance license must submit a completed application signed by a ~~an~~ *rac*ing association. ~~(1-1-08)F(1-1-08)T~~

271. -- 279. (RESERVED).

280. MUTUEL EMPLOYEE LICENSE.

All persons applying for a mutuel employee license must submit a completed application signed by a ~~an~~ *rac*ing association and be at least eighteen (18) years of age. ~~(1-1-08)F(1-1-08)T~~

281. -- 289. (RESERVED).

290. OFFICE PERSONNEL LICENSE.

All persons applying for an office personnel license must submit a completed application signed by a ~~an~~ *rac*ing association. ~~(1-1-08)F(1-1-08)T~~

291. -- 299. (RESERVED).

300. OFFICIAL LICENSE.

All persons applying for an official license must submit a completed application signed by a ~~an~~ *rac*ing association or *Racing e*Commission. ~~(1-1-08)F(1-1-08)T~~

(BREAK IN CONTINUITY OF SECTIONS)

320. OUTRIDER LICENSE.

All persons applying for an outrider license must submit a completed application signed by a ~~an~~ racing association.
(1-1-08)F(1-1-08)T

321. -- 329. (RESERVED).

330. OWNER LICENSE.

All persons applying for an owner license must submit a completed application. All persons listed on the registration papers must obtain an owners license. (1-1-08)T

01. Financial Responsibility. *If the Racing Commission has reason to doubt the financial responsibility of an applicant for an owner's license, the applicant may be required to complete a verified financial statement.* (1-1-08)T

02. Transfer of Horse Prohibited. *The Racing Commission may refuse, deny, suspend or revoke an owner's license for the spouse or member of the immediate family or household of a person ineligible to be licensed as an owner, unless there is a showing on the part of the applicant or licensed owner, and the Racing Commission determines that participation in racing will not permit a person to serve as a substitute for an ineligible person. The transfer of a horse to circumvent the intent of a Racing Commission rule or ruling is prohibited.* (1-1-08)T

03. Multiple Owners. *If the legal owner of any horse is a partnership, corporation, limited liability company, syndicate or other racing association or entity, each shareholder, member or partner must be licensed as an owner.* (1-1-08)T

04. Lease Agreements. *A horse may be raced under lease provided a completed breed registry or other lease form acceptable to the Racing Commission is attached to the certificate of registration and on file with the Racing Commission. The lessee must be licensed as a horse owner.* (1-1-08)T

331. -- 339. (RESERVED).

340. PADDOCK JUDGE LICENSE.

All persons applying for a paddock judge license must submit a completed application signed by a ~~an~~ racing association. (1-1-08)F(1-1-08)T

(BREAK IN CONTINUITY OF SECTIONS)

380. RACING SECRETARY LICENSE.

All persons applying for a racing secretary license must submit a completed application signed by a ~~an~~ racing association. (1-1-08)F(1-1-08)T

381. -- 389. (RESERVED).

390. STABLE NAME LICENSE.

All persons applying for a stable name license must submit a completed application which includes the identity or identities of the ownership interests involved in the horse racing operation. (1-1-08)T

01. Changes of Ownership. Any change in ownership of the horse racing stable must be reported immediately to and approved by the Racing Commission. (1-1-08)F(1-1-08)T

02. Trainer. A trainer who is licensed as an owner or part owner may use a stable name as owner or part owner. However, no trainer may be licensed as a trainer other than in his legal name. (1-1-08)T

391. STABLE NAME CHANGE.

01. Cancellation. Any person who has been granted a stable name license may at anytime cancel the

stable name license if written notice has been submitted to the Racing Commission and the Racing Commission approves the cancellation. ~~(1-1-08)F(1-1-08)T~~

02. Name Change. A stable name may be changed at anytime by canceling the existing stable name and submitting a new stable name application with the appropriate fee. (1-1-08)T

392. STABLE NAMES PROHIBITED.

No stable name may be: (1-1-08)T

01. Registered. Registered by any other person with a ~~an~~ racing association conducting a recognized meeting, or the Jockey Club (N.Y.) or with another racing authority; ~~(1-1-08)F(1-1-08)T~~

02. Real Name. The real name of any owner of race horses nor the real or assumed name of any prominent person not owning race horses; (1-1-08)T

03. Misleading. Misleading to the public or unbecoming to the sport; (1-1-08)T

04. Distinguishable. All stable names must be plainly distinguishable from all other licensed stable names. (1-1-08)T

05. One Name. No individual may license more than one (1) stable name. (1-1-08)T

393. -- 399. (RESERVED).

400. STALL SUPERINTENDANT LICENSE.

All persons applying for a stall superintendent license must submit a completed application signed by a ~~an~~ racing association. ~~(1-1-08)F(1-1-08)T~~

401. -- 409. (RESERVED).

410. STARTER LICENSE.

All persons applying for a starter license must submit a completed application signed by a ~~an~~ racing association. ~~(1-1-08)F(1-1-08)T~~

411. -- 419. (RESERVED).

420. STATE VETERINARIAN LICENSE.

All persons applying for a state veterinarian license must submit a completed application and have a signed contract on file in the Racing Commission office. ~~(1-1-08)F(1-1-08)T~~

421. -- 429. (RESERVED).

430. STEWARD LICENSE.

All persons applying for a steward license must meet the Stewards Qualifications, as set down in IDAPA 11.04.06, "Rules Governing Racing Officials," Section 050, and must submit a completed license application signed by the Racing Commission. ~~(1-1-08)F(1-1-08)T~~

(BREAK IN CONTINUITY OF SECTIONS)

450. TRACK SUPERINTENDENT LICENSE.

All persons applying for a track superintendent license must submit a completed application signed by a ~~an~~ racing association. ~~(1-1-08)F(1-1-08)T~~

(BREAK IN CONTINUITY OF SECTIONS)

470. TRAINER LICENSE.

All persons applying for a trainer license must submit a completed application. *A first time trainer licensee must:*
~~(1-1-08)F(1-1-08)T~~

01. First Time Licensed. All persons applying for a trainer license for the first time *in Idaho* must pass the trainer's test and have their application signed by a steward; or
~~(1-1-08)F(1-1-08)T~~

02. Valid License. Have a current valid trainers license from another recognized jurisdiction.
(1-1-08)T

471. -- 479. (RESERVED).

480. VALET LICENSE.

All persons applying for a valet license must submit a completed application signed by ~~an~~ racing association.
~~(1-1-08)F(1-1-08)T~~

(BREAK IN CONTINUITY OF SECTIONS)

600. LICENSE FEES.

All persons applying for licenses pursuant to this chapter must pay the Racing Commission the fee associated with the type of license being sought before any license will be issued.

LICENSE	FEE		LICENSE	FEE
Add-ons	- \$10		Official	- \$50
Admission	- \$15		Outrider	- \$25
Announcer	- \$25		Owner	- \$50
Apprentice Jockey	- \$50		Owner/Trainer	- \$65
Assistant Starter	- \$25		Paddock Judge	- \$25
Authorized Agent	- \$50		Photographer	- \$25
Chart Person	- \$25		Plater	- \$50
Clerk of Scales	- \$25		Pony Person	- \$25
Clocker	- \$25		Racing Secretary	- \$35
Concession Employee	- \$15		Stable Registration	- \$50
Concessionaire	- \$50		Stall Superintendent	- \$25
Duplicate	- \$10		Starter	- \$25
EMT	- \$25		State Veterinarian	- \$0
Exercise Person	- \$25		Steward	- \$50
Groom	- \$25		Tote Employee	- \$15
Horsemen's Bookkeeper	- \$35		Track Security	- \$25

LICENSE	FEE	LICENSE	FEE
Identifier	- \$25	Track Superintendent	- \$25
Jockey	- \$50	Trainer	- \$50
Jockey Agent	- \$50	Valet	- \$10
Jocks Room Custodian	- \$25	Veterinarian	- \$50
Maintenance	\$15	Vet Assistant	- \$15
Mutuel Employee	- \$15	Video Employee	- \$15
Office Personnel	- \$15		-

~~(1-1-08)F(1-1-08)T~~

(BREAK IN CONTINUITY OF SECTIONS)

999. MINOR VIOLATIONS.

Nothing in this chapter shall be construed as requiring the Racing Commission to begin enforcement proceedings on minor violations when the Racing Commission believes that the public interest will be best served by suitable warnings or other administrative action.

~~(1-1-08)F(1-1-08)T~~

IDAPA 11 - IDAHO STATE POLICE

11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 187 through 191.

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 this pending rule, contact Trish Christy at (208) 884-7253.

DATED this 23rd day of October, 2008.

Jeffrey J. Black
Executive Director
Idaho State Police/Peace Officer Standards and Training
700 S. Stratford Dr.
Meridian, ID 83642
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7251/(208) 884-7295 (FAX)

DOCKET NO. 11-1101-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-10, October 1, 2008, Book 1, pages 187 through 191.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 14 - BOARD OF REGISTRATION OF PROFESSIONAL GEOLOGISTS

14.01.01 - RULES OF PROCEDURE OF THE BOARD OF REGISTRATION OF PROFESSIONAL GEOLOGISTS

DOCKET NO. 14-0101-0801 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2808, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 278 through 283.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 54-2813 and 54-2814, Idaho Code:

Changes were made to General Provisions to remove the subsection for fees and to create Section 150 for fees currently being charged.

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: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 29th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 14-0101-0801 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 1, pages 278 through 283.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

**IDAPA 15 - OFFICE OF THE GOVERNOR
COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED**

15.02.02 - VOCATIONAL REHABILITATION SERVICES

DOCKET NO. 15-0202-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5407(e), Idaho Code, and the Rehabilitation Act of 1973, its 1998 amendments, and related federal regulations.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 284 through 287.

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 this pending rule, contact Nanna Hanchett, Rehab Services Chief, (208) 639-8354.

DATED this 23rd day of October, 2008.

Angela Jones, Administrator
Idaho Commission for the Blind and Visually Impaired
341 W. Washington St.
P. O. Box 83720
Boise, ID 83720-0012
Phone: (208) 334-3220
Fax: (208) 334-2963

DOCKET NO. 15-0202-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-10, October 1, 2008, Book 1, pages 284 through 287.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.14 - RULES GOVERNING THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

DOCKET NO. 16-0414-0801

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 1, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 56-202, Idaho Code, and 42 USC Sections 8621 to 8629, also known as the Low Income Home Energy Assistance Act of 1981.

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 December 17, 2008.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The federal agency that administers this energy program has increased the funds available for low-income home energy assistance. The availability of these increased funds will help low-income families with the high costs of heating their homes through the winter. Expanding this program will allow more families to benefit from this safety net by creating more economic stability through subsidizing their home heating costs.

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

With the increased funds for this program, more low-income families will benefit from this safety net by creating more economic stability through subsidizing their home heating costs.

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

This rulemaking has no fiscal impact to the state's general fund budget.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because these rules confer a benefit and are governed by federal regulations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Genie Sue Weppner at (208) 334-5656.

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 December 24, 2008.

DATED this 31st day of October, 2008.

Tamara Prisock
Department of Health and Welfare
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
DHWRules@dhw.idaho.gov e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0414-0801

151. INCOME ELIGIBILITY REQUIREMENTS.

Assistance under this program is limited to participant households with countable income at or below one hundred ~~thirty~~ ^{sixty} percent (1~~5~~⁶0%) of the Poverty Guidelines updated annually in the Federal Register by the US Department of Health and Human Services under the authority of 42 U.S.C. 9902(s), effective at the beginning of each program year. Participant households must provide proof of income for all members during the application process.

(~~3-15-02~~)(11-1-08)T

01. Income Not Counted. Income listed in Subsections 151.01.a. through 151.01.v. is not counted in determining LIHEAP eligibility or benefit level. All other income is counted in determining LIHEAP eligibility and benefit level. (3-15-02)

- a.** Benefit payments from Medicare Insurance. (4-5-00)
- b.** Private loans made to the participant or the household. (4-5-00)
- c.** Assets withdrawn from a personal bank account. (4-5-00)
- d.** Sale of real property, if the funds are reinvested within three (3) calendar months. (3-15-02)
- e.** Income tax refunds. (4-5-00)
- f.** Infrequent, irregular or unpredictable income from gifts or lottery winnings of less than thirty dollars (\$30) during the three (3) month period before application for LIHEAP. (4-5-00)
- g.** Wages or allowances for attendant care when the attendant resides in the household of the disabled member. (4-5-00)
- h.** Interest income of thirty dollars (\$30) or less received during the three (3) month period before application for LIHEAP. (4-5-00)
- i.** Legal fees or settlements from Workman's Compensation paid in a lump sum. (4-5-00)
- j.** Monies received for educational purposes from NSDL, College work-study programs, State Student Incentive grants, SEOG, Pell, Guaranteed Student Loans and Supplemental grants funded under Title IV, A-2. (3-15-02)
- k.** Monies from VA-GI Bill for Education. (4-5-00)
- l.** Department of Health and Welfare Adoption subsidies. (4-5-00)
- m.** Compensation provided volunteers in the Older American Act or Foster Grandparent Program, including Green Thumb and Vista volunteers, Title V Senior Employment Program. (4-5-00)
- n.** Third party payments made by a non-household member on behalf of the household. Third party payments include child care, energy assistance funds, shelter, food and clothing assistance. (4-5-00)
- o.** Value of food stamps or donated food to household. (4-5-00)
- p.** Utility allowance. (4-5-00)
- q.** TAFI lump sum payments. (3-15-02)

r. Tribal crop or land payments. (3-15-02)

s. AmeriCorps stipend. (3-15-02)

02. Income Received Monthly. To determine LIHEAP eligibility and benefit amount, when participant household income is received at least monthly, use the three (3) month's income prior to the date of application. (4-5-00)

03. Income Received Less Often Than Monthly. For household income received less often than monthly convert the income into a three (3) month amount: (4-5-00)

a. Multiply income received weekly by twelve and nine tenths (12.9). (4-5-00)

b. Multiply income received every two (2) weeks by six and forty-five hundredths (6.45). (4-5-00)

c. Multiply income received twice each month by six (6). (4-5-00)

04. Seasonal and Self-Employment Income. For households with seasonal or self-employment income divide the annual income by four (4). (4-5-00)

05. Treatment of Undocumented Resident Income. If a household includes eligible and ineligible undocumented resident participants, and one (1) or more of the ineligible participants had income during the reporting period, count the ineligible participants' income and exclude the undocumented resident from the household count. (3-15-02)

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.29 - RESTRICTIONS ON DISCRETIONARY CLAUSES IN HEALTH INSURANCE CONTRACTS

DOCKET NO. 18-0129-0801 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and Title 41, Chapters 13 and 18, Idaho Code.

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

The pending rule prohibits the use of discretionary clauses in some health insurance contracts. Discretionary clauses are clauses in insurance contracts that purport to give the insurer the sole discretion to determine an insured's eligibility for benefits under the insurance contract. In response to public comments, Section 010.05 of the pending rule has been changed from the proposed rule to exclude from the definition of "health insurance contract" any contract for group coverage offered by or through an employer. Therefore, the pending rule will not apply to group health plans offered to employees by or through their employer. In addition, Section 012 has been deleted in its entirety and references to lifetime maximum benefit limitations in Section 001 have been deleted from the pending rule due to possible conflicts with federal law as currently interpreted by federal agencies.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the July 2, 2008 Idaho Administrative Bulletin, Vol. 08-7, pages 55 through 58.

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: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Shad Priest, 208-334-4214.

DATED this 29th day of October, 2008.

William W. Deal, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

DOCKET NO. 18-0129-0801 - ADOPTION OF PENDING RULE

Substantive changes have been made to the pending rule.
Italicized text is new text that has been added to the pending rule.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-7, July 2, 2008, pages 55 through 58.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 18-0129-0801

Chapter Title

18.01.29 - RESTRICTIONS ON DISCRETIONARY CLAUSES IN HEALTH INSURANCE CONTRACTS

Section 001 (deleted text)

001. TITLE AND SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rule IDAPA 18.01.29, "Restrictions on Discretionary Clauses in Health Insurance Contracts". ()

02. Scope. This rule sets forth uniform requirements regarding the use of discretionary clauses to be followed by health carriers transacting insurance in Idaho. ()

Subsection 010.05

010. DEFINITIONS.

As used in this rule, the following terms shall have the following meanings. ()

05. Health Insurance Contract. "Health insurance contract" means any policy, contract, certificate, agreement, or other form or document providing, defining, or explaining coverage for health care services that is offered, delivered, issued for delivery, continued, or renewed in this state by a health carrier. *For purposes of this rule, "health insurance contract" does not include a contract for group coverage offered by or through an employer to its employees.* ()

Proposed Section 012 is being deleted, therefore renumbering proposed Section 013

012. EFFECTIVE DATE; EXISTING CONTRACTS; GROUNDS FOR DISAPPROVAL.

01. Effective Date of Rule. This rule is applicable to every health insurance contract that is issued or renewed on or after May 1, 2009. ()

02. Contract Compliance. A health insurance contract that was issued before the effective date of this rule shall be brought into compliance with this rule by the anniversary date or renewal date of the plan following the effective date of this rule. ()

03. Grounds for Disapproval. Any health insurance contract containing terms inconsistent with the provisions of this rule is misleading, inequitable and unfairly prejudicial to the policyholder and the insurance-buying public. In addition to any other sanction or remedy afforded by Title 41, Idaho Code, the use of provisions inconsistent with this rule in a health insurance contract shall be grounds for the director to disapprove the health insurance contract in accordance with Section 41-1813, Idaho Code. ()

Updated numbering creates new Reserved Section 013. -- 999.

013. -- 999. (RESERVED).

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.39 - REBATES AND ILLEGAL INDUCEMENTS IN TITLE INSURANCE BUSINESS

DOCKET NO. 18-0139-0801 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-1314, and 41-2708, 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:

It was determined in a hearing conducted before the Director of the Idaho Department of Insurance that Rule 18.01.39 as currently written goes beyond the scope of Idaho insurance statutes by prohibiting producers of title insurance from having a financial interest in a title entity. The current rule is being completely rewritten so as to conform with Idaho law. The purpose of this Rule is to supplement the provisions of Chapter 13 and Chapter 27, Title 41, Idaho Code, which pertain to illegal rebates and inducements in the insurance business, particularly in the title insurance business, to ensure that the consumers of title industry products and services have access to a viable and competitive marketplace by requiring that producers of title provide disclosure of a financial interest in a title entity to which they refer title insurance consumers.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Volume 08-10, page 116.

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: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dale Freeman (208) 334-4250.

DATED this 29th day of October, 2008.

William W. Deal, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
Boise ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

DOCKET NO. 18-0139-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, page 116.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.39 - REBATES AND ILLEGAL INDUCEMENTS IN TITLE INSURANCE BUSINESS

DOCKET NO. 18-0139-0802 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211, 41-1314, and 41-2708, 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:

It was determined in a hearing conducted before the Director of the Idaho Department of Insurance that Rule 18.01.39 as currently written goes beyond the scope of Idaho insurance statutes by prohibiting producers of title insurance from having a financial interest in a title entity. The current rule is being completely rewritten so as to conform with Idaho law. The purpose of this Rule is to supplement the provisions of Chapter 13 and Chapter 27, Title 41, Idaho Code, which pertain to illegal rebates and inducements in the insurance business, particularly in the title insurance business, to ensure that the consumers of title industry products and services have access to a viable and competitive marketplace by requiring that producers of title provide disclosure of a financial interest in a title entity to which they refer title insurance consumers.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Volume 08-10, pages 117 through 120.

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: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dale Freeman (208) 334-4250.

DATED this 29th day of October, 2008.

William W. Deal, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

DOCKET NO. 18-0139-0802 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 117 through 120.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.43 - CERTIFICATION OF FIRE CODE OFFICIALS
DOCKET NO. 18-0143-0801
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-254(4) and 41-255(6), 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:

HB 620 was passed during the 2008 legislative session which mandates the Fire Marshal to establish a rule for uniform training for all persons acting as assistants to the state fire marshal and a mechanism for continuing education.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Volume 08-10, pages 121 through 124.

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: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mark Larson at (208) 334-4271.

DATED this 29th day of October, 2008.

William W. Deal, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

DOCKET NO. 18-0143-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 121 through 124.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES

DOCKET NO. 18-0144-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 41-211 and 41-401, Idaho Code.

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

The proposed rulemaking amends IDAPA 18.01.44, "Schedule of Fees, Licenses and Miscellaneous Charges," to impose a filing fee for policy rates and forms submitted for filing in paper form. Insurers filing ten or fewer policy rates and forms per year will not be charged a fee; however, a fee of \$20 will be charged for each paper rate or form filed in excess of ten. The fee will not apply to any filings made electronically through the national System for Electronic Rates and Forms Filing (SERFF). The use of electronic filing provides conveniences to the insurer and eliminates the need for Department staff to convert paper forms to electronic format.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Volume 08-10, pages 125 through 128.

FEE SUMMARY: The rule imposes a fee of twenty dollars (\$20) per rate or form filed with the Department of Insurance in excess of ten (10) forms per year unless the rate or form is filed using the national System for Electronic Rates and Forms Filing. Section 41-401, Idaho Code, authorizes the Director of the Department of Insurance to adopt fees in accordance with the Administrative Procedures Act.

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: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Shad Priest at (208) 334-4214.

DATED this 29th day of October, 2008.

William W. Deal, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor

Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

DOCKET NO. 18-0144-0801 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-10, October 1, 2008, Book 2, pages 125 through 128.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.61 - CREDIT LIFE AND CREDIT DISABILITY INSURANCE
DOCKET NO. 18-0161-0801
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-2314, Idaho Code.

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

In 2003, Idaho adopted a model law governing licensing of insurance agents, now known as “producers.” The rule amended by this proposed rulemaking was never changed to conform to the model law. The proposed rule will correct obsolete code references and terminology, and remove inconsistencies with the current law. Changes are also made to conform the rule to Office of Administrative Rules standards.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Volume 08-10, pages 129 through 133.

FEE SUMMARY: There are no fees involved with this amendment.

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: No fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Genetti (208) 334-4340.

DATED this 29th day of October, 2008.

William W. Deal, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

DOCKET NO. 18-0161-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.
The complete text of the proposed rule was published in the Idaho Administrative Bulletin, **Volume 08-10, October 1, 2008, Book 2, pages 129 through 133.**
This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.73 - RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE AVAILABILITY ACT PLAN DESIGN

DOCKET NO. 18-0173-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211 and Title 41, Chapter 55, Idaho Code.

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

The proposed rule amends IDAPA 18.01.73, which sets forth the required benefits for health insurance products reinsured through the Idaho Individual High Risk Reinsurance Pool established pursuant to Chapter 55, Title 41, Idaho Code. The proposed changes include an increase in the lifetime maximum benefit for organ transplants from \$150,000 to \$250,000, a change to a section dealing with cosmetic surgery to make it consistent with the minimum requirements for individual health benefit plans established by IDAPA 18.01.30, some wording changes for consistency and clarity, and changes to conform the rule to Office of Administrative Rules guidelines.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Volume 08-10, pages 135 through 145.

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 this pending rule, contact Shad Priest at (208) 334-4214.

DATED this 29th day of October, 2008.

William W. Deal
Idaho Department of Insurance
700 W. State Street - 3rd Floor
Boise, Idaho 83720
Phone: (208) 334-4250
Fax: (208) 334-4398

DOCKET NO. 18-0173-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-10, October 1, 2008, Book 2, pages 135 through 145.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 21 - DIVISION OF VETERANS SERVICES

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

DOCKET NO. 21-0101-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 65-202, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 147 through 160.

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 this pending rule, contact Jim Adams, Administrative Support Manager, (208) 246-8770.

DATED this 23rd day of October, 2008.

David E. Brasuell, Administrator
Division of Veterans Services
320 Collins Road
Boise, ID 83702
Phone: (208) 334-351
Fax: (208) 334-2627

DOCKET NO. 21-0101-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 147 through 160.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 22 - BOARD OF MEDICINE

22.01.01 - RULES OF THE BOARD OF MEDICINE FOR THE LICENSURE TO PRACTICE MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY IN IDAHO

DOCKET NO. 22-0101-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1806 (2), (4) and (11) and 54-1806A, 54-1812, 54-1813, 54-1814 and 54-1841, 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:

Reasons for adopting the pending rule are to augment the existing language to include licensure by endorsement; a requirement for licensees to serve as panelists for the prelitigation consideration of medical malpractice claims; enumerate the amount of medical malpractice judgments or settlements to disclose; anticipate changes to the United States Medical Licensing Exam (USMLE) and clarify and update the rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 3, 2008, Idaho Administrative Bulletin, Vol. 08-9, pages 148 through 153.

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

The fee is imposed pursuant to Sections 54-1806 (11), 54-1808 and 54-1813, Idaho Code. However, there will be no increase in fees.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy M. Kerr, Executive Director, at (208) 327-7000.

DATED this 8th day of October, 2008.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Ste. 140

PO Box 83720
Boise, ID 83704 / 83720-0058
Phone: (208) 327-7000 Fax: (208) 327-7005

DOCKET NO. 22-0101-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-9, September 3, 2008, pages 148 through 153.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 22 - BOARD OF MEDICINE

22.01.03 - RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS

DOCKET NO. 22-0103-0801 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 54-1806 (2) and (11) and 54-1807 (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:

Reasons for adopting the pending rule are to augment the existing language to include application requirements and lawful presence in the United States; clarify the requirement to submit certification examination results; elucidate delivery of medication; broaden the fee schedules in anticipation of increasing real costs of administration; add a provision for volunteer licenses and clarify and update the rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 3, 2008 Idaho Administrative Bulletin, Vol. 08-9, pages 154 through 165.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee is being imposed pursuant to Sections 54-1806 (11) and 54-1807 (2), Idaho Code:

The fee schedule has been broadened, however, there will be no increase in the fees.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Nancy M. Kerr, Executive Director, at (208) 327-7000.

DATED this 8th day of October, 2008.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Ste. 140

PO Box 83720
Boise, ID 83704/83720-0058
Phone: (208) 327-7000 Fax: (208) 327-7005

DOCKET NO. 22-0103-0801 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-9, September 3, 2008, pages 154 through 165.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS

DOCKET NO. 24-0201-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-521, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 2, 2008 Idaho Administrative Bulletin, Vol. 08-7, pages 67 through 74.

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: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 16th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 24-0201-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-7, July 2, 2008, pages 67 through 74.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY

DOCKET NO. 24-0401-0801

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2008. This pending rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 54-821, Idaho Code.

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

The 2008 Legislature passed HB375 which allows the Board of Cosmetology to use a third party exam administrator to provide the examination and it deletes the requirement for students enrolling in licensed cosmetology school to register with the Board. These rules comply with the new law. This change also deletes the requirement that applicants pass a jurisprudence examination. They will need to certify they know the laws and rules and agree to abide by them. The change from the temporary and proposed rule is in Subsection 450.021. In order to be consistent the reference to the jurisprudence examination needed to be removed.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Board amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 161 through 168.

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 pending rule and the amendment to temporary rule, contact Cherie Simpson at (208) 334-3233.

DATED this 29th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83702
(208) 334-3233 phone (208) 334-3945 fax

**DOCKET NO. 24-0401-0801 - ADOPTION OF PENDING RULE
AND AMENDMENT TO TEMPORARY RULE**

Substantive changes have been made to the pending rule.
Italicized text that is underscored is new text that is being added.
Italicized text that is underscored and struck through is codified temporary text that is being removed from the temporary rule. This is also an amendment to the pending rule text.

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

The text of the temporary/proposed rule was published in the Idaho Administrative Bulletin, **Volume 08-10, October 1, 2008, Book 2, pages 161 through 168.**

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

**THE FOLLOWING IS THE TEXT OF THE AMENDED PENDING RULE
AND THE AMENDED TEXT OF THE TEMPORARY RULE FOR DOCKET 16-0301-0801**

Section 450

450. EXAMINATIONS - GENERAL (RULE 450).

Examination for licensure shall consist of both a practical and written examination for each of those disciplines included in Chapter 8, Title 54, Idaho Code. (5-3-03)

~~01. **Dates and Places.** (7-1-97)~~

~~a. *Examinations for licensure are to be held at the discretion of the Board.* (7-1-97)~~

~~b. *The dates and places of examination will be published annually.* (7-1-97)~~

~~021. **Written Examination.** *The written examination consists of two (2) parts: theory and Idaho jurisprudence.* (7-1-97)~~

~~a. *The Idaho jurisprudence examination will be a comprehensive written examination that will include Chapter 8, Title 54, Idaho Code and these rules.* (5-3-03)~~

~~b. *The theory written examination will be the national examination provided by the National Interstate Council of State Boards of Cosmetology (NIC).* (5-3-03)(7-1-08)I~~

~~032. **The Practical Examination.** *The practical examination will be the NIC examination specific to the discipline for which licensure is sought.* (5-3-03)~~

~~04. **Failure to Pass Examination.** (7-1-99)~~

~~a. *The practical examination is failed when an applicant obtains an average score below seventy-five percent (75%). Reexamination shall consist of the entire examination.* (7-1-98)~~

~~b. *Written examination is failed when the applicant obtains a score of below seventy-five percent (75%) on the national theory examination or the Idaho jurisprudence examination. Reexamination shall consist of the entire examination.* (4-2-08)~~

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.04.01 - RULES OF THE BOARD OF COSMETOLOGY

DOCKET NO. 24-0401-0802 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-821, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 169 through 174.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-818, Idaho Code:

This is a decrease in fees. Section 125 - Original license and annual renewal fees are being reduced from \$25 to \$20 for cosmetologist, haircutter, and nail technician; from \$30 to \$25 for instructor; from \$27 to \$20 for electrologist and esthetician; and the examination fee is being stricken.

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:

This fee change would reduce the cash balance in dedicated funds for this Board by approximately \$58,818 per year based on 11,792 licensees. There is no impact on removing the examination fee as the fee is paid directly to the test administrator.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 16th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses

1109 Main St., Ste. 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 24-0401-0802 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 169 through 174.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.07.01 - RULES OF THE IDAHO STATE BOARD OF LANDSCAPE ARCHITECTS

DOCKET NO. 24-0701-0801

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 10, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-3003, 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 December 17, 2008.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2008 Legislature approved a change to Section 004 for the CLARB model rules of professional conduct as amended February 2007. Subsection 425.01 was not updated at that time and has created a conflict of requirements. This change will protect public safety by removing the ambiguity and specifying the appropriate code of conduct.

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

The 2008 Legislature approved a change to subsection 004 for the CLARB model rules of professional conduct as amended February 2007. Subsection 425 was not updated at that time and has created a conflict of requirements. This change will protect public safety by removing the ambiguity and specifying the appropriate code of conduct.

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: None

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: None

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the change is necessary to remove ambiguity and specify appropriate code of conduct.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before December 24, 2008.

DATED this 31st day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., STE 220
Boise, ID 83702
(208) 334-3233 phone
(208) 334-3945 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0701-0801

425. RULES OF PROFESSIONAL RESPONSIBILITY (RULE 425).

01. Rules of Professional Responsibility. Pursuant to Section 004 of these rules, ~~the~~ CLARB model rules of professional conduct, as ~~amended September 2002~~ incorporated, are ~~hereby adopted as~~ the Rules of Professional Responsibility for all Idaho licensed landscape architects. ~~(3-20-04)~~(10-10-08)T

02. Violation of the Rules of Professional Responsibility. The Board will take action against a licensee under Section 54-3004(5), Idaho Code, who is found in violation of the Rules of Professional Responsibility. (3-20-04)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS

DOCKET NO. 24-0801-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1107, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 175 and 176.

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: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 16th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 24-0801-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 175 and 176.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS

DOCKET NO. 24-0801-0802 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-1107, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 177 and 178.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-818, Idaho Code.

Rule 500.08 needs to be stricken from the rules as it conflicts with 54-1115A, Idaho Code, which establishes the reinstatement fee at \$250.00.

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

The fee that has been charged is consistent with the law so deleting the rule results in no fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 16th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 24-0801-0802 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 177 and 178.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.11.01 - RULES OF THE STATE BOARD OF PODIATRY

DOCKET NO. 24-1101-0801 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-605, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 3, 2008 Idaho Administrative Bulletin, Vol. 08-9, pages 173 and 174.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-607, Idaho Code:

This change will increase the original license fee and annual renewal fee from \$300 to \$400 for the 75 licensees and approximately 5 new licenses per year. The statute caps annual renewal fees at \$400.

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:

This fee would have a positive impact on dedicated funds of approximately \$8000 based on 75 licensees and approximately 5 original licenses per year.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 16th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 24-1101-0801 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-9, September 3, 2008, pages 173 and 174.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.12.01 - RULES OF THE IDAHO STATE BOARD OF PSYCHOLOGIST EXAMINERS

DOCKET NO. 24-1201-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2305, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 179 through 188.

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: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 16th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 24-1201-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-10, October 1, 2008, Book 2, pages 179 through 188.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.13.01 - RULES OF THE PHYSICAL THERAPY LICENSURE BOARD

DOCKET NO. 24-1301-0801 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2206, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 3, 2008 Idaho Administrative Bulletin, Vol. 08-9, pages 175 and 176.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-2207, Idaho Code.

This is a decrease in fees. This change will reduce the license and annual renewal for Physical Therapist from \$65 to \$40 and Physical Therapist Assistant from \$45 to \$35. It will also reduce the reinstatement fee from \$35 to \$25 which is the set amount for the majority of our boards. The Board of Physical Therapy operates on fees paid by its licensees. This change would decrease the initial license fee, renewal fee, and reinstatement fee in an attempt to reduce the Board's cash balance.

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:

This fee change would reduce the cash balance in dedicated funds for this Board by approximately \$32,000 per year based on 1518 licensees.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 16th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 24-1301-0801 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-9, September 3, 2008, pages 175 and 176.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.14.01 - RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS

DOCKET NO. 24-1401-0801 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-3204, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 189 and 190.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-3209, Idaho Code.

Section 225 adds an inactive status as allowed by passage of H361 in the 2008 session. Section 300 increases fees for application, original license, and renewal fees by \$10; increases endorsement fee by \$5; and finally, establishes renewal fees for inactive status for Licensed Social Workers and Licensed Masters Social Worker at \$30 and Licensed Clinical Social Worker at \$35.

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:

This fee would have a positive impact on dedicated funds of approximately \$33,970 based on 2,997 licensees and approximately 400 applications per year. The fiscal impact to dedicated funds for inactive status would be dependant on how many people choose an inactive status over an active license or over not renewing.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 16th day of October, 2008.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220, Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 24-1401-0801 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 189 and 190.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.15.01 - RULES OF THE IDAHO LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

DOCKET NO. 24-1501-0801 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-3404, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 6, 2008 Idaho Administrative Bulletin, Vol. 08-8, pages 121 through 125.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-3411, Idaho Code:

The 2008 Legislature approved HB376 which creates a status for associate marriage and family therapists. A \$75 application fee and a \$75 original license fee is being added to the fee schedule to comply with the law which went into effect July 1, 2008. The fee is authorized in Section 54-3411, Idaho Code.

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 this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 16th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 24-1501-0801 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-8, August 6, 2008, pages 121 through 125.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.16.01 - RULES OF THE STATE BOARD OF DENTURITRY

DOCKET NO. 24-1601-0801 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-3309, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 3, 2008 Idaho Administrative Bulletin, Vol. 08-9, pages 177 and 178.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-3312, Idaho Code.

This change will increase the annual renewal fee from \$450 to \$600 for the licensees. The fee is authorized pursuant to Section 54-3312, Idaho Code.

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:

This fee would have a positive impact on dedicated funds of approximately \$4650 based on 31 licensees.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 16th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 24-1601-0801 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-9, September 3, 2008, pages 177 and 178.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD

DOCKET NO. 24-1801-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-4106, Idaho Code and Title XI, federal code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the May 7, 2008 Idaho Administrative Bulletin, Vol. 08-5, pages 58 and 59.

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: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 16th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 24-1801-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-5, May 7, 2008, pages 58 and 59.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.19.01 - RULES OF THE BOARD OF EXAMINERS OF RESIDENTIAL
CARE FACILITY ADMINISTRATORS

DOCKET NO. 24-1901-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-4205, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 6, 2008 Idaho Administrative Bulletin, Vol. 08-8, pages 126 and 127.

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: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 16th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 24-1901-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-8, August 6, 2008, pages 126 and 127.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.21.01 - RULES OF THE IDAHO STATE CONTRACTORS BOARD
DOCKET NO. 24-2101-0801
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-5207, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, page 191.

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: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 16th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 24-2101-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-10, October 1, 2008, Book 2, page 191.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.24.01 - RULES OF THE NATUROPATHIC MEDICAL EXAMINERS

DOCKET NO. 24-2401-0801 (NEW CHAPTER) (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-5109, Idaho Code.

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

The proposed rules provide contact information, definitions, an application process, requirements for license, fees, examination, renewal process, scope of practice, certification, and set standards for continuing education.

A public hearing was held October 15, 2008 and, on October 28, 2008, the Board met and considered all the written comments and testimony received regarding the proposed rules. One amendment is being made: Subsection 301.01 is being changed to clarify that the board, not the formulary council, will determine the number of hours and coursework required for intravenous therapy certification.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 192 through 197.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-5111, Idaho Code:

This board does not have rules in place. Fees are being established in rule.

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:

This board does not have rules in place. Fiscal impact would be dependant on the number of applications submitted to the Board. These fees are dedicated funds and used to administer the Board of Naturopathic Medical Examiners.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 30th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
(208) 334-3233 Ph. (208) 334-3945, fax

DOCKET NO. 24-2401-0801 - ADOPTION OF PENDING FEE RULE

Substantive changes have been made to the pending rule.
Italicized text is new text that has been added to the pending rule.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-10, October 1, 2008, Book 2, pages 192 through 197.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 24-2401-0801

Section 301

301. CERTIFICATION (RULE 301).

Intravenous therapy certification requires proof of completion of appropriate coursework and number of hours as determined by the *Board*. ()

IDAPA 25- OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-0801

NOTICE OF RULEMAKING - VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the proposed rulemaking previously initiated under this docket. The action is authorized pursuant to Sections 36-2107(b) and (d), Idaho Code.

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

This docket was inadvertently published in two consecutive Bulletins. This error was not discovered until after the second publication and, as a result, it is necessary to vacate one of these rulemakings. Because the rulemaking was republished in the November Bulletin, the deadline dates for the submission of written comments and the public hearing requests were extended. To avoid any confusion or procedural missteps, the Board is vacating Docket No. 25-0101-0801 that published in the October 1, 2008 Administrative Bulletin, Vol. No. 08-10, and the rulemaking initiated under Docket No. 25-0101-0802 replaces it. There are no substantive differences between the text of these two rule dockets.

Any comments received by the Board as a result of the publication of the Docket No 25-0101-0801 will become part of the rulemaking record of Docket No. 25-0101-0802 and will be recognized as a comment to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this vacation of proposed rule, contact Jake Howard, Executive Director, at (208) 327-7380 - FAX (208) 327-7382.

DATED this 3rd day of November, 2008.

Jake Howard
Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard, Suite 172
Boise, ID 83706
(208) 327-7380
FAX (208) 327-7382

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 37-2715, 37-2726(1), 54-1717, 54-1725(3), 54-1734, and 54-1753, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 3, 2008 Idaho Administrative Bulletin, Vol. 08-9, pages 179 through 187.

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 this pending rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

DATED this 29th day of October, 2008.

Mark D. Johnston, R.Ph.
Executive Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

DOCKET NO. 27-0101-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-9, September 1, 2008, pages 179 through 187.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1705(21) and 54-1717, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 3, 2008 Idaho Administrative Bulletin, Vol. 08-9, pages 188 through 192.

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 this pending rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

DATED this 29th day of October, 2008.

Mark D. Johnston, R.Ph.
Executive Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

DOCKET NO. 27-0101-0802 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-9, September 3, 2008, pages 188 through 192.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0804

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is September 3, 2008. This pending rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 37-2715 and 54-1717, Idaho Code.

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

The pending rule is being adopted and the temporary rule is being changed to clarify the rule by using the phrase "prescription drug order" rather than simply "prescription order," since "prescription drug order" is a statutorily defined phrase under Section 54-1705(29), Idaho Code.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Board amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 3, 2008 Idaho Administrative Bulletin, Vol. 08-9, page 197.

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 pending rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

DATED this 29th day of October 2008.

Mark D. Johnston, R.Ph.
Executive Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

DOCKET NO. 27-0101-0804 - ADOPTION OF PENDING RULE
AND AMENDMENT TO TEMPORARY RULE

Substantive changes have been made to the pending rule.
Italicized text that is *underscored* is new text that is being added.
Italicized text that is ~~*underscored and struck through*~~ is codified temporary text that is being removed from the temporary rule. This is also an amendment to the pending rule text.

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

The text of the temporary/proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-10, October 1, 2008, Book 1, pages 95 through 98.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEMPORARY RULE AND THE
AMENDED PENDING RULE TEXT FOR DOCKET 27-0101-0804

Section 458

458. ~~**TIME FOR FILLING EXPIRATION DATE: SCHEDULE II PRESCRIPTION DRUG ORDER.**~~

No ~~person shall fill a prescription for a controlled substance listed in Schedule II unless the prescription is tendered to him on or before the thirtieth day following the date of issue~~ drug order shall be filled more than ninety (90) days after the date the order was written. ~~(5-3-03)(9-3-08)T~~

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0806

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 37-2715 and 54-1717, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 222 and 223.

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 this pending rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

DATED this 29th day of October 2008.

Mark D. Johnston, R.Ph.
Executive Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

DOCKET NO. 27-0101-0806 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 222 and 223.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0807

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 37-2715 and 54-1717, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 224 through 228.

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 this pending rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

DATED this 29th day of October 2008.

Mark D. Johnston, R.Ph.
Executive Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

DOCKET NO. 27-0101-0807 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-10, October 1, 2008, Book 2, pages 224 through 228.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0808

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 37-2715 and 54-1717, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 229 through 237.

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 this pending rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

DATED this 29th day of October 2008.

Mark D. Johnston, R.Ph.
Executive Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

DOCKET NO. 27-0101-0808 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-10, October 1, 2008, Book 2, pages 229 through 237.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0809 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 37-2715 and 54-1717, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 238 and 239.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 37-2715, Idaho Code:

The proposed rulemaking amends IDAPA 27.01.01.404.07 to increase the annual license fee for wholesale distributors from \$100 to \$130.

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 this pending rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

DATED this 29th day of October, 2008.

Mark D. Johnston, R.Ph.
Executive Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

DOCKET NO. 27-0101-0809 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 238 and 239.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0101-0810

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1717, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 240 through 243.

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 this pending rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

DATED this 29th day of October 2008.

Mark D. Johnston, R.Ph.
Executive Director
Idaho Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720
Boise, ID 83720-0067
Phone: (208) 334-2356
Fax: (208) 334-3536

DOCKET NO. 27-0101-0810 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-10, October 1, 2008, Book 2, pages 240 through 243.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 29 - THE IDAHO POTATO COMMISSION

29.01.02 - RULES GOVERNING PAYMENT OF TAX AND USAGE OF CERTIFICATION MARKS AND TRADEMARKS

DOCKET NO. 29-0102-0801 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 22-1205 and 22-1207, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 4, 2008 Idaho Administrative Bulletin, Vol. 08-6, pages 73 through 76.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 22-1211, Idaho Code:

Section 22-1211, Idaho Code was amended by the 2007 Legislature and signed by the Governor to increase the potato tax by \$.05 per hundredweight. Following the review required by statute, the Idaho Potato Commission voted unanimously to authorize an increase of \$.025.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patrick J. Kole, VP Legal and Government Affairs, at (208) 334-2350.

DATED this 2nd of November, 2008.

Patrick J. Kole
VP Legal and Government Affairs
Idaho Potato Commission
661 S. Rivershore Lane, Suite 230
PO Box 1670
Eagle, Idaho, 83616
(208) 334-2350, (208) 334-2274 - fax

DOCKET NO. 29-0102-0801 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-6, June 4, 2008, pages 73 through 76.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.01.01 - RULES OF PROCEDURE OF THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-0101-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Public Utilities Commission and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Public Utilities Commission has adopted a pending rule. The action is authorized pursuant to Sections 61-205, 61-401, 61-404, and 61-601, Idaho Code.

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

There was only one comment filed in response to the proposed rule. The Commission Staff recommended that Rules 61 and 62 be amended to require that original documents filed with the Commission be submitted "unbound and unstapled." The Staff suggested that unbound documents will be easier to scan, copy and distribute. This suggestion is consistent with the proposed changes and the Commission adopted the recommended changes. All other pending rules are being adopted as proposed.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 250 through 266.

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 fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 30th day of October, 2008.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington St. (83702-5983)
PO Box 83720
Boise, ID 83720-0074
Tele: (208) 334-0338
FAX: (208) 334-3762

DOCKET NO. 31-0101-0801 - ADOPTION OF PENDING RULE

Substantive changes have been made to the pending rule.
Italicized text that is underscoring is new text that has been added to the pending rule.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, **Volume 08-10, October 1, 2008, Book 2, pages 250 through 266.**

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 31-0101-0801

Subsections 061.01.a.i., 061.01.a.ii., 061.01.b.i., and 061.01.c.i.

061. FILING DOCUMENTS WITH THE COMMISSION -- NUMBER OF COPIES -- DISCOVERY -- FACSIMILE TRANSMISSION (FAX) AND ELECTRONIC FILING (RULE 61).

The following numbers of documents ~~must~~ shall be filed with the Commission Secretary: (7-1-93)(____)

- 01. Printed Filings.** When filing printed material: (4-5-00)
 - a.** In utilities cases (other than those cases specified in Subsections 061.01.b. and 061.01.c. ~~below of this rule~~): (3-16-04)(____)
 - i.** Pleadings (applications, petitions, complaints, motions, answers and consent agreements)--an original (unbound and unstapled) and seven (7) copies. (7-1-93)(____)
 - ii.** Briefs, proposed orders, statements of position, and exceptions under Rule 312--~~eight (8)~~ an original (unbound and unstapled) and seven (7) copies. (4-5-00)(____)
 - b.** Security issuance cases: (4-5-00)
 - i.** Pleadings--an original (unbound and unstapled) and four (4) copies. (7-1-93)(____)
 - c.** Telecommunication interconnection agreements: (3-16-04)
 - i.** Pleadings--an original (unbound and unstapled) and three (3) copies. (3-16-04)(____)

New Subsection 062.04

062. FORM OF DOCUMENTS (RULE 62).

04. Original Documents. *All original documents filed with the Commission Secretary shall be unbound and unstapled. Copies of original documents may be bound or stapled.* (____)

IDAPA 33 - REAL ESTATE COMMISSION

33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 33-0101-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2007 and 54-2036(3), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 3, 2008 Idaho Administrative Bulletin, Vol. 08-09, pages 200 through 202.

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: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jeanne Jackson-Heim, (208) 334-3285.

DATED this 16th day of October, 2008.

Jeanne Jackson-Heim
Executive Director
Idaho Real Estate Commission
633 N. Fourth St., Boise, ID 83702
PO Box 83720, Boise, ID 83720
(208) 334-3285; (208) 334-2050 (fax)

DOCKET NO. 33-0101-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-9, September 3, 2008, pages 200 through 202.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 35 - STATE TAX COMMISSION

35.02.01 - TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-0802

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 1, 2008.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Sections 63-105 and 63-3039, Idaho Code.

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

Rule 500: Controversy over the nature of the State Tax Commission's authority to settle or compromise tax liabilities in appropriate cases demonstrates a need for an improved explanation of the grounds that the Commission considers when it receives settlement offers. The proposed rule addresses "settlements" rather than "compromises," defines "disputed liability," "doubt as to collectibility" and "economic hardship" based on language in Rev. Proc, 2003-71. The rule adds "promotion of effective tax administration" as an additional ground.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reason: it confers a benefit.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Ted Spangler at (208) 334-7544.

DATED this 30th day of October, 2008.

Ted Spangler
Deputy Attorney General
Idaho State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36, Boise, ID 83722-0410
(208) 334-7544

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0201-0802

500. ~~ADJUSTED OR COMPROMISED CASES — CLOSING AGREEMENTS~~ SETTLEMENTS (RULE 500).

Sections 63-3047 and 63-3048, Idaho Code. (3-20-97)

01. Grounds for ~~Compromise~~ Settlement. The Tax Commission may ~~compromise~~ settle the tax liability, penalties, or both, of a case if one (1) or more of the following circumstances exist: ~~(3-20-97)~~(11-1-08)T

a. ~~Doubt as to~~ Disputed liability. ~~(3-20-97)~~(11-1-08)T

i. A disputed liability exists where there is a reasonable disagreement as to the existence or amount of the correct tax liability under the law. A disputed liability does not exist where the liability has been established by a final court judgment concerning the existence of the liability. (11-1-08)T

ii. An offer to settle a disputed liability generally will be considered acceptable if it reasonably reflects the likelihood the Commission could expect to collect through litigation. This analysis includes consideration of the

hazards and costs of litigation that would be involved if the liability were litigated. The evaluation of the hazards and costs of litigation is not an exact science and is within the discretion of the Commission. (11-1-08)T

b. Doubt as to collectibility. ~~(3-20-97)~~(11-1-08)T

i. Doubt as to collectibility exists in any case where the taxpayer's assets and income may not satisfy the full amount of the liability. (11-1-08)T

ii. An offer to settle based on doubt as to collectability generally will be considered acceptable if it is unlikely that the tax, penalty, and interest can be collected in full and the offer reasonably reflects the amount the Commission could collect through other means, including administrative and judicial collection remedies. This amount is the reasonable collection potential of a case. In determining the reasonable collection potential of a case, the Commission will take into account the taxpayer's reasonable basic living expenses. In some cases, the Commission may accept an offer of less than the total reasonable collection potential of a case if there are special circumstances. (11-1-08)T

c. Extreme Economic hardship of the taxpayer. ~~(3-20-97)~~(11-1-08)T

i. The Commission may settle where it determines that, although collection in full could be achieved, collection of the full amount would cause the taxpayer economic hardship. Economic hardship is defined as the inability to pay reasonable basic living expenses. (11-1-08)T

ii. An offer to settle based on economic hardship generally will be considered acceptable when, even though the tax, penalty, and interest could be collected in full, the amount offered reflects the amount the Commission can collect without causing the taxpayer economic hardship. The determination to accept a particular amount will be based on the taxpayer's individual facts and circumstances. (11-1-08)T

d. Promotion of effective tax administration. (11-1-08)T

i. The Commission may settle to promote effective tax administration where compelling public policy or equity considerations identified by the taxpayer provide a sufficient basis for settling the liability that is equitable under the particular facts and circumstances of the case. Settlements pursuant to this paragraph will be justified only where, due to exceptional circumstances, collection of the full liability may undermine public confidence that the tax laws are being administered in a fair and equitable manner. The taxpayer will be expected to demonstrate circumstances that justify settlement even though a similarly situated taxpayer may have paid his liability in full. (11-1-08)T

ii. The State Tax Commission may decline a settlement for reasons promoting effective tax administration if the settlement of the liability would undermine compliance by taxpayers with the tax laws. (11-1-08)T

~~02. **Final Judgments.** *The Tax Commission may not compromise the tax liability if the liability has been established by a final judgment of a court, and no doubt exists as to the taxpayer's ability to pay or the state's ability to collect the amounts owing.*~~ ~~(3-20-97)~~

032. Agreement Final. A compromise settlement agreement relates to the issues agreed to for the tax periods in question. The agreement is final and conclusive and neither the Tax Commission nor the taxpayer shall be permitted to open the case again except in the case of changes to the federal return or a showing of fraud or malfeasance or misrepresentation of a material fact or as provided in the agreement. Recalculation of carryback or carryover items may not be construed as opening the case and will not affect the tax liability of a closed period or closed issue. ~~(3-20-97)~~(11-1-08)T

043. Form of ~~Compromise Settlement~~. The taxpayer must submit an offer ~~of compromise~~ to settle in writing. An offer may not be considered accepted until the taxpayer is notified in writing. Acceptance may be made only by a Tax Commissioner or an authorized delegate. If the offer is rejected, the Tax Commission shall promptly notify the taxpayer. ~~(3-30-07)~~(11-1-08)T

054. Withdrawal of Offer. A taxpayer may withdraw his offer ~~in compromise~~ to settle at any time prior to its acceptance by the Tax Commission. ~~(3-20-97)~~(11-1-08)T

IDAPA 37 - DEPARTMENT OF WATER RESOURCES

37.03.01 - ADJUDICATION RULES

DOCKET NO. 37-0301-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 42-1805(8), Idaho Code.

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

Rule change is necessary to make the rules consistent with 2006, 2007 and 2008 legislative amendments to Chapter 14, Title 42, Idaho Code, update outdated citations to Idaho Code, and reduce number of claim forms from two to one.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 409 through 425.

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

The rule change itself does not have a fiscal impact because the rule change simply makes the rules consistent with the new fee structure in Idaho Code 42-1414. Because the 2008 Legislature lowered the fees for filing a claim in an adjudication, this will result in a negative impact on the fees collected by IDWR's adjudication programs.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Don Shaff, Adjudication Bureau Chief at (208) 287-4800.

DATED this 22 day of October, 2008.

Donald V. Shaff
Adjudication Bureau Chief
Idaho Department of Water Resources
322 E. Front Street

PO Box 83720
Boise, Idaho 83720-0098
Ph: (208) 287-4800
Fax: (208) 287-6700

DOCKET NO. 37-0301-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 409 through 425.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 40 - IDAHO COMMISSION ON THE ARTS
40.01.01 - RULES OF THE IDAHO COMMISSION ON THE ARTS
DOCKET NO. 40-0101-0801
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5605, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 438 through 458.

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 this pending rule, contact Michael Faison, Executive Director, (208) 334-2119 x29.

DATED this 23rd day of October, 2008.

Michael Faison
Executive Director
Idaho Commission on the Arts
The Warden's Residence
2410 Old Penitentiary Rd. N.
Boise, ID 83712
Phone: (208) 334-2119 x29
Fax: (208) 334-2488

DOCKET NO. 40-0101-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 438 through 458.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 41 - PUBLIC HEALTH DISTRICTS

41.01.01 - RULES OF PUBLIC HEALTH DISTRICT #1

DOCKET NO. 41-0101-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective on July 1, 2009, unless prior to that date the rule is rejected by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-416, Idaho Code.

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

The Pending Rule is adopted to revise the septic system application restrictions to allow drainfields to be installed prior to the construction of the structure to be served. Upon review of the Proposed Rule by the Deputy Attorney General it was determined that addition of Subsection 100.08 was confusing and unnecessary. Only one sentence, Paragraph 100.08.b. was retained, and added to Subsection 100.07.b. The intent of the rule change remains the same but the revision eliminates potential confusion.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in Book 2 of the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 459 through 462.

FISCAL IMPACT: The proposed rule would not have a negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule contact, Dale Peck, Panhandle Health District, 8500 N. Atlas Road, Hayden, ID 83835; (208) 415-5210.

DATED this 29th day October, 2008.

Jeanne Bock, Director
Public Health District #1
8500 North Atlas Road
Hayden, ID 83835
Phone: (208) 415-5100
Fax (208) 415-5111

DOCKET NO. 41-0101-0801 - ADOPTION OF PENDING RULE

Substantive changes have been made to the pending rule.
Italicized text that is underscored is new text that has been added to the pending rule.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, **Volume 08-10, October 1, 2008, Book 2, pages 459 through 462.**

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 41-0101-0801

Subsection 100.07.b.

100. WATER QUALITY CONTROL.

07. Sewage and Waste Disposal. Authorization to Connect to an Installed System. (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. A drainfield that is installed, inspected and approved shall be valid to be connected to under the conditions of the original permit for which it was issued, for five (5) years from the date of permit application, provided that the site and its surroundings are not substantially modified.*~~ (3-27-07)(____)

Subsection 100.08 through Paragraph 100.08.b. has been removed

IDAPA 46 - BOARD OF VETERINARY MEDICAL EXAMINERS

46.01.01 - RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

DOCKET NO. 46-0101-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2105, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 463 through 470.

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 this pending rule, contact Karen Ewing, Executive Director, (208) 332-8588.

DATED this 23rd day of October, 2008.

Karen Ewing, Executive Director
Board of Veterinary Medicine
2270 Old Penitentiary Rd.
P. O. Box 7249
Boise, ID 83707
Phone: (208) 332-8588
Fax: (208) 334-2170

DOCKET NO. 46-0101-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 463 through 470.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 49 - CERTIFIED SHORTHAND REPORTERS

49.01.01 - RULES OF PROCEDURE OF THE IDAHO CERTIFIED SHORTHAND REPORTERS BOARD

DOCKET NO. 49-0101-0701

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-3107, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 475 and 476.

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: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 16th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., Ste. 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 49-0101-0701 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 475 and 476.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 49 - CERTIFIED SHORTHAND REPORTERS

49.01.01 - RULES OF PROCEDURE OF THE IDAHO CERTIFIED SHORTHAND REPORTERS BOARD

DOCKET NO. 49-0101-0801 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-3107, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 477 through 482.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-3110, Idaho Code:

The 2008 Legislature passed HB409 which set a fee cap in the law. The Board is now setting the fees in rule. This is consistent with other Boards served by the Bureau. These rules also allow the board to impose civil fines and recover costs and fees in disciplinary cases. This protects the public by giving the board additional tools for discipline and the ability to recover investigative and legal costs from the person in violation so costs are not passed onto the other licensees.

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:

Since the fees will remain the same, there will be no fiscal impact. There may be a small positive fiscal impact for the civil fines and costs and fees since the Board will be able to recover costs. Given the small number of disciplinary matters for this board, this impact will be minimal. However, any recovery of costs will help minimize future fee increases.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 16th day of October, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses

1109 Main St., Ste. 220
Boise, ID 83709
(208) 334-3233 (208) 334-3945

DOCKET NO. 49-0101-0801 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.
The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 477 through 482.
This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 52 - IDAHO STATE LOTTERY

52.01.03 - RULES GOVERNING OPERATIONS OF THE IDAHO STATE LOTTERY

DOCKET NO. 52-0103-0802 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 67-7408(1)(e) and (f), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 483 through 488.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 67-7408(1)(e) and (f), Idaho Code:

The cost recovery (convenience) fee will merely offset the charge incurred by the electronic payment provider for processing the transaction. The Lottery anticipates charging a nominal fee (plus or minus fifty cents (\$.50)), and an audit of actual fees incurred at each fiscal year end will determine whether an adjustment to the convenience fee, either up or down, is necessary.

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 this pending rule, contact Jeff Anderson, Director, (208) 334-2600.

DATED this 23rd day of October 2008.

Jeff Anderson, Director
Idaho State Lottery
1199 Shoreline Ln., Ste. 100
Boise, ID 83702
Phone: (208) 334-2600
Fax: (208) 334-2610

DOCKET NO. 52-0103-0802 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 483 through 488.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
THE POTLATCH RIVER SUBBASIN ASSESSMENT AND TMDLS (HUC 17060306)

DOCKET NO. 58-0000-0810
NOTICE OF FINAL DECISION

AUTHORITY: In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Potlatch River Total Maximum Daily Loads (TMDLs).

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Potlatch River TMDLs, a component of the Lower Clearwater River HUC. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Potlatch River TMDL (Hydrologic Unit Code 17060306) addresses twenty-one (21) assessment units (AUs) identified as impaired for nutrients on Idaho's 2002 303(d) list and two (2) unlisted but impaired AUs. DEQ completed TMDLs for all AU/pollutant combinations deemed water quality impaired. DEQ has submitted this TMDL document to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

AVAILABILITY OF THE TMDL: Electronic copy of the TMDL can be obtained at http://www.deq.idaho.gov/water/data_reports/surface_water/tmdls/potlatch_river/potlatch_river.cfm or by contacting Ms. Marti Bridges, TMDL Program Manager, 208-373-0382, marti.bridges@deq.idaho.gov.

Dated this 28th day of October, 2008.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0703

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Sixtieth Idaho Legislature unless prior to that date the rule is rejected by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, May 7, 2008, Vol. 08-5, pages 60 through 62. After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/air/58_0101_0703_pending.cfm or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT STATEMENT: 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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

Dated this 10th day of October, 2008.

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

DOCKET NO. 58-0101-0703 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-5, May 7, 2008, pages 60 through 62.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Sixtieth Idaho Legislature unless prior to that date the rule is rejected by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291. This rule was adopted as a temporary rule by the Board in March 2008 and is currently effective.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code, and House Bill 557 (codified at Section 39-114, Idaho Code).

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, April 2, 2008, Vol. 08-4, pages 28 through 34. After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/air/58_0101_0801_pending.cfm or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT STATEMENT: The adoption of this rule will have one time initial start-up expenses of \$186,700 as well as ongoing program costs estimated to be \$419,700 for a total impact of \$606,377 to the general fund for FY2009. All future receipts remitted to the state for field burning under this rule shall be transferred to the general fund to help with ongoing program costs. At this time, it is unknown how much funding will come from this dedicated source annually.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

Dated this 10th day of October, 2008.

Paula J. Wilson
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DOCKET NO. 58-0101-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-4, April 2, 2008, pages 28 through 34.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Sixtieth Idaho Legislature unless prior to that date the rule is rejected by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 6, 2008, Vol. 08-8, pages 144 through 149. After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/air/58_0101_0802_pending.cfm or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT STATEMENT: 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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440, martin.bauer@deq.idaho.gov.

Dated this 10th day of October, 2008.

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DOCKET NO. 58-0101-0802 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-8, August 6, 2008, pages 144 through 149.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS

DOCKET NO. 58-0102-0801

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 Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided at the end of this notice.

MEETING SCHEDULE: The negotiated rulemaking meeting will be held as follows. Additional meetings may be scheduled if necessary. For information regarding participation by telephone or scheduling of additional meetings, contact the undersigned. Requests to participate by telephone must be made by December 15, 2008.

WEDNESDAY - DECEMBER 17, 2008 - 9 a.m. to 12 NOON

**DEPARTMENT OF ENVIRONMENTAL QUALITY
Conference Room D
1410 N. Hilton, Boise, Idaho**

PRELIMINARY DRAFT: By December 3, 2008, a preliminary draft of the rule can be obtained at http://www.deq.idaho.gov/rules/water/58_0102_0801_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to protect human health from adverse effects of elevated arsenic (As) and protect sensitive aquatic life from cadmium (Cd) toxicity in low hardness waters. In the preliminary draft rule, the Department of Environmental Quality (DEQ) proposes to lower Idaho's arsenic (As) human health criteria from 50 ug/L to 10 ug/L and lower the low-end hardness cap used in calculation of cadmium (Cd) aquatic life criteria from 25 mg/L to 10mg/L or less (Section 210). In addition, DEQ proposes to make nonsubstantive revisions to portions of Section 210 identified as needing correction or clarification.

DEQ is also initiating this rulemaking in an effort to forestall pending legal action against the U.S. Environmental Protection Agency (EPA) that would force EPA to disapprove Idaho's As standard and require EPA to promulgate a federal rule to lower the As human health criteria applicable to Idaho waters. EPA is also prepared to disapprove Idaho's Cd standard to remove the low end hardness cap for calculating criteria. DEQ proposes to reduce the low end hardness cap for Cd from 25 mg/L to 10 mg/L or less. Idaho's current As human health criteria are also several times higher than EPA's recommendation for protecting human health.

The text of the rule will be drafted by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Anyone with an interest in the quality of surface water in Idaho may be interested in participating in this rulemaking. For As, those affected include Idahoans that eat fish caught from Idaho surface waters and dischargers of As to surface water. For Cd, those affected include those who enjoy or profit from healthy communities of aquatic life in, and dischargers of Cd to, Idaho's surface waters with hardness below 25 mg/L.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the spring of 2009.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

For those who cannot participate by attending the scheduled meeting, written comments may be submitted by mail, fax or e-mail at the address below. Written comments on the preliminary draft rule must be received by December 24, 2008. 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 31st day of October, 2008.

Paula J. Wilson
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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.03 - INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES

DOCKET NO. 58-0103-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule will become final and effective on July 1, 2009 unless prior to that date the rule is rejected by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 6, 2008, Vol. 08-8, pages 150 through 167. After consideration of public comments, the definition of "module" has been revised (Section 003). The remainder of the rule has been adopted as proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/subsurface/58_0103_0801_pending.cfm or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that the Department of Environmental Quality (DEQ) must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations. There is no federal law or regulation that is comparable to this rule. Therefore, the changes to the rule are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which "proposes to regulate an activity not regulated by the federal government." This proposed rule regulates an activity not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code. Information relating to Section 39-107D(2) has also been provided.

Section 39-107D(2), Idaho Code. To the degree that a department action is based on science, the department shall utilize (a) the best available peer reviewed science and supporting studies conducted in accordance with sound objective scientific practices, and (b) data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.

The requirements set forth in the rule are based on studies and analyses conducted by the health districts, the DEQ, the U.S. Environmental Protection Agency (EPA), and national wastewater organizations that indicate the requirements are protective of human health and the environment and reduce the risk of human exposure to sewage, wastewater effluent, and associated pathogens. The referenced studies and analyses will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects.

The rule, in particular the changes in rates of wastewater flow from single family dwellings, are expected to have both public health and environmental effects. The populations affected by the rule include applicants for individual septic system permits, system installers, single family dwellings on individual septic systems, users of nearby drinking water supply wells, and other users of down-gradient beneficial uses of ground water and surface water.

Section 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk.

The expected risk of exposure to sewage, wastewater effluent, and associated pathogens for the potentially affected populations listed above is reduced by addressing undersized septic system drainfields. The current rule wastewater flow estimates account for average flows from single family dwellings and were based on national studies conducted in the 1970s. This data, and the current rules, do not adequately take into account peak flows, were not based on usage data specific to Idaho, and do not accurately reflect household usage today. As a result, the current rules underestimate wastewater flow and have resulted in failing drainfields. Failed drainfields expose the affected populations described above to potential pathogens from open sewage and wastewater effluent.

The expected risk for contamination of ground water and surface water is also reduced. The increased flow estimates in the rule result in slightly larger drainfields for standard systems. The chance of drainfield failure is reduced by the larger drainfields. Hydraulic overloading of soils will be reduced by distributing the wastewater effluent over the larger drainfield, thereby reducing the risk of ground water contamination. Overland flow of sewage and wastewater effluent into surface water bodies will likewise be reduced by properly sizing drainfields.

Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty.

There is uncertainty inherent in the process of identifying wastewater flows from single family dwellings. For instance, usage may be highly variable from person to person, and the number of persons in a household is difficult to predict. The new flow rates introduce a peaking factor that accounts for peak flows expected at the system, thereby addressing this uncertainty. Using peak flows instead of average flows adds a margin of safety during normal flow conditions.

The estimation of wastewater flow rates in the current rule are based on average wastewater flows from national studies conducted in the 1970s. Prior to the collection of flow data in 2008, there was uncertainty as to how actual usage in Idaho compared to these national estimates. While some uncertainty remains, the 2008 Idaho-specific data provides more accuracy and reduces overall uncertainty inherent in estimating flows. Reducing uncertainty in the flow rates allows for the rule to more accurately size drainfields. Since the 2008 data indicates the current rule underestimate flows, the rule is expected to improve drainfield life and reduce early drainfield failure.

Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.

The requirements set forth in this rule are based upon studies and analyses conducted by the health districts, the DEQ, the EPA, and national wastewater organizations that indicate the requirements will reduce the risk of exposure to sewage, wastewater effluent, and associated pathogens for the populations listed above. The rule is also expected to more adequately protect ground water and surface water from contamination resulting from failed drainfields. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

FISCAL IMPACT STATEMENT: 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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact AJ Maupin at aj.maupin@deq.idaho.gov, (208)373-0167.

Dated this 10th day of October, 2008.

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DOCKET NO. 58-0103-0801 - ADOPTION OF PENDING RULE

Substantive changes have been made to the pending rule.
Italicized text is new text that has been added to the pending rule.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, **Volume 07-8, August 6, 2008, pages 150 through 167.**

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0103-0801

Subsection 003.23

003. DEFINITIONS.

For the purposes of these rules, the following definitions apply.

(5-7-93)

003.23

23. Module. A module shall consist of one (1) primary drainfield, one (1) secondary drainfield with a design flow equal to that of the primary drainfield, and one (1) replacement area in accordance with Subsection 004.06. The primary drainfield in any module may be designed for flows up to a maximum of ten thousand (10,000) gallons per day, and the module shall not receive more than ten thousand (10,000) gallons per day. ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Sixtieth Idaho Legislature unless prior to that date the rule is rejected by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 6, 2008, Vol. 08-8, pages 168 through 174. DEQ received no public comments, and the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/haz_waste/58_0105_0801_pending.cfm or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT STATEMENT: 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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact John Brueck, john.brueck@deq.idaho.gov, (208)373-0458.

Dated this 10th day of October, 2008.

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DOCKET NO. 58-0105-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-8, August 6, 2008, pages 168 through 174.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Sixtieth Idaho Legislature unless prior to that date the rule is rejected by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 6, 2008, Vol. 08-8, pages 175 through 274. After consideration of public comments, the rule has been revised at Sections 511, 514, 531, 542, 544, and 552. The remainder of the rule has been adopted as proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/drinking_water/58_0108_0801_pending.cfm or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in these rules. Therefore, the changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government.” The engineering standards for design, construction, and operation of public drinking water systems regulate activities that are not regulated by the federal government. These rules address the review and approval of plans and specifications for public drinking water systems and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. Therefore, Section 39-107D, Idaho Code, applies.

Section 39-107D(3), Idaho Code, provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. These rules include facility and design standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of public drinking water facilities. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility and design standards are based upon guidelines set forth in documents, such as the “Recommended Standards for Water Works” and the “American Water Works Association Standards,” that are generally accepted and used throughout the United States by engineers and state regulators.

FISCAL IMPACT STATEMENT: 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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Michael Stambulis at michael.stambulis@deq.idaho.gov, (208)373-0123.

Dated this 10th day of October, 2008.

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DOCKET NO. 58-0108-0801 - ADOPTION OF PENDING RULE

**Substantive changes have been made to the pending rule.
*Italicized text is new text that has been added to the pending rule.***

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-8, August 6, 2008 pages 175 through 274.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0108-0801

Subsection 511.04

511. FACILITY AND DESIGN STANDARDS: WELL PUMPS, DISCHARGE PIPING, AND APPURTENANCES.

04. Flow Meter and Check Valve. Unless otherwise approved by the Department, an instantaneous and totalizing flow meter equipped with nonvolatile memory shall be installed on the discharge line of each well. An accessible check valve, which is not located in the pump column, shall be installed in the discharge line of each well between the pump and the shut-off valve. Additional check valves shall be located in the pump column as necessary.
(3-30-07)(_____)

Subsection 514.02

514. FACILITY AND DESIGN STANDARDS: SPRING SOURCES.

Written approval by the Department is required before water from any new or reconstructed spring source may be served to the public. For new spring sources, the Department may require a site evaluation report as set forth for wells

in Section 510. Any supplier of water for a public water system served by one (1) or more springs shall ensure that the following requirements are met: (3-30-07)

02. Access to Spring Box. ~~A watertight and locking access port shall be provided. The~~ Each spring box access ~~port~~ shall be elevated at least twenty-four (24) inches above the top of the box or ~~covering sod the ground level,~~ whichever is higher. The actual height above the top of the box or the ground level must be sufficient to prevent incidental contamination from snow accumulation, storm water runoff or accumulation, irrigation water, or other potential sources of contamination. Each access shall be fitted with a solid water tight cover which overlaps a framed opening and extends down around the frame at least two (2) inches. The frame shall be at least four (4) inches high and shall have a locking device. (3-30-07)()

Subsection 531.02.k.iii.

531. FACILITY DESIGN STANDARDS: DESIGN STANDARDS FOR CHEMICAL APPLICATION.

02. Facility Design. (3-30-07)

k. Day tanks are subject to the requirements in Subsections 531.02.k.i. through 531.02.k.iv. For the purposes of Section 531, day tanks are defined as liquid chemical tanks holding no more than a thirty (30) hour chemical supply. ()

531.02.k.iii.

iii. Where feasible, secondary containment shall be provided so that chemicals from equipment failure, spillage, or accidental drainage of day tanks shall be fully contained. A common receiving basin may be provided for each group of compatible chemicals. The common receiving basin shall provide a secondary containment volume sufficient to hold the volume of the largest storage tank. If secondary containment is not feasible, day tanks shall be located and protective curbing provided so that chemicals from equipment failure, spillage, or accidental drainage of day tanks shall not enter the water in conduits, treatment, or storage basins. Secondary containment is not required for a day tank if an Idaho licensed professional engineer demonstrates to the Department that the chemical concentration and volume, if spilled, will not be a safety hazard to employees, will not be hazardous to the public health, and will not harm the environment. ()

Subsections 542.15, 542.15.a., and 542.15.b.

542. FACILITY AND DESIGN STANDARDS - DISTRIBUTION SYSTEM.

542.15

15. Air Valves. At high points in water mains where air can accumulate, provisions shall be made to remove the air by means of air release and vacuum relief valves or combination air release/vacuum relief valves. Air release valves, vacuum relief valves, or combination air release/vacuum relief valves may not be required if vacuum relief and air release functions in the pipeline can be adequately handled by approved appurtenances such as fire hydrants. ()

a. The open end of an air valve shall be extended to at least one (1) foot above grade and provided with a screened, downward-facing elbow. When the air vent on an air relief valve cannot be practically installed above ground, the vent may be below grade provided that the valve is manually operated and the air vent is extended to the top of the valve vault and provided with a screened, downward-facing elbow. In addition, for below ground

vents, the valve vault must be rated for appropriate traffic loading in traffic areas and the vault drained to daylight or provided with adequate drainage to prevent flooding of the vault. ()

b. Discharge piping from air relief valves or combination air release/vacuum relief valves shall not connect directly to any storm drain, storm sewer, or sanitary sewer. ()

Subsections 544.02.e., 544.07.a. through 544.07.c., and 544.08.d.

544. FACILITY AND DESIGN STANDARDS: GENERAL DESIGN OF FINISHED WATER STORAGE.
The materials and designs used for finished water storage structures shall provide stability and durability as well as protect the quality of the stored water. Finished water storage structures shall be designed to maintain water circulation and prevent water stagnation. Steel structures and facilities such as steel tanks, standpipes, reservoirs, and elevated tanks shall be designed and constructed in accordance with applicable AWWA Standards, incorporated by reference into these rules at Subsection 002.01. Other materials of construction are acceptable when properly designed to meet the requirements of Section 544. (3-30-07)()

02. Location. Storage facilities shall be located in a manner that protects against contamination, ensures structural stability, ~~and~~ protects against flooding, and provides year-round access by vehicles and equipment needed for repair and maintenance. (3-30-07)()

544.02.e.

e. Ground-level or above-ground storage structures or facilities shall be located a minimum of twenty (20) feet from the nearest property line and a minimum of twenty (20) feet from any potential source of contamination. ()

544.07

07. Access. Finished water storage structures shall be designed with reasonably convenient access to the interior for cleaning and maintenance. At least two (2) manholes shall be provided above the waterline at each water compartment where space permits. (3-30-07)

a. The following access requirements apply to ~~elevated~~ above-ground and ground-level storage structures: (3-30-07)

i. At least one (1) of the Each access manholes shall be framed at least a minimum of four (4) inches above the surface of the roof at the opening. The manholes shall be fitted with a solid water tight cover which overlaps the framed opening and extends down around the frame at least two (2) inches, shall be hinged on one side, and shall have a locking device. The actual height above the surface of the roof must be sufficient to prevent incidental contamination from snow accumulation, storm water runoff or accumulation, irrigation water, or other potential sources of contamination. (3-30-07)()

ii. All other manholes or access ways shall be bolted and gasketed according to the requirements of the reviewing authority, or shall meet the requirements of the Subsection 544.07.a.i. (3-30-07)

b. The following access requirements apply to ~~groundlevel,~~ partially buried or below-ground storage structures: Each access manhole shall be elevated a minimum of twenty-four (24) inches above the surface of the roof or the ground level, whichever is higher. The actual height above the surface of the roof or the ground level must be sufficient to prevent incidental contamination from snow accumulation, storm water runoff or accumulation, irrigation water, or other potential sources of contamination. (3-30-07)()

i. Each manhole shall be elevated at least twenty four (24) inches above the top of the tank or covering sod, whichever is higher. (3-30-07)

~~ii.c.~~ Each manhole shall be fitted with a solid water tight cover which overlaps a framed opening and extends down around the frame at least two (2) inches. The frame shall be at least four (4) inches high. Each cover shall be hinged on one side, and shall have a locking device. (3-30-07)

544.08.d.

08. Vents. Finished water storage structures shall be vented. The overflow pipe shall not be considered a vent. Open construction between the sidewall and roof is not permissible. Vents shall: (3-30-07)

d. On ground-level, partially buried, or below-ground structures, open downward with the opening at least twenty-four (24) inches above the roof or ~~at the ground level~~ and covered with twenty-four (24) mesh non-corrodible screen. The screen shall be installed within the pipe at a location least susceptible to vandalism. (3-30-07)()

Subsections 552.01.a. and 552.01.a.i.

552. FACILITY AND DESIGN STANDARDS: OPERATING CRITERIA FOR PUBLIC WATER SYSTEMS.

01. Quantity and Pressure Requirements. Design requirements regarding pressure analysis are found in Section 542.13. (12-1-92)()

a. Minimum ~~Quantity~~ Capacity. The capacity of a public drinking water system shall ~~in no instance be less than~~ be at least eight hundred (800) gallons per day per residence, ~~plus irrigation flows.~~ (5-3-03)()

i. The minimum capacity of eight hundred (800) gallons per day shall be the design maximum day demand rate exclusive of irrigation and fire flow requirements. ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Sixtieth Idaho Legislature unless prior to that date the rule is rejected by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 6, 2008, Vol. 08-8, pages 275 through 285. After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/drinking_water/58_0108_0802_pending.cfm or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FISCAL IMPACT STATEMENT: 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: This rule does not impact the state general fund because the drinking water program is funded by EPA grants and by dedicated fees paid by regulated water systems. The agency intends to address the impact of the increased workload required by this rule through redirection of existing staff, use of existing vacant positions, and/or through contracting. Together these strategies will add the equivalent of 1.4 full time persons to the drinking water program in approximately four years. DEQ is not requesting an increase in personnel as a result of adopting this rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Tom John at thomas.john@deq.idaho.gov, (208)373-0191.

Dated this 10th day of October, 2008.

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DOCKET NO. 58-0108-0802- ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-8, August 6, 2008, pages 275 through 285.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.11 - GROUND WATER QUALITY RULE

DOCKET NO. 58-0111-0801 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule will become final and effective on July 1, 2009 if the rule is approved by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107, 39-120, and 39-126, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 6, 2008, Vol. 08-8, pages 286 through 294. After consideration of public comments, the rule has been revised at Sections 007 and 401. The remainder of the rule has been adopted as proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/groundwater/58_0111_0801_pending.cfm or by contacting the undersigned.

FEE SUMMARY: This rule includes a requirement that applicants submit a \$2500 fee at the time the application is submitted to DEQ (Subsection 401.02.a.). Imposition of the fee is authorized by Section 39-119, Idaho Code.

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations. There is no federal law or regulation that is comparable to the Ground Water Quality Rule. Therefore, the changes to the rule are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which "proposes to regulate an activity not regulated by the federal government." This rule amends portions of the Ground Water Quality Rule that address mining activities. Mining activities are regulated by the federal government. The federal government, however, does not have a regulatory program that specifically sets standards to protect ground water quality and beneficial uses of ground water as the Ground Water Quality Rule does. For this reason, DEQ believes Section 39-107D is applicable and that the amendments to the rule describe aspects of mining activities not regulated by the federal government.

The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code. Information relating to Section 39-107D(2) has also been provided.

Section 39-107D(2)(a), Idaho Code. To the degree that a department action is based on science, the department shall utilize the best available peer reviewed science and supporting studies conducted in accordance with sound objective scientific practices.

The rule changes were initiated for clarification purposes rather than for reasons based on new scientific information. By clarifying the language in the Ground Water Quality Rule, DEQ is facilitating more efficient implementation of the Ground Water Quality Plan and the Ground Water Quality Rule thereby reducing the economic burden on the regulated community. Improved rules also allow the public to better understand the requirements imposed on the regulated community to protect human health and the environment. Thus, the changes to the rule describe an administrative process to determine the application of the Ground Water Quality Rule to mining activities. The administrative process requires the application of sound science and identifies the scientific factors that must be considered and analyzed by mining companies and DEQ when making decisions. DEQ has relied upon its experience, the experience of federal agencies, and input from mining companies and environmental organizations in drafting the changes to the rule.

Section 39-107D(2)(b), Idaho Code. To the degree that a department action is based on science, the department shall utilize data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.

This provision is not applicable because the rule changes are based on clarifying existing rule language. Please see explanation above.

Section 39-107D(3), Idaho Code. Any proposed rule subject to this section which proposes a standard necessary to protect human health and the environment shall also include in the rulemaking record requirements under chapter 52, title 67, Idaho Code, the following additional information:

- (a) Identification of each population or receptor addressed by an estimate of public health effects or environmental effects;
- (b) Identification of the expected risk or central estimate of risk for the specific population or receptor;
- (c) Identification of each appropriate upper bound or lower bound estimate of risk;
- (d) Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty; and
- (e) Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.

The changes to the rule set up an administrative process for DEQ to work with the mine operator and other interested persons to determine, on a site-specific basis, the application of the standards in the Ground Water Quality Rule in order to protect human health and the environment. This administrative process is not itself based upon any analysis of risk to specific populations or receptors, but rather sets out a process by which the risk to human health and the environment will be evaluated by DEQ as it reviews a specific mining site. Therefore, DEQ has no additional information relevant to this rulemaking pursuant to Section 39-107D(3).

FISCAL IMPACT STATEMENT: 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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Ed Hagan at ed.hagan@deq.idaho.gov, (208)373-0356.

Dated this 10th day of October, 2008.

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DOCKET NO. 58-0111-0801 - ADOPTION OF PENDING FEE RULE

**Substantive changes have been made to the pending rule.
*Italicized text is new text that has been added to the pending rule.***

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-8, August 6, 2008, pages 286 through 294.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0111-0801

Subsections 007.21 and 007.22

007. DEFINITIONS.

21. Mining Activity. Recovery of a mineral from mineral-bearing deposits, which includes reclamation, extraction, excavation, overburden placement, disposal of tailings resulting from processing, and disposal of mineral extraction wastes, including tailings that are the result of extraction, waste rock, and other extraction wastes uniquely associated with mining. ()

22. Mining Area. The area on or within which one (1) or more mining activities occur. The Department shall determine the boundaries of the mining area as provided in Section 401. Distinct mining activities may constitute separate mining areas. ()

Subsections 401.03, 401.04, and 401.05

401. MINING.

03. Setting the Point(s) of Compliance. The point(s) of compliance shall be set as close as possible to the boundary of the mining area, taking into consideration the relevant factors set forth in Subsections 401.03.a. through 401.03.h., but in no event shall the point(s) of compliance be within the boundary of the mining area. The mining area boundary means the outermost perimeter of the mining area (projected in the horizontal plane) as it would exist at the completion of the mining activity. The point(s) of compliance shall be set so that, outside the mining area boundary, there is no injury to current or projected future beneficial uses of ground water and there is no violation of water quality standards applicable to any interconnected surface waters. The Department's determination regarding the point(s) of compliance shall be based on an analysis and consideration of all relevant factors including, but not limited to: ()

04. Ground Water Monitoring and Reporting. The Department shall require ground water monitoring and reporting whenever the Department sets the point(s) of compliance. The Department shall not require ground water monitoring that duplicates ground water monitoring required by other state or federal agencies as long as the mine operator provides the data to the Department. ()

05. Coordination with Other State or Federal Agencies/Public Notice. Before setting the point(s) of compliance or requiring ground water monitoring, the Department shall coordinate with and seek recommendations from other state or federal agencies that have regulatory authority over the mining activities. The Department may provide public notice and an opportunity for public comment prior to setting or changing the point(s) of compliance. The Department shall issue a public notice after it sets the point(s) of compliance. ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.16 - WASTEWATER RULES

DOCKET NO. 58-0116-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Sixtieth Idaho Legislature unless prior to that date the rule is rejected by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 6, 2008, Vol. 08-8, pages 295 through 346. DEQ received no public comments; however, the definition of “reasonably accessible” has been revised for clarification purposes (Subsection 010.68). The remainder of the rule has been adopted as proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/wastewater/58_0116_0801_pending.cfm or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in the Wastewater Rules. Therefore, the changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government.” The Wastewater Rules address the review and approval of plans and specifications for sewage treatment plants and other waste treatment and disposal facilities and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. Therefore, Section 39-107D, Idaho Code, applies.

Section 39-107D(3), Idaho Code, provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. The Wastewater Rules include facility and design standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of wastewater systems. The rules are not based upon any express estimate or analysis of risk to public health or the environment. Instead, the facility and design standards are based upon guidelines set forth in documents, such as the “Recommended Standards for Wastewater Facilities”, that are generally accepted and used throughout the United States by engineers and state regulators.

FISCAL IMPACT STATEMENT: 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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Michael Stambulis at michael.stambulis@deq.idaho.gov, (208)373-0123.

Dated this 10th day of October, 2008.

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DOCKET NO. 58-0116-0801 - ADOPTION OF PENDING RULE

**Substantive changes have been made to the pending rule.
Italicized text is new text that has been added to the pending rule.**

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-8, August 6, 2008, pages 295 through 346.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0116-0801

Subsection 010.68

010. DEFINITIONS.

For the purpose of the rules contained in IDAPA 58.01.16, "Wastewater Rules," the following definitions apply:
(4-11-06)

68. Reasonably Accessible. The following criteria shall be used to determine whether a project proposing a new private municipal wastewater treatment plant, or a material modification or expansion of an existing private municipal wastewater treatment plant, is reasonably accessible to a public municipal wastewater collection system. ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.16 - WASTEWATER RULES

DOCKET NO. 58-0116-0802

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 Chapters 1 and 36, Title 39, Idaho Code.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided at the end of this notice.

MEETING SCHEDULE: The negotiated rulemaking meeting will be held as follows. Additional meetings may be scheduled if necessary. For information regarding participation by telephone or scheduling of additional meetings, contact the undersigned. Requests to participate by telephone must be made by December 12, 2008.

TUESDAY - DECEMBER 16, 2008 - 9 a.m. to 12 Noon

**DEPARTMENT OF ENVIRONMENTAL QUALITY
Conference Room D
1410 N. Hilton, Boise, Idaho**

PRELIMINARY DRAFT: By December 3, 2008, a preliminary draft of the rule can be obtained at http://www.deq.idaho.gov/rules/wastewater/58_0116_0802_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) has initiated this rulemaking to allow for the creation of a combined very small wastewater treatment and collection system license for communities with 500 connections or less. Operators struggle with obtaining the various licenses currently required for the different aspects of very small facility operation. This difficulty in obtaining more than one license results in there being too few properly licensed operators. This lack of properly licensed operators places the facilities in danger of being out of compliance with the rules that require they use the services of properly licensed operators. Smaller systems, due to their relative simplicity of operation, are good candidates for operation by individuals with combined licenses.

DEQ has received approval from the Governor's office for temporary adoption of the rule in order to confer the following benefits to the citizens of the state of Idaho:

1. The rule allows for the creation of a combined very small wastewater treatment and collection system license, thereby immediately reducing the licensure fee from \$90 a year to \$45 annually for small public wastewater systems.
2. It is expensive for small public wastewater systems to achieve compliance with the current wastewater licensure requirement. Adoption of a temporary rule will allow numerous small public wastewater systems the ability to quickly come into compliance by gathering and expending fewer funds.
3. The rule will reduce the number of noncompliant systems by making compliance with the licensure requirement less burdensome. DEQ and the Idaho Bureau of Occupational Licenses (IBOL) will achieve greater administrative efficiencies and expend fewer funds enforcing the requirement.
4. IBOL must, subsequent to this rule, promulgate a complementary rule in order to fully effectuate the benefit of a reduced licensure fee on small public wastewater system owners. Adoption of a temporary rule will allow for IBOL to act quickly to ensure the benefit is timely conferred.

The text of the rule will be drafted by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Cities, water and sewer districts, homeowner associations, private wastewater contractors, operators, the Association of Idaho Cities, the Idaho Rural Water Association, and the Pacific Northwest Clean Water Association - Idaho Sections (North Idaho, Southeast and Southwest Idaho Operator Sections) may be interested in participating in this rulemaking.

Upon conclusion of negotiations, DEQ intends to present a rule to the Board of Environmental Quality for temporary adoption at its February 2009 meeting. If adopted by the Board, DEQ will then publish the temporary rule and initiate proposed rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Ester Ceja at ester.ceja@deq.idaho.gov, (208)373-0585.

For those who cannot participate by attending the scheduled meeting, written comments may be submitted by mail, fax or e-mail at the address below. Written comments on the preliminary draft rule must be received by December 24, 2008. 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 31st day of October, 2008.

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

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

DOCKET NO. 58-0124-0801 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Sixtieth Idaho Legislature unless prior to that date the rule is rejected by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapters 1, 36, 44, 72 and 74, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 6, 2008, Vol. 08-8, pages 347 through 362. After consideration of public comments, the rule has been revised at Sections 400 and 600. The remainder of the rule has been adopted as proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/risk/58_0124_0801_pending.cfm or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations. There is no federal law or regulation that is comparable to the Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites. Therefore, this rule is not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which “proposes to regulate an activity not regulated by the federal government.” This rule does not propose to regulate an activity not regulated by the federal government. However, the rule does delineate a process that is not specifically delineated or required by the federal government. The following is a summary of additional information specified in Sections 39-107D(3) and (4), Idaho Code.

Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects.

This rule delineates a process to evaluate the human health risks resulting from exposure to chemicals associated with petroleum releases. It is not known prior to the release of petroleum at a specific site which potential populations or receptors may be exposed. During the initial conservative screening portion of the process, it is assumed that the target populations at risk are residential receptors and sensitive subpopulations such as children in day care facilities and schools, elderly residents of nursing homes and individuals with compromised health at hospitals. In subsequent steps in the risk evaluation process described in the rule, site-specific determination of current and likely potential future receptors can be made. For example, other types of receptors may include but are not limited to commercial/industrial and construction workers.

Section 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk.

This rule describes a procedure for risk evaluation at petroleum release sites and requirements, both general and specific, for the site-specific estimation of risk. In the initial step of the risk evaluation process described by this rule, a screening level approach is utilized. The screening levels are compared to site media-specific petroleum chemical concentrations to determine the need for further evaluation or corrective action.

The screening levels were calculated using target cancer and non-cancer health risks in combination with specific parameter values for each of the variables in the equations used to calculate acceptable concentrations. For some factors central estimate values were used while for other factors an upper bound estimate was selected. The screening levels can be characterized as representing upper bound estimates of risk for residential receptors for the routes of exposure evaluated.

The more detailed risk evaluation process described in the rule allows the incorporation of site-specific data and assumptions, such as the likely future land use and receptors, into the risk calculation. The requirements for site-specific risk evaluation described in this rule specify 1) the acceptable cumulative risk and hazard that should apply at all sites and 2) that calculated risks should represent a reasonable maximum exposure scenario.

Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty.

There are a number of uncertainties in the risk evaluation process described in the rule. These include uncertainty in the estimation of exposure for specific receptors or populations, as well as uncertainty in the magnitude of effects associated with a specific dose of a chemical. The estimation of exposure is based on both environmental transport pathways from a petroleum release to a receptor, as well as on physiological and behavioral characteristics of the receptor.

Examples of physiological characteristics include body weight and breathing rate. Behavioral characteristics include such things as how much time a receptor spends outdoors each day, and how long a receptor lives at one location. Within a population there is variability in physiological and behavioral characteristics; uncertainty results from lack of knowledge of the characteristics of current or future individuals who may be exposed to chemicals from a petroleum release. In the initial screening step of the risk evaluation process described in the rule, this uncertainty is addressed by utilizing values for these parameters from databases that are universally accepted in standard risk assessment practice. Many of the values selected for the screening step are upper-bound values from distributions in the databases, as the goal in this initial evaluation is to evaluate risk to residential and sensitive populations. In subsequent steps of the risk evaluation process, it is sometimes possible to collect site-specific data that can reduce uncertainty for a specific population. For example, there might be information available that allows a more accurate estimation of exposure frequency or duration, thereby reducing uncertainty for this population.

Uncertainty in environmental transport, such as the leaching of chemicals in soil to ground water, is related to the physical and chemical properties of the chemicals present in a petroleum release, as well as physical characteristics of the setting, such as depth to ground water. Parameter values from the scientific literature and accepted databases are utilized to assess environmental transport for the initial screening step of the process described in the rule. In the subsequent site-specific risk evaluation, collection of site-specific data is a powerful tool to reduce uncertainty, resulting in a better understanding of risks at the site.

Uncertainty in dose-response assessment is addressed by use of the best available toxicological data from databases which are universally recognized and accepted as part of standard risk assessment practice.

Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.

The referenced studies and analyses will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding health effects.

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FISCAL IMPACT STATEMENT: 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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Orville Green at orville.green@deq.idaho.gov, (208)373-0278 or Bruce Wicherski at bruce.wicherski@deq.idaho.gov, (208)373-0246.

Dated this 10th day of October, 2008.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
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DOCKET NO. 58-0124-0801 - ADOPTION OF PENDING RULE

Substantive changes have been made to the pending rule.
Italicized text is new text that has been added to the pending rule.

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 07-8, August 6, 2008, pages 347 through 362.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 58-0124-0801

Section 400

400. ESTABLISHMENT OF REMEDIATION STANDARDS.

If, as a result of the assessment and risk evaluation completed as described in Section 300, it is determined that corrective action is required, remediation standards shall be established. The remediation standards established in these rules shall be no more stringent than applicable or relevant and appropriate federal and state standards and are consistent with Section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. Section 9621) and Section 39-107D(2), Idaho Code, taking into consideration site specific conditions. These standards, *and any activity use limitations proposed for the site*, shall be established as part of a corrective action plan approved in writing by the Department. The standards may consist of the following. ()

Subsection 600.01.c.

600. ACTIVITY AND USE LIMITATIONS.

01. Purpose. The provisions of the Uniform Environmental Covenants Act (UECA), Chapter 30, Title 55, Idaho Code, may be utilized to create restrictions and/or obligations regarding activity and use to protect the integrity of a cleanup action and assure the continued protection of human health and the environment. Activity and use limitations shall be proposed as elements of a corrective action plan in at least the following circumstances: ()

c. Where off-site ground water concentrations exceed residential use screening levels or risk based concentrations; or ()

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.02 - ELIGIBILITY RULES OF PERSI

DOCKET NO. 59-0102-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, 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:

Amend rule 122.03 to clarify leave without pay status and to clarify that if an employee on leave without pay terminates employment without returning to work, the leave without pay status is negated.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 489 and 490.

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: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, PERSI, 287-9271.

DATED this 29th day of October, 2008.

Don Drum
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-287-9269
Fax: 208-334-3408

DOCKET NO. 59-0102-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-10, October 1, 2008, Book 2, pages 489 and 490.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.04 - DISABILITY RULES OF PERSI

DOCKET NO. 59-0104-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, 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:

Amend rule 100 to state that five (5) years of active service is required for disability eligibility and amend rule 101 to include reference to "general member".

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, page 491.

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: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna Guilfooy, PERSI, 287-9271.

DATED this 29th day of October, 2008.

Don Drum
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DOCKET NO. 59-0104-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-10, October 1, 2008, Book 2, page 491](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.05 - SEPARATION FROM SERVICE RULES FOR PERSI

DOCKET NO. 59-0105-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, 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:

Amend rule 125.04 to allow for rollovers from the base plan to a Roth IRA.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 492 and 493.

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: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, PERSI, 287-9271.

DATED this 29th day of October, 2008.

Don Drum
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DOCKET NO. 59-0105-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 08-10, October 1, 2008, Book 2, pages 492 and 493.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.05 - SEPARATION FROM SERVICE RULES FOR PERSI

DOCKET NO. 59-0105-0802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, 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:

Amend Rule 126 to reflect adoption of final federal regulations regarding required minimum distributions; add new rule 127 to allow for non-spouse beneficiary rollovers from the base plan to an IRA.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 494 and 495.

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

There is no negative fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, PERSI, 287-9271.

DATED this 29th day of October, 2008.

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DOCKET NO. 59-0105-0802 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 494 and 495.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.05 - SEPARATION FROM SERVICE RULES FOR PERSI

DOCKET NO. 59-0105-0803

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, 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:

Amend rule 100 to remove obsolete reference to the Optional Retirement Plan.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, page 496.

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

There is no negative fiscal impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, PERSI, 287-9271.

DATED this 29th day of October, 2008.

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DOCKET NO. 59-0105-0803 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, page 496.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.06 - RETIREMENT RULES OF PERSI

DOCKET NO. 59-0106-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, 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:

Amend rule 132 regarding the ability of an elected or appointed official to retire in place to replace “who is not a double employee” with “who is not an employee eligible with another employer”, which is consistent with the reference to rule 101 of the Eligibility Rules; amend rule 178 to provide that the actuarially adjusted defined benefit dollar limitation applicable to a participant retiring prior to age sixty-two (62) does not apply to a participant with at least fifteen (15) years credited police officer service.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 497 and 498.

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: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, PERSI, 287-9271.

DATED this 29th day of October, 2008.

Don Drum
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Public Employee Retirement System of Idaho
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DOCKET NO. 59-0106-0801 - ADOPTION OF PENDING RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 497 and 498.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2009 Idaho State Legislature for final adoption.

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 latest publication of the state Administrative Bulletin.

*The written comment deadline is December 24, 2008, unless otherwise listed.
(Temp & Prop) indicates the rule is both temporary and proposed.
**(*PH) indicates that a public hearing has been scheduled.*

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE PO Box 83720, Boise, ID 83720-0036

16-0414-0801, Rules Governing the Low Income Home Energy Assistance Program. (Temp & Prop) Expands this energy program to assist more low-income families with their home heating costs.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES 1109 Main St., Ste 220, Boise, ID 83702

24-0701-0801, Rules of the Idaho State Board of Landscape Architects. (Temp & Prop) Corrects the version date of the amended rules of responsibility that are incorporated by reference and referenced incorrectly in Subsection 425.01.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY 1410 N. Hilton, Boise, ID 83706-1255

****58-0101-0702, Rules for the Control of Air Pollution in Idaho.** (*PH) To avoid an ozone nonattainment designation by the U.S. EPA in the Treasure Valley, changes would reduce VOC (volatile organic compound) emissions through the installation and operation of Stage 1 vapor collection equipment which will reduce VOC emissions by over 1,000 tons per year. Comment by: 12/9/08.

THE FOLLOWING TEMPORARY RULE HAS BEEN ADOPTED:

IDAPA 35 - Idaho State Tax Commission

35-0201-0802, Tax Commission Administration and Enforcement Rules

NEGOTIATED RULEMAKING MEETINGS ARE SCHEDULED FOR THE FOLLOWING:

IDAPA 58 - Department of Environmental Quality

58-0102-0801, Water Quality Standards

58-0116-0802, Wastewater Rules

Please refer to the Idaho Administrative Bulletin, **December 3, 2008, Volume 08-12** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

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 the Administrative Rules Coordinator, 650 W. State St., Room 100, Boise, ID 83720-0306.

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