

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
08-5	May 2008	April 4, 2008	May 7, 2008	May 28, 2008
08-6	June 2008	May 2, 2008	June 4, 2008	June 25, 2008
08-7	July 2008	May 30, 2008	July 2, 2008	July 23, 2008
08-8	August 2008	July 3, 2008	August 6, 2008	August 27, 2008
08-9	September 2008	August 1, 2008	September 3, 2008	September 24, 2008
08-10	October 2008	**August 20, 2008	October 1, 2008	October 22, 2008
08-11	November 2008	October 3, 2008	November 5, 2008	November 26, 2008
08-12	December 2008	October 31, 2008	December 3, 2008	December 24, 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
09-5	May 2009	April 3, 2009	May 6, 2009	May 27, 2009
09-6	June 2009	May 1, 2009	June 3, 2009	June 24, 2009
09-7	July 2009	May 29, 2009	July 1, 2009	July 22, 2009
09-8	August 2009	July 3, 2009	August 5, 2009	August 26, 2009
09-9	September 2009	July 31, 2009	September 2, 2009	September 23, 2009
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. 2008-05

**REDUCTION OF GENERAL FUND SPENDING AUTHORITY
REPEALING AND REPLACING EXECUTIVE ORDER 2008-03**

WHEREAS, article 7, section 11, of the Idaho Constitution provides that except in extraordinary or emergency circumstances, expenditures of the state government shall not exceed its revenue; and

WHEREAS, I have determined that expenditures from the General Fund authorized by the Legislature for the current fiscal year will exceed anticipated state revenue;

NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state, and pursuant to Section 67-3512A do hereby order:

- 1) That Executive Order 2008-03, which imposed a one-percent (1%) holdback, is revoked;
- 2) That the General Fund spending authority on file in the Office of the State Controller, be reduced for all departments, offices and institutions of the state by four percent (4%) of their Fiscal Year 2009 General Fund Appropriation;
- 3) In addition to the 4% reduction in General Fund spending authority for Fiscal Year 2009 the Idaho Department of Parks and Recreation's General Fund appropriation is further reduced by \$150,000, which shall be taken from Park Housing, line item 9 in House Bill 614 as passed by the 2008 Idaho Legislature;
- 4) In addition to the 4% reduction in General Fund spending authority for Fiscal Year 2009 the State Department of Education's General Fund appropriation is further reduced by \$3,972,500, which shall be taken from the early math education program as provided in section 8 of House Bill 672 as passed by the 2008 Idaho Legislature;
- 5) The Idaho Department of Water Resources shall revert \$12,000,000 to the General Fund from the Aquifer Planning and Management Fund and the State Treasurer is hereby authorized to transfer this amount back to the State Controller;
- 6) The Permanent Building Fund shall revert \$5,645,200 to the General Fund from the one-time transfer authorized by the 2008 Idaho Legislature in Senate Bill 1498;
- 7) That each department, office and institution shall notify the Office of the State Controller and the Division of Financial Management of the Executive Office of the Governor of budget changes by December 8, 2008 according to the attachment made part of this Executive Order;
- 8) That elected State Constitutional officials are requested to reduce General Fund expenditures for the Fiscal Year 2009 to reflect the realities of the projected revenue shortfall without impairing the discharge of their constitutional duties; and
- 9) Officers of the legislative and judicial branches are requested to assess and evaluate a reduction in the General Fund expenditures for the Fiscal Year 2009 to reflect similar revenue shortfalls in the executive branch of state government.

This Order shall take effect immediately upon its execution and shall continue in effect until January 31, 2009, unless revoked or modified by the Governor, or until the Legislature or the Board of examiners takes further action.



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 1st day of December 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 02 - DEPARTMENT OF AGRICULTURE

02.01.04 - RULES GOVERNING THE IDAHO PREFERRED® PROMOTION PROGRAM

DOCKET NO. 02-0104-0801

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 Section 22-122, 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 changes will define product qualifications for lamb, pork, poultry and other meats not already defined in the existing rule. The rule is amended to reflect the current registration status of the logo. Approval for use of logo section will be amended to correct duplication concerning submission of samples.

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 16 through 19.

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 Laura Johnson, Section Manager at (208)332-8533 or Leah Clark, Trade Specialist at (208)332-8684.

DATED this 6th day of November, 2008.

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

DOCKET NO. 02-0104-0801 - 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 1, pages 16 through 19.

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 02 - DEPARTMENT OF AGRICULTURE

02.03.03 - RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-0801

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 22-122, 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 the Rules Governing Pesticide and Chemigation Use and Application to add a reference to the Code of Federal Regulations regarding pesticide containment requirements. Changes to the Code of Federal Regulations now require inspections of pesticide producing establishments, pesticide dealers and professional applicators to ensure that they are in compliance with federal pesticide containment requirements. This addition will allow the inspections to be completed with state credentials and reviewed by state officials. Pre-registration requirements for unusable pesticide collections are no longer required and will be deleted. Amend IDAPA 02.03.03.100.02 to change the word "they" to "that".

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 15 through 22.

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 George Robinson, AG Section Manager at (208)332-8593.

DATED this 6th day of November, 2008.

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

DOCKET NO. 02-0303-0801 - 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 08-8, August 6, 2008, pages 15 through 22.
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 02 - IDAHO DEPARTMENT OF AGRICULTURE

02.04.03 - RULES GOVERNING ANIMAL INDUSTRY

DOCKET NO. 02-0403-0801

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 25-207, 25-210, and 25-212, 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:

Idaho's equine industry has expressed a desire for ISDA to place Equine Viral Arteritis (EVA), a viral disease of equids (horses, mules, asses) on the State Veterinarian's Reportable Disease List in order to have clear authority to prevent and control the disease. EVA causes abortions in mares and creates a carrier state in stallions. The USDA's EVA Uniform Methods and Rules will be incorporated by reference. Other incorporated reference documents are updated to the latest versions. A new form of equine herpes virus was added to USDA's list of notifiable diseases and needs to be added to Idaho's notifiable disease list to enable the Division of Animal Industries to monitor and report an occurrence in the state. The rule also adds ponies and zebras to the definition of equidae.

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 21 through 25.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Bill Barton, Administrator, at (208) 332-8540.

DATED this 14th day of November, 2008.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, ID 83701-0790
(208) 332-8500, Fax (208) 334-4062

DOCKET NO. 02-0403-0801 - 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 21 through 25.

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 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS
DOCKET NO. 02-0421-0801
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 25-207, Idaho Code.

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

This rule updates and clarified the import requirements for Canadian cattle and bison imported into Idaho, including individual animal identification, CAN branding, and import permit requirements.

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 26 and 27.

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 impact to the general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Bill Barton, Administrator, at (208) 332-8540.

DATED this 6th day of November, 2008.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, ID 83701-0790
(208) 332-8500, Fax (208) 334-4062

DOCKET NO. 02-0421-0801 - 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 26 and 27.

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 02 - IDAHO DEPARTMENT OF AGRICULTURE
02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS
DOCKET NO. 02-0421-0802
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 Section 25-207, 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:

Idaho's equine industry has expressed a desire for importation rules pertaining to Equine Viral Arteritis (EVA), a viral disease of equids (horses, mules, asses). EVA causes abortions in mares and creates a carrier state in stallions. Additionally, the USDA's EVA Uniform Methods and Rules are incorporated by reference to outline biosecurity procedures for the disease. Other incorporated reference documents are updated to the latest versions. A typographical error is corrected in Section 211 and Subsection 240.05. A method of genetic purity verification is added to the options for imported domestic cervidae. Additional documents for certification of the health of imported fish are added to the fish importation requirements. A terminology correction is made in Section 800 pertaining to the USDA biologics licensing program.

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 28 through 33.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Bill Barton, Administrator, at (208) 332-8540.

DATED this 14th day of November, 2008.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, ID 83701-0790
(208) 332-8500, Fax (208) 334-2170

DOCKET NO. 02-0421-0802 - 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 28 through 33.
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 02 – IDAHO DEPARTMENT OF AGRICULTURE
02.04.27 - RULES GOVERNING DELETERIOUS EXOTIC ANIMALS
DOCKET NO. 02-0427-0801
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 25-3902, 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 clarifies the Idaho State Department of Agriculture's criteria and requirements for the possession and importation of deleterious exotic animals in the State of Idaho. The amendments to the Rules include the addition of definitions, requirements for obtaining permits, standards for construction of confinement areas, identification requirements, and recordkeeping requirements. The rulemaking amends the list of Deleterious Exotic Animals, contained within the Rules.

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 34 through 47.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Bill Barton, Administrator, at (208) 332-8540.

DATED this 13th day of November, 2008.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, ID 83701-0790
(208) 332-8500, Fax (208) 334-4062

DOCKET NO. 02-0427-0801 - 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 34 through 47.](#)

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 02 - DEPARTMENT OF AGRICULTURE

02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

DOCKET NO. 02-0602-0801

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 25-2724, Idaho Code.

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

This change updates the incorporation by reference section to reflect the 2009 edition of the Official Publication of the Association of American Feed Control Officials (AAFCO) usually published in January or February of each year. This is a standard reference manual for feed control officials for the registration of animal feeds. It provides for consistency in the definition of feed ingredients and registration policies concerning feeds between states and the U.S. Food and Drug Administration when feeds are being registered.

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 23 and 24.

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 with the adoption of this rule change. This is a dedicated fund program.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620.

DATED this 6th day of November, 2008.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

DOCKET NO. 02-0602-0801 - 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 23 and 24.

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 02 - DEPARTMENT OF AGRICULTURE
02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW
DOCKET NO. 02-0612-0801
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 22-604, Idaho Code.

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

This change updates the incorporation by reference section to reflect the 2009 edition of the Official Publication of the Association of American Plant Food Control Officials (AAPFCO) usually published in January or February of each year. These are standard reference manuals for fertilizer control officials for the registration of fertilizers. They provide for consistency in the definitions of chemicals, fertilizer ingredients, terms, and policies concerning fertilizer registration between states.

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 25 and 26.

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 with the adoption of this rule change. This is a dedicated fund program.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620.

DATED this 6th day of November, 2008.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

DOCKET NO. 02-0612-0801 - 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 25 and 26.
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 02 - DEPARTMENT OF AGRICULTURE

02.06.18 - RULES GOVERNING MINT ROOTSTOCK AND CLONE PRODUCTION

DOCKET NO. 02-0618-0801 (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 22-702 and 22-2006, 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 Mint Commission and industry representatives have requested that the Department change the time frame for the field inspections and triple the inspection rate from every 30 rows to every 10 rows to provide better assurance that regulated pests and diseases are not present.

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 27 through 31.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 67-5226(2), Idaho Code:

The per acre inspection fee was increased from \$5 to \$15 per acre due to the increased amount of time that is necessary to conduct inspections under the new time frame and procedures. Expected income will be an additional \$5,400 from the fee increase.

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 is a dedicated fund program and will not impact the General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620 or Garry West, Program Manager at (208) 736-2195.

DATED this 6th day of November, 2008.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road

P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500, Fax: (208) 334-2170

DOCKET NO. 02-0618-0801 - 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 27 through 31.

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 02 - DEPARTMENT OF AGRICULTURE

02.06.31- NOXIOUS WEED FREE FORAGE AND STRAW CERTIFICATION RULES

DOCKET NO. 02-0631-0801

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 22-2403, 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:

ISDA is a member of the North American Weed Management Association (NAWMA). NAWMA has Noxious Weed Free Forage and Straw inspection standards. ISDA successfully incorporated the NAWMA noxious weed free forage and straw inspection standards into IDAPA 02.06.31 on 3-21-07. On 9-24-07, NAWMA voted to change the certification marking, from special blue and orange colored twine to special purple and yellow colored twine. ISDA must now amend its rules to follow the national standard.

The majority of Idaho producers will be forced to mark noxious weed free bales with bale tags rather than certified twine. The certification twine is preferred by Idaho growers because it saves them time and money over manually attaching bale tags to each bale.

An Idaho manufacturer of twice-compressed forage bales has asked ISDA to revise the section pertaining to the specifications of the compressed forage bale binding material. As it is currently written, the specifications are technically not possible. This revision will benefit the hay manufacturer and any others that choose to participate the same way it benefits the growers that use certified twine, less time and money is spent to mark products certified. The manufacturer has stated that without the revision, he can't afford the labor (he did this for one season) to manually attach the certification tags. This revision will also benefit the consumer, because conventional bales of noxious weed free forage and straw are typically only available in the late summer and fall. The certified compressed forage bales will be available year round in retail feed stores.

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 32 through 41.

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 Dan Safford, Noxious Weed Program Specialist at (208) 332-8592.

DATED this 6th day of November, 2008.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500, Fax: (208) 334-2170

DOCKET NO. 02-0631-0801 - 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 32 through 41.](#)

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 02 - DEPARTMENT OF AGRICULTURE

02.06.41 - RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

DOCKET NO. 02-0641-0801

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 22-2204, Idaho Code.

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

This change updates the incorporation by reference section to reflect the 2009 edition of the Official Publication of the Association of American Plant Food Control Officials (AAPFCO) usually published in January or February of each year. These are standard reference manuals for fertilizer control officials for the registration of soil and plant amendments. They provide for consistency in the definitions of chemicals, soil and plant amendment ingredients, terms and policies concerning soil and plant amendment registration between states.

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 42 and 43.

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 Michael E. Cooper, Bureau Chief at (208) 332-8620.

DATED this 6th day of November, 2008.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8500
Fax: (208) 334-2170

DOCKET NO. 02-0641-0801 - 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 42 and 43.

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 08 - STATE BOARD OF EDUCATION

08.01.04 - RULES GOVERNING RESIDENCY CLASSIFICATION

DOCKET NO. 08-0104-0801

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 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 Sections 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 33-105, 33-107, 33-2402 and 33-2403, 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 changes bring the rule into alignment with changes made to Section 33-3171B, Idaho Code during the 2008 legislative session, and clarify additional factors a student may use to establish residency for tuition purposes at an Idaho public postsecondary institution. The amendment to the temporary rule further defines "Support" to allow the exclusion of educational scholarships or grants provided to the student to attend a postsecondary educational institution in determining percentage of parental support.

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 Board of Education 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 Book 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 109 through 114.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208) 332-1582.

DATED this 14th day of November, 2008.

Tracie Bent
Planning, Policy & HR Officer
State Board of Education
650 West State Street
PO Box 83720
Boise, ID 83720-0037
(208) 332-1582 phone
(208) 334-2632 FAX

DOCKET NO. 08-0104-0801 - 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 1, pages 109 through 114.](#)

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 08-0104-0801

Subsection 005.09

005. DEFINITIONS.

09. Support. “Support” means financial support given to the student during the twelve (12) months preceding the opening date of the term for which resident status is requested, but shall not include educational scholarships or grants provided to the student to attend a postsecondary educational institution. Any student who receives less than fifty percent (50%) support may demonstrate this by showing that he is not claimed as a dependent by a parent or guardian for income tax purposes or that a parent or guardian provides less than fifty percent (50%) of the cost of attending an institution according to the financial aid office of that institution or that other similar evidence exists of parental support such as dental bills, medical bills, etc. ~~(1-1-94)(8-1-08)T~~

IDAPA 08 - STATE BOARD OF EDUCATION

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

DOCKET NO. 08-0111-0801 (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 Sections 67-5224 Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105, 33-2402, and 33-2403, Idaho Code.

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

This chapter is being repealed in its entirety and will be replaced by the chapter adopted in Docket No. 08-0111-0802.

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, page 27.

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 Tracie Bent at 332-1582.

DATED this 14th day of November, 2008.

Tracie Bent
Planning, Policy & HR Officer
State Board of Education
PO Box 83720, Boise, ID 83720-0037
(208) 334-2270 phone / (208) 334-2632 FAX

DOCKET NO. 08-0111-0801 - 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 08-6, June 4, 2008, page 27.](#)

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 08 - STATE BOARD OF EDUCATION

08.01.11 - REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS AND PROPRIETARY SCHOOLS

DOCKET NO. 08-0111-0802 (CHAPTER REWRITE - FEE RULE)

NOTICE OF RULEMAKING

ADOPTION OF PENDING FEE RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is April 17, 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 33-105, 33-2402, and 33-2403, 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.

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

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 Board of Education 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 June 4, 2008 Idaho Administrative Bulletin, Vol. 08-6, pages 28 through 44.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. This fee or charge is being imposed pursuant to Section 33-2403 and 33-2406, Idaho Code. The following is a specific description of the fee or charge imposed or increased:

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Tracie Bent at 332-1582.

DATED this 1th day of May, 2008.

Tracie Bent
State Board of Education
PO Box 83720, Boise, ID 83720-0037
(208) 332-1567 phone / (208) 334-2632 FAX

DOCKET NO. 08-0111-0802 - 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 08-6, June 4, 2008, pages 28 through 44.

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 NO. 08-0111-0802

Section 010
Subsection 010.07 through 010.09

010. DEFINITIONS.

07. **Nonprofit.** *Means an entity that is recognized under the Internal Revenue Code and applicable regulations as being tax exempt, or an entity such as a nonprofit or not-for-profit organization that possesses the following characteristics that distinguish it from a business enterprise: (a) contribution of significant amounts of resources from resource providers who do not expect commensurate or proportionate pecuniary return, (b) operating purposes other than to provide goods or services at a profit, and (c) absence of ownership interests like those of business enterprises.* (4-17-08)T

078. **Post-Secondary Educational Institution.** Sometimes referred to in this rule simply as an institution, is defined in Section 33-2401(8), Idaho Code, and means an individual, or educational, business or other entity, whether legally constituted or otherwise, which maintains a presence within, or which operates or purports to operate, from a location within, the state of Idaho, and which provides a courses or ~~programs~~ *courses of study* that lead to a degree, or which provides, offers or sells degrees. (4-17-08)T(4-17-08)T

082. **Proprietary School.** Sometimes referred to in this rule simply as a school, is defined in Section 33-2401(9), Idaho Code, and means an individual, or educational, business or other entity, whether legally constituted or otherwise, which maintains a presence within, or which operates or purports to operate, from a location within the state of Idaho and which conducts, provides, offers or sells a course or courses of study, but which does not provide, offer or sell degrees. (4-17-08)T

Section 200
Subsections 200.01.a. through 200.01.c., 200.03.b., 200.04.b., 200.04.c. and 200.06

200. REGISTRATION OF POST-SECONDARY EDUCATIONAL INSTITUTIONS.

200.01.a. through 01.c.

01. Registration Requirement. (4-17-08)T

a. Unless exempted by statute or this rule, as provided herein, a post-secondary educational institution which maintains a presence within the state of Idaho, or which operates or purports to operate from a location within the state of Idaho, shall register and hold a valid certificate of registration issued by the Board. An institution shall not conduct, provide, offer, or sell a course or courses of study, or degree unless registered. An institution shall not solicit students on behalf of such institution, or advertise in this state, unless registered. The Board shall maintain a register of approved postsecondary educational institutions pursuant to Section 33-107(6)(a), Idaho Code.

~~(4-17-08)F~~(4-17-08)T

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

~~(4-17-08)F~~(4-17-08)T

c. Renewal of registration shall be for the period beginning on July 1 of any year, and continue through June 30 of the next succeeding year.

~~(4-17-08)F~~(4-17-08)T

200.03.b.

03. Institutions Exempt from Registration. (4-17-08)T

b. Certain Idaho private, not for profit, post-secondary educational institutions. A private, ~~not for profit nonprofit~~, post-secondary educational institution that is already established and operational as of the effective date of this rule and located within the state of Idaho, and that is accredited by an accreditation organization recognized by the Board, as set forth in Section 100 of this rule, shall not be required to register. A private, ~~not for profit nonprofit~~, institution is located within the state of Idaho only if it has been lawfully organized in the state of Idaho and its principal place of business is located within the state of Idaho.

~~(4-17-08)F~~(4-17-08)T

200.04.b. and 04.c.

04. Institutions that Must Register. (4-17-08)T

b. Out-of-state private, ~~not for profit nonprofit~~, post-secondary educational institutions. An out-of-state private, ~~not for profit nonprofit~~, post-secondary educational institution must register as provided herein.

~~(4-17-08)F~~(4-17-08)T

c. Certain Idaho private, ~~not for profit nonprofit~~, post-secondary educational institutions. A private, ~~not for profit nonprofit~~, post-secondary educational institution that is located within the state of Idaho, but that is not exempt under Subsection 200.03.b. of this rule, must register as provided herein.

~~(4-17-08)F~~(4-17-08)T

200.06

06. Application. A post-secondary educational institution that is required to register under this rule must submit to the Board office an application for registration (either an application for initial registration, or renewal of registration, as applicable), on a form approved by the Board ~~or its designee~~. The application must include a list of

each course, course of study, and degree the applicant institution intends to conduct, provide, offer, or sell in Idaho during the registration year. ~~(4-17-08)F(4-17-08)T~~

Section 202
Subsection 202.02

202. THE BOARD MAY NOTIFY THE POST-SECONDARY EDUCATIONAL INSTITUTION OF ADDITIONAL INFORMATION REQUIRED.

If the Board is unable to determine the nature and activities of an institution on the basis of the information provided by the institution under this rule, then the Board may notify the institution of additional information that it will be required to provide in connection with the application for registration. (4-17-08)T

02. Criteria for Approval ~~or Denial~~ of Registration. To be approved for registration, the institution must demonstrate that it is in compliance with Chapter 24, Title 33, Idaho Code and this rule. An institution must remain in compliance for the registration year. ~~(4-17-08)F(4-17-08)T~~

Section 300
Subsections 300.02 through 300.08

300. REGISTRATION OF PROPRIETARY SCHOOLS.

02. Registration Requirement. (4-17-08)T

a. Unless exempted by statute or this rule, as provided herein, a proprietary school which maintains a presence within the state of Idaho, or which operates or purports to operate from a location within the state of Idaho, shall register annually and hold a valid certificate of registration issued by PTE. A school shall not conduct, provide, offer, or sell a course or courses of study unless registered. A school shall not solicit students for or on behalf of such school, or advertise in this state, unless registered. The Board shall maintain a register of approved proprietary schools pursuant to Section 33-107(6)(c), Idaho Code. ~~(4-17-08)F(4-17-08)T~~

b. ~~Initial r~~Registration shall be for the period beginning ~~on the date of issue of a certificate of registration July 1 of any year~~ and continue through June 30 of the next succeeding year. ~~For a school that has not previously registered with PTE, registration shall be for the period beginning on the date of issue of a certificate of registration and continue through June 30 of the next succeeding year.~~ A registered proprietary school must renew its certificate of registration annually and renewal of registration is not automatic. (4-17-08)T

c. Renewal of registration shall be for the period beginning on July 1 of any year, and continue through June 30 of the next succeeding year. ~~(4-17-08)F(4-17-08)T~~

03. Idaho Presence. A school shall be deemed to have a presence in Idaho, or to be operating or purporting to be operating from a location within the state of Idaho, if it owns, rents, leases, or uses any office or other type of physical location in Idaho, including a mailing or shipping center, or if it represents in any way, such as on an electronic or Internet website, to have an Idaho street or mailing address, including a post office box in Idaho. (4-17-08)T

034. Exemptions from Registration. The following individuals or entities are specifically exempt from the registration requirements of this rule: (4-17-08)T

a. An individual or entity that offers instruction or training solely a vocational or recreational in nature, as determined by the Board. (4-17-08)T

b. An individual or entity that offers courses recognized by the Board which comply in whole or in

part with the compulsory education law. (4-17-08)T

c. An individual or entity that offers a course or courses of study sponsored by an employer for the training and preparation of its own employees, and for which no tuition fee is charged to the student. (4-17-08)T

d. An individual or entity which is otherwise regulated, licensed, or registered with another state agency pursuant to Title 54, Idaho Code. (4-17-08)T

e. Aviation school or instructors approved by and under the supervision of the Federal Aviation Administration. (4-17-08)T

f. An individual or entity that offers intensive review courses designed to prepare students for certified public accountancy tests, public accountancy tests, law school aptitude tests, bar examinations or medical college admissions tests, or similar instruction for test preparation. (4-17-08)T

g. An individual or entity offering only workshops or seminars lasting no longer than three (3) calendar days. (4-17-08)T

h. A parochial or denominational institution providing instruction or training relating solely to religion and for which degrees are not granted. (4-17-08)T

i. An individual or entity that offers post-secondary credit through a consortium of public and private colleges and universities under the auspices of the western governors. (4-17-08)T

045. Application. A proprietary school that is required to register under this rule must submit to PTE an application for registration (either an application for initial registration, or renewal of registration, as applicable), on a form approved by PTE. The application must include a list of each course or courses of study the applicant school intends to conduct, provide, offer or sell in Idaho during the registration year. (4-17-08)T

056. Registration Fees and Costs. A registration fee shall accompany each application for initial registration or renewal of registration. The fixed portion of such annual registration fee shall be in the amount of one hundred dollars (\$100) for each school. The variable portion of such annual registration fee shall be in the amount of one hundred dollars (\$100) for each course to be offered by the school during the registration year. Fees are not refundable. (4-17-08)T

067. Deadline for Registration. An initial application for registration may be submitted to PTE at anytime. A school should expect PTE's review process for an initial registration to take approximately three (3) to five (5) months. An application for renewal of registration must be submitted to PTE on or before the first business day of May that precedes a registration year. (4-17-08)T

078. Information Required. (4-17-08)T

a. Such application must include the information requested on the application form. In addition, a school applying for registration must submit information and/or documentation with its application for registration that documents compliance with all of the Standards, I through V, set forth in Subsections 400.08.a. through 400.08.e. of this rule. (4-17-08)T

b. PTE may, in connection with a renewal of registration, request that a school only submit information that documents changes from the previous year, provided that the school certifies that all information and/or documentation submitted in a previous registration year remains current. The annual registration fee, described in Subsection 300.05 of this rule, shall remain applicable. (4-17-08)T

Section 302

Subsection 302.07

302. THE BOARD MAY NOTIFY THE PROPRIETARY SCHOOL OF ADDITIONAL INFORMATION REQUIRED.

If PTE is unable to determine the nature and activities of a school on the basis of the information provided by the school under this rule, then PTE may notify the school of additional information that it will be required to provide in connection with the application for registration. (4-17-08)T

07. Agent's Permit. Each proprietary school shall ensure that its agents have a valid permit, and that all of its agents are in compliance with Section 33-2404, Idaho Code. The school shall complete a criminal history check that includes the State Bureau of Identification, ~~Federal Bureau of Investigation~~ and statewide sex offender registry for each agent having ~~direct~~ unsupervised contact with minors in the minor's home or at secondary schools, prior to making application for the agent's permit. (~~4-17-08~~)T(4-17-08)T

IDAPA 08 - BOARD OF AND DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0801

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 Sections 33-105 and 33-107, Idaho Code, and Sections 33-1201 and 33-1258, 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 January 2, 2008, Idaho Administrative Bulletin, Vol. 08-1, pages 43 through 49.

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 Christina Linder, (208) 332-6886.

DATED this November 11, 2008.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State St, 2nd Floor
PO Box 83720
Boise, ID 83720-0027
(208) 332-6812; f ax (208) 334-2228

DOCKET NO. 08-0202-0801 - 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 08-1, January 2, 2008, pages 43 through 49.

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 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0802

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 33-105 and 33-107, Idaho Code, and Sections 33-1201 and 33-1258, 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 45 through 47.

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 Christina Linder, (208) 332-6886.

DATED this November 11, 2008.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State St, 2nd Floor
PO Box 83720
Boise, ID 83720-0027
(208) 332-6812; fax (208) 334-2228

DOCKET NO. 08-0202-0802 - 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 08-6, June 4, 2008, pages 45 through 47.

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 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0803

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 33-105 and 33-107, Idaho Code, and 33-1508 and 33-1511, Idaho Code and Sections 33-1201 and 33-1258, 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:

Some typographical changes have been made to the manual to address incorrect citations in the Standards for Idaho School Buses and Operations (SISBO).

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 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 115 through 118.

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 Ray Mercial for the SISBO at (208) 332-6855 or Christina Linder for the Idaho Standards for the Initial Certification of Professional School Personnel at (208) 332-6886.

DATED this November 11, 2008.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State St, 2nd Floor
PO Box 83720
Boise, ID 83720-0027
(208) 332-6812 phone
(208) 334-2228 fax

DOCKET NO. 08-0202-0803 - 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 1, pages 115 through 118.**

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. 08-0202-0803

Section 004, Subsection 004.03

004. INCORPORATION BY REFERENCE.

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

~~(4-5-00)~~(____)

004.03

03. Incorporated Document. The Standards for Idaho School Buses and Operations as approved on ~~November 1, 2006~~ November 7, 2008. ~~(3-30-07)~~(____)

Section 150

150. TRANSPORTATION.

Minimum School Bus Construction Standards. All new school bus chassis and bodies must meet or exceed Standards for Idaho School Buses and Operations as ~~approved on November 1, 2006~~, incorporated in Section 004 of these rules and as authorized in Section 33-1511, Idaho Code. ~~(3-30-07)~~(____)

Subsection 160.01

160. MAINTENANCE STANDARDS AND INSPECTIONS.

01. Safety. School buses will be maintained in a safe operating condition at all times. Certain equipment or parts of a school bus that are critical to its safe operation must be maintained at prescribed standards. When routine maintenance checks reveal any unsafe condition identified in the Standards for Idaho School Buses and Operations as ~~approved on November 1, 2006~~, incorporated in Section 004 of these rules the school district will eliminate the deficiency before returning the vehicle to service. ~~(3-30-07)~~(____)

Section 170

170. SCHOOL BUS DRIVERS AND VEHICLE OPERATION.

All school districts and school bus drivers must meet or exceed the training, performance and operation requirements delineated in the Standards for Idaho School Buses and Operations as ~~approved on November 1, 2006~~ *incorporated in Section 004 of these rules.* (Section 33-1508; 33-1509, Idaho Code) ~~(3-30-07)(_____)~~

Section 190

190. PROGRAM OPERATIONS.

School district fiscal reporting requirements as well as reimbursable and non-reimbursable costs within the Pupil Transportation Support Program, including but not limited to administration, field and activity trips, safety busing, contracting for transportation services, leasing of district-owned buses, insurance, ineligible and non-public school students, ineligible vehicles, capital investments including the purchasing of school buses and equipment, program support and district waiver procedures shall be delineated in Standards for Idaho School Buses and Operations ~~as approved on November 1, 2006~~ *incorporated in Section 004 of these rules.* (Section 33-1006, Idaho Code) ~~(3-30-07)(_____)~~

IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0804

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 33-105 and 33-107, Idaho Code, and Sections and 33-1280 Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 119 and 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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mary Jane Oatman Wak-Wak (208) 332-6968.

DATED this November 11, 2008.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State St, 2nd Floor
PO Box 83720
Boise, ID 83720-0027
(208) 332-6812; fax (208) 334-2228

DOCKET NO. 08-0202-0804 - 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 119 and 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 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0805

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 33-105 and 33-107, Idaho Code, and Sections 33-1201 and 33-1258, 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 121 through 123.

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 Christina Linder (208) 332-6886.

DATED this November 11, 2008.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State St, 2nd Floor
PO Box 83720
Boise, ID 83720-0027
(208) 332-6812; f ax (208) 334-2228

DOCKET NO. 08-0202-0805 - 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 121 through 123.](#)

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 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0806

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 33-105 and 33-107, Idaho Code, and Sections 33-1201 and 33-1258, 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 124 and 125.

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 Christina Linder (208) 332-6886.

DATED this November 11, 2008.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State St, 2nd Floor
PO Box 83720
Boise, ID 83720-0027
(208) 332-6812; fax (208) 334-2228

DOCKET NO. 08-0202-0806 - 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 1, pages 124 and 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 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0807 (FEE RULE)

NOTICE OF RULEMAKING

ADOPTION OF PENDING FEE RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is November 7, 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 33-105 and 33-107, Idaho Code, and Sections 33-130 and 33-312, 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 amendment of the temporary rule and change to the text of the pending rule adds the definition of "irregular contact." The term is in statute and needs further clarification.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Board of Education 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 Book 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 126 through 129.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. This fee or charge is being imposed pursuant to Section 33-130, Idaho Code. The following is a specific description of the fee or charge imposed or increased:

\$40.00 for undergoing a criminal history check (CHC). The CHC is based on a ten finger fingerprint card or scan sent to the Idaho State Police, Bureau of Criminal Identification (BCI) and the Federal Bureau of Investigations (FBI).

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 Christina Linder (208) 332-6886.

DATED this November 12, 2008.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State St, 2nd Floor
PO Box 83720
Boise, ID 83720-0027
(208) 332-6812; fax (208) 334-2228

DOCKET NO. 08-0202-0801 - 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 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 126 through 129.**

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 16-0301-0801

Section 075, Subsection 075.01.i.

075. FINGERPRINTING AND CRIMINAL HISTORY CHECKS (SECTIONS 33-130 AND 33-512, IDAHO CODE).

All certificated and noncertificated employees and other individuals who are required by the provisions of section 33-130, Idaho Code must undergo a criminal history check. (8-20-08)T

01. Definitions. (8-20-08)T

i. Irregular Contact. Contact that is not on a daily or weekly basis, or has a regular scheduled interaction with students. (11-7-08)T

ij. Multiple Assignments. When an individual works in two or more LEAs or an LEA and private school simultaneously. (8-20-08)T

jk. Non-Certificated Employee. An individual employed in a non-certificated position. (8-20-08)T

kl. Open Date. The date a fingerprint card or scan is entered into the database as an electronic file. (8-20-08)T

lm. Rejected Fingerprint Cards. A fingerprint card that has been returned by the BCI, FBI or SDE for poor quality prints, lack of signature, card being older than six (6) months, or other incomplete information. (8-20-08)T

mn. Scan. The process of capturing an individual's fingerprints by an electronic process. (8-20-08)T

no. Unsupervised Contact. Direct contact or interaction with students not under the direct supervision of a school district employee on a continuing basis in a K-12 setting. This includes contact or interaction with students in scheduled school activities that occur outside of the school or outside of normal school hours. This excludes extra-curricular trips of one-day length starting during the school day. (8-20-08)T

IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0802

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 August 21, 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 33-2002, 33-1612 and 33-105, 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:

An organizational change moved the list of skill statements that were listed at the end of each standard to match each objective within the standard. Skill Statements will be easier to reference by having them listed directly under each objective.

In the Geometry standards, the wording in the introductory paragraph was changed to reflect the NCTM process standards and the recommendations by the National Math Panel. Some additional wordsmithing was done to make it more concise for readers to interpret. Goal 2.2.2 and its subsequent skill statements were added along with vocabulary to provide more direction for educators. Standard 3 was changed significantly to match NCTM standards and based on feedback from Achieve, Inc.

The Pre-Calculus indexing was changed from MA (Math Analysis) to PC (Pre-Calculus) to reflect the pre-calculus title. Previous to the 2008 review these standards were titled math analysis. Pre-Calculus more accurately reflects the content.

No substantive changes were made to any of the other standards. Formatting and punctuation corrections were made.

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 of Education amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the June 4, 2008 Idaho Administrative Bulletin, Vol. 08-6, pages 48 and 49.

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 Cindy Johnstone at (208) 332-6932.

DATED this November 11, 2008.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State St, 2nd Floor
PO Box 83720
Boise, ID 83720-0027
(208) 332-6812; f (208) 334-2228

**DOCKET NO. 08-0203-0802 - 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 08-6, June 4, 2008, pages 48 and 49.](#)

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 08-0203-0802**

Section 004
Subsection 004.01

004. INCORPORATION BY REFERENCE.

The following documents are incorporated into this rule:

(3-30-07)

01. The Idaho Content Standards. The Idaho Content Standards as adopted by the State Board of Education on ~~November 1~~ ~~April 17~~ August 21, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>.
(~~4-2-08~~)(~~5-1-08~~)(~~8-21-08~~)T

IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0803

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 33-105 and 33-107, 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:

Both Dockets No. 08-0203-0803 and 08-0203-0804 make changes to Section 111. This Docket No. (08-0203-0803) is being modified to include those changes to ensure that neither of these rulemakings overwrites the other.

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 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 130 through 136.

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 2008 Legislature made an appropriation for the statewide longitudinal data system which includes the unique student identifier.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Rene Hughes (208) 332-6971.

DATED this November 12, 2008.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State St, 2nd Floor
PO Box 83720
Boise, ID 83720-0027
(208) 332-6812; f (208) 334-2228

DOCKET NO. 08-0203-0803 - 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 1, pages 130 through 136.

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 DOCKERT NO. 08-0203-0803

Section 111
Subsection 111.04.c.

111. ASSESSMENT IN THE PUBLIC SCHOOLS.

04. Testing Population. All students in Idaho public schools, grades kindergarten through twelve (K-12), are required to participate in the comprehensive assessment program approved by the State Board of Education and funded. (4-2-08)

c. Limited English Proficient (LEP) students, as defined in Subsection 112.03.d.iv., who receive a score below the fluent level on the Idaho English Language Assessment and have an Education Learning Plan (ELP), shall be given the ISAT with accommodations or adaptations as outlined in the ELP. Students can be categorized as LEP students for two (2) years after testing proficient on the language proficiency test and exiting the LEP program. LEP students who do not have an ELP or a language acquisition score will be given the regular ISAT without accommodations or adaptations. LEP students who are enrolled in their first year of school in the United States may take the IELA in lieu of the reading/language usage ISAT, but will still be required to take the math *and science* ISAT with accommodations or adaptations as determined by the language proficiency score and ELP. Such LEP students will be counted as participants for the ninety-five percent (95%) participation target, as described in Subsection 112.03. However, such LEP students are not required to be counted for AYP purposes in determining proficiency, as described in Subsection 112.02. (4-2-08)(____)

Subsection 111.06.n.

06. Comprehensive Assessment Program. The State approved comprehensive assessment program is outlined in Subsections 111.06.a. through 111.06.l. Each assessment will be comprehensive of and aligned to the Idaho State Content Standards it is intended to assess. In addition, districts are responsible for writing and implementing assessments in those standards not assessed by the state assessment program. (4-2-08)

n. Students who achieve a proficient or advanced score on a portion or portions of the ISAT, or the Idaho Alternate Assessment, offered in ~~the Spring of~~ their tenth grade year or later are not required to continue taking that portion or portions. (4-2-08)(____)

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0804

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: 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, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105 and 33-110, 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 137 through 141.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Tracie Bent at (208) 332-1582.

DATED this 20th day of August, 2008.

Tracie Bent
Planning, Policy and HR Officer
State Board of Education
650 West State Street
PO Box 83720
Boise, ID 83720-0037
(208) 332-1582 phone
(208) 334-2632 FAX

DOCKET NO. 08-0203-0804 - 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 137 through 141.](#)

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 08 - STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0805

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: 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, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105 and 33-110, Idaho Code.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. 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 1 of the November 5, 2008 Idaho Administrative Bulletin, Vol. 08-11, pages 31 through 37.

This rulemaking will combine Sections 08.02.03.105 and 08.02.03.107 regarding graduation requirement, removing any redundancies and clarifying any confusion that having two Sections may have caused. In Subsection 105.03, the year 2008 is being changed to 2009 per comment from the Board. "Public school students who enter high school at the 9th grade level in the Fall 2009 or later."

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Tracie Bent at (208) 332-1582.

DATED this 20th day of August, 2008.

Tracie Bent
Planning, Policy and HR Officer
State Board of Education
650 West State Street
PO Box 83720
Boise, ID 83720-0037
(208) 332-1582 phone
(208) 334-2632 FAX

DOCKET NO. 08-0203-0805 - 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 complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-11, November 5, 2008, pages 31 through 37.

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 TEST OF DOCKET NO. 08-0203-0805

Subsection 105.03

105. HIGH SCHOOL GRADUATION ~~FROM HIGH SCHOOL REQUIREMENTS.~~

A student must meet all of the ~~following~~ requirements identified in this section before the student will be eligible to graduate from an Idaho high school. The local school district or LEA may establish graduation requirements beyond the state minimum. (4-11-06)()

105.03

03. Proficiency ~~(Effective January 1, 2006)~~. Each student ~~shall~~ must achieve a proficient or advanced score on the ~~High School~~ Grade 10 Idaho Standards Achievement Test (ISAT) in math, reading and language usage in order to graduate. For all public school students who enter high school at the 9th grade level in the Fall 2009 or later, each student must also achieve a proficient or advanced score on the science portion of the ISAT in order to graduate. A student who does not attain at least a proficient score prior to graduation may appeal to the school district or LEA, and, ~~at the discretion of the school district or LEA, may~~ will be given an opportunity to demonstrate proficiency of the ~~achievement content~~ standards through some other locally established mechanism. All locally established mechanisms used to demonstrate proficiency shall will be forwarded to the State Board of Education for review and information. Districts with alternate measures on file with the Board on the effective date of this rule must re-submit their plans to the Board. Alternate mechanisms must be re-submitted to the Board when changes are made in their plans. (4-11-06)()

IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0901

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 3, 2008.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

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

The Idaho Content Standards for Humanities were reviewed and revised in 2008 as part of the review cycle for content area standards and curricular materials. The Humanities Standards include the following subjects: dance, interdisciplinary humanities, music, theatre, visual arts, and world languages. The newly reviewed Humanities Standards have removed numbering that pertained to the original numbering system. All subjects have slight revisions in wording and clarity. The revised standards incorporate wording that pertains to P21 (21st Century Partnership) skills, emphasizing skills that directly involve: critical thinking, problem solution, creativity, interpersonal skills, self-direction, accountability, and social responsibility.

The Idaho Content Standards for Chemistry are a result of the need for a 3rd year science course for the graduating class of 2013. The Chemistry Standards for Grades 11-12 are a list of fundamental areas of study as determined by a panel of Idaho high school and higher education chemistry instructors.

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

The chemistry standards are needed to meet the increased high school graduation requirements for science. Both the Chemistry and Humanities Standards need to be in temporary rule because of the content standards/curricular materials cycle and need to be used before the end of the legislative session. They will be brought forward as a proposed rule in the spring of 2009 along with standards from other content areas that are part of the 2009 review.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Scott Smith for the Chemistry Standards at (208) 332-6952 and Peggy Wenner for the Humanities Standards at (208) 332-6949.

DATED this 11th day of November, 2008.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State St, 2nd Floor
PO Box 83720, Boise, ID 83720-0027
(208) 332-6812; f (208) 334-2228

THE FOLLOWING IS THE TEXT OF DOCKET NO. 08-0203-0901

004. INCORPORATION BY REFERENCE.

The following documents are incorporated into this rule:

(3-30-07)

01. The Idaho Content Standards. The Idaho Content Standards as adopted by the State Board of Education on ~~November 1, 2006~~ August 21, 2008. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. ~~(4-2-08)~~(11-3-08)T

02. The Idaho English Language Development Standards. The Idaho English Language Development Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

03. The Limited English Proficiency Program Annual Measurable Achievement Objectives (AMAOs) and Accountability Procedures. The Limited English Proficiency Program Annual Measurable Achievement Objectives and Accountability Procedures as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

04. The Idaho English Language Assessment (IELA) Achievement Standards. The Idaho English Language Assessment (IELA) Achievement Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

05. The Idaho Standards Achievement Tests (ISAT) Achievement Standards. Achievement Standards as adopted by the State Board of Education on August 10, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

06. The Idaho Alternative Assessment Extended Content Standards. The Idaho Alternative Assessment Extended Content Standards as adopted by the State Board of Education on April 20, 2006. Copies of the document can be found at the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

07. The Idaho Alternative Assessment Extended Achievement Standards. Alternative Assessment Extended Achievement Standards as adopted by the State Board of Education on April 20, 2006. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

08. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Deaf or Hard of Hearing. As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

09. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired. As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

**IDAPA 10 - BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

10.01.01 - RULES OF PROCEDURE

DOCKET NO. 10-0101-0801

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 54-1208, 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 142 through 151.

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

There will not be any negative fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact David L. Curtis at (208) 373-7210.

DATED this 24th day of November, 2008.

David L. Curtis, P.E., Executive Director
Board of Professional Engineers and Professional Land Surveyors
5535 W. Overland Road, Boise, Idaho 83705
Voice (208) 373-7210, Fax (208) 373-7213
Email: dave.curtis@ipels.idaho.gov

DOCKET NO. 10-0101-0801 - 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 1, pages 142 through 151.

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 10 - BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY

DOCKET NO. 10-0102-0801

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 Section 54-1208, 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 purpose of the proposed rules is to amend the Administrative Rules to:

1. Comply with updated terminology as incorporated in House Bill No. 380 passed by the 2008 session of the Idaho Legislature;
2. Remove an ambiguity relating to sealing of documents; and
3. Allow the Board to take disciplinary action if a licensee surrenders their license in another jurisdiction for reasons or causes which would constitute a violation of Idaho laws or rules.

IDAPA 10.01.02.009.05 has been changed from that contained in the Proposed Rule to reflect that license and certificate holders must submit proposals in accordance with Idaho Code Section 67-2320.

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 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 152 through 157.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There will not be any negative fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact David L. Curtis at (208) 373-7210.

DATED this 24th day of November, 2008.

David L. Curtis, P.E., Executive Director
Board of Professional Engineers and Professional Land Surveyors
5535 W. Overland Road, Boise, Idaho 83705
Voice (208) 373-7210, Fax (208) 373-7213
Email: dave.curtis@ipels.idaho.gov

DOCKET NO. 10-0102-0801 - 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 1, pages 152 through 157.**

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. 10-0102-0801

Subsection 009.05

009. SOLICITATION OF WORK.

009.05

05. Selection on the Basis of Qualifications. A ~~Registrant~~ Licensee or Certificate Holder should seek professional employment or professional service work on the basis of qualifications and competence for proper accomplishment of the work assignment. On selections for professional engineering and land surveying services that are required pursuant to Idaho Code Section 67-2320, a licensee or certificate holder, in response to solicitations described in Idaho Code Section 67-2320(2)(a) shall not submit information that constitutes a bid for services requested. (7-1-93)()

**IDAPA 10 - BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

10.01.03 - RULES OF CORNER PERPETUATION

DOCKET NO. 10-0103-0801

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 54-1208, 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 purpose of the rulemaking is to amend the Administrative Rules to

1. Comply with updated terminology as incorporated in House Bill No. 380 passed by the 2008 session of the Idaho Legislature;
2. Correct the address of the Board office; and
3. Clarify that the corner record must include a sketch of the marks on a found monument.

IDAPA 10.01.03.012 has been changed to make its grammatical construction similar to other rules in the chapter.

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 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 158 and 159.

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

There will not be any negative fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact David L. Curtis at (208) 373-7210.

DATED this 24th day of November, 2008.

David L. Curtis, P.E., Executive Director
Board of Professional Engineers and Professional Land Surveyors
5535 W. Overland Road, Boise, Idaho 83705
Voice (208) 373-7210, Fax (208) 373-7213
Email: dave.curtis@ipels.idaho.gov

DOCKET NO. 10-0103-0801 - 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 1, pages 158 and 159.](#)

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. 10-0103-0801

Section 012

012. MARKS ON MONUMENT FOUND OR SET.

The surveyor shall provide a sketch or legible image of the marks *found or* placed on the monument, if applicable.

(~~7-1-93~~)(_____)

**IDAPA 10 - BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

10.01.04 - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT

DOCKET NO. 10-0104-0801

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 Section 54-1208, 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 purpose of the rulemaking is to amend the Administrative Rules to:

1. Comply with updated terminology as incorporated in House Bill No. 380 passed by the 2008 session of the Idaho Legislature;
2. Include professional engineers in the requirement of continuing professional development as a condition of license renewal;
3. Revise "self-study," "membership," and "active participation" as qualifying activities for continuing professional development;
4. Allow a licensee to opt for a two (2) calendar year period of compliance rather than a renewal biennium;
5. Provide for an exemption for a licensee on active duty temporarily assigned to a location other than their normal home station; and
6. Provide for an exemption for professional engineers during their first renewal period or the two (2) calendar year period closest to the renewal biennium following adoption of these rules as they are amended to include professional engineers.

IDAPA 10.01.04.007 has been changed from that contained in the Proposed Rule to reflect that seminars and courses registered with the Registered Continuing Education Providers Program of the National Council of Examiners for Engineering and Surveying are preapproved.

IDAPA 10.01.04.008.01 has been changed from that contained in the Proposed Rule to reflect that a time card or expense sheet related thereto shall be an acceptable log of continuing professional development activities.

IDAPA 10.01.04.008.04 has been changed from that contained in the Proposed Rule to reflect that a photocopy of pertinent parts of the material studied, annotated with the date the activity occurred and the number of PDH's claimed, shall be deemed to meet the requirement for documentation of self-study.

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 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 160 through 164.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There will not be any negative fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact David L. Curtis at (208) 373-7210.

DATED this 24th day of November, 2008.

David L. Curtis, P.E., Executive Director
Board of Professional Engineers and Professional Land Surveyors
5535 W. Overland Road, Boise, Idaho 83705
Voice (208) 373-7210, Fax (208) 373-7213
Email: dave.curtis@ipels.idaho.gov

DOCKET NO. 10-0104-0801 - 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 1, pages 160 through 164.**

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. 10-0104-0801

Section 007

007. DETERMINATION OF CREDIT.

With the exception of those seminars and courses of continuing professional development offered by an organization registered with the Registered Continuing Education Providers Program of the National Council of Examiners for Engineering and Surveying, which are preapproved, the Board will not pre-approve activities as qualifying for continuing professional development, but has final authority to judge the PDH value for all activities submitted to fulfill ~~CPD~~ continuing professional development requirements. (3-30-01)(____)

Subsections 008.01 and 008.04

008. RECORD KEEPING.

Maintenance of records to support credits claimed is the responsibility of the Licensee. Records required include, but are not limited to: (7-1-99)

01. Log. A log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned. *Time sheets or expense sheets signed by the Licensee documenting the Continuing Professional Development activity claimed (sponsoring organization, location, duration, instructor's or speaker's name), time and/or expense related thereto, and claimed PDH credits earned shall be an acceptable log; and* (7-1-99)(____)

04. Documented Self-Study. In order to qualify in this category, the licensee must prepare and retain an abstract of the material studied, the date the activity occurred and the number of PDH's claimed, and a bibliographic reference of the material studied. *A photocopy of pertinent parts of the material studied, annotated with the date the activity occurred and the number of PDH's claimed, shall be deemed to meet this requirement.* (____)

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

11.04.01 - RULES GOVERNING HORSE RACING

DOCKET NO. 11-0401-0901 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 54-2506, Idaho Code.

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

MONDAY - JANUARY 12, 2009 - 6:00 p.m.

**NAMPA CIVIC CENTER
Home Federal Room
311 3RD Street South, Nampa, ID**

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: This existing rule Chapter is being repealed and replaced with several rule Chapters. The rule needs to be updated, reorganized, and written in a plain English format.

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

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. However this rule was developed with input from a committee comprised of representatives of all segments of the horse racing industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Idaho State Racing Commission, 208-884-7080. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 12th day of November, 2008.

Dennis Jackson
Executive Director
Idaho State Racing Commission
Phone: 208-884-7080 / Fax: 208-884-7098

700 S. Stratford Drive
PO Box 700
Meridian, ID 83780-0700

IDAPA 11.04.01 IS BEING REPEALED IN ITS ENTIRETY.

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

11.04.02 - RULES GOVERNING SIMULCASTING

DOCKET NO. 11-0402-0801 (FEE RULE - CHAPTER REPEAL)

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(s) 54-2506 and 54-2513, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee 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 page 165.

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 54-2513E, Idaho Code:

The fees imposed in this rule were imposed with Idaho State Racing Commission authority given in Section(s) 54-2506 and 54-2513, Idaho Code. The fees will be rewritten into the new chapter with no changes to 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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dennis Jackson, Executive Director, 208-884-7080.

DATED this 3rd day of November, 2008.

Dennis Jackson, Executive Director
Idaho State Racing Commission
800 S. Stratford
PO Box 700, Meridian, ID 83680-0700
Phone: 208-884-7080, fax: 208-884-7098

DOCKET NO. 11-0402-0801 - 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, page 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 11 - IDAHO STATE POLICE
IDAHO STATE RACING COMMISSION**

11.04.02 - RULES GOVERNING SIMULCASTING

DOCKET NO. 11-0402-0802 (FEE RULE - CHAPTER REWRITE)

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(s) 54-2506 and 54-2513, 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 166 through 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 54-2513E, Idaho Code:

This fee is imposed under the authority given to the Idaho State Racing Commission in Section 54-2513, Idaho Code. This fee is imposed as a percentage of the simulcast wagering handle to be retained by the State. These rules were rewritten to provide a uniform plain English chapter, the fees however, were not changed.

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 Dennis Jackson, Executive Director, 208-884-7080.

DATED this 3rd day of November, 2008.

Dennis Jackson, Executive Director
Idaho State Racing Commission
800 S. Stratford, Meridian, ID 83680
PO Box 700, Meridian, ID 83680-0700
Phone: 208-884-7080, fax: 208-884-7098

DOCKET NO. 11-0402-0801 - 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, page 166 through 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 11 - IDAHO STATE POLICE
IDAHO STATE RACING COMMISSION**

11.04.04 - RULES GOVERNING DISCIPLINARY HEARINGS

DOCKET NO. 11-0404-0901 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2506, Idaho Code.

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

MONDAY - JANUARY 12, 2009 - 6:00 p.m.

**NAMPA CIVIC CENTER
Home Federal Room
311 3RD Street South, Nampa, ID**

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: This existing rule is being repealed and rewritten to provide a clear, concise Chapter on Hearings and Appeals. In addition, this rule conforms more closely with the Association of Racing Officials International Model Rules in a plain English format.

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

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the simple nature of this rulemaking action.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact The Idaho State Racing Commission, 208-884-7080. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 18th day of November, 2008.

Dennis Jackson
Executive Director
Idaho State Racing Commission
Phone: 208-884-7080 / Fax: 208-884-7098

700 S. Stratford Drive
PO Box 700
Meridian, ID 83780-0700

IDAPA 11.04.04 IS BEING REPEALED IN ITS ENTIRETY.

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

11.04.04 - RULES GOVERNING DISCIPLINARY HEARINGS AND APPEALS

DOCKET NO. 11-0404-0902 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2506, Idaho Code.

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

MONDAY - JANUARY 12, 2009 - 6:00 p.m.

**NAMPA CIVIC CENTER
Home Federal Room
311 3RD Street South, Nampa, ID**

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

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

The rewrite of this rule provides a clear concise rule chapter on Disciplinary Hearings and Appeals. In addition, this rule conforms more closely with the Association of Racing Commissioners International Model Rules in a plain English format.

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

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted. However this rule was developed with input from a committee comprised of representatives of all segments of the horse racing industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Idaho State Racing Commission, 208-884-7080.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 12th day of November, 2008.

Dennis Jackson
Executive Director
Idaho State Racing Commission
700 S. Stratford Drive
PO Box 700, Meridian, ID 83780-0700
Phone: 208-884-7080 / Fax: 208-884-7098

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0404-0902

IDAPA 11
TITLE 04
CHAPTER 04

IDAHO STATE RACING COMMISSION

11.04.04 - RULES GOVERNING DISCIPLINARY HEARINGS AND APPEALS

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (1-1-09)T

001. TITLE AND SCOPE.

01. Title. These rules of the Idaho State Racing Commission are cited as IDAPA 11.04.04, "Rules Governing Disciplinary Hearings and Appeals." (1-1-09)T

02. Scope. These rules govern disciplinary hearings and appeals in the State of Idaho. (1-1-09)T

002. WRITTEN INTPRETATIONS.

There are no written interpretations for these rules. (1-1-09)T

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal actions of the Racing Commission authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (1-1-09)T

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference. (1-1-09)T

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

01. Physical Address. The central office of the Idaho State Racing Commission is located at 700 S. Stratford Drive, Meridian, Idaho. (1-1-09)T

02. Office Hours. The central office is open 8 a.m. to 5 p.m., Mountain Time, Monday thru Friday, except holidays designated by the state of Idaho. (1-1-09)T

03. Mailing Address. The mailing address for the central office is Idaho State Racing Commission, P.O. Box 700, Meridian, Idaho 83680-0700. (1-1-09)T

04. Telephone Number. The telephone of the office is (208) 884-7080. (1-1-09)T

05. **Fax Number.** The facsimile number of the office is (208) 884-7098. (1-1-09)T

06. **Website.** The Racing Commission website is: <http://www.isp.state.id.us/race>. (1-1-09)T

006. PUBLIC RECORDS COMPLIANCE AND AVAILABILITY.

These rules are public records and are available for inspection and copying at the Idaho State Racing Commission central office or on the Racing Commission website. (1-1-09)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. **Act.** The Idaho Racing Act, Section 54-2501, Idaho Code. (1-1-09)T

02. **Appeal.** A request for the Racing Commission or its designee to investigate, consider and review any decisions or rulings of Stewards of a meeting. (1-1-09)T

03. **Arguments.** A fact or statements offered as proof or evidence. (1-1-09)T

04. **Burden of Proof.** The obligation to establish by the preponderance of the evidence that a violation of statute or rules occurred. (1-1-09)T

05. **Calendar Day.** Twenty-four (24) hours ending at midnight. (1-1-09)T

06. **Continuance.** Postponement of adjudicatory proceedings to a future date. (1-1-09)T

07. **De Novo Hearing.** To have the matter heard a new. (1-1-09)T

08. **Disciplinary Action.** A process for dealing with behavior that violates the provisions of these rules. (1-1-09)T

09. **Evidence.** Data presented in proof of the facts in issue and which may include the testimony of witnesses, records, documents, or objects. (1-1-09)T

10. **Exclusion.** The act of preventing a person from entering or remaining on the grounds of any racing association or simulcast facility under the jurisdiction of the Racing Commission. (1-1-09)T

11. **Executive Director.** The person responsible for the administration of the Idaho State Racing Commission. (1-1-09)T

12. **Hearing Officer.** An official appointed by the Idaho State Racing Commission to conduct an investigation or administrative hearing so that the agency can exercise its statutory powers. (1-1-09)T

13. **Horsemen's Bookkeeper.** A bonded racing association employee who manages the horsemen's accounts which covers all monies due horsemen in regards to purses, stakes, rewards, claims and deposits. (1-1-09)T

14. **Licensee.** Any person or entity holding a license from the Racing Commission to engage in racing or a regulated activity. (1-1-09)T

15. **Motions.** A request for a steward or racing commission to make a decision. (1-1-09)T

16. **Notice.** A written or printed announcement from Stewards or the Racing Commission. (1-1-09)T

17. **Racing Association.** Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering. (1-1-09)T

18. Racing Commission. Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee. (1-1-09)T

19. Ruling. An official decision by the stewards stating the charges against the licensee. (1-1-09)T

20. Stay. To delay or stop the effect of a stewards ruling. (1-1-09)T

21. Steward. A racing official who presides over a race meet, has jurisdiction over all racing officials, rules on protests and claims of foul, and imposes fines and suspensions. (1-1-09)T

22. Suspension. A temporary remedial measure designed to protect the safety and integrity of the horse racing industry and the participants therein. (1-1-09)T

011. ABBREVIATIONS.
There are no abbreviations used in these rules. (1-1-09)T

012. -- 019. (RESERVED).

020. APPLICABILITY.
These rules apply to all proceedings for disciplinary action of licensees and associated proceedings including disqualification. (1-1-09)T

021. -- 029. (RESERVED).

030. EXEMPTION FROM THE IDAHO RULES OF ADMINISTRATIVE PROCEDURE OF THE ATTORNEY GENERAL.

01. Findings. In accordance with Section 67-5206(5)(b), Idaho Code, the Racing Commission makes the following findings: (1-1-09)T

a. Horse racing is a sport requiring racing officials to make immediate binding decisions affecting the races and participants in the races. (1-1-09)T

b. A central element of horse racing is pari-mutuel betting, and public confidence in the outcome of races is critical to the racing industry and the general public. (1-1-09)T

c. Racing seasons at certain locations are often very short and involve preliminary and final races requiring quick action in order for disciplinary action to be effective and in order to permit final races to be run without controversy as to the participants and winners. (1-1-09)T

d. Nationwide, participants in racing have become accustomed to, and acknowledge the need for, immediate authoritative decisions and quick disciplinary action. (1-1-09)T

02. Idaho Rules of Administrative Procedure of the Attorney General. Because of the factors described in Subsection 030.01 of these rules, the Racing Commission adopts IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (1-1-09)T

a. Proceedings before the Racing Commission are governed by IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (1-1-09)T

b. Proceedings by the Stewards are governed exclusively by this chapter (IDAPA 11.04.04), and supersede IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (1-1-09)T

031. PROCEEDINGS BY THE RACING COMMISSION.

De novo hearings and other proceedings before the Racing Commission are governed by IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," insofar as such provisions are not inconsistent with these rules. (1-1-09)T

032. -- 039. (RESERVED).

040. DISCIPLINARY ACTION.

Only the Stewards or the Racing Commission have the right to impose a fine or suspension. (1-1-09)T

041. WRITTEN REPORT.

The Stewards must report fines or suspensions imposed in the daily written report submitted to the Racing Commission. (1-1-09)T

042. FINES.

All fines imposed by the Stewards must be paid to the Horsemen's Bookkeeper immediately after imposition, except: (1-1-09)T

01. Otherwise Ordered. As otherwise ordered by the Stewards under these rules; (1-1-09)T

02. Stayed by Commission. Stayed by the Racing Commission; or (1-1-09)T

03. Stayed by Courts. As stayed by a court of competent jurisdiction. (1-1-09)T

043. SUSPENSIONS.

All suspensions for a specified period of time are to be considered in calendar days. The ruling will show the first and the last day of suspension. (1-1-09)T

044. - 049. (RESERVED).

050. SUMMARY SUSPENSION.

If the Stewards determine that a licensee's actions constitute an immediate danger to the public health, safety or welfare, the Stewards may summarily suspend the license pending a hearing. (1-1-09)T

01. Entitlement to Hearing. A licensee whose license has been summarily suspended is entitled to a hearing on the summary suspension not later than the third day after the license was summarily suspended. The licensee may waive his right to a hearing on the summary suspension within the three (3) day limit. (1-1-09)T

02. Issue at Hearing. The Stewards must conduct a hearing on the summary suspension in the same manner as other disciplinary hearings. At a hearing on a summary suspension, the sole issue is whether the licensee's license should remain suspended pending a final disciplinary hearing and ruling. (1-1-09)T

051. -- 059. (RESERVED).

060. RIGHTS OF THE LICENSEE.

A licensee who is the subject of a disciplinary hearing conducted by the Stewards is entitled to the following: (1-1-09)T

01. Proper Notice. Proper notice of all charges; (1-1-09)T

02. Legal Counsel. The right to legal counsel at the licensee's own expense; (1-1-09)T

03. Examination of Evidence. The right to examine all evidence to be presented against the licensee; (1-1-09)T

04. Defense. The right to present a defense; (1-1-09)T

05. Call Witnesses. The right to call witnesses; and (1-1-09)T

06. Cross Examination. The right to cross examine witnesses. (1-1-09)T

061. -- 069. (RESERVED).

070. PROPER NOTICE OF ALL CHARGES.

The Stewards must provide written notice at least three (3) days before the hearing to a licensee who is the subject of a disciplinary hearing, except as provided for by these rules regarding summary suspensions. The licensee may waive his right to a three-day notice by executing a written waiver. (1-1-09)T

071. CONTENT OF NOTICE.

Notice given under Section 070 must include: (1-1-09)T

- 01. Hearing Schedule.** A statement of the time, place and nature of the hearing; (1-1-09)T
- 02. Legal Authority.** A statement of the legal authority and jurisdiction under which the hearing is to be held; (1-1-09)T
- 03. Violation.** A reference to the particular sections of the statutes or rules involved; (1-1-09)T
- 04. Description of Conduct.** A short, in plain language of the alleged conduct that has given rise to the disciplinary hearing; (1-1-09)T
- 05. Possible Penalties.** The possible penalties that may be imposed; and (1-1-09)T
- 06. Rights.** A statement summarizing the rights of the licensee as outlined in Section 060 of these rules. (1-1-09)T

072. SERVICE OF NOTICE.

01. Hand Delivery. If possible, the Stewards or their designee may hand deliver the written notice of the disciplinary hearing to the licensee who is the subject of the hearing. (1-1-09)T

02. Mail Delivery. If hand delivery is not possible, the Stewards may mail the notice to the licensee's last known address, as found in the Racing Commission's licensing files, by regular mail and by certified mail, return receipt requested. (1-1-09)T

03. Disqualification. If the disciplinary hearing involves an alleged medication violation that could result in the disqualification of a horse, the Stewards must provide notice of the hearing to the owner, managing owner or lessee of the horse in the manner provided by Section 072. (1-1-09)T

073. NONAPPEARANCE.

01. Nonappearance After Adequate Notice. Nonappearance of a summoned party after adequate notice is construed as a waiver of the right to a hearing before the Stewards. (1-1-09)T

02. Suspension of License. In compliance with these rules the Stewards may suspend the license of a person who fails to appear at a disciplinary hearing after written notice of the hearing has been sent. (1-1-09)T

074. -- 079. (RESERVED).

080. CONTINUANCES.

01. Request for Continuance. Upon receipt of a notice of disciplinary hearing, a licensee may request a continuance of the hearing. (1-1-09)T

02. Good Cause. The Stewards may grant a continuance of any hearing for good cause shown. (1-1-09)T

03. Order of Continuance. The Stewards may at any time order a continuance on their own motion.

(1-1-09)T

081. -- 089. (RESERVED).

090. EVIDENCE.

Each witness at a disciplinary hearing conducted by the Stewards must be sworn in by the presiding steward.

(1-1-09)T

091. RULES OF EVIDENCE.

The Stewards are to allow a full presentation of evidence and are not bound by the technical rules of evidence. However, the Stewards may disallow evidence that is irrelevant or unduly repetitive of other evidence. The Stewards have the authority to determine, in their sole discretion, the weight and credibility of any evidence or testimony. The Stewards may admit hearsay evidence if the Stewards determine the evidence is of a type that is commonly relied on by reasonably prudent people. The rules of privilege recognized by state law apply in hearings before the Stewards.

(1-1-09)T

092. BURDEN OF PROOF.

The burden of proof is on the person bringing the complaint to show, by a preponderance of the evidence, that the licensee has violated or is responsible for a violation of the Act or a Racing Commission rule.

(1-1-09)T

093. RECORD OF HEARING.

The Stewards must make a tape recording of all disciplinary hearings. A transcript of the recording may be made available at the expense of the requesting person.

(1-1-09)T

094. -- 099. (RESERVED).

100. RULING.

The issues at a disciplinary hearing must be decided by a majority vote of the Stewards. If the vote is not unanimous, the dissenting steward must include a written statement of the reason(s) for the dissent with the record of the hearing.

(1-1-09)T

101. FORM OF RULING.

A ruling by the Stewards must be on a form prescribed by the Racing Commission and must include:

(1-1-09)T

01. Personal Information. The full name, date of birth, last record address, license type and license number of the person who is the subject of the hearing;

(1-1-09)T

02. Charges. A statement of the charges against the licensee, including a reference to the specific section of the Act or rules of the Racing Commission that the licensee is found to have violated;

(1-1-09)T

03. Dates. The date of the hearing and the date the ruling was issued;

(1-1-09)T

04. Penalty. The penalty imposed;

(1-1-09)T

05. Order of Finish. Any changes in the order of finish or purse distribution; and

(1-1-09)T

06. Other Information. Any other information required by the Racing Commission.

(1-1-09)T

07. Signing of Ruling. A ruling must be signed by a majority of the Stewards.

(1-1-09)T

102. -- 109. (RESERVED).

110. SERVICE OF RULING.

01. Hand Delivery. If possible, the Stewards or their designee may hand deliver a copy of the ruling to the person who is the subject of the ruling.

(1-1-09)T

02. Mail. If hand delivery is not possible, the Stewards may mail the ruling to the person's last known address, as found in the Racing Commission's licensing files, by regular mail and by certified mail, return receipt requested. (1-1-09)T

03. Copy. A copy of the ruling must be sent to the association of Racing Commissioners International or association of Racing Commissioners International Ruling Database. (1-1-09)T

04. Disqualification. If the ruling includes the disqualification of a horse, the Stewards must provide a copy of the ruling to the owner of the horse, the horsemen's bookkeeper, the appropriate past performance service(s) and the Association of Racing Commissioners International in the manner provided for in these rules. (1-1-09)T

111. -- 119. (RESERVED).

120. NOTICE OF RIGHT OF APPEAL.

A licensee who is the subject of the proceeding must be informed by the Stewards of his right to appeal the ruling at the time he is informed of the ruling. (1-1-09)T

121. -- 139. (RESERVED).

140. TRANSFER OF HORSE PROHIBITED.

The transfer of a horse to avoid application of a Racing Commission rule or ruling is prohibited. (1-1-09)T

141. -- 149. (RESERVED).

150. APPEALS.

Except as provided in Section 160 of these rules, a licensee aggrieved by a ruling of the Stewards may appeal to the Racing Commission. A licensee who fails to file an appeal by the deadline and in the form required by these rules waives the right of appeal. (1-1-09)T

151. TIME FRAME FOR APPEAL.

An appeal must be filed with the Executive Director of the Racing Commission not later than five (5) calendar days after the entry of the ruling. If the Racing Commission determines the appeal to be frivolous, the appellant may be subject to a fine. (1-1-09)T

152. FORM OF APPEAL.

01. Form of Appeal. An appeal must be in writing on a form prescribed by the Racing Commission and must include: (1-1-09)T

a. The name, address, telephone number and signature of the licensee making the appeal; and (1-1-09)T

b. A statement of the basis for the appeal. (1-1-09)T

02. Bond. The licensee filing the appeal may be required to furnish a bond in the amount of two hundred dollars (\$200) to cover the administrative costs and which may be forfeited should the appeal be heard. (1-1-09)T

153. RECORD FOR APPEAL.

Upon notification by the Racing Commission that an appeal has been filed, the Stewards must forward to the Racing Commission the written record of the proceeding and any evidence or exhibits on which the appeal is based. (1-1-09)T

154. PAYMENT OF FINES DURING APPEAL.

If a licensee against whom a fine has been assessed files an appeal of the ruling that assesses the fine, the licensee must pay the fine in accordance with these rules. If the appeal is disposed of in favor of the appellant, the Racing Commission must refund the amount of the fine. (1-1-09)T

155. -- 159. (RESERVED).

160. NO APPEAL FROM DISQUALIFICATION FOR INTERFERENCE.

A decision by the Stewards regarding a disqualification for interference during the running of the race is final and may not be appealed to the Racing Commission. (1-1-09)T

161. -- 169. (RESERVED).

170. HEARING ON APPEAL.

The hearing of the Racing Commission on appeal is limited to oral argument regarding issues of law and fact as may be found in the record established before the Board of Stewards, except, the Racing Commission may order a de novo hearing if the Racing Commission determines that exceptional circumstances require it. (1-1-09)T

171. WRITTEN APPEAL.

01. Written Appeal. With the consent of the appellant, an appeal may be submitted in writing. (1-1-09)T

02. Determination. The Racing Commission will determine the matter upon the record submitted to the Racing Commission. (1-1-09)T

03. Papers. All papers filed with the Racing Commission are the property of the Racing Commission. (1-1-09)T

172. HEARING OFFICER.

The Racing Commission may assign a hearing officer to hear the matter pending before the Racing Commission, pursuant to the IDAPA 04.11.01, "Idaho Rules of Administrative Proceeding of the Attorney General." (1-1-09)T

173. WRITTEN ARGUMENTS.

Written arguments and briefs or briefs and motions regarding the appeal will be allowed under such terms as the Racing Commission may direct in its notice of hearing, which will be issued at least twenty-eight (28) days prior to the date set for hearing. (1-1-09)T

174. MOTIONS.

Requests for postponement and other motions must be filed in writing not later than seven (7) days before the scheduled hearing. The Executive Director may determine whether good cause is shown for the postponement and may grant or deny the request on behalf of the Racing Commission. (1-1-09)T

175. -- 179. (RESERVED).

180. RECORD OF PROCEEDINGS.

01. Record of Proceedings. A verbatim record of the proceedings at hearings before the Racing Commission will be maintained either by electrical devices or by stenographic means, as the Racing Commission may direct. (1-1-09)T

02. Stenographic Record. If any party to the action requests a stenographic record of the proceedings, the record will be done by stenographic means. (1-1-09)T

03. Cost. The requesting party must pay the costs of reporting the proceedings. (1-1-09)T

181. FINAL ORDER.

Following the hearing the Racing Commission will issue a final order as provided by Section 67-5246, Idaho Code. The Executive Director may sign the final order on behalf of the Racing Commission Chairman. (1-1-09)T

182. -- 199. (RESERVED).

200. STAY OF RULING.

A licensee who has been disciplined by a ruling of the Stewards may apply to the Executive Director for a stay of the ruling. (1-1-09)T

201. TIME FRAME FOR APPLICATION.

An application for a stay must be filed with the Racing Commission's Executive Director not later than the deadline for filing an appeal. (1-1-09)T

202. FORM OF APPLICATION.

01. Application for Stay. An application for a stay must be in writing and must include: (1-1-09)T

a. The name, address, and telephone number of the person requesting the stay; (1-1-09)T

b. A statement of the justification for the stay. (1-1-09)T

02. Licensee Signature. The application must be signed by the licensee requesting the stay. (1-1-09)T

203. GRANT OR DENIAL OF STAY.

The Executive Director may grant a stay for cause. (1-1-09)T

01. Licensee Notification. The Executive Director must notify the licensee in writing of the decision. (1-1-09)T

02. Rescission of Stay. The Executive Director may rescind a stay granted under this Subsection of these rules for reasonable cause. (1-1-09)T

204. EFFECT OF STAY.

The fact that a stay is granted is not a presumption that the ruling by the Stewards is invalid. (1-1-09)T

205. -- 349. (RESERVED).

350. EXCLUSION.

The Stewards or Racing Commission may order an individual excluded from all or part of any premises under the regulatory jurisdiction of the Racing Commission if the Stewards, Executive Director, or Racing Commission determine that: (1-1-09)T

01. Statutory or Regulatory Exclusion. The individual may be excluded under the statutes or rules of the Racing Commission. (1-1-09)T

02. Integrity Exclusion. The individual's presence on racing association grounds is inconsistent with maintaining the honesty and integrity of racing. (1-1-09)T

351. HEARING ON EXCLUSION.

An exclusion may be ordered separately or in conjunction with other disciplinary action taken by the Stewards or Racing Commission. (1-1-09)T

01. Ordered Separately. If an exclusion is ordered separately, the excluded individual is entitled to a hearing before the Stewards or Racing Commission. (1-1-09)T

02. Conduct of Hearing. A hearing on an exclusion is conducted in the same manner as other hearings conducted by the Stewards or Racing Commission. (1-1-09)T

03. Effect of Exclusion. If an individual is excluded under these rules, a horse owned or trained by or under the care or supervision of the individual is ineligible to be entered or to start in a race in this jurisdiction. (1-1-09)T

352. -- 399. (RESERVED).

400. RULINGS IN OTHER JURISDICTIONS.

The Racing Commission and the Stewards may honor rulings from other pari-mutuel jurisdictions regarding license suspensions, revocation, or eligibility of horses. (1-1-09)T

401. APPEALS OF RECIPROCAL RULINGS.

Persons subject to rulings in other jurisdictions have the right to request a hearing before the Racing Commission to show cause why such ruling should not be enforced in this jurisdiction. (1-1-09)T

01. Request for Hearing. Any request for such hearing must clearly set forth in writing the reasons for the appeal. (1-1-09)T

02. Signed. The request must be signed by the person requesting the hearing. (1-1-09)T

402. -- 989. (RESERVED).

990. PENALTIES.

Any person violating any of the provisions of these rules is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code and any of the Racing Commission rules. (1-1-09)T

991. -- 998. (RESERVED).

999. MINOR VIOLATIONS.

Nothing in these rules may be construed as requiring the Racing Commission to report minor violations when the Racing Commission believes that the public interest will be best served by suitable warnings or other administrative action. (1-1-09)T

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

11.04.05 - RULES GOVERNING ADVANCED DEPOSIT WAGERING

DOCKET NO. 11-0405-0901 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 12, 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 regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 54-2506, Idaho Code.

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

MONDAY - JANUARY 12, 2009 - 6:00 p.m.

**NAMPA CIVIC CENTER
Home Federal Room
311 3RD Street South, Nampa, ID**

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

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

This rule provides a clear concise rule Chapter on Advanced Deposit Wagering. In addition, this rule conforms more closely with the Association of Racing Commissioners International Model Rules in a plain English format.

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

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. However this rule was developed with input from a committee comprised of representatives of all segments of the horse racing industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Idaho State Racing Commission, 208-884-7080.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 12th day of November, 2008.

Dennis Jackson
Executive Director
Idaho State Racing Commission
Phone: 208-884-7080 / Fax: 208-884-7098

700 S. Stratford Drive
PO Box 700
Meridian, ID 83780-0700

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0405-0901

IDAPA 11
TITLE 04
CHAPTER 05

IDAHO STATE RACING COMMISSION

11.04.05 - RULES GOVERNING ADVANCED DEPOSIT WAGERING

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (11-12-08)T

001. TITLE AND SCOPE.

01. Title. These rules of the Idaho State Racing Commission are cited as IDAPA 11.04.05, "Rules Governing Advanced Deposit Wagering." (11-12-08)T

02. Scope. These rules govern advanced deposit wagering in Idaho. (11-12-08)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for these rules. (11-12-08)T

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal Racing Commission actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (11-12-08)T

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference into these rules. (11-12-08)T

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

01. Physical Address. The central office of the Idaho State Racing Commission is located at 700 S. Stratford Drive, Meridian, Idaho. (11-12-08)T

02. Office Hours. The central office is open 8 a.m. to 5 p.m., Mountain Time, Monday thru Friday, except holidays designated by the state of Idaho. (11-12-08)T

03. Mailing Address. The mailing address for the central office is Idaho State Racing Commission, P.O. Box 700, Meridian, Idaho 83680-0700. (11-12-08)T

04. Telephone Number. The telephone of the office is (208) 884-7080. (11-12-08)T

05. Fax Number. The facsimile number of the office is (208) 884-7098. (11-12-08)T

06. Website. The Racing Commission website is <http://www.isp.state.id.us/race>. (11-12-08)T

006. PUBLIC RECORDS COMPLIANCE AND AVAILABILITY.

These rules are public records available for inspection and copying at the Idaho State Racing Commission central office or on the Racing Commission website. (11-12-08)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Account. An account for advanced deposit wagering with a specific identifiable record of credits, debits, deposits, wagers, and withdrawals established by an account holder and managed by the advanced deposit wagering operator. (11-12-08)T

02. Account Holder. A natural person who successfully completed an application and for whom the advance deposit wagering operator has opened an account. (11-12-08)T

03. Advance Deposit Wagering. A form of pari-mutuel wagering in which a natural person may deposit money in an account with an advance deposit wagering operator and then use the current balance to pay for pari-mutuel wagering. (11-12-08)T

04. Advance Deposit Wagering Facility. An actual location, equipment, and staff of an advance deposit wagering operator involved in the management, servicing and operation of advance deposit wagering. (11-12-08)T

05. Advance Deposit Wagering Operator. Those persons or entities licensed by the Idaho State Racing Commission with the authority to accept deposits and wagers, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts. (11-12-08)T

06. Applicant. A natural person who has submitted an application to establish an account. (11-12-08)T

07. Application. The form or forms and other required submissions received from an applicant with the intent of opening an account. (11-12-08)T

08. Confidential Information. Confidential information includes: (11-12-08)T

a. The amount of money credited to, debited from, withdrawn from, or present in any particular account holder's account; (11-12-08)T

b. The amount of money wagered by a particular account holder on any race or series of races; (11-12-08)T

c. The account number and secure personal identification code of a particular account holder; (11-12-08)T

d. The identities of particular entries on which the account holder is wagering or has wagered; (11-12-08)T

e. Unless otherwise authorized by the account holder, the name, address, and other information in the possession of the advance deposit wagering operator that would identify the account holder to anyone other than the Racing Commission. (11-12-08)T

09. Corporation. A body that is granted a charter recognizing it as a separate legal entity distinct from its members. (11-12-08)T

10. Credits. All positive inflow of money to an account. (11-12-08)T

11. Debits. All negative outflow of money from an account. (11-12-08)T

12. Deposit. A payment of money by cash, check, money order, credit card, debit card, or electronic funds transfer made by an account holder to the account holder's account. (11-12-08)T

13. Natural Person. Any person at least eighteen (18) years of age, but does not include any corporation, partnership, limited liability company, trust, or estate. (11-12-08)T

14. Partnership. A relationship between individuals for the achievement of a specific goal. (11-12-08)T

15. Principal Residence Address. That place where the natural person submitting an application for an account resides at least fifty percent (50%) of the time during the calendar year. (11-12-08)T

16. Proper Identification. A form of identification accepted in the normal course of business to establish that the person making a transaction is the account holder. (11-12-08)T

17. Racing Commission. Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee. (11-12-08)T

18. Secure Personal Identification Code. An alpha-numeric character code chosen by an account holder as a means by which the advance deposit wagering operator may verify a wager or account transaction as authorized by the account holder. (11-12-08)T

19. Source Market Fee. That part of a wager, made outside of the state by an Idaho resident, that is returned to the Racing Commission. (11-12-08)T

20. Withdrawal. A payment of money from an account by the advance deposit wagering operator to the account holder when property requested by the account holder. (11-12-08)T

21. Withdrawal Slip. A form provided by the advance deposit wagering operator for use by an account holder in withdrawing funds from an account. (11-12-08)T

011. ABBREVIATIONS.
There are no abbreviations used in these rules. (11-12-08)T

012. -- 014. (RESERVED).

015. LICENSING FOR ADVANCED DEPOSIT WAGERING.
No person may conduct advanced deposit wagering activities within Idaho prior to receiving an advance deposit wagering license from the Racing Commission. (11-12-08)T

016. -- 019 (RESERVED).

020. ADVANCED DEPOSIT WAGERING LICENSE.
Any person may request a license from the Racing Commission to conduct advanced deposit wagering in accordance with Section 54-2512(5), Idaho Code, and these rules. As part of the request, such person must submit a detailed plan of how its proposed advance deposit wagering system would operate. The Racing Commission may require changes in a proposed plan of operations as a condition of granting a request. No subsequent changes in the system's operation may occur unless ordered by the Racing Commission or until approval is obtained from the Racing Commission after it receives a written request. (11-12-08)T

021. -- 024. (RESERVED).

025. ADVANCE DEPOSIT WAGERING LICENSE APPLICATION.
An applicant for an advance deposit wagering operator license must provide the following information as part of the application: (11-12-08)T

01. Legal Name. The legal name of the person seeking the license. (11-12-08)T

02. Corporation. If the person seeking a license is a corporation: the names, addresses of all directors and officers, the date of incorporation and the place of incorporation; (11-12-08)T

03. Partnership. If the person seeking a license is a partnership: the names, addresses of all partners. If a partner is a corporation the date of incorporation, the place of incorporation and the names and addresses of all directors and officers. (11-12-08)T

04. Race Tracks. The names of the race tracks the advance deposit wagering operator has contracts with that allow the applicant to provide wagering on the product. (11-12-08)T

05. Financial Information. Financial information that demonstrates the financial resources to operate. (11-12-08)T

06. Budget. A detailed budget showing anticipated revenue, expenditures and cash flows by month during the license period. (11-12-08)T

07. Number of Days. The number of days of planned operation during the fiscal year in which they are seeking to be licensed. (11-12-08)T

026. DETAILED PLAN OF OPERATION FOR ADVANCED DEPOSIT WAGERING.

01. Detailed Plan of Operation. The detailed plan of operation for an advanced deposit wagering license must include, but is not limited to, the following information: (11-12-08)T

a. The manner in which the wagering system will operate; (11-12-08)T

b. Programs for responsible wagering; and (11-12-08)T

c. Mitigation for the effects of advance deposit wagering on the source market in which the account holder resides. (11-12-08)T

02. Requirements for Accounts Established and Operated for Persons Whose Principal Residence Is Outside of the State of Idaho. The Racing Commission may require changes in a proposed plan of operations as a condition of granting a license. No subsequent changes in the system's operation may occur unless ordered by the Racing Commission or until approval is obtained from the Racing Commission after it receives a written request. (11-12-08)T

027. -- 029. (RESERVED).

030. INVESTIGATIONS OR INSPECTIONS.

The Racing Commission may conduct investigations and inspections and request additional information from the advanced deposit wagerer as it deems appropriate. (11-12-08)T

031. -- 039. (RESERVED).

040. CLAIMS OF NON- PAYMENT.

01. Claim of Non-Payment. An account holder, who is claiming that non-payment has occurred, must make a claim of non-payment to the Racing Commission. (11-12-08)T

02. Investigation of Claim. The Racing Commission will investigate the claim and provide the advance deposit wagering operator with an opportunity to respond thereto and submit any supporting documents or evidence it needs to defend the claim. (11-12-08)T

03. Commission Determination. If the Racing Commission determines that the account holder is entitled to restitution, the advance deposit wagering operator has ten (10) days to pay the amount determined by the Racing Commission. (11-12-08)T

041. -- 049. (RESERVED).

050. PROMOTE AND ADVERTISE.

An applicant licensed under these rules may enter into such agreements, for what it deems good and sufficient reasons, that are necessary to promote, advertise, and further the sport of racing, or that may be necessary for the effective operation of interstate account wagering, including, without limitation, television production and telecommunications services. Such agreements are reviewed by the Racing Commission and may be denied.

(11-12-08)T

051. -- 059. (RESERVED).

060. OUT-OF-STATE PROVIDERS.

Any advance deposit wagering by an account holder with a provider outside of the State by telephone or other electronic means is illegal, unless that provider is licensed by the Racing Commission and provides a source market fee of not less than ten percent (10%) of the handle forwarded monthly to the Racing Commission.

(11-12-08)T

061. -- 069. (RESERVED).

070. RESIDENCE OUTSIDE THE STATE OF IDAHO.

Requirements for the establishment and operation of accounts for individuals whose principle residence is outside of the state of Idaho must be set forth in the operation plan as stated in these rules.

(11-12-08)T

071. -- 079. (RESERVED).

080. ESTABLISHING AN ACCOUNT.

01. Establishing an Account. The application for establishing the account must be authorized in a manner acceptable to the Racing Commission and must include the applicant's:

(11-12-08)T

a. Full legal name; (11-12-08)T

b. Principal residence address; (11-12-08)T

c. Telephone number of their permanent residence; (11-12-08)T

d. Social security number; and (11-12-08)T

e. Proper identification or certification demonstrating that the applicant is at least eighteen (18) years of age. (11-12-08)T

02. Other Information. As needed, any other information required by the Racing Commission or the advance deposit operator must be included. (11-12-08)T

081. ACCOUNT INFORMATION.

Each application for an advance deposit wagering account may be subject to verification. (11-12-08)T

082. IDENTIFYING AN ACCOUNT NUMBER.

Each account must have a unique identifying account number. The identifying account number may be changed at any time by the advance deposit wagering operator provided the advance deposit wagering operator informs the account holder in writing prior to the change. (11-12-08)T

01. Secure Personal Identification Code. The applicant must supply the advance deposit wagering operator with an alpha-numeric code to be used as a secure personal identification code when the account holder is placing an account wager. The account holder has the right to change this code at any time. (11-12-08)T

02. Principle Residence. The principal residence address will be established by reliance on the information submitted on the application form provided and certified by the applicant. (11-12-08)T

03. Upon Approval Account Holder Receives. The account holder will receive, at the time the account is approved: (11-12-08)T

- a.** A unique account identification number; (11-12-08)T
- b.** A copy of the advance deposit wagering rules and such other information and material that is pertinent to the operation of the account; and (11-12-08)T
- c.** Such other information as the advance deposit wagering operator or Racing Commission may deem appropriate. (11-12-08)T

04. Name of Natural Persons. The advance deposit wagering operator will accept accounts in the name of a natural person only. (11-12-08)T

05. Nontransferable. The account is nontransferable between natural persons. (11-12-08)T

083. -- 089. (RESERVED).

090. CLOSE OR REFUSE TO OPEN AN ACCOUNT.

The advance deposit wagering operator may close or refuse to open an account, for what it deems good and sufficient reason, and will order an account closed if it is determined that information that was used to open an account was false, or that the account has been used in violation of these rules. (11-12-08)T

091. -- 094. (RESERVED).

095. ACCOUNT HOLDER RESPONSIBILITIES.

01. Personal Use Only. Accounts are for the personal use of the account holder. (11-12-08)T

02. Security. The account holder is responsible for maintaining the secrecy of the account number and secure personal identification code. (11-12-08)T

03. Account Losses. Except where the advance deposit wagering center or its employees or agents act without good faith or fail to exercise ordinary care, the advance deposit wagering center is not be responsible for any loss arising from the use by any other person or persons of an account holder's account. (11-12-08)T

04. Notification of Account Security Breach. The account holder must immediately notify the advance deposit wagering center of a breach of the account's security. (11-12-08)T

096. -- 099. (RESERVED)

100. OPERATION OF AN ACCOUNT.

01. Operator May Refuse Deposits. The advance deposit wagering operator may refuse deposits to an account for what it deems good and sufficient reason. (11-12-08)T

02. Operator May Suspend or Close Account. The advance deposit wagering operator may suspend or close any account at any time provided that within five (5) business days of closing the account the advance deposit wagering operator returns to the account holder all monies then on deposit by sending it to the principal residence address as listed on the application. (11-12-08)T

101. -- 104. (RESERVED).

105. CREDITS TO AN ACCOUNT.

After the initial establishment of an account, credits to an account may be made as follows: (11-12-08)T

- 01. Deposits.** Deposits to an account by an account holder must be made in the following forms:

(11-12-08)T

- a. Cash given to the staff of an advance deposit wagering operator; (11-12-08)T
- b. Personal or cashier check, or money order given or sent to an advance deposit wagering operator; (11-12-08)T
- c. Charges made to an account holder's credit card or debit card upon the direct and personal instruction of the account holder. Such instructions may be given by telephone or any electronic device to the advance deposit wagering facility by the account holder if the use of the card has been approved by the advance deposit wagering operator; or (11-12-08)T
- d. Transfer by means of an electronic funds transfer from a monetary account controlled by an account holder to his account. The account holder is liable for any charges imposed by the transmitting or receiving entity with such charges to be deducted from the account. (11-12-08)T

02. Credit for Winnings. Credit for winnings from wagers placed with funds in an account and credit for account wagers on entries that are scratched will be posted to the account by the advance deposit wagering operator. (11-12-08)T

03. Accordance with Financial Institution. Checks, money orders and other negotiable instruments will be posted to the credit of the account holder in accordance with financial institution funds availability schedules. (11-12-08)T

106. DEBITS TO AN ACCOUNT.

01. Debits to an Account. Debits to an account are made as follows: (11-12-08)T

- a. Upon receipt by the advance deposit wagering operator of an account wager, the advance deposit wagering center debits the account in the amount of the wager; or (11-12-08)T
- b. For fees for service or other transaction-related charges by the advance deposit wagering operator. (11-12-08)T

02. Account Withdrawals. An advance deposit wagering operator may authorize a withdrawal from an account when one (1) of the following exists: (11-12-08)T

- a. The account holder of an account appears personally at the advance deposit wagering operators location and provides the following: (11-12-08)T
 - i. Proper identification; (11-12-08)T
 - ii. The correct secure personal identification code; and (11-12-08)T
 - iii. A properly completed and signed withdrawal slip. (11-12-08)T
- b. The account holder sends to the advance deposit wagering operator a properly completed and signed withdrawal slip by any means, electronic or otherwise. (11-12-08)T
 - i. Upon receipt of a properly completed and signed withdrawal slip, and if there are sufficient funds in the account to cover the withdrawal, the advance deposit wagering operator must, within five (5) business days of its receipt, send a check to the account holder. The check must be payable to the holder of the account and in the amount of the requested withdrawal. (11-12-08)T

- ii. If funds are not sufficient to cover the withdrawal, the account holder will be notified in writing and those funds in the account will be withdrawn and sent to the account holder within the five (5) business day time period. Electronic funds transfers may be used for withdrawals in lieu of a check at the discretion of the account

holder and the advance deposit wagering operator subject to the same conditions described for electronic funds transfer credits. (11-12-08)T

c. The advance deposit wagering operator may close accounts in which there has been no activity for at least six (6) months, returning funds remaining therein to the account holder at his principal residence address. (11-12-08)T

d. In the event an account holder is deceased, funds accrued in the account will be released to the decedent's legal representative upon receipt of a copy of a valid death certificate, tax releases or waivers, probate court authorizations or other documents required by applicable laws. (11-12-08)T

107. WAGERS IN EXCESS OF ACCOUNT BALANCE.

The advance deposit wagering operator will not accept wagers from an account holder in an amount in excess of the account balance. (11-12-08)T

108. ACCOUNTS WILL NOT BEAR ANY INTEREST.

Monies deposited with the advance deposit wagering operator for advance deposit wagering must not bear any interest to the account holder. (11-12-08)T

109. PAYMENTS ON WINNING PARI-MUTUEL WAGERS.

Payments on winning pari-mutuel wagers and credits for account wagers on entries which are scratched must be posted to the credit of the account holder as soon as practicable after the race is declared official. (11-12-08)T

110. MAILING ADDRESS.

The principal residence address, provided in writing by the account holder at the time of application, is deemed to be the proper address for the purposes of mailing checks, statements of account, account withdrawals, notices, or other appropriate correspondence. The mailing of checks or other correspondence to the address given by the account holder is at the sole risk of the account holder. (11-12-08)T

111. -- 119. (RESERVED).

120. POWERS OF THE RACING COMMISSION TO REVIEW AND AUDIT RECORDS.

The Racing Commission or its staff will be given access to all records and financial information of the advance deposit wagering operator for review and audit. The Racing Commission may require that the advance deposit wagering operator annually submit to the Racing Commission audited financial statements of the advance deposit wagering system. (11-12-08)T

121. -- 124. (RESERVED).

125. CONFIDENTIAL INFORMATION.

No confidential information related to the placing of any wager or to the operation of the advance deposit wagering center may be divulged by any employee or agent of the advance deposit wagering center, except, as required by these rules, to the account holder or the Racing Commission, or as otherwise required by state or federal law or regulation or rules of the Racing Commission. (11-12-08)T

126. -- 129. (RESERVED).

130. APPLICABLE LAWS, RULES, AND REGULATIONS.

All advance deposit wagering operators must adhere to all applicable state and federal laws, rules, and regulations. (11-12-08)T

131. -- 989. (RESERVED).

990. PENALTIES.

Any person violating any of the provisions of these rules is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code and any of the Racing Commission rules. (1-1-09)T

991. -- 998. (RESERVED).

999. MINOR VIOLATIONS.

Nothing in these rules may be construed as requiring the Racing Commission to report minor violations when the Racing Commission believes that the public interest will be best served by suitable warnings or other administrative action. (1-1-09)T

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

11.04.06 - RULES GOVERNING RACING OFFICIALS

DOCKET NO. 11-0406-0901 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 54-2506, Idaho Code.

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

MONDAY - JANUARY 12, 2009 - 6:00 p.m.

**NAMPA CIVIC CENTER
Home Federal Room
311 3RD Street South, Nampa, ID**

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

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

This rule provides a clear concise rule Chapter on Racing Officials. In addition, this rule conforms more closely with the Association of Racing Commissioners International Model Rules in a plain English format.

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

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. However this rule was developed with input from a committee comprised of representatives of all segments of the horse racing industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Idaho State Racing Commission, 208-884-7080.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 12th day of November, 2008.

Dennis Jackson
Executive Director
Idaho State Racing Commission
Phone: 208-884-7080 / Fax: 208-884-7098

700 S. Stratford Drive
PO Box 700
Meridian, ID 83780-0700

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0406-0901

IDAPA 11
TITLE 04
CHAPTER 06

IDAHO STATE RACING COMMISSION

11.04.06 - RULES GOVERNING RACING OFFICIALS

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (1-1-09)T

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.04.06, "Rules Governing Racing Officials." (1-1-09)T

02. Scope. These rules govern the Racing Officials of the Idaho State Racing Commission. (1-1-09)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for these rules. (1-1-09)T

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal racing commission actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (1-1-09)T

004. INCORPORATION BY REFERENCE.

There are no documents are incorporated by reference into these rules. (1-1-09)T

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

01. Physical Address. The central office of the Idaho State Racing Commission is located at 700 S. Stratford Drive, Meridian, Idaho. (1-1-09)T

02. Office Hours. The central office is open 8 a.m. to 5 p.m., Mountain Time, Monday thru Friday, except holidays designated by the state of Idaho. (1-1-09)T

03. Mailing Address. The mailing address for the central office is Idaho State Racing Commission, P.O. Box 700, Meridian, Idaho 83680-0700. (1-1-09)T

04. Telephone Number. The telephone of the office is (208) 884-7080. (1-1-09)T

05. Fax Number. The facsimile number of the office is (208) 884-7098. (1-1-09)T

06. Website. The Racing Commission website is <http://www.isp.state.id.us/race>. (1-1-09)T

006. PUBLIC RECORDS COMPLIANCE AND AVAILABILITY.

These rules are public records available for inspection and copying at the Idaho State Racing Commission central office or on the Racing Commission website. (1-1-09)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. **Appointment.** A person approved by the Racing Commission or its designee, for an official racing position. (1-1-09)T
02. **Apprentice Jockey.** A jockey who has not ridden a certain number of winners within a specified period of time. (1-1-09)T
03. **Approval.** Acceptance of a racing official's eligibility by the Racing Commission or its designee. (1-1-09)T
04. **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. (1-1-09)T
05. **Attendance.** Being at an assigned location for an assigned period of time. (1-1-09)T
06. **Clerk of Scales.** The employee of a racing 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. (1-1-09)T
07. **Clocker.** A person who times workouts and races. (1-1-09)T
08. **Commission Veterinarian.** A Racing Commission appointed veterinarian having authority to enforce the Racing Commission's rules relating to veterinary practices. (1-1-09)T
09. **Complaint.** A written allegation of a violation of these rules. (1-1-09)T
10. **Conditions.** Qualifications which determine a horse's eligibility to be entered in a race. (1-1-09)T
11. **Controlled Substance.** Any substance included in the five (5) classification schedules of the (U.S.) Controlled Substance Act of 1970. (1-1-09)T
12. **Daily Program.** The published listing of all contests and contestants for a specific performance. (1-1-09)T
13. **Dead Heat.** The finish of a race in which the noses of two (2) or more horses reach the finish line at the same time. (1-1-09)T
14. **Declaration.** The act of withdrawing an entered horse from a race before the closing of overnight entries. (1-1-09)T
15. **Disciplinary Action.** An action taken for misconduct or rule violation(s). (1-1-09)T
16. **Eligibility Certificate.** Document(s) showing the eligibility of all horses competing at the track or stabled on the grounds. (1-1-09)T
17. **Entrance Money Records.** A record showing all monies due and paid prior to entry of a contest. (1-1-09)T
18. **Entries.** A list of horses entered in a race. (1-1-09)T
19. **Gate Judge.** A track employee who is present at the starting gate just prior to the running of each race. (1-1-09)T
20. **Horse Identifier.** A person who is responsible for positively identifying all horses entered to a race, stabled or on racing association grounds. (1-1-09)T

21. **Horsemen's Bookkeeper.** A bonded racing association employee who manages the horsemen's accounts which covers all monies due horseman in regards to purses, stakes, rewards, claims and deposits. (1-1-09)T
22. **Jockey's Room.** A room reserved for jockey's to prepare for a race. (1-1-09)T
23. **Jockey Room Custodian.** A racing association employee authorized to regulate the conduct of the jockeys, ensure good order is maintained and monitors the jockeys. (1-1-09)T
24. **Jurisdiction.** The limits or territory within which Racing Officials authority may be exercised. (1-1-09)T
25. **Licensing.** Determination for eligibility of a racing official by the Racing Commission or its designee. (1-1-09)T
26. **Nerved Horses.** A horse that has had posterior digital neurectomy (heel nerving) surgery. (1-1-09)T
27. **Nomination.** The naming of a horse to a certain race or series of races generally accompanied by payment of a prescribed fee. (1-1-09)T
28. **Objection.** A verbal claim of foul in a race lodged with the stewards or their designee by the horse's jockey, trainer, owner or the owner's authorized agent before the race is declared official. (1-1-09)T
29. **Order of Finish.** The order of finish of the contestants in a contest as declared official by the stewards/judges. (1-1-09)T
30. **Paddock Judge.** The employee of a racing 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. (1-1-09)T
31. **Paddock Judge's List.** A list of horses which may not be entered in a race for safety reasons. (1-1-09)T
32. **Patrol Judge.** A person who observes a race and reports information concerning the race to the stewards. (1-1-09)T
33. **Photo Finish.** A requested photo to help in determining the correct order of finish. (1-1-09)T
34. **Placing Judge.** A person who determines the order of finish in a race as the horses pass the finish line. (1-1-09)T
35. **Presiding State Steward.** One (1) of the two (2) stewards appointed by the Racing Commission who presides over all other stewards. (1-1-09)T
36. **Protest.** A written complaint made to the stewards concerning a horse entered in a race and filed not later than one (1) hour prior to the scheduled post time of the first race on the day in which the questioned horse is entered. (1-1-09)T
37. **Purse.** The total dollar amount for which a race is contested. (1-1-09)T
38. **Race Meet.** The number of races and race days approved by the Racing Commission in the Racing Association license. (1-1-09)T
39. **Racing Association.** Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering. (1-1-09)T
40. **Racing Commission.** Three (3) member Idaho State Racing Commission created by Section 54-

2503, Idaho Code, or its designee. (1-1-09)T

41. Racing Secretary. The employee of a racing 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. (1-1-09)T

42. Records. A daily log kept by the presiding steward of the stewards' official activities. Also, an accounting of each horse, owner, trainer or jockey participating at a race meet who had funds due or on deposit in the horsemen's account completed by the Horsemen's Bookkeeper's. (1-1-09)T

43. Reports. A daily account of the stewards' actions and observations made during each day's race program. (1-1-09)T

44. Rule Off. An action by the racing stewards, under these rules, to suspend a license for a violation of these rules. (1-1-09)T

45. Stake. The prize in a contest. (1-1-09)T

46. Stalls. Stable area on racing association grounds for horses assigned by the racing secretary. (1-1-09)T

47. Starter. The employee of a racing association responsible for dispatching the horses for a race. (1-1-09)T

48. Starter's List. A list of all horses which are ineligible to be entered in any race due to poor or inconsistent behavior or performance in the starting gate. (1-1-09)T

49. Stewards. A horse racing official who presides over a race meet, has jurisdiction over all racing officials, rules on protests and claims of foul, and imposes fines and suspensions. (1-1-09)T

50. Substitute Officials. An emergency vacancy among racing officials that is filled with the stewards' approval and reported to the Racing Commission. (1-1-09)T

51. Substitute Steward. Appointment by the remaining stewards during an absence of any steward at race time when an approved alternate is not available. (1-1-09)T

52. Timer. A person who accurately records the time elapsed between the start and finish of each race. (1-1-09)T

53. Violations. All unauthorized activities under these rules. (1-1-09)T

54. Wagering. To risk or stake an amount of money on an unknown outcome. (1-1-09)T

55. Weight. The amount that a jockey weighs prior to and after a race. (1-1-09)T

011. ABBREVIATIONS.
There are no abbreviations used in these rules. (1-1-09)T

012. -- 014. (RESERVED).

015. LICENSED RACING OFFICIALS.
No person may act as a racing official prior to being licensed by the Racing Commission to act in that capacity. The Racing Commission, in its sole discretion, may determine the qualifications of a racing official and, in its sole discretion, may license or not license any such official. (1-1-09)T

016. REPORT VIOLATIONS.
All racing Officials must immediately report any violations of Racing Commission rules to the Stewards or the

Racing Commission. (1-1-09)T

020. RACING OFFICIALS.

01. Officials. Officials at a race meet may include the following: (1-1-09)T

a. Stewards; (1-1-09)T

b. Racing Secretary; (1-1-09)T

c. Horsemen's Bookkeeper; (1-1-09)T

d. Paddock Judge; (1-1-09)T

e. Identifier; (1-1-09)T

f. Clerk of Scales; (1-1-09)T

g. Jockey Room Custodian; (1-1-09)T

h. Starter; (1-1-09)T

i. Timer; (1-1-09)T

j. Clocker; (1-1-09)T

k. Patrol Judge; (1-1-09)T

l. Placing Judge; and (1-1-09)T

m. Commission Veterinarian; (1-1-09)T

02. Other Persons. Any other person designated by the Racing Commission. (1-1-09)T

021. RACING OFFICIAL QUALIFICATIONS.

All racing officials must be: (1-1-09)T

01. Of Good Character. Of good character and reputation, and must pass all Racing Commission background and fingerprint requirements; (1-1-09)T

02. Experienced. Experienced and knowledgeable in racing; (1-1-09)T

03. Familiar with Rules. Familiar with the duties of the position and with the Racing Commission's rules; (1-1-09)T

04. Mentally and Physically Able. Mentally and physically able to perform the duties of the job; and (1-1-09)T

05. In Good Standing. In good standing and not under suspension or ineligible in any racing jurisdiction. (1-1-09)T

022. -- 024. (RESERVED).

025. PROHIBITED PRACTICES.

While serving in an official capacity, racing officials may not: (1-1-09)T

01. Ownership. Participate in the sale, purchase, or ownership of any horse racing at the meeting;

- (1-1-09)T
- 02. Sell Insurance.** Sell or solicit horse insurance on any horse racing at the meeting; (1-1-09)T
- 03. Licensed in Other Capacity.** Be licensed in any other capacity without permission of the Racing Commission, or in case of an emergency, the permission of the stewards; (1-1-09)T
- 04. Wager.** Wager on the outcome of any race at the race meet where they are officiating; or (1-1-09)T
- 05. Consume Alcohol.** Consume or be under the influence of alcohol or any prohibited substances. (1-1-09)T
- 026. -- 029. (RESERVED).**
- 030. REPORT OF VIOLATIONS.**
Racing officials must report immediately to the stewards every observed violation of any Racing Commission rules and applicable state or federal laws. (1-1-09)T
- 031. -- 034. (RESERVED).**
- 035. COMPLAINTS AGAINST OFFICIALS.**
- 01. Complaints Against Racing Official.** Any complaint against a racing official other than a steward must be made to the stewards in writing and signed by the complainant. All such complaints must be reported to the Racing Commission by the stewards, together with a report of the action taken or the recommendation of the stewards. (1-1-09)T
- 02. Complaints Against Stewards.** Complaints against any steward must be made in writing to the Racing Commission and signed by the complainant. (1-1-09)T
- 03. Responsible for Subordinates.** A racing official may be held responsible by the stewards or the Racing Commission for the actions of any person they supervise. (1-1-09)T
- 036. -- 039. (RESERVED).**
- 040. SUBSTITUTE OFFICIALS.**
When an emergency vacancy exists among racing officials, the stewards or the racing association must fill the vacancy immediately subject to the stewards' approval. Such appointment must be reported to the Racing Commission and will be effective until the vacancy is filled in accordance with these rules. (1-1-09)T
- 041. SUBSTITUTE STEWARDS.**
Should any steward be absent at race time, and no approved alternate steward be available, the remaining stewards may appoint a substitute for the absent steward. If a substitute steward is appointed, the Racing Commission and the racing association must be notified by the stewards. (1-1-09)T
- 042. -- 049. (RESERVED).**
- 050. STEWARDS QUALIFICATIONS.**
To qualify for appointment as a Steward, the appointee must meet the experience, education and examination requirements necessary to be accredited by the Racing Officials Accreditation Program in association with the Universities of Arizona and Louisville and be in good standing with all racing jurisdictions. The Racing Commission may, with good cause, waive some or all of the requirements of the section. (1-1-09)T
- 051. STEWARDS GENERAL AUTHORITY.**
The stewards for each race meet are responsible to the Racing Commission for the conduct of the race meet in accordance with the laws of Idaho and all Racing Commission rules. (1-1-09)T

01. Jurisdiction. The Board of Stewards' jurisdiction in any matter commences thirty (30) days prior to the first day of a race meet and extends up to and including thirty (30) days following the conclusion of a race meet. (1-1-09)T

02. Suspensions and Fines. The Stewards may suspend licenses for a period not to exceed one hundred eighty (180) days, or impose fines not to exceed twenty-five hundred dollars (\$2500) or they may impose both such fine and suspension. (1-1-09)T

03. Reported. All such suspensions and fines must be reported to the Racing Commission. (1-1-09)T

04. Stewards Enforce Rules. The stewards enforce all Racing Commission rules and the racing laws of the State of Idaho. (1-1-09)T

05. Supervision of Officials and Others. The stewards' authority includes supervision of all racing officials, track management, licensed personnel, other persons responsible for the conduct of racing, and patrons, as necessary to insure compliance with any Racing Commission rules. (1-1-09)T

06. Resolve Conflicts. The stewards have authority to resolve conflicts or disputes related to racing and to discipline violators in accordance with the provisions of any Racing Commission rules. (1-1-09)T

07. Interpret Rules. The stewards have the authority to interpret the rules and to decide all questions of racing not specifically covered by the rules. (1-1-09)T

08. Other. Matters not covered by Racing Commission rules are determined by the Stewards in conformity with justice and in the best interest of racing. (1-1-09)T

052. -- 054. (RESERVED).

055. NUMBER OF STEWARDS.
There must be three (3) Stewards to supervise each race meet; (1-1-09)T

01. Presiding State Steward. One (1) steward is assigned by the Racing Commission to be the Presiding State and has authority over the other stewards; and (1-1-09)T

02. Deputy State Steward. One (1) steward is assigned by the Racing Commission to be the Deputy State Steward; (1-1-09)T

03. Other Steward. One (1) steward is appointed by the Racing Association and is compensated by the Racing Association. (1-1-09)T

056. STEWARDS ON DUTY.
On each entry, scratch and racing day at least one (1) Steward must be on duty at regularly posted hours. Such duty includes and is not limited to scratch time and when races are drawn. On race day the full Board of Stewards sits in regular session to exercise the authority and perform the duties imposed. (1-1-09)T

057. STEWARDS' PRESENCE.
Three (3) stewards must be present in the stewards' stand during the running of each race. (1-1-09)T

01. In Stands. There must be three (3) Stewards in the stands when a race is being run. (1-1-09)T

02. Notice. The Stewards will take notice of any questionable conduct with or without complaint thereof. (1-1-09)T

03. Investigations. The Stewards must investigate promptly and render a decision in every protest and in every complaint properly made to them. (1-1-09)T

058. -- 059. (RESERVED).

060. ORDER OF FINISH.

The stewards determine the official order of finish for each race in accordance with the rules governing horse racing in Idaho. The decision of the stewards as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the running of the race, is final for purposes of distribution of the pari-mutuel wagering pool. (1-1-09)T

061. CANCEL WAGERING.

The stewards have the authority to cancel wagering on an individual betting interest or on an entire race and also have the authority to cancel a pari-mutuel pool for a race or races, if such action is necessary to protect the integrity of pari-mutuel wagering. (1-1-09)T

062. -- 064. (RESERVED)

065. SUBSTITUTE JOCKEY.

The Stewards for reasonable cause may substitute a Jockey of their selection on any horse. (1-1-09)T

066. TEMPORARY CHARGE.

The Stewards for reasonable cause may place a horse in the temporary charge of a Trainer of their selection. (1-1-09)T

067. -- 069. (RESERVED).

070. STEWARDS DAILY REPORTS.

The stewards must prepare a daily report, on a form approved by the Racing Commission, detailing their actions and observations made during each day's race program. The report must contain the name of the racetrack, the date, the weather and track conditions, claims, inquiries, and objections and any unusual circumstances or conditions. The report must be signed by each steward and be filed with the Racing Commission not later than twenty-four (24) hours after the end of each race day. (1-1-09)T

071. -- 074. (RESERVED).

075. PRESIDING STEWARDS LOG.

The presiding state steward must maintain a detailed log of the stewards' official activities. The log must describe all questions, disputes, protests, complaints, or objections brought to the attention of the stewards and all interviews, investigations and rulings made by the stewards. The log must be available at all times for inspection by the Racing Commission or its designee. (1-1-09)T

076. -- 079. (RESERVED).

080. RACE MEET REPORT.

Not later than seven (7) days after the last day of a race meet, the presiding steward must submit to the Racing Commission a written report regarding the race meet. The report must contain: (1-1-09)T

01. Observations. The Stewards' observations and comments regarding the conduct of the race meet and the overall conditions of the racing association grounds during the race meet; and (1-1-09)T

02. Recommendations. Any recommendations for improvement by the racing association or action by the Racing Commission. (1-1-09)T

081. -- 089. (RESERVED).

090. STEWARD'S LIST.

The stewards must maintain a Stewards' List of the horses which are ineligible to be entered in a race because of poor or inconsistent performance or behavior on the racetrack that endangers the health or safety of other participants in racing. (1-1-09)T

01. Ownership. The stewards may place a horse on the Stewards' List when there exists a question as to the exact identification or ownership of said horse. (1-1-09)T

02. Inconsistent Performance. A horse which has been placed on the Stewards' List because of inconsistent performance or behavior, may be removed from the Stewards' List when, in the opinion of the stewards, the horse can satisfactorily perform competitively in a race without endangering the health or safety of other participants in racing. (1-1-09)T

03. Identity Established. A horse which has been placed on the Stewards' List because of questions as to the exact identification or ownership of said horse, may be removed from the Stewards' List when, in the opinion of the stewards, proof of exact identification or ownership has been established. (1-1-09)T

091. -- 099. (RESERVED).

100. RACING SECRETARY.

The racing secretary is responsible for the programming of races during the race meet, compiling and publishing condition books, assigning weights for handicap races, and receives all entries, declarations and scratches. (1-1-09)T

101. FOAL, HEALTH, AND OTHER ELIGIBILITY CERTIFICATES.

The racing secretary is responsible for receiving, inspecting and safeguarding the foal and health certificates, Equine Infectious Anemia (EIA) test certificates and other documents of eligibility for all horses competing at the track or stabled on the grounds. (1-1-09)T

01. Alteration of Sex. The racing secretary determines that the alteration of the sex of a horse has been recorded on the horse's foal certificate and report such to the appropriate breed registry and past performance services. (1-1-09)T

02. Posterior Digital Neurectomy. The racing secretary must record on a horse's registration certificate when a posterior digital neurectomy (heel nerving) is performed on that horse. (1-1-09)T

102. -- 104. (RESERVED).

105. LIST OF BRED FILLIES AND MARES.

The racing secretary must maintain a list of all fillies or mares on racing association grounds who have been covered by a stallion. The list must also contain the name of the stallion to which each filly or mare was bred and must be made available for inspection by other licensees participating in the race meet. (1-1-09)T

106. -- 109. (RESERVED).

110. ALLOCATION OF STALLS.

The racing secretary determines that stables are properly assigned and maintain a record of arrivals and departures of all horses stabled on racing association grounds. (1-1-09)T

110. -- 114. (RESERVED).

115. CONDITIONS.

The racing secretary determines that all conditions and eligibility requirements for entering races meet Racing Commission rules and cause them to be published to owners, trainers and the Racing Commission and be posted in the racing secretary's office. (1-1-09)T

01. Winnings Included. For the purpose of establishing conditions, winnings is considered to include all monies and prizes won up to the time of the start of a race. (1-1-09)T

02. Winnings Calculated. Winnings during the year is calculated by the racing secretary from the preceding January 1. (1-1-09)T

116. -- 119. (RESERVED).

120. LISTING OF HORSES.

The racing secretary must: (1-1-09)T

01. Examine Entry Blanks. Examine all entry blanks and declarations to verify information as set forth therein; and (1-1-09)T

02. Select Horses. Select the horses to start and the also eligible horses from the declarations in accordance with Racing Commission rules. (1-1-09)T

121. -- 124. (RESERVED).

125. POSTING OF ENTRIES.

Upon completion of the draw each day, the racing secretary must post a list of entries in a conspicuous location in the racing office and make the list available to the media. (1-1-09)T

126. -- 129. (RESERVED).

130. DAILY PROGRAM.

The racing secretary must publish the official daily program, ensuring the accuracy therein of the following information: (1-1-09)T

01. Sequence of Races. Sequence of races to be run and post time for the first race; (1-1-09)T

02. Purse, Conditions, and Distance. The purse, conditions and distance for each race, and current track record for such distance; (1-1-09)T

03. Owner's Name. The name of licensed owners of each horse, indicated as leased, if applicable, and description of racing colors to be carried; (1-1-09)T

04. Trainer and Jockey. The name of the trainer and the name of the jockey named for each horse together with the weight to be carried; (1-1-09)T

05. Post Position. The post position and saddle cloth number or designation for each horse if there is a variance with the saddle cloth designation; (1-1-09)T

06. Horse Identification. Identification of each horse by name, color, sex, age, sire and dam; and (1-1-09)T

07. Other Information. Such other information as may be requested by the racing association or the Racing Commission. (1-1-09)T

131. -- 134. (RESERVED).

135. NOMINATIONS AND DECLARATIONS.

The racing secretary examines nominations and declarations and early closing events, late closing events and stakes events to verify the eligibility of all declarations and nominations and compile lists thereof for publication. (1-1-09)T

136. -- 139. (RESERVED).

140. STAKES AND ENTRANCE MONEY RECORDS.

The racing secretary is the caretaker of the permanent records of all stakes and verifies that all entrance monies due are paid prior to entry for races conducted at the meeting. (1-1-09)T

141. -- 149. (RESERVED).

150. HORSEMEN'S BOOKKEEPER.

The horsemen's bookkeeper maintains the records and accounts and perform the duties described herein and maintain such other records and accounts and perform such other duties as the racing association and Racing Commission may prescribe. (1-1-09)T

151. FINANCIAL ASSURANCE.

The horsemen's bookkeeper must be insured against crime or employee dishonesty in a manner approved by the Racing Commission. (1-1-09)T

152. -- 154. (RESERVED).

155. HORSEMEN'S BOOKKEEPER RECORDS.

The records must include the name, mailing address, social security number or federal tax identification number, and the state or country of residence of each horse owner, trainer or jockey participating at the race meet who has funds due or on deposit in the horsemen's account. (1-1-09)T

01. Records Kept Separate. All records of the horsemen's bookkeeper must be kept separate and apart from the records of the racing association. (1-1-09)T

02. Records Subject to Inspection. All records of the horsemen's bookkeeper including records of accounts and monies and funds kept on deposit are subject to inspection by the Racing Commission at any time. (1-1-09)T

03. Record of Winnings. The horsemen's bookkeeper must maintain the record of applicable winning races on all apprentice certificates at the meeting. (1-1-09)T

04. Apprentice Jockey Certificates. The horsemen's bookkeeper must release apprentice jockey certificates, upon the jockey's departure or upon the conclusion of the race meet. (1-1-09)T

156. -- 159. (RESERVED).

160. MONIES AND FUNDS ON ACCOUNT.

All monies and funds on account with the horsemen's bookkeeper must be maintained: (1-1-09)T

01. Separate. Separate and apart from monies and funds of the racing association; (1-1-09)T

02. Insured Account. In an account insured by the Federal Deposit and Insurance Corporation or the Federal Savings and Loan Insurance Corporation. (1-1-09)T

161. -- 164. (RESERVED).

165. PAYMENT OF PURSES.

The horsemen's bookkeeper must receive, maintain and disburse the purses of each race and all stakes, entrance money, jockey fees, purchase money in claiming races, along with all applicable taxes and other monies that properly come into horsemen's bookkeeper possession in accordance with the provisions of Racing Commission rules and any applicable State or Federal statutes. (1-1-09)T

01. Disbursement Upon Request. The horsemen's bookkeeper must disburse the purse of each race and all stakes, entrance money, jockey fees and purchase money in claiming races, along with all applicable taxes, upon request, within forty-eight (48) hours of receipt of notification that all tests with respect to such races have cleared the drug testing laboratory(ies) as reported by the stewards or the Racing Commission, except that minimum jockey mount fees may be disbursed prior to notification that the tests have cleared the testing laboratory(ies). (1-1-09)T

02. No Prior Request. Absent a prior request, the horsemen's bookkeeper must disburse monies to the

persons entitled to receive same within fifteen (15) days after the last race day of the race meet, including purses for official races, provided that all tests with respect to such races have cleared the drug testing laboratory(ies) as reported by the stewards, and provided further that no protest or appeal has been filed with the stewards or the Racing Commission. (1-1-09)T

03. Disbursement Not A Finding. The fact that purse money has been distributed prior to the issuance of a laboratory report must not be deemed a finding that no chemical substance has been administered, in violation of any Racing Commission rules, to the horse earning such purse money. (1-1-09)T

04. Protests. In the event a protest or appeal has been filed with the stewards or the Racing Commission, the horsemen's bookkeeper must disburse the purse within forty-eight (48) hours of receipt of dismissal or a final non-appealable order disposing of such protest or appeal. (1-1-09)T

166. -- 169. (RESERVED).

170. OTHER MONIES.

The horsemen's bookkeeper may accept monies due belonging to other organizations or recognized race meets, provided prompt return is made to the organization to which the money is due. (1-1-09)T

171. -- 199. (RESERVED).

200. PADDOCK JUDGE.

The Paddock Judge is in charge of the paddock and must comply with IDAPA 11.04.10 "Rules Governing Live Horse Races." (1-1-09)T

201. -- 209. (RESERVED).

210. PADDOCK JUDGE'S LIST.

The paddock judge must maintain a list of horses which may not be entered in a race because of poor or inconsistent behavior in the paddock that endangers the health or safety of other participants in racing. (1-1-09)T

01. Provide List to Stewards. At the end of each race day, the paddock judge must provide a copy of the List to the stewards. (1-1-09)T

02. Removal from List. To be removed from the paddock judge's List, a horse must be schooled in the paddock and demonstrate to the satisfaction of the paddock judge and the stewards that the horse is capable of performing safely in the paddock. (1-1-09)T

211. -- 219. (RESERVED).

220. HORSE IDENTIFIER.

The Horse Identifier is responsible for positively identifying all horses entered to race. (1-1-09)T

01. Inspection. The Horse Identifier must inspect, identify and prepare I.D. cards by using the lip tattoo, markings from photos, written descriptions, or National Animal Identification System compliant devices. (1-1-09)T

02. Examination. The Horse Identifier must examine every starter in the paddock for sex, color, markings and lip tattoo or other identification method approved by the appropriate breed registry and the Racing Commission for comparison with its registration certificate to verify the horse's identity; and (1-1-09)T

03. Report Violation. The Horse Identifier must report to the stewards any horse not properly identified or whose registration certificate is not in conformity with any Racing Commission rules. (1-1-09)T

221. -- 229. (RESERVED).

230. CLERK OF SCALES.

The Clerk of the Scales must: (1-1-09)T

01. Verify Presence. Verify the presence of all jockeys in the jockeys' room at the appointed time and verify that all such jockeys have a current jockey's license issued by the Racing Commission; (1-1-09)T

02. Verify Weight. Verify the correct weight of each jockey according to IDAPA 11.04.10 "Rules Governing Live Horse Races"; (1-1-09)T

03. Report Infractions. Promptly report to the stewards any infraction of the rules with respect to weight, weighing, riding equipment or conduct; (1-1-09)T

04. Record Data. Record all required data on the scale sheet and submit that data to the horsemen's bookkeeper at the end of each race day; and (1-1-09)T

05. Assume Duties. Assume the duties of the jockey room custodian in his absence. (1-1-09)T

231. -- 239. (RESERVED).

240. JOCKEY ROOM CUSTODIAN.

The jockey room custodian must: (1-1-09)T

01. Supervise Conduct. Supervise the conduct of the jockeys and their attendants while they are in the jockey room; (1-1-09)T

02. Ensure Safety. Ensure all jockeys are in the correct colors and wearing Racing Commission approved riding vest and helmet before leaving the jockey room to prepare for mounting their horses; (1-1-09)T

03. Display Program. Keep a daily program displayed in plain view for the jockeys so they may have ready access to mounts that may become available; (1-1-09)T

04. Secure Jockey Room. Keep unauthorized persons out of the jockey room; and (1-1-09)T

05. Report to Stewards. Report to the stewards any unusual occurrences in the jockey room. (1-1-09)T

241. -- 249. (RESERVED).

250. STARTER.

The Starter has complete jurisdiction over the starting gate, the starting of horses in accordance with IDAPA 11.04.10, "Rules Governing Live Horse Races." (1-1-09)T

01. Assess Jockey's Ability. The Starter assesses the ability of each person applying for a jockey's license in breaking from the starting gate and working a horse in the company of other horses, and makes said assessment known to the stewards. (1-1-09)T

251. -- 259. (RESERVED).

260. ASSISTANT STARTERS.

Assistant Starters are under the direct control and responsibility of the Starter. (1-1-09)T

261. -- 269. (RESERVED).

270. STARTER'S LIST.

No horse may be permitted to start in a race unless approval is given by the starter. The starter must maintain a Starter's List of all horses which are ineligible to be entered in any race because of poor or inconsistent behavior or performance in the starting gate. Such horse will be refused entry until it has demonstrated to the starter that it has been satisfactorily schooled in the gate and can be removed from the Starter's List. Schooling is under the direct

supervision of the starter. (1-1-09)T

271. -- 299. (RESERVED).

300. TIMER.

In the absence of an electronic timer, the timer must: (1-1-09)T

01. Record Time. Accurately record the time elapsed between the start and finish of each race; (1-1-09)T

02. Record From the Instant the First Horse Leaves. Record from the instant that the first horse leaves the point from which the distance is measured until the first horse reaches the finish line; (1-1-09)T

03. Post Quarter Times. At a racetrack equipped with an appropriate infield totalisator board, post the quarter times (splits) for thoroughbred races in fractions as a race is being run. For quarter horse races, the timer must post the official times in hundredths of a second; (1-1-09)T

04. Time All Races. For back-up purposes, also use a stopwatch to time all races. In time trials, ensure that at least three (3) stopwatches are used by the stewards or their designees; and (1-1-09)T

05. Maintain Record. Maintain a printed record of fractional and finish times of each race and have same available for inspection by the stewards or the Racing Commission on request. (1-1-09)T

301. -- 309. (RESERVED).

310. CLOCKER.

The clocker must be present during training hours at each track on racing association grounds, which is open for training, to identify each horse working out and to accurately record the distances and times of each horse's workout. (1-1-09)T

01. List of Workouts. Each day, the clocker must prepare a list of workouts that describes the name of each horse which worked along with the distance and time of each horse's workout. (1-1-09)T

02. Deliver List. At the conclusion of training hours, the clocker must deliver a copy of the list of workouts to the stewards and the racing secretary. (1-1-09)T

311. -- 319. (RESERVED).

320. PATROL JUDGE.

The patrol judge, when utilized, is responsible for observing the race and reporting information concerning the race to the stewards. If the track's video replay system is deemed adequate, use of patrol judges is optional. (1-1-09)T

321. -- 329. (RESERVED).

330. GATE JUDGE.

The Racing Commission may require each track to employ a gate judge whose duties include being present at the starting gate just prior to the running of each race to observe and report any violations of the rules to the stewards, and to otherwise assist the stewards as they may so order. (1-1-09)T

331. -- 339. (RESERVED).

340. PLACING JUDGE.

The placing judges, if utilized, determines the order of finish in a race as the horses pass the finish line. (1-1-09)T

341. PHOTO FINISH.

In the event the placing judges or the stewards request a photo of the finish, the photo finish sign must be posted on the totalisator board. (1-1-09)T

01. Order of Finish. Following their review of the photo finish, the placing judges must, with the approval of the stewards, determine the exact order of finish for all horses participating in the race. (1-1-09)T

02. Photographic Print. In the event a photo was requested, the placing judges must cause a photographic print of said finish to be produced. The finish photograph must, when needed, be used by the placing judges as an aid in determining the correct order of finish. (1-1-09)T

03. Photographic Prints Displayed. Upon determination of the correct order of finish of a race in which the placing judges have utilized a photographic print to determine the first four (4) finishers, the placing judges must cause prints of said photograph to be displayed publicly in the grandstand and clubhouse areas of the racetrack. (1-1-09)T

342. DEAD HEATS.

In the event the placing judges determine that two (2) or more horses finished the race simultaneously and cannot be separated as to their order of finish, a dead heat must, with the approval of the stewards, be declared. (1-1-09)T

343. -- 349. (RESERVED).

350. COMMISSION VETERINARIAN QUALIFICATIONS.

The Commission Veterinarian must be a graduate of an accredited school of veterinary medicine and licensed to practice veterinary medicine in Idaho. (1-1-09)T

351. COMMISSION VETERINARIAN AUTHORITY.

The Commission Veterinarian has the authority to supervise the actions of veterinarians licensed by the Racing Commission while they are practicing at any location under the jurisdiction of the Racing Commission in accordance with IDAPA 11.04.11, "Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances, and Drug Testing of Horses." (1-1-09)T

352. EXAMINATION OF HORSES.

01. Examination of Horses. The Commission Veterinarian must examine each horse prior to racing and must report to the Stewards any horse that is not of the age or condition that is satisfactory for the type of racing to be conducted at the meeting. (1-1-09)T

02. Declared Ineligible. The Stewards may declare any such horse as reported as ineligible to be entered or started at the meeting until such time as the Commission Veterinarian certifies such horse to be raceably sound. (1-1-09)T

03. Present In Paddock. The Commission Veterinarian must be present in the paddock on the race course during the saddling, the parade and at the starting gate and until the horses are dispatched from the gate for the race. (1-1-09)T

04. Emergencies. The Commission Veterinarian has the authority to treat any horse in event of an emergency, accident or injury, the details of which must be immediately reported to the Stewards. (1-1-09)T

05. Humanely Destroy. The Commission Veterinarian is authorized to humanely destroy any horse which is so seriously injured that it is in the best interest of racing to so act and every horse owner and trainer participating in a race in Idaho does consent thereto. This authorization to destroy the horse is extended only in the event the owner or trainer is not present. (1-1-09)T

353. COMMISSION VETERINARIAN.

The Commission Veterinarian is responsible to the Stewards for the conduct of horses and their attendants in the receiving and detention barn. (1-1-09)T

354. -- 359. (RESERVED).

360. ADDITIONAL RACING OFFICIALS.

The Racing Commission may create additional racing official positions, as needed. Persons selected for these positions are considered racing officials and are subject to the general qualifications outlined in this chapter.

(1-1-09)T

361. -- 989. (RESERVED).

990. PENALTIES.

Any person violating any of the provisions of these rules is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code and any of the Racing Commission rules.

(1-1-09)T

991. -- 998. (RESERVED).

999. MINOR VIOLATIONS.

Nothing in these rules may be construed as requiring the Racing Commission to report minor violations when the Racing Commission believes that the public interest will be best served by suitable warnings or other administrative action.

(1-1-09)T

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

11.04.07 - RULES GOVERNING RACING ASSOCIATIONS

DOCKET NO. 11-0407-0901 (FEE RULE - NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2506, Idaho Code.

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

MONDAY - JANUARY 12, 2009 - 6:00 p.m.

**NAMPA CIVIC CENTER
Home Federal Room
311 3RD Street South, Nampa, ID**

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

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

This rule provides a clear concise rule Chapter on Racing Associations. In addition, this rule conforms more closely with the Association of Racing Commissioners International Model Rules in a plain English format.

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

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

Every Racing Association conducting a race meet in Idaho must pay a fee of twenty-five dollars (\$25) for each day of racing.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. However this rule was developed with input from a committee comprised of representatives of all segments of the horse racing industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Idaho State Racing Commission, 208-884-7080.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 12th day of November, 2008.

Dennis Jackson
Executive Director
Idaho State Racing Commission
700 S. Stratford Drive
PO Box 700
Meridian, ID 83780-0700
Phone: 208-884-7080 / Fax: 208-884-7098

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0407-0901

IDAPA 11
TITLE 04
CHAPTER 07

IDAHO STATE RACING COMMISSION

11.04.07 - RULES GOVERNING RACING ASSOCIATIONS

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (1-1-09)T

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.04.07, "Rules Governing Racing Associations." (1-1-09)T

02. Scope. This rule governs conduct and licensing of racing associations. (1-1-09)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (1-1-09)T

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal racing commission actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (1-1-09)T

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference into these rules. (1-1-09)T

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

01. Physical Address. The central office of the Idaho State Racing Commission is located at 700 S. Stratford Drive, Meridian, Idaho. (1-1-09)T

02. Office Hours. The central office is open 8 a.m. to 5 p.m., Mountain Time, Monday thru Friday, except holidays designated by the state of Idaho. (1-1-09)T

03. Mailing Address. The mailing address for the central office is Idaho State Racing Commission, P.O. Box 700, Meridian, Idaho 83680-0700. (1-1-09)T

- 04. Telephone Number.** The telephone of the office is (208) 884-7080. (1-1-09)T
- 05. Fax Number.** The facsimile number of the office is (208) 884-7098. (1-1-09)T
- 06. Website.** The Racing Commission website is <http://www.isp.state.id.us/race>. (1-1-09)T

006. PUBLIC RECORDS COMPLIANCE AND AVAILABILITY.

These rules are public records available for inspection and copying at the Idaho State Racing Commission central office or on the Racing Commission website, <http://www.isp.state.id.us/race>. (1-1-09)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

- 01. Bookmaker.** A person who makes a business of accepting the bets of others on the outcome of any sports contest including horse racing. (1-1-09)T
- 02. Breed Association.** A group organized under Idaho law to receive breeder awards. (1-1-09)T
- 03. Breeder.** Breeder of a horse is determined by the definition of breeder used by the registry of the particular breed of that horse. (1-1-09)T
- 04. Calendar Day.** Twenty-four (24) hours ending at midnight. (1-1-09)T
- 05. Chemical.** A substance composed of chemical elements or obtained by chemical processes. (1-1-09)T
- 06. Claiming Race.** A race in which any horse entered therein may be claimed in conformity with the rules. (1-1-09)T
- 07. Conditions.** Qualifications and requirements set by the Racing Association which determine a horse's eligibility to be entered in a race. (1-1-09)T
- 08. Drug.** Any chemical compound or any noninfectious biological substance not used for its mechanical properties, which may be administered to or used on or for patients, either human or animal, as an aid in diagnosis, treatment or prevention of disease or other abnormal condition, for the relief of pain or suffering, or to control or improve any physiological or pathological condition. See Subsection 010.22 for Prescription Drug definition. (1-1-09)T
- 09. Entry.** Means, according to the requirements of the text: (1-1-09)T
- a.** A horse made eligible to run a race. (1-1-09)T
- b.** Two (2) or more horses that are entered or run in a race and are coupled because of common ties or ownership. Where two (2) or more horses owned by separate owners but trained by the same Trainer are entered in the same race, the horses may run as separate betting interests. (1-1-09)T
- 10. Forfeit.** Money due because of an error fault, neglect of duty, breach of contract or a penalty. (1-1-09)T
- 11. Grounds.** Any area owned or leased by any licensed Association, Corporation, or Race Track which is operated for the purpose of conducting pari-mutuel racing. (1-1-09)T
- 12. Handbook.** A method of soliciting and recording wagers on the outcome of a sports contest including a horse race. (1-1-09)T
- 13. Horse.** Includes filly, mare, colt, horse and gelding in general; when referring to sex, a filly

- becomes a mare when five (5) years old; a horse is an entire male when five (5) years old or older. (1-1-09)T
- 14. Horsemen's Agreement.** An agreement approved by the Racing Commission between the Racing Association and the authorized horsemen's group. (1-1-09)T
- 15. Idaho Bred.** A foal dropped by a mare in Idaho. (1-1-09)T
- 16. Jockey.** A race rider, whether a licensed Jockey, apprentice, or amateur. (1-1-09)T
- 17. Meet.** The entire consecutive period for which a license to race has been granted to any one (1) association by the Racing Commission. (1-1-09)T
- 18. Month.** A calendar month. (1-1-09)T
- 19. Owner.** Includes the owner, part owner and lessee of any horse. An interest only in the earnings of a horse does not constitute ownership. In case of husband and wife, it is presumed that joint ownership exists. (1-1-09)T
- 20. 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. (1-1-09)T
- 21. Place.** Means first, second or third and in that order is called "Win," "Place," and "Show." (1-1-09)T
- 22. Prescription Drug.** (1-1-09)T
- a.** A drug which under federal law is required prior to being dispensed or delivered to be labeled with either of the following statements: (1-1-09)T
- i.** "Caution: Federal law prohibits dispensing without a prescription"; or (1-1-09)T
- ii.** "Caution: Federal law restricts this drug to be used by or on the order of a licensed Veterinarian." (1-1-09)T
- b.** Or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioner only. (1-1-09)T
- 23. Purse Race.** A race for money or any other prize to which the owners of the horses do not contribute. (1-1-09)T
- 24. Racing Association.** Any person licensed by the Racing Commission to conduct live or simulcast pari-mutuel wagering. (1-1-09)T
- 25. Racing Commission.** Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee. (1-1-09)T
- 26. Racing Dates.** The number of racing dates authorized by the Racing Commission in a Racing Association license. (1-1-09)T
- 27. Ruled Off.** An action by the racing stewards, under these rules, to suspend a license for a violation of these rules. (1-1-09)T
- 28. Rules.** The "Rules Governing Horse Racing" herein and any amendments or additions thereto. (1-1-09)T
- 29. Starter.** (1-1-09)T

- a. The individual approved to dispatch the horses in a race. (1-1-09)T
- b. The horse is a “starter” for a race when the stall doors of the starting gate open in front of it at the time the starter dispatches the horses. (1-1-09)T
30. **Stewards.** The Stewards of the meet or their duly appointed deputies. (1-1-09)T
31. **Winner.** Winner of a single race of a certain sum or value unless otherwise expressed in the conditions. (1-1-09)T
32. **Year.** A calendar year. (1-1-09)T

011. ABBREVIATIONS.

There are no abbreviations used in these rules. (1-1-09)T

012. -- 019. (RESERVED).

020. ENTER, SEARCH AND INSPECT.

Every Racing Association, the Racing Commission, the Stewards or trained and qualified agents of the Idaho State Police, have the right to enter, search and inspect the buildings, stables, rooms and other places where horses which are eligible to race are kept, or where property and effects of the licensee are kept within the grounds of the Racing Association. Any licensee accepting a license is deemed to have consented to such search and to the seizure of any non-approved or prohibited materials, chemicals, drugs or devices and anything apparently intended to be used in connection therewith. (1-1-09)T

021. -- 039. (RESERVED).

040. RACING COMMISSION.

01. Visit and Inspection. The Racing Commission or designated representatives will visit and inspect the race meets. Each Racing Association conducting a race meet must make available to the Racing Commission a box of four (4) seats for each day of the race meet. The private cars of Racing Commissioners or designated representatives will have access to the restricted parking area of all tracks. (1-1-09)T

02. Association Office. Each Racing Association must furnish and provide an adequate office for the use of the Racing Commission or its designated representatives. (1-1-09)T

041. -- 049. (RESERVED).

050. EMPLOYEES.

01. Licenses. Any Racing Association that employs any person in a capacity that is required to be licensed by the Racing Commission prior to the Racing Commission granting such a license may be subject to suspension or a fine, or both. (1-1-09)T

02. Suspension or Fine. The extent of said suspension or fine, or both, is determined by the Board of Stewards. (1-1-09)T

03. Report to Stewards. Any licensee who harbors anyone not licensed by the Racing Commission will be immediately reported to the Stewards of the race meet so that they may make investigation thereof and report the fact to the Racing Commission. (1-1-09)T

051. -- 054. (RESERVED).

055. DISTURBING THE PEACE.

No person will in any manner or at any time disturb the peace or behave in a disorderly manner on the grounds of a

Racing Association; nor will any person interfere with the performance of the duties of a racing official or any employee or representative of the Racing Commission. (1-1-09)T

056. -- 059. (RESERVED).

060. RULED OFF.

01. Admittance to Grounds. No person or horse ruled off, or under suspension by any recognized racing authority, will be admitted to or allowed to remain upon the grounds of any Racing Association. (1-1-09)T

02. Persons Ruled Off a Track Ineligible. When a person is ruled off a course or suspended, every horse owned in whole or part by him, or under his care, management, training or superintendence, is ineligible to enter or to start in any race until the rescinding of said person's penalty, or by the placement of the horse or horses in the hands of a licensed Trainer approved by the Stewards. (1-1-09)T

061. -- 069. (RESERVED).

070. PROHIBITED PRINTED MATERIAL.

No unauthorized tip sheet, pamphlet or other printed matter, other than official programs, the Daily Racing Form and general newspapers, are to be sold on the Racing Association grounds. (1-1-09)T

01. Copies. Copies of all such materials offered for sale in the parking area or elsewhere on or off the grounds of the Racing Association must be furnished daily to the Presiding State Steward, not later than two (2) hours before first post. (1-1-09)T

02. Publishers. All tip sheet publishers and vendors must be licensed by the Racing Commission. (1-1-09)T

071. -- 074. (RESERVED).

075. HANDBOOKS.

No person may make a handbook or a foreign book, or solicit a bet with a handbook or a foreign book on the grounds of a Racing Association. (1-1-09)T

076. -- 079. (RESERVED).

080. BOOKMAKERS.

01. Entry Prohibited. The following persons will not be allowed entry into or remain upon the premises of any Racing Association: (1-1-09)T

a. A person who is a bookmaker or who is known or reputed to be a bookmaker; (1-1-09)T

b. A person who is a vagrant within the meaning of the laws of Idaho; (1-1-09)T

c. A person who is a fugitive from justice; (1-1-09)T

d. A person whose conduct now or heretofore has been improper, obnoxious, unbecoming or detrimental to the best interest of racing. (1-1-09)T

02. Ejection. Upon discovery or recognition, all such persons described in Subsection 080.01 of these rules will be ejected by the Racing Association or representatives and agents of the Racing Commission. (1-1-09)T

03. License Revocation. Associating with a person or persons such as described in Subsection 080.01 of these rules may be grounds for the revocation of any license. (1-1-09)T

081. -- 089. (RESERVED).

090. IDAHO BRED RACES.

At least one (1) race each day at each race meet must be limited to Idaho bred horses. If a sufficient class of horses is not available to fill the race, said race may be opened to Idaho bred preferred. (1-1-09)T

01. Number of Races. The Racing Secretary must alternate among breeds according to the applicable horsemen's agreement. (1-1-09)T

02. Certificate of Registration. The owners' certificate of registration is proof that horses entered in such races were bred in Idaho. (1-1-09)T

091. BREEDER AWARDS.

A sum equal to ten percent (10%) of the first place purse money won by an Idaho bred horse must be paid by the Racing Association to the breeder of such horse. All purse moneys derived from pari-mutuel racing and all purse enhancement moneys from the Idaho State Racing Commission are included in the calculation of these breeder payments. All nominating and sustaining fees, and any moneys from outside sponsors are excluded from the calculation of these breeder payments. (1-1-09)T

092. -- 094. (RESERVED).

095. BREED ASSOCIATIONS.

Pursuant to Section 54-2513, Idaho Code, on or before December 15 of each year, representatives of each breed which received money the preceding year must file a financial report showing disposition of any funds thus received. (1-1-09)T

01. Failure to File. Failure to file such report is grounds for the Racing Commission to deny approval of any future disbursement to that breed. (1-1-09)T

02. Representatives. "Lawfully constituted representatives of each breed" is the designated representative of the one (1) recognized breed organization for each breed racing in Idaho that has established itself as the traditional breed acknowledged by the Racing Commission. (1-1-09)T

096. -- 099. (RESERVED).

100. RACING ASSOCIATION LICENSE.

No person may conduct a live race meet unless they possess a valid Racing Association license issued by the Racing Commission. (1-1-09)T

101. -- 109. (RESERVED).

110. RACING ASSOCIATION LICENSE FEES.

Every Racing Association conducting a race meet in Idaho must pay a fee of twenty-five dollars (\$25) for each day of racing, except as otherwise provided in Title 54, Chapter 25, Idaho Code. (1-1-09)T

110. -- 119. (RESERVED).

120. RACING ASSOCIATION LICENSE APPLICATIONS.

Applications for Racing Association licenses must be made on forms approved by the Racing Commission. The Racing Commission sets the application date. (1-1-09)T

121. -- 129. (RESERVED).

130. APPLICATIONS FOR SUCCEEDING SEASONS.

Applications for a license to conduct a race meet during the next succeeding season must be filed with the Racing Commission over the signature of an executive officer of the Racing Association. The Racing Commission sets the application date. (1-1-09)T

131. -- 139. (RESERVED).

140. HORSEMEN'S AGREEMENT.

Every Racing Association must have in effect a signed Horsemen's Agreement. (1-1-09)T

141. -- 149. (RESERVED).

150. RACING ASSOCIATIONS OPERATION.

01. Requirements. The scope of the Racing Associations operation and plant facilities will determine the Racing Commission's requirements for the following: (1-1-09)T

a. Proof of financial stability; (1-1-09)T

b. Names of stockholders; (1-1-09)T

c. Medical and veterinary facilities; (1-1-09)T

d. Lodging facilities; and (1-1-09)T

e. Protective facilities. (1-1-09)T

02. Additional Information. The Racing Commission or Idaho State Police may require additional background information of applicants or licensees. (1-1-09)T

151. -- 159. (RESERVED).

160. REPORT OF FUNDS.

Pursuant to Section 54-2513, Idaho Code, prior to or at the time of making application for licensing Racing Associations which received money the preceding year must file a financial report with the Racing Commission showing disposition of any funds thus received. (1-1-09)T

161. -- 169. (RESERVED).

170. APPROVAL OF RACING ASSOCIATION LICENSES.

The Racing Commission will consider each application for a Racing Association license individually and decide whether to grant the license or not on a case by case basis. (1-1-09)T

171. -- 179. (RESERVED).

180. LICENSE GRANTED UPON CONDITIONS.

Every Racing Association license is granted upon the condition that the licensee accept, observe and enforce the Racing Commission rules. (1-1-09)T

01. Duty. It is the duty of each and every officer to observe and enforce the Racing Commission rules. (1-1-09)T

02. Investigations. The Racing Commission may require background investigations, fingerprints and photographs of Racing Association officers, stockholders or employees. (1-1-09)T

181. -- 189. (RESERVED).

190. REFUSAL TO ISSUE LICENSE.

The Racing Commission may refuse to issue a Racing Association license when such refusal appears to be for the best interest of racing and of the public. The Racing Commission will, in deciding upon applications for Racing Association licenses, consider the following matters: (1-1-09)T

- 01. Properly Develop.** The opportunity for the sport to properly develop. (1-1-09)T
- 02. Competition.** The avoidance of competition with established tracks in Idaho. (1-1-09)T
- 03. Community Support.** The extent of community support for the promotion and continuance of the tracks. (1-1-09)T
- 04. Reputation.** The character and reputation of the persons identified with the Racing Association. (1-1-09)T
- 05. Safety.** The general conditions and safety of the Racing Association facilities. (1-1-09)T

191. -- 199. (RESERVED).

200. FINGERPRINTS -- PHOTOGRAPH.

Every person holding a Racing Association license in Idaho, and every person that holds such a license who is an officer or director of a Racing Association that is in any capacity connected to any extent with the pari-mutuel wagering business in this State, must, on demand, furnish his fingerprints and photograph to the Racing Commission for its files. Fingerprints and photograph are to be taken at such time and place and in such manner as the Racing Commission may from time to time direct and prescribe. (1-1-09)T

201. -- 209. (RESERVED).

210. RACING DATES.

Application for racing dates must be made on forms approved by the Racing Commission. Application for racing dates does not commit the Racing Commission to the granting of a license to conduct race meets upon the dates requested. (1-1-09)T

211. -- 219. (RESERVED).

220. LICENSE NOT TRANSFERABLE.

No Racing Association license or any part thereof is transferable or assignable without the consent of the Racing Commission and said license is not valid for any racing days other than those set out therein. (1-1-09)T

221. -- 239. (RESERVED).

240. PROPOSED OFFICIALS.

Thirty (30) days prior to the first day of a race meet the Racing Association must submit in writing to the Racing Commission all names and personal data of proposed officials for processing for licensing. No official may act until approved by the Racing Commission. A Racing Commission representative at the track will process substitutions. The required form will be provided by the Racing Commission. (1-1-09)T

01. Hardship. To avoid undue hardship the Racing Commission may authorize Racing Associations to allow officials other than Stewards to act in dual capacities. (1-1-09)T

241 -- 249. (RESERVED).

250. RACING ASSOCIATIONS – GENERAL RULES.

01. Laws and Rules. The laws of Idaho and the rules promulgated by the Racing Commission supersede the conditions of the race or the regulations of a race meet. (1-1-09)T

02. Racing Hours. Each Racing Association may conduct horse racing only between the hours of 12:00 noon and 12:00 midnight, unless otherwise specifically authorized by the Racing Commission. (1-1-09)T

03. Conditions of Races. Each Racing Association must file with the Racing Commission the conditions of races it proposes to hold together with the stakes, purse or rewards. (1-1-09)T

04. Open Market. Owners and stables participating in race meets operating under license of the Racing Commission may purchase feed and supplies on the open market. No Racing Association may grant exclusive concessions which will interfere with this right. (1-1-09)T

05. Toilets and Other Facilities. Each Racing Association must on every racing day provide and maintain adequate toilet facilities and facilities for furnishing drinking water for its patrons and persons having business at the track. (1-1-09)T

06. Tampering. Each Racing Association must provide protection facilities to prevent tampering with horses or any other corrupt practices at licensed race meets. The Racing Commission may at any time require Racing Associations to expand their protective services. (1-1-09)T

07. Fire Regulations Posted. Every Racing Association must post in the stable area of its premises the fire regulations applicable on its grounds and such posted notice must also state the location of the nearest fire alarm box and the telephone number of the fire department or other pertinent instructions as to the method for reporting a fire in the area. Such notices must be posted no more than one hundred (100) feet apart or as approved by the local fire authority. No Racing Association or other person may violate the posted fire regulations specified by the Racing Commission. (1-1-09)T

08. Credentials. A full record of credentials issued by the Racing Association must be compiled and open to inspection at all times. All additions made to or changes in the list of employees of any Racing Association must be reported promptly to the Racing Commission in writing. (1-1-09)T

09. Horse Ambulance. Racing Associations must furnish, maintain, and have available a horse ambulance, as required by the Racing Commission, for each day that the track is open for racing or exercising during the race meet. (1-1-09)T

10. Human Emergency Medical Response Vehicle. Racing Associations must furnish and maintain a human emergency medical response vehicle, as required by the Racing Commission, for each day that the track is open for racing or exercising during the race meet. If the human emergency medical response vehicle is being used to transport an individual, the Racing Association may not conduct a race until the ambulance is replaced. (1-1-09)T

11. Medical Professionals. Racing Associations must have a licensed physician, registered nurse, paramedic or licensed emergency medical technician on duty at the track on each day of racing and must also provide adequate first aid and medical facilities to protect patrons and participants at licensed race meets. (1-1-09)T

12. Comfort and Safety. Racing Associations must at all times maintain the premises in good condition and properly secured, with special consideration for the comfort and safety of the public, of the horses and of all others present. (1-1-09)T

13. Violators. Violators of any rules are subject to ejection from the grounds, fine, suspension, being ruled off or any combination of the preceding. (1-1-09)T

14. Post Notices. Racing Associations must promptly post Racing Commission notices in places that can be easily viewed by licensees. (1-1-09)T

251. -- 259. (RESERVED).

260. HORSEMEN'S ACCOUNT.

Unless otherwise authorized by the Racing Commission and consistent with the Horsemen's agreement pertaining to the Horsemen's account, each Racing Association must keep an account, to be known as the "Horsemen's Account," with sufficient funds at all times in such account to cover all monies due horsemen in regard to purses, stakes, rewards, claims and deposits. (1-1-09)T

01. Subject to Review or Audit. The account is at all times be subject to review or audit by the Racing Commission. (1-1-09)T

02. Bonded. The horsemen's bookkeeper is in charge of such an account and must be insured against crime or employee dishonesty in a manner approved by the Racing Commission. (1-1-09)T

261. -- 269. (RESERVED).

270. PURSE MONEY.

Purse money must be made available to the winners promptly following release by the Racing Commission or its representative. (1-1-09)T

01. Release. Release will be given when test results of the horse's urine, blood or other specimens have been reported to the Racing Commission. (1-1-09)T

02. Breeder's Awards. Breeder's awards will be payable when the purse is cleared. (1-1-09)T

03. Weekly Remittance. The one-half (1/2) of one percent (1%) to benefit owners or breeders is to be remitted weekly by the Racing Association to the Racing Commission for distribution quarterly to the representatives of each breed. (1-1-09)T

271. -- 279. (RESERVED).

280. COMMUNICATION.

01. Communication System. Racing Associations must provide and maintain in good working order a communication system between racing officials and locations as determined by the Racing Commission. (1-1-09)T

02. Public Address System. Racing Associations must provide and maintain a public address system capable of clearly transmitting announcements to the patrons and to the stable area. (1-1-09)T

281. -- 289. (RESERVED).

290. DOCUMENTS FILED WITH RACING COMMISSION.

Not less than thirty (30) days before opening a race meet each Racing Association must file with the Racing Commission the following: (1-1-09)T

01. Bond. A bond signed by a surety company licensed to do business in this State in such form and in the sum as may be required by the Racing Commission, conditioned that the association will pay to the state of Idaho all money due under the provisions of Title 54, Chapter 25, Idaho Code. (1-1-09)T

02. Liability Insurance. Proof of public liability insurance by a company licensed to do business in this State in such form and in the amount as may be required by the Racing Commission for the protection of the public, the exhibitors and visitors. (1-1-09)T

03. Accident Insurance or Workmen's Compensation Insurance. Proof of an accident insurance policy or workmen's compensation insurance policy issued by a company licensed to do business in Idaho for the protection of Jockeys and exercise persons for injuries incurred in connection with race meets in such form and amount as may be required by the Racing Commission. (1-1-09)T

291. -- 299. (RESERVED).

300. HORSE RACE TRACKS.

01. Track Width. A minimum of twenty (20) feet of track width must be allowed for the first two (2) horses in a race, with an additional five (5) feet for each added starter. (1-1-09)T

02. Implements. Racing Associations must provide adequate equipment and personnel to maintain the track surface in a safe training and racing condition. The Racing Association must provide back-up equipment for

maintaining the track surface. (1-1-09)T

03. Limit on Number of Horses. No more than eight (8) horses may start in any race on a one-half (1/2) mile track. (1-1-09)T

04. Racing Surface. The surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed and maintained to provide for the safety of the jockeys and horses. (1-1-09)T

05. Rails. Race tracks must have inside and outside rails, including gap rails, designed, constructed and maintained to provide for the safety of jockeys and horses. The design and construction of rails must be approved by the Racing Commission prior to the first race meet at the track. (1-1-09)T

301. -- 309. (RESERVED).

310. JOCKEY ROOM.

Each Racing Association must provide a room reserved for jockeys to prepare for a race. (1-1-09)T

311. -- 319. (RESERVED).

320. OFFICIALS' STANDS.

Racing Associations must provide adequate stands for officials to have a clear view of the racetrack. The location and design of the stands must be approved by the Racing Commission. (1-1-09)T

321. -- 329. (RESERVED).

330. PHOTO FINISH DEVICES.

Racing Associations must provide two (2) electronic photo finish devices with mirror image to photograph the finish of each race and record the time of each horse in at least hundredths of a second. (1-1-09)T

01. Location. The location and operation of the photo finish devices must be approved by the Racing Commission before its first use in a race. (1-1-09)T

02. Posting Photographs. The Racing Association must promptly post a photograph of each photo finish for win, place or show in an area accessible to the public. (1-1-09)T

03. Devices Calibrated. The Racing Association must ensure that the photo finish devices are calibrated before the first day of each race meet and at other times as required by the Racing Commission. (1-1-09)T

04. Print Provided. On request by the Racing Commission, the Racing Association must provide, without cost, a print of a photo finish to the Racing Commission. (1-1-09)T

05. Records. Photo finish records of each race must be maintained by the Racing Association for not less than six (6) months after the end of the race meet, or such other period as may be requested by the stewards or the Racing Commission. (1-1-09)T

331. -- 339. (RESERVED).

340. VIDEOTAPING SYSTEM.

Racing Associations must provide a videotaping system approved by the Racing Commission. Cameras must be located to provide clear panoramic and head-on views of each race. (1-1-09)T

01. Monitors. Separate monitors that simultaneously display the images received from each camera and are capable of simultaneously displaying a synchronized view of the recordings of each race for review must be provided in the stewards' stand. (1-1-09)T

02. Location. The location and construction of video towers must be approved by the Racing

Commission. (1-1-09)T

03. Stewards. The stewards may, at their discretion, direct the video camera operators to videotape the activities of any horses or persons handling horses prior to, during or following a race. (1-1-09)T

04. Oval Track. Races run on an oval track must be recorded by at least three (3) video cameras. (1-1-09)T

05. Straight Course. Races run on a straight course must be recorded by at least two (2) video cameras. (1-1-09)T

06. Videotape Copy. Racing Associations must, upon request, provide to the Racing Commission, without cost, a copy of a videotape of a race. (1-1-09)T

07. Videotapes Maintained. Videotapes recorded prior to, during and following each race must be maintained by the Racing Association for not less than six (6) months after the end of the race meet, or such other period as may be requested by the stewards or the Racing Commission. (1-1-09)T

08. Objection. Following any race in which there is an inquiry or objection, the Racing Association must display to the public on designated monitors the videotaped replays of the incident in question which were utilized by the stewards in making their decision. (1-1-09)T

341. -- 349. (RESERVED).

350. STARTING GATE.

All horse races must utilize a starting gate approved by the Racing Commission, except that with permission of the Stewards a race may be started with or without a gate. When the starting gate is used, it must be placed on the track at the direction of the Starter. (1-1-09)T

01. Training Hours. Racing Associations must make at least one (1) starting gate and qualified starting gate personnel available for schooling during designated training hours. (1-1-09)T

02. Backup Equipment. If a race is started at a place other than in a chute, the Racing Association must provide and maintain in good operating condition backup equipment for moving the starting gate. The backup equipment must be immediately available to replace the primary moving equipment in the event of failure. (1-1-09)T

351. -- 359. (RESERVED).

360. DISTANCE MARKERS.

Racing Associations must provide starting point markers and distance poles in a size and position that is clearly seen from the stewards' stand. (1-1-09)T

361. -- 369. (RESERVED).

370. BARNs.

Racing Associations must provide barns containing a sufficient number of stalls to accommodate all horses approved to race and all other horses approved to be on the grounds. The Racing Association's stable area configuration and facilities must be approved by the Racing Commission. (1-1-09)T

01. Good Repair. Racing Associations must ensure that the barns are kept clean and in good repair. Each barn, including the receiving barn, must have a water supply available, be well-ventilated, have proper drainage and be constructed to be comfortable during the race meet. (1-1-09)T

02. Stall Size. Racing Associations must ensure that each horse is stabled in an individual box stall with minimum dimensions of ten feet by ten feet (10' x 10'). (1-1-09)T

371. -- 379. (RESERVED).

380. TEST AREA.

Racing Associations must provide a test area for taking specimens of urine, blood or other bodily substances or tissues for testing. The Racing Associations must limit access to the test area to persons authorized by the commission veterinarian. (1-1-09)T

381. -- 389. (RESERVED).

390. ISOLATION AREA.

Racing Associations must provide an isolation area, approved by the Racing Commission, for the care and treatment of a horse that is ordered isolated by the commission veterinarian. (1-1-09)T

391. -- 899. (RESERVED).

900. SECURITY.

Racing Associations conducting live race meets must maintain security controls over their grounds. Security controls are subject to the approval of the Racing Commission. (1-1-09)T

01. Restricted Areas. Racing Associations must restrict access of licensees or their guests to certain areas of the grounds. Those restricted areas are the Paddock, Jockey Room, Veterinarian's Test Area, the Steward's Stand, the Mutuel Room, racing offices and any other area the Racing Association feels should be limited access. (1-1-09)T

02. Escort Guests. Any licensee may escort an unlicensed guest through the enclosure of a Racing Association except restricted areas. The licensee and the guest must sign in and out and identify all such persons. The licensee by signing accepts full responsibility for the safety and actions of the guest while in the enclosure. (1-1-09)T

03. Passes. Racing Associations may establish a system or method of issuing credentials or passes to restrict access to its restricted areas or to ensure that all participants at its race meet are licensed as required by these rules. (1-1-09)T

04. Prevent Access. Racing Associations must prevent access to and must remove or cause to be removed from its restricted areas any person who is unlicensed, or who has not been issued a visitor's pass or other identifying credential, or whose presence in such restricted area is unauthorized. (1-1-09)T

05. List of Security Personnel. On request by the Racing Commission, a Racing Association must provide a list of the security personnel, including the name, qualifications, training, duties duty station and area supervised by each employee. (1-1-09)T

06. Daily Reports. Each day, the chief of security for a Racing Association must deliver a written report to the stewards regarding occurrences on Racing Association grounds on the previous day. Not later than twenty-four (24) hours after an incident occurs requiring the attention of security personnel, the chief of security must deliver to the stewards a written report describing the incident. The report must include the name of each individual involved in the incident, the circumstances of the incident and any recommended charges against each individual involved. (1-1-09)T

901. -- 909. (RESERVED).

910. COMPLAINTS.

Racing Associations must promptly notify the Racing Commission of any complaints regarding: (1-1-09)T

01. Violations. Alleged violation of Section 54-2501, Idaho Code, ordinances or statutes, or a rule of the Racing Commission; (1-1-09)T

02. Accidents or Injuries. (1-1-09)T

03. Unsafe Conditions. Unsafe or unsanitary conditions for patrons, licensees or horses. (1-1-09)T

911. -- 919. (RESERVED).

920. EXCLUSION AND EJECTION.

Racing Associations must immediately, upon notification by the Racing Commission, take steps to bar admittance to the racing grounds to any person who is subject to an exclusion order of the Racing Commission. (1-1-09)T

01. Lawful Reason. Racing Associations may eject or exclude a person for any lawful reason. Racing Associations must immediately notify the stewards and the Racing Commission in writing of any person ejected or excluded by the Racing Association and the reasons for the ejection or exclusion. (1-1-09)T

02. Readmission. Any person ejected from the grounds of a Racing Association will be denied readmission to said grounds until permission has been approved by the Racing Commission. (1-1-09)T

921. -- 989. (RESERVED).

990. PENALTIES.

Any person violating any of the provisions of this chapter is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code and any of the Racing Commission rules. (1-1-09)T

991. -- 998. (RESERVED).

999. MINOR VIOLATIONS.

Nothing in this chapter may be construed as requiring the Racing Commission to report minor violations when the Racing Commission believes that the public interest will be best served by suitable warnings or other administrative action. (1-1-09)T

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

11.04.08 - RULES GOVERNING PARI-MUTUEL WAGERING

DOCKET NO. 11-0408-0901 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 54-2506, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

MONDAY - JANUARY 12, 2009 - 6:00 p.m.

**NAMPA CIVIC CENTER
Home Federal Room
311 3RD Street South, Nampa, ID**

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

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

This rule provides a clear concise rule Chapter on Pari-Mutuel Wagering. In addition, this rule conforms more closely with the Association of Racing Commissioners International Model Rules in a plain English format.

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

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. However this rule was developed with input from a committee comprised of representatives of all segments of the horse racing industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Idaho State Racing Commission, 208-884-7080.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 12th day of November, 2008.

Dennis Jackson
Executive Director
Idaho State Racing Commission
Phone: 208-884-7080 / Fax: 208-884-7098

700 S. Stratford Drive
PO Box 700
Meridian, ID 83780-0700

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0408-0901

IDAPA 11
TITLE 04
CHAPTER 08

IDAHO STATE RACING COMMISSION

11.04.08 - RULES GOVERNING PARI-MUTUEL WAGERING

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (1-1-09)T

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.04.08, "Rules Governing Pari-Mutuel Wagering" of the Idaho State Racing Commission. (1-1-09)T

02. Scope. These rules govern Pari-mutuel wagering in the State of Idaho. (1-1-09)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (1-1-09)T

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal racing commission actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (1-1-09)T

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference into these rules. (1-1-09)T

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

01. Physical Address. The central office of the Idaho State Racing Commission is located at 700 S. Stratford Drive, Meridian, Idaho. (1-1-09)T

02. Office Hours. The central office is open 8 a.m. to 5 p.m., Mountain Time, Monday thru Friday, except holidays designated by the state of Idaho. (1-1-09)T

03. Mailing Address. The mailing address for the central office is Idaho State Racing Commission, P.O. Box 700, Meridian, Idaho 83680-0700. (1-1-09)T

04. Telephone Number. The telephone of the office is (208) 884-7080. (1-1-09)T

05. Fax Number. The facsimile number of the office is (208) 884-7098. (1-1-09)T

06. Website. The Racing Commission website is: <http://www.isp.state.id.us/race>. (1-1-09)T

006. PUBLIC RECORDS COMPLIANCE AND AVAILABILITY.

These rules are public records available for inspection and copying at the Idaho State Racing Commission central office or on the Racing Commission website. (1-1-09)T

007 -- 009. (RESERVED).

010. DEFINITIONS.

- 01. Advanced Deposit Account Wagering System.** A system in which wagers are debited and payouts credited to an advance deposit account held by a racing association on behalf of a person. (1-1-09)T
- 02. Advanced Deposit Wagering.** A form of pari-mutuel wagering in which a natural person may deposit money in an account with a race meet licensee and then use the current balance to pay for pari-mutuel wagering on horse racing only conducted by the race meet licensee. (1-1-09)T
- 03. Advanced Wagering.** Wagering before a scheduled post time for the first contest of a performance. (1-1-09)T
- 04. Breakage.** The net pool minus payout. (1-1-09)T
- 05. Cancelled Race.** A race not held. (1-1-09)T
- 06. Common Pool Wagering.** The inclusion of wagers placed at guest association locations and secondary pari-mutuel organizations into a common pari-mutuel pool for the purpose of display of wagering information and calculation of payoffs on winning wagers. (1-1-09)T
- 07. Contest.** A competitive racing event or competition between horses in which pari-mutuel wagering is conducted. (1-1-09)T
- 08. Coupled Entries.** Two (2) or more horses which are entered or run in a race and are coupled because of common ties or ownership. (1-1-09)T
- 09. Daily Double.** A daily double requires the selection of the first place finisher in two (2) consecutive races. (1-1-09)T
- 10. Dead Heat.** The finish of a race in which the noses of two (2) or more horses reach the finish line at the same time. (1-1-09)T
- 11. Exacta.** The Exacta requires selection of the first two (2) finishers, in their exact order, for a single contest. (1-1-09)T
- 12. Guest Association.** A racing association approved to offer simulcast races and pari-mutuel wagering on races conducted at other racetracks. (1-1-09)T
- 13. Independent Real Time Monitoring System.** A system approved by the Racing Commission for the purpose of immediate and continuous analysis of wagering and other pari-mutuel systems data in order to detect suspect wagering transactions or other activity indicating a possible problem relating to the integrity of the pari-mutuel system and which transmits transactional level data to a wagering security database. (1-1-09)T
- 14. License.** A permission granted by the Racing Commission to engage in racing or a regulated activity. (1-1-09)T
- 15. Live Event Host.** A licensed racing association where live racing is conducted and on which pari-mutuel wagering is conducted by guest associations or secondary pari-mutuel organizations. (1-1-09)T
- 16. Minus Pool.** When the amount of money to be distributed on winning wagers is in excess of the amount of money comprising the net pool. (1-1-09)T
- 17. Odds.** Number indicating amount of profit per dollar to be paid to holders of winning pari-mutuel rickets. (1-1-09)T
- 18. Official Results.** The finish of the race as declared by the Stewards. (1-1-09)T
- 19. Pari-Mutuel Cash Voucher.** A document or card produced by a pari-mutuel system device on which a stored cash value is represented and the value of which is recorded in and redeemed through the pari-mutuel

- system. (1-1-09)T
- 20. Pari-Mutuel Pool Host.** A racing association that operates and controls access of guest associations or secondary pari-mutuel organizations to, a pari-mutuel pool. (1-1-09)T
- 21. Pari-Mutuel System.** The hardware, software and communications equipment used to record wagers, calculate payouts for winning wagers, and transmits wagering transactions and pari-mutuel pool data for display to patrons and to communicate with other pari-mutuel systems linked to facilitate common pool wagering. (1-1-09)T
- 22. Pari-Mutuel Ticket.** A document printed or record produced by a pari-mutuel system device on which is represented a pari-mutuel wager or wagers that have been authorized and accepted for purposes of participation in a pari-mutuel pool. (1-1-09)T
- 23. Pari-Mutuel Wagering.** A form of wagering on the outcome of an event in which all wagers are pooled and held by an pari-mutuel pool host for distribution of the total amount, less the deductions authorized by law, to holders of tickets on the winning contestants. (1-1-09)T
- 24. Parlay.** A multi-race bet in which all winnings are subsequently wagered on each succeeding race. (1-1-09)T
- 25. Payout.** Money disbursed after a race is official. (1-1-09)T
- 26. Pick (n).** The Pick (n) requires selection of the first-place finisher in each of a designated number of contests. (1-1-09)T
- 27. Place Pool.** The total amount wagered on a specific entry to finish second in a race. (1-1-09)T
- 28. Quinella.** The Quinella requires selection of the first two (2) finishers, irrespective of order, for a single contest. (1-1-09)T
- 29. Quinella Double.** The Quinella Double requires selection of the first two (2) finishers, irrespective of order, in each of two (2) specified contests. (1-1-09)T
- 30. Racing Association.** Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering. (1-1-09)T
- 31. Racing Commission.** Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee. (1-1-09)T
- 32. Remote Site.** A guest association or secondary pari-mutuel organization. (1-1-09)T
- 33. Scratch.** The act of withdrawing an entered horse from the race after closing of overnight entries. (1-1-09)T
- 34. Scratched Horse.** A horse that is withdrawn from a race after the betting has begun. (1-1-09)T
- 35. Secondary Pari-Mutuel Organization.** An entity other than a licensed racing association that offers and accepts pari-mutuel wagers. This may include an off-track wagering system or an account wagering system. (1-1-09)T
- 36. Show Pool.** The total amount wagered on a specific entry to finish third in a race. (1-1-09)T
- 37. Simulcast.** Video and audio transmission of a race and pari-mutuel information for the purpose of pari-mutuel wagering at locations other than a licensed racing association where the race is run. (1-1-09)T
- 38. Superfecta.** The Superfecta requires selection of the first four (4) finishers, in their exact order, for

a single contest. (1-1-09)T

39. Take or Takeout. Racing Commission money deducted from mutuel pools which is shared by the track and local and state governing bodies in the form of a tax. (1-1-09)T

40. Trifecta. The Trifecta requires selection of the first three (3) finishers, in their exact order, for a single contest. (1-1-09)T

41. Tri-Superfecta. The Tri-Superfecta requires selection of the first three (3) finishers, in their exact order, in the first two (2) designated contests and the first four (4) finishers, in exact order, in the second of the two (2) designated contests. (1-1-09)T

42. Twin Quinella. The Twin Quinella requires selection of the first two (2) finishers, irrespective of order, in each of two (2) designated contests. (1-1-09)T

43. Twin Trifecta. The Twin Trifecta requires selection of the first three (3) finishers, in their exact order, in each of two (2) designated contests. (1-1-09)T

44. Voucher Identification Number. A number specifically unique to each pari-mutuel voucher. (1-1-09)T

45. Wager. To risk or state an amount of money on an unknown outcome. (1-1-09)T

46. Win Pool. The amount wagered on a specific entry to finish a race. (1-1-09)T

47. Win Three. The Win Three (3) requires selection of a first-place finisher in each of three (3) specified contests. (1-1-09)T

48. Winnings. Money won by successfully wagering on the winner in a live or simulcast race based on the official order of finish. (1-1-09)T

011. ABBREVIATIONS.
There are no abbreviations used in these rules. (1-1-09)T

012. -- 099. (RESERVED).

100. GENERAL PROVISIONS.

01. Pari-Mutuel System. Pari-mutuel wagering utilizes a totalisator system to pool wagers. The totalisator system may be located on property of a racing association or may, subject to compliance with applicable law and these rules, reside at another location. (1-1-09)T

02. Wagering Subject to Approval. Wagering subject to approval and compliance with applicable laws and rules, may be accepted by separate totalisator systems in this or another jurisdictions, and combine via communication between totalisator systems. (1-1-09)T

03. Designee. The Racing Commission may utilize a designee for the purposes of licensing, certification, verification, inspection, testing, and investigation. A Racing Commission designee may be another Racing Commission or equivalent regulatory authority, a multi-jurisdictional group of regulatory authorities, a racing association of regulatory authorities, or auditing, consulting, security, investigation, legal services, or other qualified entities or persons. (1-1-09)T

04. Multi-Jurisdiction Agreements. The Racing Commission may enter into multi-jurisdiction agreements with other regulatory authorities to facilitate certification of compliance with requirements by and licensing of, totalisator companies, entities providing services for simulcasting and common pool wagering, secondary pari-mutuel organizations, and advance deposit account wagering systems. At a minimum such agreements must ensure certification and licensing requirements comparable to this jurisdiction. (1-1-09)T

101. PARI-MUTUEL WAGERING.

The following requirements are applicable to racing associations licensed by the Racing Commission that offers pari-mutuel wagering. These requirements are also to such organizations licensed or approved by other regulatory authority as a condition of Racing Commission approval of any agreement or contract for simulcasting or common pool wagering (1-1-09)T

01. Pari-Mutuel Tickets. A pari-mutuel ticket is evidence of a contribution to the pari-mutuel pool and is evidence of the obligation to pay to the holder of such portion of the distributable amount of the pari-mutuel pool as is represented by a valid pari-mutuel ticket. The racing association must cash all valid winning tickets when they are presented for payment during the course of the meeting where sold, and for a specified period after the last day of the meeting. (1-1-09)T

02. Valid Pari-Mutuel Ticket. To be deemed a valid pari-mutuel ticket, the ticket must have been issued by a pari-mutuel ticket machine operated by the racing association and issued as a ticket entitled to a share of the pari-mutuel pool, and contain imprinted information as follows: (1-1-09)T

- a. The name of the racing association operating the meeting; (1-1-09)T
- b. A unique identifying number or code; (1-1-09)T
- c. Identification of the terminal at which the ticket was issued; (1-1-09)T
- d. A designation of the performance for which the wagering transaction was issued; (1-1-09)T
- e. The contest number for which the pool is conducted; (1-1-09)T
- f. The type or types of wagers represented; (1-1-09)T
- g. The number or numbers representing the betting interests for which the wager is recorded; and, (1-1-09)T
- h. The amount or amounts of the contributions to the pari-mutuel pool or pools for which the ticket is evidence. (1-1-09)T

03. Previously Paid, Cancelled, or Non-Existent Pari-Mutuel Ticket. No pari-mutuel ticket recorded or reported as previously paid, cancelled, or non-existent may be deemed a valid pari-mutuel ticket by the racing association. The racing association may withhold payment and refuse to cash any pari-mutuel ticket deemed not valid, except as in these rules. (1-1-09)T

102. PARI-MUTUEL TICKET SALES.

01. Ticket Sales. Pari-mutuel tickets may not be sold by anyone other than a racing association licensed to conduct pari-mutuel wagering. (1-1-09)T

02. Wager -- Person Under Eighteen. No person under eighteen (18) years of age is allowed to wager. (1-1-09)T

03. License -- Person Under Eighteen. No person under eighteen (18) years of age may be granted a license to work in the pari-mutuel department. (1-1-09)T

04. Wagering by Employees of the Mutuel Department not Permitted. Wagering by employees of the mutuel department is not permitted while on duty. Violation of this rule may result in the revocation of the offender's license. (1-1-09)T

05. Purchase of Pari-Mutuel Tickets for Hire or Gratuity. Only persons or messengers employed by the racing associations and approved by the Racing Commission may directly or indirectly purchase pari-mutuel tickets or participate in the purchase of any or part of a pari-mutuel pool or another for hire or for any gratuity.

(1-1-09)T

06. Closed Wagering. No pari-mutuel ticket may be sold on a contest for which wagering has already been closed and no racing association will be responsible for ticket sales not recorded into or not completed by issuance of a ticket before the totalisator is closed for wagering on such contest. (1-1-09)T

07. Claims by Bettor. Claims pertaining to a mistake on an issued ticket, or a mistake involving failure to issue a ticket, must be made by the bettor prior to leaving the seller's window except in accordance with written policies established by the racing association and approved by the Racing Commission. (1-1-09)T

08. Payment on Winning Pari-Mutuel Wagers. Payment on winning pari-mutuel wagers is made on the basis of the order of finish as purposely posted and declared "official." Any subsequent change in the order of finish or award of purse money as may result from a subsequent ruling by the stewards or Racing Commission will in no way affect the pari-mutuel payout. If an error in the posted order of finish or payout figures is discovered, the official order of finish or payout prices may be corrected and an announcement concerning the change must be made to the public. (1-1-09)T

09. Cancellation or Exchange Tickets. Cancellation or exchange of tickets issued is not permitted after a patron has left a seller's window, except in accordance with written policies established by the racing association and approved by the Racing Commission. (1-1-09)T

10. Claims on Lost, Mutilated, or Altered Tickets. The racing association may not satisfy claims on lost, mutilated, or altered pari-mutuel tickets without authorization of the Racing Commission. (1-1-09)T

11. Equipment Failure. The racing association has no obligation to enter a wager into a betting pool if unable to do so due to equipment failure. (1-1-09)T

103. ADVANCE WAGERING.

No racing association may permit wagering to begin more than one (1) hour before scheduled post time of the first contest of a performance unless it has first obtained the authorization of the Racing Commission. This does not preclude earlier common pool wagers in accordance with a contract with the host association that has been approved by the Racing Commission. (1-1-09)T

104. CLAIMS FOR PAYMENT FROM PARI-MUTUEL POOL.

At a designated location, a written, verified claim for payment from a pari-mutuel pool must be accepted by the racing association in any case wherein the racing association has withheld payment or has refused to cash a pari-mutuel wager. The claim must be made on such form as approved by the Racing Commission. The original of such claim must be forwarded to the Racing Commission within forty-eight (48) hours. (1-1-09)T

01. Claim for Mutilated Ticket. In the case of a claim made for payment of a mutilated pari-mutuel ticket which does not contain the total imprinted elements required in these rules, the racing association will make a recommendation to accompany the claim forwarded to the Racing Commission as to whether or not the mutilated ticket has sufficient elements to be positively identified as a winning ticket. (1-1-09)T

02. Racing Commission to Adjudicate or Deny Claim. In the case of a claim made for payment on a pari-mutuel wager, the Racing Commission must adjudicate the claim and may order payment thereon from the pari-mutuel pool or by the racing association, or may deny the claim, or may make such other order, as it may deem proper as provided for in Section 113 of these rules. (1-1-09)T

105. PAYMENT FOR ERRORS.

If an error occurs in the payment amounts for pari-mutuel wagers that are cashed or entitled to be cashed and, as a result of such error, the pari-mutuel pool involved in the error is not correctly distributed among winning ticket holders, the following applies: (1-1-09)T

01. Underpayments. Verification is required to show that the amount of the commission, the amount in breakage, and the amount in payouts is equal to the total gross pool. If the amount of the pool is more than the amount used to calculate the payout, the underpayment belongs to the Racing Commission. In the event there is an

underpayment on any race in the amount actually due to the wagerers, the amount of such underpayments to wagerers, at the end of each day of racing, will revert to and be paid to the Racing Commission and may not be retained by the racing association. (1-1-09)T

02. Underpayment Claim. Any claim not filed with the racing association within thirty (30) days, inclusive of the date on which the underpayment was publicly announced, is deemed waived; and the racing association has no further liability. (1-1-09)T

03. Overpayment. In the event the error results in an overpayment to winning wagers, the racing association is responsible for such payment. (1-1-09)T

106. BETTING EXPLANATION.

A summary explanation of pari-mutuel wagering and each type of betting pool offered must be published in the program for every wagering performance. The rules of racing relative to each type of pari-mutuel pool offered must be prominently displayed on the racing association grounds and available upon request through racing association representatives. (1-1-09)T

107. DISPLAY OF BETTING INFORMATION.

01. Approximate Odds for Win Pool. Approximate odds for Win pool betting must be posted on display devices within view of the wagering public and updated at intervals of not more than sixty (60) seconds for the current race of the performance. (1-1-09)T

02. Probable Payout. The probable payout or amounts wagered, in total and on each betting interest, for other pools may be displayed to the wagering public at intervals and in a manner approved by the Racing Commission. (1-1-09)T

03. Official Results and Payouts. Official results and payouts must be displayed upon each contest being declared official. (1-1-09)T

04. Errors Corrected Promptly. If an error is made in posting the payoff figures on the public board, it will be corrected promptly and only the correct amounts will be used in the payoff, irrespective of the error. If because of mechanical failure it is impossible to promptly correct the posted payoff, a statement must be made over the public address system stating the facts and corrections. (1-1-09)T

108. CANCELLED CONTESTS.

If a contest is cancelled or declared "no contest," refunds must be granted on valid wagers in accordance with these rules. (1-1-09)T

01. Refunds. Notwithstanding other provisions of these rules, refunds of the entire pool must be made on:

a. Win pools, Exacta pools, and first-half Double pools offered in contests in which the number of betting interests has been reduced to fewer than two (2). (1-1-09)T

b. Place pools, Quinella pools, Trifecta pools, first-half Quinella Double pools, first-half Twin Quinella pools, first-half Twin Trifecta pools, and first-half Tri-Superfecta pools offered in contest in which the number of betting interests has been reduced to fewer than three (3). (1-1-09)T

c. Show pools, Superfecta pools, and first-half Twin Superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than four (4). (1-1-09)T

02. Authorized Refund to be Paid. Authorized refunds must be paid upon presentation and surrender of the affected pari-mutuel ticket. (1-1-09)T

03. Scratched Horse. If a horse is scratched from racing after the betting has begun, the money bet on that horse must be refunded; except that when the horse is part of an Entry or the Field there will be no refund if the

Entry or the Field, as the case may be, has at least one (1) actual starter. (1-1-09)T

04. Horse Prevented from Racing Because of Starting Gate Failure. If it is determined by the Stewards that a horse has been prevented from racing because of the failure of the stall door of the starting gate to open, the money bet on that horse must be refunded; except that when the horse is part of an Entry or the Field there will be no refund if the Entry or the Field, as the case may be, has at least one (1) actual starter. (1-1-09)T

05. Coupled Entries and Mutuel Fields. If no horse finished in a race, all money wagered on that race must be refunded. (1-1-09)T

109. COUPLED ENTRIES AND MUTUEL FIELDS.

01. Coupled Entry Considered Single Betting Interest. Contestants coupled in wagering as a coupled entry or mutuel field are considered part of a single betting interest for the purpose of price calculations and distribution of pools. Should any contestant in a coupled entry or mutuel field be officially withdrawn or scratched, the remaining contestant in that coupled entry or mutuel field may remain valid betting interests and no refunds will be granted; or the stewards may order a refund for the entire betting interest. If all contestants within a coupled entry or mutuel field are scratched, then tickets on such betting interests must be refunded, notwithstanding other provisions of these rules. (1-1-09)T

02. Dead Heat Involving Coupled Entry. For the purpose of price calculations only, coupled entries and mutuel fields are calculated as a single finisher, using the finishing position of the leading contestant in that coupled entry or mutuel field to determine order of placing. This rule applies to all circumstances, including situations involving a dead heat, except as otherwise provided by these rules. (1-1-09)T

110. POOLS DEPENDANT UPON BETTING INTERESTS.

01. Offer Wagering Pools. Unless otherwise provided by the Racing Commission, upon request received no later than twenty-four (24) hours after the post position draw, at the time the pools are opened for wagering, the racing association: (1-1-09)T

a. Must offer win wagering on all contests with three (3) or more betting interests. May offer win wagering on all contests with two (2) or more betting interests. (1-1-09)T

b. Must offer place wagering on all contests with four (4) or more betting interests. If the number of starting betting interests drops below four (4), the racing association may at its discretion cancel place wagering. The racing association must make an appropriate public address announcement. (1-1-09)T

c. Must offer show wagering on all contests with five (5) or more betting interests. If the number of starting betting interests drops below five (5), the racing association may at its discretion cancel show wagering. The racing association must make an appropriate public address announcement. (1-1-09)T

d. May offer quinella wagering on all contests with three (3) or more betting interests. (1-1-09)T

e. May offer quinella double wagering on all contests with three (3) or more betting interests. (1-1-09)T

f. May offer exacta wagering on all contests with two (2) or more betting interests. (1-1-09)T

g. May offer trifecta wagering on all contests with three (3) or more betting interests. (1-1-09)T

h. May offer superfecta wagering on all contests with four (4) or more betting interests. (1-1-09)T

i. May offer twin quinella wagering on all contests with three (3) or more betting interests. (1-1-09)T

j. May not offer twin trifecta, tri-superfecta or twin trifecta wagering on any contests with six (6) or

less betting interests. (1-1-09)T

111. PRIOR APPROVAL REQUIRED FOR BETTING POOLS.

01. Prior Approval Required for Betting Pools. A racing association that desires to offer new forms of wagering must apply in writing to the Racing Commission and receive written approval prior to implementing the new betting pool. (1-1-09)T

02. Suspend Previously Approved Forms of Wagering. The racing association may suspend previously-approved forms of wagering with the prior approval of the Racing Commission. Any carryover must be held until the suspended form of wagering is reinstated. A racing association may request approval of a form of wagering or separate wagering pool for specific performances. (1-1-09)T

112. CLOSING OF WAGERING IN A CONTEST.

01. Close Wagering. A Racing Commission representative must close wagering for each contest after which time no pari-mutuel tickets may be sold for that contest. (1-1-09)T

02. Approved Close Wagering System. The racing association must maintain, in good order, a system approved by the Racing Commission for closing wagering. (1-1-09)T

113. COMPLAINTS PERTAINING TO PARI-MUTUEL OPERATIONS.

01. Compliance Report. When a patron makes a complaint regarding the pari-mutuel department to a racing association, the racing association must immediately issue a compliance report, setting out: (1-1-09)T

- a. The name of the complainant; (1-1-09)T
- b. The nature of the complaint; (1-1-09)T
- c. The name of the persons, if any, against whom the complaint was made; (1-1-09)T
- d. The date of the complaint; and (1-1-09)T
- e. The action taken or proposed to be taken, if any, by the racing association. (1-1-09)T

02. Submit Complaint to Racing Commission. The racing association must submit every complaint report to the Racing Commission within forty-eight (48) hours after the complaint was made. The Racing Commission will review the complaint and a decision must be issued within seven (7) working days. (1-1-09)T

114. LICENSEES -- DUTY TO REPORT.

All licensees must report any known irregularities or wrong doings by any person involving pari-mutuel wagering immediately to the Racing Commission and cooperate in subsequent investigations. (1-1-09)T

115. EMERGENCY SITUATIONS.

In the event of an emergency in connection with the pari-mutuel department not covered in these rules, the pari-mutuel manager representing the racing association must report the problem to the stewards and the racing association and the stewards must render a full report to the Racing Commission within forty-eight (48) hours. (1-1-09)T

116. UNRESTRICTED ACCESS.

The racing association must permit the Racing Commission unrestricted access at all times to its facilities and equipment and to all books, ledgers, accounts, documents and records of the racing association that relate to pari-mutuel wagering. (1-1-09)T

117. PARI-MUTUEL CASH VOUCHERS.

01. Cash Vouchers. Pari-mutuel cash vouchers may be offered by a racing association that issues pari-mutuel tickets. These vouchers must be dispensed through the totalisator system. The stored value on a voucher may be redeemed in the same manner as a value of a winning pari-mutuel ticket for wagers placed at a pari-mutuel window or a self-service terminal, and may be redeemed for their cash value at any time. (1-1-09)T

02. Vouchers as Incentives or Promotional Prizes. A racing association may, with the prior approval of the Racing Commission, issue special pari-mutuel cash vouchers as incentives or promotional prizes, and may restrict the use of those vouchers to the purchase of pari-mutuel wagers. (1-1-09)T

03. Voucher Identification Number. The tote system transaction record for all pari-mutuel vouchers must include the voucher identification number in subsequent pari-mutuel transactions and pari-mutuel wagers made from a voucher must identify the voucher by identification number. (1-1-09)T

118. OTHER STORED VALUE INSTRUMENTS AND SYSTEMS.

01. Stored Value Instrument or System. A racing association may not utilize any form of stored value instrument or system other than a pari-mutuel voucher for purpose of making or cashing pari-mutuel wagers without the prior approval of the Racing Commission,. (1-1-09)T

02. Request for Approval. Any request for approval of a stored value instrument or system must include a detailed description of the standards utilized: (1-1-09)T

a. To identify the specific stored value instrument or account in the pari-mutuel system wagering transaction record; (1-1-09)T

b. To verify the identity and business address of the person(s) obtaining, holding, and using the stored value instrument or system; and (1-1-09)T

c. To record and maintain records of deposits, credits, debits, transaction numbers, and account balances involving the stored value instruments or accounts. (1-1-09)T

03. Prevent Wagering Transactions. A stored value instrument or system must prevent wagering transactions in the event such transactions would create a negative balance in an account, and may not operate so as to automatically facilitate a transfer of funds into a stored value instrument or account without the direct authorization of each such deposit transfer by the person holding the instrument or account. (1-1-09)T

04. Affirmation. Any request for approval of a stored value instrument or system must include an affirmation of the ready availability when requested by the Racing Commission. All records and reports relating to all transactions, account records, and customer identification and verification in hard copy or standard electronic format approved by the Racing Commission certification of secure retention of all records for a period of not less than three (3) years or such longer period specified by the Racing Commission. (1-1-09)T

119. -- 199. (RESERVED).

200. CALCULATION OF PAYOFFS AND DISTRIBUTION OF POOLS.

01. Pari-Mutuel Wagering Pools Must Be Separately and Independently Calculated and Distributed. All permitted pari-mutuel wagering pools must be separately and independently calculated and distributed. Takeout will be deducted from each gross pool as stipulated by law. The remainder of the monies in the pool constitutes the net pool for distribution as payoff on winning wagers. (1-1-09)T

02. Standard or Net Price Calculation. Either the standard or net price calculation procedure may be used to calculate single commission pools, while the net price calculation procedure must be used to calculate multi-commission pools. (1-1-09)T

03. Profit per Dollar. For each wagering pool, the amount wagered on the winning betting interest or betting combinations is deducted from the net pool to determine the profit; the profit is then divided by the amount

wagered on the winning betting interest or combinations, such quotient being the profit per dollar. (1-1-09)T

04. Single Commission Pools. With written approval from the Racing Commission, either the standard or net price calculation procedure may be used to calculate single commission pools, while the net price calculation procedure must be used to calculate multi-commission pools. (1-1-09)T

a. Standard Price Calculation Procedure. (1-1-09)T

Table - Single Price Pool (Win Pool)

gross pool	=	sum of wagers on all betting interest-refunds
takeout	=	gross pool x percent takeout
net pool	=	gross pool - takeout
profit	=	net pool - gross amount bet on winner
profit per dollar	=	profit / gross amount bet on winner
\$1 unbroken price	=	profit per dollar + \$1
\$1 broken price	=	\$1 unbroken price rounded down to the break point
total payout	=	\$1 broken price x gross amount bet on winner
total breakage	=	net pool - total payout

(1-1-09)T

i. Profit Split (Place Pool). Profit is net pool less gross amount bet on all place finishers. Finishers split profit one-half (1/2) and one-half (1/2) (place profit), then divide by gross amount bet on each place finisher for two (2) unique prices. (1-1-09)T

ii. Profit Split (Show Pool). Profit is net pool less gross amount bet on all show finishers. Finishers split profit one-third (1/3) and one-third (1/3) and one-third (1/3) (show profit), then divide by gross amount bet on each show finisher for three (3) unique prices. (1-1-09)T

b. Net Price Calculation Procedure. (1-1-09)T

Table - Single Price Pool (Win Pool)

gross pool	=	sum of wagers on all betting interest-refunds
takeout	=	gross pool x percent takeout
# for each source:		
net pool	=	gross pool - takeout
net bet on winner	=	gross amount bet on winner x (1 - percent takeout)
total net pool	=	sum of all sources net pools
total net bet on winner	=	sum of all sources net bet on winner
total profit	=	total net pool - total net bet on winner
profit per dollar	=	total profit / total net bet on winner
\$1 unbroken base price	=	profit per dollar + \$1 for each source:

\$1 unbroken price	=	\$1 unbroken base price x (1 - percent takeout)
\$1 broken price	=	\$1 unbroken price rounded down to the break point
total payout	=	\$1 broken price x gross amount bet on winner
total breakage	=	net pool - total payout

(1-1-09)T

i. Profit Split (Place Pool). Total profit is the total net pool less the total net amount bet on all place finishers. Finishers split total profit one-half (1/2) and one-half (1/2) (place profit), then divide by total net amount bet on each place finisher for two (2) unique unbroken base prices. (1-1-09)T

ii. Profit Split (Show Pool). Total profit is the total net pool less the total net amount bet on all show finishers. Finishers split total profit one-third (1/3) and one-third (1/3) and one-third (1/3) (show profit), then divide by total net amount bet on each show finisher for three (3) unique unbroken base prices. (1-1-09)T

c. If a profit split results in only one (1) covered winning betting interest or combinations it is calculated the same as a single price pool. (1-1-09)T

d. Minimum payout and the method used for calculating breakage are established by the Racing Commission. (1-1-09)T

e. The individual pools outlined in these rules may be given alternative names by each racing association, provided prior approval is obtained from the Racing Commission. (1-1-09)T

f. In the event a minus pool occurs in either the Win, Place or Show pool, the expense of said minus pool will be born by the racing association and the State will receive intact its share of the remaining pools. (1-1-09)T

201. WIN POOLS.

01. Win Pools. The amount wagered on the betting interest that finishes first is deducted from the net pool, the balance remaining being the profit; the profit is divided by the amount wagered on the betting interest finishing first, such quotient being the profit per dollar wagered to Win on that betting interest. (1-1-09)T

02. Net Win Pool. The net Win pool must be distributed as a single price pool to winning wagers in the following precedence, based upon the official order of finish: (1-1-09)T

a. To those whose selection finished first; but if there are no such wagers, then; (1-1-09)T

b. To those whose selection finished second; but if there are no such wagers, then; (1-1-09)T

c. To those whose selection finished third; but if there are no such wagers, then; (1-1-09)T

d. The entire pool must be refunded on Win wagers for that contest. (1-1-09)T

03. Dead Heat for First. If there is a dead heat for first involving: (1-1-09)T

a. Contestants representing the same betting interest, the Win pool is distributed as if no dead heat occurred. (1-1-09)T

b. Contestants representing two (2) or more betting interests, the Win pool is distributed as a profit split. (1-1-09)T

Table 1 -- Win Pool

(Standard Price Calculation)	
Sum of Wagers on All Betting Interest	= \$194,230.00
Refunds	= \$1,317.00
Gross Pool:	
Sum of Wagers on All Betting Interest - Refunds	= \$192,913.00
Percent Takeout	= 18%
Takeout:	
Gross Pool x Percent Takeout	= \$34,724.34
Net Pool:	
Gross Pool - Takeout	= \$158,188.66
Gross Amount Bet on Winner	= \$23,872.00
Profit:	
Net Pool - Gross Amount Bet on Winner	= \$134,316.66
Profit Per Dollar:	
Profit / Gross Amount Bet on Winner	= \$5.6265357
\$1 Unbroken Price:	
Profit Per Dollar + \$1	= \$6.6265357

(1-1-09)T

202. PLACE POOLS.

01. Place Pools. The amounts wagered to Place on the first two (2) betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into two (2) equal portions, one (1) being assigned to each winning betting interest and divided by the amount wagered to Place on that betting interest, the resulting quotient is the profit per dollar wagered to Place on that betting interest. (1-1-09)T

02. Net Place Pool. The net Place pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (1-1-09)T

a. If contestants of a coupled entry or mutuel field finished in the first two (2) places, as a single price pool to those who selected the coupled entry or mutuel field; otherwise (1-1-09)T

b. As a profit split to those whose selection is included within the first two (2) finishers; but if there are no such wagers on one (1) of those two (2) finishers, then; (1-1-09)T

c. As a single price pool to those who selected the one (1) covered betting interest included within the first two (2) finishers; but if there are no such wagers, then; (1-1-09)T

d. As a single price pool to those who selected the third-place finisher; but if there are no such wagers, then; (1-1-09)T

e. The entire pool must be refunded on Place wagers for that contest. (1-1-09)T

03. Dead Heat for First. If there is a dead heat for first involving: (1-1-09)T

- a. Contestants representing the same betting interest, the Place pool must be distributed as a single price pool. (1-1-09)T
- b. Contestants representing two (2) or more betting interest, the Place pool must be distributed as a profit split. (1-1-09)T
- 04. Dead Heat for Second.** If there is a dead heat for second involving: (1-1-09)T
 - a. Contestants representing the same betting interest, the Place pool is distributed as if no dead heat occurred. (1-1-09)T
 - b. Contestants representing two (2) or more betting interests, the Place pool is divided with one-half (1/2) of the profit distributed to Place wagers on the betting interest finishing first and the remainder is distributed equally among Place wagers on those betting interests involved in the dead heat for second. (1-1-09)T

Table 2 -- Place Pool

(Standard Price Calculation)	
Sum of Wagers on All Betting Interests	= \$194,230.00
Refunds	= \$1,317.00
Gross Pool:	
Sum of Wagers on All Betting Interests - Refunds	= \$192,913.00
Percent Takeout	= 18%
Takeout:	
Gross Pool x Percent Takeout	= \$34,724.34
Net Pool:	
Gross Pool - Takeout	= \$158,188.66
Gross Amount Bet on 1st place finisher	= \$23,872.00
Gross Amount Bet on 2nd place finisher	= \$12,500.00
Profit:	
Net Pool-Gross Amount Bet on 1st place finisher - Gross Amount Bet on 2nd place finisher	= \$121,816.66
Place Profit:	
Profit / 2	= \$60,908.33
Profit Per Dollar for 1st place:	
Place Profit / Gross Amount Bet on 1st place finisher	= \$2.5514548
\$1 Unbroken Price for 1st place:	
Profit Per Dollar for 1st place + \$1	= \$3.5514548
Profit Per Dollar for 2nd place:	
Place Profit / Gross Amount Bet on 2nd place finisher	= \$4.8726664
\$1 Unbroken Price for 2nd place:	
Profit Per Dollar for 2nd place + \$1	= \$5.8726664

(1-1-09)T

203. SHOW POOLS.

01. Show Pools. The amounts wagered to Show on the first three (3) betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into three (3) equal portions, one (1) being assigned to each winning betting interest and divided by the amount wagered to Show on that betting interest, the resulting quotient being the profit per dollar wagered to Show on that betting interest. (1-1-09)T

02. Net Show Pool Distribution. The net Show pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (1-1-09)T

a. If contestants of a coupled entry or mutuel field finished in the first three (3) places, as a single price pool to those who selected the couple entry or mutuel field, otherwise; (1-1-09)T

b. If contestants of a coupled entry or mutuel field finished as two (2) of the first three (3) finishers, the profit is divided with two-thirds (2/3) distributed to those who selected the coupled entry or mutuel field and one-third (1/3) distributed to those who selected the other betting interest included within the first three (3) finishers, otherwise; (1-1-09)T

c. As a profit split to those whose selection is included within the first three (3) finishers; but if there are no such wagers on one (1) of those three (3) finishers, then; (1-1-09)T

d. As a profit split to those who selected one (1) of the two (2) covered betting interests included within the first three (3) finishers; but if there are no such wagers on two (2) of those three (3) finishers, then: (1-1-09)T

e. As a single price pool to those who selected the one (1) covered betting interest included within the first three (3) finishers; but if there are no such wagers, then; (1-1-09)T

f. As a single price pool to those who selected the fourth-place finisher; but if there are no such wagers, then; (1-1-09)T

g. The entire pool must be refunded on Show wagers for that contest. (1-1-09)T

03. Dead Heat for First. If there is a dead heat for first involving: (1-1-09)T

a. Two (2) contestants representing the same betting interest, the profit is divided with two-thirds (2/3) distributed to those who selected the first-place finishers and one-third (1/3) distributed to those who selected the betting interest finishing third. (1-1-09)T

b. Three (3) contestants representing a single betting interest, the Show pool must be distributed as a single price pool. (1-1-09)T

c. Contestants representing two (2) or more betting interests, the Show pool must be distributed as a profit split. (1-1-09)T

04. Dead Heat for Second. If there is a dead heat for second involving: (1-1-09)T

a. Contestants representing the same betting interest, the profit is divided with one-third (1/3) distributed to those who selected the betting interest finishing first and two-thirds (2/3) distributed to those who selected the second-place finishers. (1-1-09)T

b. Contestants representing two (2) betting interests, the Show pool must be distributed as a profit split. (1-1-09)T

c. Contestants representing three (3) betting interests, the Show pool is divided with one-third (1/3) of

the profit distributed to Show wagers on the betting interest finishing first and the remainder is distributed equally amongst Show wagers on those betting interests involved in the dead heat for second. (1-1-09)T

05. Dead Heat for Third. If there is a dead heat for third involving: (1-1-09)T

a. Contestants representing the same betting interest, the Show pool must be distributed as if no dead heat occurred. (1-1-09)T

b. Contestants representing two (2) or more betting interests, the Show pool is divided with two-thirds (2/3) of the profit distributed to Show wagers on the betting interests finishing first and second and the remainder is distributed equally among Show wagers on those betting interests involved in the dead heat for third. (1-1-09)T

Table 3 -- Show Pool

(Standard Price Calculation)	
Sum of Wagers on All Betting Interests	= \$194,230.00
Refunds	\$1,317.00
Gross Pool:	
Sum of Wagers on All Betting Interests - Refunds	= \$192,913.00
Percent Takeout	= 18%
Takeout:	
Gross Pool x Percent Takeout	= \$34,724.34
Net Pool:	
Gross Pool - Takeout	= \$158,188.66
Gross Amount Bet on 1st place finisher	= \$23,872.00
Gross Amount Bet on 2nd place finisher	= \$12,500.00
Gross Amount Bet on 3rd place finisher	= \$4,408.00
Profit:	
Net Pool - Gross Amount Bet on 1st place finisher - Gross Amount Bet on 2nd place finisher - Gross Amount Bet on 3rd place finisher	= \$117,408.66
Show Profit:	
Profit / 3	= \$39,136.22
Profit Per Dollar for 1st place:	
Show Profit / Gross Amount Bet on 1st place finisher	= \$1.6394194
\$1 Unbroken Price for 1st place:	
Profit Per Dollar for 1st place + \$1	= \$2.6394194
Profit Per Dollar for 2nd place:	
Show Profit / Gross Amount Bet on 2nd place finisher	= \$3.1308976
\$1 Unbroken Price for 2nd place:	
Profit Per Dollar for 2nd place + \$1	= \$4.1308976

Profit Per Dollar for 3rd place:	
Show Profit / Gross Amount Bet on 3rd place finisher	= \$8.8784528
\$1 Unbroken Price for 3rd place:	
Profit Per Dollar for 3rd place + \$1	= \$9.8784528

(1-1-09)T

Table 4 -- Show Pool

Single Takeout Rate & Single Betting Source	
(Net Price Calculation)	
Sum of Wagers on All Betting Interests	= \$194,230.00
Refunds	= \$1,317.00
Gross Pool:	
Sum of Wagers on All Betting Interests - Refunds	= \$192,913.00
Percent Takeout	= 18%
Takeout:	
Gross Pool x Percent Takeout	= \$34,724.34
Total Net Pool:	
Gross Pool - Takeout	= \$158,188.66
Gross Amount Bet on 1st place finisher	= \$23,872.00
Net Amount Bet on 1st place finisher	= \$19,575.04
Gross Amount Bet on 2nd place finisher	= \$12,500.00
Net Amount Bet on 2nd place finisher	= \$10,250.00
Gross Amount Bet on 3rd place finisher	= \$4,408.00
Net Amount bet on 3rd place finisher	= \$3,614.56
Total Net Bet on Winners:	
Net Amount Bet on 1st place finisher + Net Amount Bet on 2nd place finisher + Net Amount Bet on 3rd place finisher	= \$33,439.60
Total Profit:	
Total Net Pool - Total Net Bet on Winners	= \$124,749.06
Show Profit:	
Total Profit / 3	= \$41,583.02
Profit Per Dollar for 1st place:	
Show Profit / Net Amount Bet on 1st place finisher	= \$2.1242879
\$1 Unbroken Base Price for 1st place:	
Profit Per Dollar for 1st place + \$1	= \$3.1242879
\$1 Unbroken Price for 1st place:	

\$1 Unbroken Base Price for 1st place x (1 - percent takeout) = \$2.5619161
Profit Per Dollar for 2nd place: Show Profit / Net Amount Bet on 2nd place finisher = \$4.0568800
\$1 Unbroken Base Price for 2nd place:
Profit Per Dollar for 2nd place + \$1 = \$5.0568800
\$1 Unbroken Price for 2nd place:
\$1 Unbroken Base Price for 2nd place x (1 - percent takeout) = \$4.1466416
Profit Per Dollar for 3rd place:
Show Profit / Net Amount Bet on 3rd place finisher = \$11.504310
\$1 Unbroken Base Price for 3rd place:
Profit Per Dollar for 3rd place + \$1 = \$12.504310
\$1 Unbroken Price for 3rd place:
\$1 Unbroken Base Price for 3rd place x (1 - percent takeout) = \$10.253534

(1-1-09)T

204. DOUBLE POOLS.

01. Double Pools. Only one (1) Daily Double will be permitted during a single racing day, unless approval is obtained from the Racing Commission. (1-1-09)T

02. First Place Finisher. The Double requires selection of the first-place finisher in each of two (2) specified contests. (1-1-09)T

03. Winning Distribution. The net Double pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (1-1-09)T

a. As a single price pool to those whose selection finished first in each of the two (2) contests; but if there are no such wagers, then; (1-1-09)T

b. As a profit split to those who selected the first-place finisher in either contest; but if there are no such wagers, then; (1-1-09)T

c. As a single price pool to those who selected the one (1) covered first-place finisher in either contest; but if there are no such wagers, then; (1-1-09)T

d. As a single price pool to those whose selection finished second in each of the two (2) contests; but if there are no such wagers, then; (1-1-09)T

e. The entire pool must be refunded on Double wagers for those contests. (1-1-09)T

04. Dead Heat for First. If there is a dead heat for first in either of the two (2) contests involving: (1-1-09)T

a. Contestants representing the same betting interest, the Double pool is distributed as if no dead heat occurred. (1-1-09)T

b. Contestants representing two (2) or more betting interests, the Double pool is distributed as a profit split if there is more than one (1) covered winning combination. (1-1-09)T

05. Scratched Interest -- First-Half. Should a betting interest in the first-half of the Double be scratched prior to the first Double contest being declared official, all money wagered on combinations including the scratched betting interest is deducted from the Double pool and refunded. (1-1-09)T

06. Scratched Interest -- Second-Half. Should a betting interest in the second-half of the Double be scratched prior to the close of wagering on the first Double contest, all money wagered on combinations including the scratched betting interest is deducted from the Double pool and refunded. (1-1-09)T

07. Consolation Payout. Should a betting interest in the second-half of the Double be scratched after the close of wagering on the first Double contest, all wagers combining the winner of the first contest with the scratched betting interest in the second contest are allocated a consolation payout. In calculating the consolation payout the net Double pool is divided by the total amount wagered on the winner of the first contest and an unbroken consolation price obtained. The broken consolation price is multiplied by the dollar value of wagers on the winner of the first contest combined with the scratched betting interest to obtain the consolation payout. Breakage is not declared in this calculation. The consolation payout is deducted from the net Double pool before calculation and distribution of the winning Double payout. Dead heats including separate betting interests in the first contest will result in a consolation payout calculated as a profit split. (1-1-09)T

08. Cancelled or "No Contest." If either of the Double contests are cancelled prior to the first Double contest, or the first Double contest is declared "no contest," the entire Double pool must be refunded on Double wagers for those contests. (1-1-09)T

09. Second Double Cancelled or "No Contest." If the second Double contest is cancelled or declared "no contest" after the conclusion of the first Double contest, the net Double pool is distributed as a single price pool to wagers selecting the winner of the first Double contest. In the event of a dead heat involving separate betting interests, the net Double pool is distributed as a profit split. (1-1-09)T

10. Payoff Posting. Before the running of the last half of the Daily Double pool, the payoff of each combination coupled with the winner of the first half of the Daily Double must be posted in a prominent place. (1-1-09)T

11. Third Heat Announcement. In case of a dead heat for winner in the first half (1/2) of the Daily Double, the payoff of the Daily Double need not be posted until after the running of the second half (1/2) of the Daily Double. However, announcement of this fact must be made over the loud speaker and notice to this effect be posted on the board at conclusion of the first half (1/2) of the Daily Double. (1-1-09)T

12. Close of Sale. Sale of Daily Double tickets must close not later than "off-time" of the first race of the Daily Double. (1-1-09)T

13. Daily Double Not a Parlay. The Daily Double Pool is not a parlay and is not connected with the WIN, PLACE, SHOW or other pools in any manner whatsoever. (1-1-09)T

Table 5 -- Double Pool

(Standard Price Calculation)	
Sum of Wagers on All Betting Interests	= \$194,230.00
Refunds	= \$1,317.00
Gross Pool:	
Sum of Wagers on All Betting Interests - Refunds	= \$192,913.00
Percent Takeout	= 18%
Takeout:	
Gross Pool x Percent Takeout	= \$34,724.34

Net Pool:	
Gross Pool - Takeout	= \$158,188.66
Gross Amount Bet on Winning Combination	= \$23,872.00
Profit:	
Net Pool - Gross Amount Bet on Winning Combination	= \$134,316.66
Profit Per Dollar:	
Profit / Gross Amount Bet on Winning Combination	= \$5.6265357
\$1 Unbroken Price:	
Profit Per Dollar + \$1	= \$6.6265357

(1-1-09)T

Table 6 -- Double Pool

Consolation Pricing:	
Sum of Wagers on All Betting Interests	= \$194,230.00
Refunds	= \$1,317.00
Gross Pool:	
Sum of Wagers on All Betting Interests - Refunds	= \$192,913.00
Percent Takeout	= 18%
Takeout:	
Gross Pool x Percent Takeout	= \$34,724.34
Net Pool:	
Gross Pool - Takeout	= \$158,188.66
Consolation Pool:	
Sum Total Amount Bet on winner of the first contest with all second contest betting interests	= \$43,321.00
\$1 Consolation Unbroken Consolation Price:	
Net Pool / Consolation Pool	= \$3.6515468
\$1 Consolation Broken Price:	
	= \$3.65
Amount Bet on winner of the first contest with scratched betting interests:	= \$1,234.00
Consolation Liability:	
\$1 Consolation Broken Price x (Amount Bet on the winner of the first contest with scratched betting interests)	= \$4,504.10
Adjusted Net Pool:	
Net Pool - Consolation Liability	= \$153,684.56
Gross Amount Bet on the Winning Combination	= \$23,872.00

Profit:	Adjusted Net Pool - Gross Amount Bet on the Winning Combination = \$129,812.56
Profit Per Dollar:	Profit / Gross Amount Bet on the Winning Combination = \$5.4378586
Unbroken Price:	Profit Per Dollar + \$1 = \$6.4378586

(1-1-09)T

205. WIN THREE POOLS.

01. Win Three Pools. The Win Three (3) requires selection of the first-place finisher in each of three (3) specified contests. (1-1-09)T

02. Distribution. The net Win Three (3) pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (1-1-09)T

a. As a single price pool to those whose selection finished first in each of the three (3) contests; but if there are no such wagers, then; (1-1-09)T

b. As a single price pool to those who selected the first-place finisher in any two (2) of the three (3) contests; but if there are no such wagers, then; (1-1-09)T

c. As a single price pool to those who selected the first-place finisher in any one (1) of the three (3) contests; but if there are no such wagers, then; (1-1-09)T

d. The entire pool must be refunded on Win Three (3) wagers for those contests. (1-1-09)T

03. Dead Heat. If there is a dead heat for first in any of the three (3) contests involving: (1-1-09)T

a. Contestants representing the same betting interest, the Win Three (3) pool is distributed as if no dead heat occurred. (1-1-09)T

b. Contestants representing two (2) or more betting interests, the Win Three (3) pool is distributed as a single price pool and is distributed as follows: (1-1-09)T

i. As a profit split to those whose selections finished first in each of the three (3) contests; but if there are no such wagers, then; (1-1-09)T

ii. As a single price pools to those who selected the first place finisher in any two (2) of the three (3) contests; but if there are no such wagers, then; (1-1-09)T

iii. As a single price pool to those who selected the first place finisher in any one (1) of the three (3) contests; but if there are no such wagers, then; (1-1-09)T

iv. The entire Win Three (3) pool is refunded. (1-1-09)T

04. Substitution of a Scratch. Should a betting interest be scratched from a leg of the Win Three (3) all bets with the scratched betting interest will be handled as follows: (1-1-09)T

a. If the scratch (that herein after includes being declared a non-starter or a non-betting starter) was made prior to the start of the first leg, all bets containing such scratched betting interest must be refunded to determine the gross pool and removed from further consideration in the pool; (1-1-09)T

b. If the scratch was made in the second leg after the start of the first leg, a consolation payoff will be computed for those bets combining the winners of the first and third legs with the scratched betting interest as follows: (1-1-09)T

i. The statutory take-out is deducted from the gross pool and then the amount represented by the bets on combinations involving betting interests scratched from the third leg (reduced by the take-out thereon). (1-1-09)T

ii. The resulting remainder is divided by the amounts bet on the combination of such first and third leg winners with all betting interests (less breaks) to determine the consolation price per dollar payable to those bets combining winners of the first and third legs with the betting interest scratched in the second leg. The break may not be deduced from the pool. (1-1-09)T

c. If a betting interest is scratched in the third leg after the start of the first leg, a consolation payoff must be computed as for those bets combining the winners of the first and second legs with such scratched betting interest as follows: (1-1-09)T

i. The statutory take-out is deducted from the gross pool and then the amount represented by bets on combinations involving betting interests scratched from the second leg (reduced by the rate of the take-out thereon). (1-1-09)T

ii. The resulting remainder is divided by the amount bet on the combination of such first and second leg winners with all betting interests in the third leg (less breaks) to determine the consolation price per dollar payable to those bets combining winners of the first and second legs with a betting interest scratched in the third leg. The breaks must not be deducted from the pool. (1-1-09)T

d. If betting interests are scratched in both the second and third legs after the start of the first leg, a consolation payoff is computed for those bets combining the winner of the first leg with the betting interests scratched in both the second and third legs as follows:

i. The takeout is deducted from the gross pool and the remainder is divided by the amount bet on the winner of the first leg combined with all other betting interests (less breaks) to determine the consolation price per dollar payable to those tickets combining the winner of the first leg with the scratch betting interests from both the second and third legs. (1-1-09)T

05. All Three Cancelled. If all three (3) Win Three (3) contests are cancelled or declared “no contest,” the entire pool must be refunded on Win Three (3) wagers for those contests. (1-1-09)T

06. One or Two Canceled. If one (1) or two (2) of the Win Three (3) contests are cancelled or declared “no contest,” the Win Three (3) pool will remain valid and must be distributed in accordance with these rules. (1-1-09)T

206. PICK (N) POOLS.

01. Pick (n) Pools. The Pick (n) requires selection of the first-place finisher in each of a designated number of contests. The racing association must obtain written approval from the Racing Commission concerning the scheduling of Pick (n) contests, the designation of one (1) of the methods prescribed in these rules, and the amount of any cap to be set on the carryover. Any changes to the approved Pick (n) format require prior approval from the Racing Commission. (1-1-09)T

02. Apportioning the Pool. The Pick (n) pool is apportioned under one (1) of the following methods: (1-1-09)T

a. Method 1- Pick (n) with Carryover: The net Pick (n) pool and carryover, if any, must be distributed as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests; and the

remainder will be added to the carryover. (1-1-09)T

b. Method 2 - Pick (n) with Minor Pool and Carryover: The major share of the net Pick (n) pool and the carryover, if any, must be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool is distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the minor share of the net Pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests; and the major will be added to the carryover. (1-1-09)T

c. Method 3 - Pick (n) with No Minor Pool and No Carryover: The net Pick (n) pool must be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded. (1-1-09)T

d. Method 4 - Pick (n) with Minor Pool and No Carryover: The major share of the net Pick (n) pool must be distributed to those who selected the first place finisher in the greatest number of Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool is distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of Pick (n) contests, the minor share of the net Pick (n) pool is combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests. If the greatest number of first-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded. (1-1-09)T

e. Method 5 - Pick (n) with Minor Pool and No Carryover: The major share of net Pick (n) pool must be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool is distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all Pick (n) contests, the entire net Pick (n) pool is distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests. If there are no wagers selecting the first-place finisher in a second greatest number of Pick (n) contests, the minor share of the net Pick (n) pool is combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests. If there are no winning wagers, the pool is refunded. (1-1-09)T

f. Method 6 - Pick (n) with Minor Pool, Jackpot Pool, Major Carryover and Jackpot Carryover: Predetermined percentages of the net Pick (n) pool must be set aside as a Major pool, Minor pool and Jackpot pool. The Major share of the net Pick (n) pool and the Major carryover, if any, is distributed to those who selected the first-place finisher of each of the Pick (n) contests, based on the official order of finish. If there are no tickets selecting the first-place finisher in each of the Pick (n) contests, the Major net pool is added to the Major carryover. If there is only one (1) single ticket selecting the first-place finisher of each of the Pick (n) contests, based on the official order of finish, the Jackpot share of the net Pick (n) pool and the Jackpot carryover, if any, is distributed to the holder of that single ticket, along with the Major net pool and the Major carryover, if any. If more than one (1) ticket selects the first-place finisher of each of the Pick (n) contests the Jackpot net pool is added to the Jackpot carryover. The Minor share of the net Pick (n) pool is distributed to those who selected the first-place finisher of the second greatest number of Pick (n) contests, based on the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the Minor net pool of the Pick (n) pool is distributed as a single price pool to those who selected the first-place finisher of the greatest number of Pick (n) contests. (1-1-09)T

03. Dead Heat. If there is a dead heat for first in any of the Pick (n) contests involving: (1-1-09)T

a. Contestants representing the same betting interest, the Pick (n) pool must be distributed as if no dead heat occurred. (1-1-09)T

b. Contestants representing two (2) or more betting interests, the Pick (n) pool must be distributed as a single price pool with each winning wager receiving an equal share of the profit. (1-1-09)T

04. Scratched Entry. Should a betting interest in any of the Pick (n) contests be scratched, the actual

favorite, as evidenced by total amounts wagered in the Win pool at host association for the contest at the close of wagering on that contest, will be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two (2) or more favorites is identical, the substitute selection will be the betting interest with the lowest program number. The totalisator must produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination. (1-1-09)T

05. Cancellation and Refunds. The Pick (n) pool will be cancelled and all Pick (n) wagers for the individual performance will be refunded, if: (1-1-09)T

- a. At least two (2) contests included as part of a Pick Three (3) are cancelled or declared “no contest”; (1-1-09)T
- b. At least three (3) contests included as part of a Pick Four (4), Pick Five (5) or Pick Six (6) are cancelled or declared “no contest”; (1-1-09)T
- c. At least four (4) contests included as part of a Pick Seven (7), Pick Eight (8) or Pick Nine (9) are cancelled or declared “no contest”; or (1-1-09)T
- d. At least five (5) contests included as part of a Pick Ten (10) are cancelled or declared “no contest.” (1-1-09)T

06. Net Pool Distribution. If at least one (1) contest included as part of a Pick (n) is cancelled or declared “no contest,” but not more than the number specified in these rules the net pool must be distributed as a single price pool to those whose selection finished first in the greatest number of Pick (n) contests for that performance. Such distribution must include the portion ordinarily retained for the Pick (n) carryover but not the carryover from previous performances. (1-1-09)T

07. Course Condition. If the condition of the course warrants a change of racing surface in any of the legs of the Pick (n) races, and such change was not known to the public prior to the closing of wagering for the Pick (n) pool, the stewards must declare the changed leg(s) a “no contest” for Pick (n) wagering purposes only. A “no contest” race is not to be considered as a contested race. (1-1-09)T

08. Capped Carryover. The Pick (n) carryover may be capped at a designed level approved by the Racing Commission so that if, at the close of any performance, the amount in the Pick (n) carryover equals or exceeds the designated cap, the Pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the Pick (n) carryover is frozen, one hundred (100%) percent of the net pool, part of which ordinarily would be added to the Pick (n) carryover, must be distributed to those whose selection finished first in the greatest number of Pick (n) contests for that performance. (1-1-09)T

09. Carryover Requested. A written request for permission to distribute the Pick (n) carryover on a specific performance may be submitted to the Racing Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. (1-1-09)T

10. Single Price Distribution. Should the Pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the Pick (n) contests, the entire pool must be distributed as a single price pool to those whose selection finished first in the greatest number of Pick (n) contests. The Pick (n) carryover must be designated for distribution on a specified date and performance only under the following circumstances: (1-1-09)T

- a. Upon written approval from the Racing Commission as provided in these rules. (1-1-09)T
- b. Upon written approval from the Racing Commission when there is a change in the carryover cap, a change from one (1) type of Pick (n) wagering to another or when the Pick (n) is discontinued. (1-1-09)T
- c. On the closing performance of the meet or split meet. (1-1-09)T

11. Carryover Deposit. If, for any reason, the Pick (n) carryover must be held over to the corresponding Pick (n) pool of a subsequent meet, the carryover must be deposited in an interest-bearing account approved by the Racing Commission. The Pick (n) carryover plus accrued interest must then be added to the net Pick (n) pool of the following meet on a date and performance so designated by the Racing Commission. (1-1-09)T

12. Contribution to Pool. With the written approval of the Racing Commission, the racing association may contribute to the Pick (n) carryover a sum of money up to the amount of any designated cap. (1-1-09)T

13. Prohibited Information. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited until the race is made official. This does not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data. (1-1-09)T

14. Suspension of Wagering. The racing association may suspend previously-approved Pick (n) wagering with the prior approval of the Racing Commission. Any carryover must be held until the suspended Pick (n) wagering is reinstated. A racing association may request approval of a Pick (n) wager or separate wagering pool for specific performances. (1-1-09)T

Table 7 -- Pick 7 Pool

Multiple Takeout Rates and Multiple Betting Sources

	Percent Takeout	Gross Pool Bet On	Gross Amount - Win	Net Pool Bet On	Net Amount - Win
Source 1:	16%	\$190,000	\$44	\$159,600	\$36.96
Source 2:	18.5%	\$10,000	\$18	\$8,150	\$14.67
Source 3:	21%	\$525,730	\$124	\$415,326.70	\$97.96
TOTALS:		\$725,730	\$186	\$583,076.70	\$149.59

(Net Price Calculation)	
Total Profit:	Total Net Pool - Total Net Bet on the Winning Combination = \$582,927.11
Profit Per Dollar:	Total Profit / Total Net Bet on the Winning Combination = \$3,896.8321
\$1 Unbroken Base Price:	Profit Per Dollar + \$1 = \$3,897.8321
\$1 Unbroken Price for Source 1:	\$1 Unbroken Base Price x (1 - Percent Takeout) = \$3,274.1789
\$1 Unbroken Price for Source 2:	\$1 Unbroken Base Price x (1 - Percent Takeout) = \$3,176.7331
\$1 Unbroken Price for Source 3:	\$1 Unbroken Base Price x (1 - Percent Takeout) = \$3,079.2873

(1-1-09)T

207. QUINELLA POOLS.

01. Quinella Pools. The Quinella requires selection of the first two (2) finishers, irrespective of order, for a single contest. (1-1-09)T

02. Distribution. The net Quinella pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (1-1-09)T

a. If contestants of a coupled entry or mutuel field finish as the first two (2) finishers, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish, otherwise; (1-1-09)T

b. As a single price pool to those whose combination finished as the first two (2) betting interests; but if there are no such wagers, then; (1-1-09)T

c. As a profit split to those whose combination included either the first- or second-place finisher; but if there are no such wagers on one (1) of those two (2) finishers, then; (1-1-09)T

d. As a single price pool to those whose combination included the one (1) covered betting interest included within the first two (2) finishers; but if there are no such wagers, then; (1-1-09)T

e. The entire pool must be refunded on Quinella wagers for that contest. (1-1-09)T

03. Dead Heat -- First Place. If there is a dead heat for first involving: (1-1-09)T

a. Contestants representing the same betting interest, the Quinella pool is distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish. (1-1-09)T

b. Contestants representing two (2) betting interests, the Quinella pool is distributed as if no dead heat occurred. (1-1-09)T

c. Contestants representing three (3) or more betting interests, the Quinella pool is distributed as a profit split. (1-1-09)T

04. Dead Heat -- Second Place. If there is a dead heat for second involving contestants representing the same betting interest, the Quinella pool is distributed as if no dead heat occurred. (1-1-09)T

05. Dead Heat -- Two or More Interests. If there is a dead heat for second involving contestants representing two (2) or more betting interests, the Quinella pool is distributed to wagers in the following precedence, based upon the official order of finish: (1-1-09)T

a. As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one (1) covered combination, then; (1-1-09)T

b. As a single price pool to those combining the winner with the one (1) covered betting interest involved in the dead heat for second; but if there are no such wagers, then; (1-1-09)T

c. As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then; (1-1-09)T

d. As a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second; but if there are no such wagers, then; (1-1-09)T

- e. The entire pool must be refunded on Quinella wagers for that contest. (1-1-09)T

208. QUINELLA DOUBLE POOLS.

01. Quinella Double Pools. The Quinella Double requires selection of the first two (2) finishers, irrespective of order, in each of two (2) specified contests. (1-1-09)T

02. Distribution. The net Quinella Double pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (1-1-09)T

a. If a coupled entry or mutuel field finishes as the first two (2) contestants in either contest, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest, as well as the first two (2) finishers in the alternate Quinella Double contest, otherwise; (1-1-09)T

b. As a single price pool to those who selected the first two (2) finishers in each of the two (2) Quinella Double contests; but if there are no such wagers, then; (1-1-09)T

c. As a profit split to those who selected the first two (2) finishers in either of the two (2) Quinella Double contests; but if there are no such wagers on one (1) of those contests, then; (1-1-09)T

d. As a single price pool to those who selected the first two (2) finishers in the one (1) covered Quinella Double contest; but if there were no such wagers, then; (1-1-09)T

- e. The entire pool must be refunded on Quinella Double wagers for those contests. (1-1-09)T

03. Dead Heat - First Place. If there is a dead heat for first in either of the two (2) Quinella Double contests involving: (1-1-09)T

a. Contestants representing the same betting interest, the Quinella Double pool is distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest. (1-1-09)T

b. Contestants representing two (2) betting interests, the Quinella Double pool is distributed as if no dead heat occurred. (1-1-09)T

c. Contestants representing three (3) or more betting interests, the Quinella Double pool is distributed as a profit split. (1-1-09)T

04. Dead Heat -- Second Place. If there is a dead heat for second in either of the Quinella Double contests involving contestants representing the same betting interest, the Quinella Double pool is distributed as if no dead heat occurred. (1-1-09)T

05. Dead Heat -- Second Place Two or More Interests. If there is a dead heat for second in either of the Quinella Double contests involving contestants representing two (2) or more betting interests, the Quinella Double pool is distributed as a profit split. (1-1-09)T

06. Betting Interest Deducted -- First Half. Should a betting interest in the first-half of the Quinella Double be scratched prior to the first Quinella Double contest being declared official, all money wagered on combinations including the scratched betting interest will be deducted from the Quinella Double pool and refunded. (1-1-09)T

07. Betting Interest Deducted -- Second Half. Should a betting interest in the second-half of the Quinella Double be scratched prior to the close of wagering on the first Quinella Double contest, all money wagered on combinations including the scratched betting interest will be deducted from the Quinella Double pool and refunded. (1-1-09)T

08. Consolation Payoff. Should a betting interest in the second-half of the Quinella Double be scratched after the close of wagering on the first Quinella Double contest, all wagers combining the winning combination in the first contest with a combination including the scratched betting interest in the second contest will be allocated a consolation payout. In calculating the consolation payout the net Quinella Double pool is divided by the total amount wagered on the winning combination in the first contest and an unbroken consolation price obtained. The unbroken consolation price is multiplied by the dollar value of wagers on the winning combination in the first contest combined with a combination including the scratched betting interest in the second contest to obtain the consolation payout. Breakage is not declared in this calculation. The consolation payout is deducted from the net Quinella Double pool before calculation and distribution of the winning Quinella Double payout. In the event of a dead heat involving separate betting interests, the net Quinella Double pool is distributed as a profit split. (1-1-09)T

09. Refunded Quinella. If either of the Quinella Double contests is cancelled prior to the first Quinella Double contest, or the first Quinella Double contest is declared “no contest,” the entire Quinella Double pool must be refunded on Quinella Double wagers for those contests. (1-1-09)T

10. Second Double Contest Cancelled. If the second Quinella Double contest is cancelled or declared “no contest” after the conclusion of the first Quinella Double contest, the net Quinella Double pool must be distributed as a single price pool to wagers selecting the winning combination in the first Quinella Double contest. If there are no wagers selecting the winning combination in the first Quinella Double contest, the entire Quinella Double pool must be refunded on Quinella Double wagers for those contests. (1-1-09)T

209. EXACTA POOLS.

01. Exacta Pools. The Exacta requires selection of the first two (2) finishers, in their exact order, for a single contest. (1-1-09)T

02. Distribution. The net Exacta pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (1-1-09)T

a. If contestants of a coupled entry or mutuel field finish as the first two (2) finishers, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish, otherwise; (1-1-09)T

b. As a single price pool to those whose combination finished in correct sequence as the first two (2) betting interests; but if there are no such wagers, then; (1-1-09)T

c. As a profit split to those whose combination included either the first-place betting interest to finish first or the second-place betting interest to finish second; but if there are no such wagers on one (1) of those two (2) finishers, then; (1-1-09)T

d. As a single price pool to those whose combination included the one (1) covered betting interest to finish first or second in the correct sequence; but if there are no such wagers, then; (1-1-09)T

e. The entire pool must be refunded on Exacta wagers for that contest. (1-1-09)T

03. Dead Heat for First. If there is a dead heat for first involving: (1-1-09)T

a. Contestants representing the same betting interest, the Exacta pool is distributed as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish. (1-1-09)T

b. Contestants representing two (2) or more betting interests, the Exacta pool is distributed as a profit split. (1-1-09)T

04. Dead Heat for Second. If there is a dead heat for second involving contestants representing the same betting interest, the Exacta pool is distributed as if no dead heat occurred. (1-1-09)T

05. Dead Heat for Second -- Two or More Betting Interests. If there is a dead heat for second involving contestants representing two (2) or more betting interests, the Exacta pool is distributed to ticket holders in the following precedence, based upon the official order of finish: (1-1-09)T

a. As a profit split to those combining the first-place betting interest with any of the betting interests involved in the dead heat for second; but if there is only one (1) covered combination, then; (1-1-09)T

b. As a single price pool to those combining the first-place betting interest with the one (1) covered betting interest involved in the dead heat for second; but if there are no such wagers, then; (1-1-09)T

c. As a profit split to those wagers correctly selecting the winner for first-place and those wagers selecting any of the dead-heated betting interests for second-place; but if there are no such wagers, then; (1-1-09)T

d. The entire pool must be refunded on Exacta wagers for that contest. (1-1-09)T

210. TRIFECTA POOLS.

01. Trifecta Pools. The Trifecta requires selection of the first three (3) finishers, in their exact order, for a single contest. (1-1-09)T

02. Distribution. The net Trifecta Pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (1-1-09)T

a. As a single price pool to those whose combination finished in correct sequence as the first three (3) betting interests; but if there are no such wagers, then; (1-1-09)T

b. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; (1-1-09)T

c. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; (1-1-09)T

d. The entire pool must be refunded on Trifecta wagers for that contest. (1-1-09)T

03. Less Than Three Interests Finish. If less than three (3) betting interests finish and the contest is declared official, payoffs will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest will be ignored. (1-1-09)T

04. Dead Heat for First. If there is a dead heat for first involving: (1-1-09)T

a. Contestants representing three (3) or more betting interests, all of the wagering combinations selecting three (3) betting interests which correspond with any of the betting interests involved in the dead heat will share in a profit split. (1-1-09)T

b. Contestants representing two (2) betting interests, both of the wagering combinations selecting the two (2) dead-heated betting interests, irrespective of order, along with the third-place betting interest will share in a profit split. (1-1-09)T

05. Dead Heat -- Second Place. If there is a dead heat for second, all of the combinations correctly selecting the winner combined with any of the betting interests involved in the dead heat for second will share a profit split. (1-1-09)T

06. Dead Heat -- Third Place. If there is a dead heat for third, all wagering combinations correctly selecting the first two (2) finishers, in correct sequence, along with any of the betting interests involved in the dead heat for third will share in a profit split. (1-1-09)T

07. Coupled Entries and Mutuel Fields. Trifecta pools with hard entries may not be established for any race with fewer than eight (8) racing interests scheduled to start. For those licensees who hold race meets only during their county fair meets, a trifecta pool can be established for any race with a hard entry in which there are no fewer than six (6) racing interests scheduled to start. In all cases, entrees coupled as a single wagering interest will be permitted provided that such single wagering interest constitutes an individual wagering selection and a scratch of any horse that is a part of any entry or the field does not constitute a scratch of the single wagering interest.(1-1-09)T

211. SUPERFECTA POOLS.

01. Superfecta Pools. The Superfecta requires selection of the first four (4) finishers, in their exact order, for a single contest. (1-1-09)T

02. Distribution. The net Superfecta pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (1-1-09)T

a. As a single price pool to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such wagers, then; (1-1-09)T

b. As a single price pool to those whose combination included, in correct sequence, the first three (3) betting interests; but if there are no such wagers, then; (1-1-09)T

c. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; (1-1-09)T

d. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; (1-1-09)T

e. The entire pool must be refunded on Superfecta wagers for that contest. (1-1-09)T

03. Less Than Four Finish. If less than four (4) betting interests finish and the contest is declared official, payouts will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest will be ignored. (1-1-09)T

04. Dead Heat -- First Place. If there is a dead heat for first involving: (1-1-09)T

a. Contestants representing four (4) or more betting interests, all of the wagering combinations selecting four (4) betting interests which correspond with any of the betting interests involved in the dead heat will share in a profit split. (1-1-09)T

b. Contestants representing three (3) betting interests, all of the wagering combinations selecting the three (3) dead-heated betting interests, irrespective of order, along with the fourth-place betting interest will share in a profit split. (1-1-09)T

c. Contestants representing two (2) betting interests, both of the wagering combinations selecting the two (2) dead-heated betting interests, irrespective of order, along with the third-place and fourth-place betting interests will share in a profit split. (1-1-09)T

05. Dead Heat -- Second Place. If there is a dead heat for second involving: (1-1-09)T

a. Contestants representing three (3) or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three (3) betting interests involved in the dead heat for second will share in a profit split. (1-1-09)T

b. Contestants representing two (2) betting interests, all of the wagering combinations correctly selecting the winner, the two (2) dead-heated betting interests, irrespective of order, and the fourth-place betting interest will share in a profit split. (1-1-09)T

06. Dead Heat - Third Place. If there is a dead heat for third, all wagering combinations correctly selecting the first two (2) finishers, in correct sequence, along with any two (2) of the betting interests involved in the dead heat for third will share in a profit split. (1-1-09)T

07. Dead Heat -- Fourth Place. If there is a dead heat for fourth, all wagering combinations correctly selecting the first three (3) finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth will share in a profit split. (1-1-09)T

212. TWIN QUINELLA POOLS.

01. Twin Quinella Pools. The Twin Quinella requires selection of the first two (2) finishers, irrespective of order, in each of two (2) designated contests. Each winning ticket for the first Twin Quinella contest must be exchanged for a free ticket on the second Twin Quinella contest in order to remain eligible for the second-half Twin Quinella pool. Such tickets may be exchanged only at attended ticket windows prior to the second Twin Quinella contest. There will be no monetary reward for winning the first Twin Quinella contest. Both of the designated Twin Quinella contests will be included in only one (1) Twin Quinella pool. (1-1-09)T

02. Winning Procedure. In the first Twin Quinella contest only, winning wagers must be determined using the following precedence, based upon the official order of finish for the first Twin Quinella contest: (1-1-09)T

a. If a coupled entry or mutuel field finishes as the first two (2) finishers, those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish are winners, otherwise; (1-1-09)T

b. Those whose combination finished as the first two (2) betting interests are winners; but if there are no such wagers, then; (1-1-09)T

c. Those whose combination included either the first- or second-place finisher are winners; but if there are no such wagers on one (1) of those two (2) finishers, then; (1-1-09)T

d. Those whose combination included the one (1) covered betting interest included within the first two (2) finishers are winners; but if there are no such wagers, then; (1-1-09)T

e. The entire pool must be refunded on Twin Quinella wagers for that contest. (1-1-09)T

03. Dead Heat -- First Place. In the first Twin Quinella contest only, if there is a dead heat for first involving: (1-1-09)T

a. Contestants representing the same betting interest, those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish are winners. (1-1-09)T

b. Contestants representing two (2) betting interests, the winning Twin Quinella wagers are determined as if no dead heat occurred. (1-1-09)T

c. Contestants representing three (3) or more betting interests, those whose combination included any two (2) of the betting interests finishing in the dead heat are winners. (1-1-09)T

04. Dead Heat -- Second Place. In the first Twin Quinella contest only, if there is a dead heat for second involving contestants representing two (2) or more betting interests, the Twin Quinella pool will be distributed to wagers in the following precedence, based upon the official order of finish: (1-1-09)T

a. As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second but if there is only one (1) covered combination, then; (1-1-09)T

b. As a single price pool to those combining the winner with the one (1) covered betting interest involved in the dead heat for second; but if there are no such wagers, then; (1-1-09)T

c. As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then; (1-1-09)T

d. As a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second; but if there are no such wagers, then; (1-1-09)T

e. The entire pool must be refunded on Twin Quinella wagers for that contest. (1-1-09)T

05. Distribution. In the second Twin Quinella contest only, the entire net Twin Quinella pool must be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Twin Quinella contest: (1-1-09)T

a. If a coupled entry or mutuel field finishes as the first two (2) finishers, as a single price pool to those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish, otherwise; (1-1-09)T

b. As a single price pool to those whose combination finished as the first two (2) betting interests; but if there are no such wagers, then; (1-1-09)T

c. As a profit split to those whose combination included either the first- or second-place finisher; but if there are no such wagers on one (1) of those two (2) finishers, then; (1-1-09)T

d. As a single price pool to those whose combination included the one (1) covered betting interest included within the first two (2) finishers; but if there are no such wagers, then; (1-1-09)T

e. As a single price pool to all the exchange ticket holders for that contest; but if there are no such tickets, then; (1-1-09)T

f. In accordance with Subsection 212.02 of these rules. (1-1-09)T

06. Dead Heat -- First Place. In the second Twin Quinella contest only, if there is a dead heat for first involving: (1-1-09)T

a. Contestants representing the same betting interest, the net Twin Quinella pool will be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish. (1-1-09)T

b. Contestants representing two (2) betting interests, the net Twin Quinella pool will be distributed as if no dead heat occurred. (1-1-09)T

c. Contestants representing three (3) or more betting interests, the net Twin Quinella pool will be distributed as a profit split to those whose combination included any two (2) of the betting interests finishing in the dead heat. (1-1-09)T

07. Dead Heat -- Second Place. In the second Twin Quinella contest only, if there is a dead heat for second involving contestants representing two (2) or more betting interests, the Twin Quinella pool will be distributed to wagers in the following precedence, based upon the official order of finish: (1-1-09)T

a. As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one (1) covered combination, then; (1-1-09)T

b. As a single price pool to those combining the winner with the one (1) covered betting interest involved in the dead heat for second; but if there are no such wagers, then; (1-1-09)T

c. As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then; (1-1-09)T

d. As a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second, then; (1-1-09)T

e. As a single price pool to all the exchange ticket holders for that contest; but if there are no such tickets, then; (1-1-09)T

f. In accordance with Subsection 212.02 of these rules. (1-1-09)T

08. Forfeiture of Rights. If a winning ticket for the first-half of the Twin Quinella is not presented for exchange prior to the close of betting on the second-half Twin Quinella contest, the ticket holder forfeits all rights to any distribution of the Twin Quinella pool resulting from the outcome of the second contest. (1-1-09)T

09. First-Half Scratch. Should a betting interest in the first-half of the Twin Quinella be scratched, those Twin Quinella wagers including the scratched betting interest must be refunded. (1-1-09)T

10. Second-Half Scratch. Should a betting interest in the second-half of the Twin Quinella be scratched, an announcement concerning the scratch must be made and a reasonable amount of time must be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Twin Quinella contest, the ticket holder forfeits all rights to the Twin Quinella pool. (1-1-09)T

11. Contest Cancelled. If either of the Twin Quinella contests is cancelled prior to the first Twin Quinella contest, or the first Twin Quinella contest is declared "no contest," the entire Twin Quinella pool must be refunded on Twin Quinella wagers for that contest. (1-1-09)T

12. Second-Half Cancelled. If the second-half Twin Quinella contest is cancelled or declared "no contest" after the conclusion of the first Twin Quinella contest, the net Twin Quinella pool will be distributed as a single price pool to wagers selecting the winning combination in the first Twin Quinella contest and all valid exchange tickets. If there is no such wagers, the net Twin Quinella pool must be distributed as described in Subsection 212.02 of these rules. (1-1-09)T

213. TWIN TRIFECTA POOLS.

01. Twin Trifecta Pools. The Twin Trifecta requires selection of the first three (3) finishers, in their exact order, in each of two (2) designated contests. Each winning ticket for the first Twin Trifecta contest must be exchanged for a free ticket on the second Twin Trifecta contest in order to remain eligible for the second-half Twin Trifecta pool. Such ticket may be exchanged only at attended ticket windows prior to the second Twin Trifecta contest. Winning first-half Twin Trifecta wagers will receive both an exchange and a monetary payoff. Both of the designated Twin Trifecta contests will be included in only one (1) Twin Trifecta pool. (1-1-09)T

02. Providing Pools. After wagering closes for the first-half of the Twin Trifecta and commissions have been deducted from the pool, the net pool is then divided into separate pools: the first-half Twin Trifecta pool and the second-half Twin Trifecta pool. (1-1-09)T

03. Winning Precedence. In the first Twin Trifecta contest only, winning wagers must be determined using the following precedence, based upon the official order of finish for the first Twin Trifecta contest: (1-1-09)T

a. As a single price pool to those whose combination finished in correct sequence as the first three (3) betting interests, but if there are no such wagers, then; (1-1-09)T

b. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests, but if there are no such wagers, then; (1-1-09)T

c. As a single price pool to those whose combination correctly selected the first-place betting interest only, but if there are no such wagers, then; (1-1-09)T

d. The entire Twin Trifecta pool must be refunded on Twin Trifecta wagers for that contest and the second-half must be cancelled. (1-1-09)T

04. Carryover Pool. If no first-half Twin Trifecta ticket selects the first three (3) finishers of that contest in exact order, winning ticket holders will not receive any exchange tickets for the second-half Twin Trifecta pool. In such case, the second-half Twin Trifecta pool must be retained and added to any existing Twin Trifecta carryover pool. (1-1-09)T

05. Exchange of Tickets. Winning tickets from the first-half of the Twin Trifecta will be exchanged for tickets selecting the first three (3) finishers of the second-half of the Twin Trifecta. The second-half Twin Trifecta pool must be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Twin Trifecta contest: (1-1-09)T

a. As a single price pool, including any existing carryover monies, to those whose combination finished in the correct sequence as the first three (3) betting interests; but if there are no such tickets, then; (1-1-09)T

b. The entire second-half Twin Trifecta pool for that contest must be added to any existing carryover monies and retained for the corresponding second-half Twin Trifecta pool of the next consecutive performance. (1-1-09)T

06. Forfeiture of Rights. If a winning first-half Twin Trifecta ticket is not presented for cashing and exchange prior to the second-half Twin Trifecta contest, the ticket holder may still collect the monetary value associated with the first-half Twin Trifecta pool but forfeits all rights to any distribution of the second-half Twin Trifecta pool. (1-1-09)T

07. Coupled Entries and Mutuel Field. Coupled entries and mutuel fields are prohibited in Twin Trifecta contests. (1-1-09)T

08. Scratched Interests. Should a betting interest in the first-half of the Twin Trifecta be scratched, those Twin Trifecta wagers including the scratched betting interest must be refunded. (1-1-09)T

09. Second-Half Betting Interest Scratch. Should a betting interest in the second-half of the Twin Trifecta be scratched, an announcement concerning the scratch must be made and a reasonable amount of time must be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Twin Trifecta contest, the ticket holder forfeits all rights to the second-half Twin Trifecta pool. (1-1-09)T

10. Reduced Interests. If, due to a late scratch, the number of betting interests in the second-half of the Twin Trifecta is reduced to fewer than the minimum, all exchange tickets and the outstanding first-half winning tickets will be entitled to the second-half Twin Trifecta pool for that contest as a single price pool, but not the Twin Trifecta carryover. (1-1-09)T

11. Dead Heat. If there is a dead heat or multiple dead heats in either the first or second-half of the Twin Trifecta, all Twin Trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, is a winner. In case of a dead heat occurring in: (1-1-09)T

a. The first-half of the Twin Trifecta, the payoff is calculated as a profit split. (1-1-09)T

b. The second-half of the Twin Trifecta, the payoff is calculated as a single price pool. (1-1-09)T

12. Cancelled Contest. If either of the Twin Trifecta contests are cancelled prior to the first Twin Trifecta contest, or the first Twin Trifecta contest is declared "no contest," the entire Twin Trifecta pool must be refunded on Twin Trifecta wagers for that contest and the second-half must be cancelled. (1-1-09)T

13. Second-Half Cancelled. If the second-half Twin Trifecta contest is cancelled or declared "no contest," all exchange tickets and outstanding first-half winning Twin Trifecta tickets will be entitled to the net Twin Trifecta pool for that contest as a single price pool, but not Twin Trifecta carryover. If there are no such tickets, the

net Twin Trifecta pool must be distributed as described in Subsection 213.05 of these rules. (1-1-09)T

14. Capped Carryover. The Twin Trifecta carryover may be capped at a designated level approved by the Racing Commission so that if, at the close of any performance, the amount in the Twin Trifecta carryover equals or exceeds the designated cap, the Twin Trifecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the Twin Trifecta carryover is frozen, one hundred percent (100%) of the net Twin Trifecta pool for each individual contest must be distributed to winners of the first-half of the Twin Trifecta pool. (1-1-09)T

15. Request to Distribute Carryover. A written request for permission to distribute the Twin Trifecta carryover on a specific performance may be submitted to the Racing Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. (1-1-09)T

16. Winning Precedence. Should the Twin Trifecta carryover be designated for distribution on a specific date and performance, the following precedence will be followed in determining winning tickets for the second-half of the Twin Trifecta after completion of the first-half of the Twin Trifecta: (1-1-09)T

a. As a single price pool to those whose combination finished in correct sequence as the first three (3) betting interests; but if there are no such wagers, then; (1-1-09)T

b. As a single price pool to those whose combination included, in the correct sequence, the first two (2) betting interests; but if there are no such wagers, then; (1-1-09)T

c. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; (1-1-09)T

d. As a single price pool to holders of valid exchange tickets. (1-1-09)T

e. As a single price pool to holders of outstanding first-half winning tickets. (1-1-09)T

17. Exchange of Tickets. Contrary to Subsection 213.04 of these rules, during a performance designated to distribute the Twin Trifecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the Twin Trifecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first- and second-place betting interest. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the Twin Trifecta, all first-half tickets will become winners and will receive one hundred percent (100%) of that day's net Twin Trifecta pool and any existing Twin Trifecta carryover. (1-1-09)T

18. Carryover Designation. The Twin Trifecta carryover must be designated for distribution on a specified date and performance only under the following circumstances: (1-1-09)T

a. Upon written approval from the Racing Commission as provided in Subsection 213.15 of these rules. (1-1-09)T

b. Upon written approval from the Racing Commission when there is a change in the carryover cap or when the Twin Trifecta is discontinued. (1-1-09)T

c. On the closing performance of the meet or split meet (1-1-09)T

19. Carryover from Past Subsequent Meet. If, for any reason, the Twin Trifecta carryover must be held over to the corresponding Twin Trifecta pool of a subsequent meet, the carryover must be deposited in an interest-bearing account approved by the Racing Commission. The Twin Trifecta carryover plus accrued interest will then be added to the second-half Twin Trifecta pool of the following meet on a date and performance so designated

by the Racing Commission. (1-1-09)T

20. Prohibited Information. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited until the race is made official. This does not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data. (1-1-09)T

21. Contest Approval. The racing association must obtain written approval from the Racing Commission concerning the scheduling of Twin Trifecta contests, the percentage of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved Twin Trifecta format require prior approval from the Racing Commission. (1-1-09)T

214. TRI-SUPERFECTA POOLS.

01. Tri-Superfecta Pools. The Tri-Superfecta requires selection of the first three (3) finishers, in their exact order, in the first two (2) designated contests and the first four (4) finishers, in exact order, in the second of the two (2) designated contests. Each winning ticket for the first Tri-Superfecta contest must be exchanged for a free ticket on the second Tri-Superfecta contest in order to remain eligible for the second-half Tri-Superfecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second Tri-Superfecta contest. Winning first-half Tri-Superfecta tickets will receive both an exchange and a monetary payoff. Both of the designated Tri-Superfecta contests will be included in only one (1) Tri-Superfecta pool. (1-1-09)T

02. Providing Pools. After wagering closes for the first-half of the Tri-Superfecta and commissions have been deducted from the pool, the net pool will then be divided into two (2) separate pools: the first-half Tri-Superfecta pool and the second-half Tri-Superfecta pool. (1-1-09)T

03. Winning Precedence. In the first Tri-Superfecta contest only, winning tickets must be determined using the following precedence, based upon the official order of finish for the first Tri-Superfecta contest: (1-1-09)T

a. As a single price pool to those whose combination finished in correct sequence as the first three (3) betting interests; but if there are no such wagers, then; (1-1-09)T

b. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; (1-1-09)T

c. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; (1-1-09)T

d. The entire Tri-Superfecta pool must be refunded on Tri-Superfecta wagers for that contest and the second-half must be cancelled. (1-1-09)T

04. Carryover Pool. If no first-half Tri-Superfecta ticket selects the first three (3) finishers of that contest in exact order, winning ticket holders will not receive any exchange tickets for the second-half Tri-Superfecta pool. In such case, the second-half Tri-Superfecta pool must be retained and added to any existing Tri-Superfecta carryover pool. (1-1-09)T

05. Exchange of Tickets. Winning tickets from the first-half of the Tri-Superfecta will be exchanged for tickets selecting the first four (4) finishers of the second-half of the Tri-Superfecta. The second-half Tri-Superfecta pool must be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Tri-Superfecta contest: (1-1-09)T

a. As a single price pool, including any existing carryover monies, to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such tickets, then; (1-1-09)T

b. The entire second-half Tri-Superfecta pool for that contest must be added to any existing carryover monies and retained for the corresponding second-half Tri-Superfecta pool of the next performance. (1-1-09)T

06. Forfeiture of Rights. If a winning first-half Tri-Superfecta ticket is not presented for cashing and exchange prior to the second-half Tri-Superfecta contest, the ticket holder may still collect the monetary value associated with the first-half Tri-Superfecta pool but forfeits all rights to any distribution of the second-half Tri-Superfecta pool. (1-1-09)T

07. Coupled Entries and Mutuel Field. Coupled entries and mutuel fields are prohibited in Tri-Superfecta contests. (1-1-09)T

08. Scratched Interest. Should a betting interest in the first-half of the Tri-Superfecta be scratched, those Tri-Superfecta tickets including the scratched betting interest must be refunded. (1-1-09)T

09. Second-Half Betting Interest Scratch. Should a betting interest in the second-half of the Tri-Superfecta be scratched, an announcement concerning the scratch must be made and a reasonable amount of time must be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Tri-Superfecta contest, the ticket holder forfeits all rights to the second-half Tri-Superfecta pool. (1-1-09)T

10. Reduced Interests. If, due to a late scratch, the number of betting interests in the second-half of the Tri-Superfecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets will be entitled to the second-half Tri-Superfecta pool for that contest as a single price pool, but not the Tri-Superfecta carryover. (1-1-09)T

11. Dead Heat. If there is a dead heat or multiple dead heats in either the first- or second-half of the Tri-Superfecta, all Tri-Superfecta tickets selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, is a winner. In the case of a dead heat occurring in:

a. The first-half of the Tri-Superfecta, the payoff is calculated as a profit split. (1-1-09)T

b. The second-half of the Tri-Superfecta, the payoff is calculated as a single price pool. (1-1-09)T

12. Cancelled Contest. If either of the Tri-Superfecta contests are cancelled prior to the first Tri-Superfecta contest, or the first Tri-Superfecta contest is declared "no contest," the entire Tri-Superfecta pool must be refunded on Tri-Superfecta wagers for that contest and the second-half must be cancelled. (1-1-09)T

13. Second-Half Cancelled. If the second-half Tri-Superfecta contest is cancelled or declared "no contest," all exchange tickets and outstanding first-half winning Tri-Superfecta tickets will be entitled to the net Tri-Superfecta pool for that contest as a single price pool, but not the Tri-Superfecta carryover. If there are no such tickets, the net Tri-Superfecta pool must be distributed as described in Subsection 214.03 of these rules. (1-1-09)T

14. Capped Carryover. The Tri-Superfecta carryover may be capped at a designated level approved by the Racing Commission so that if, at the close of any performance, the amount in the Tri-Superfecta carryover equals or exceeds the designated cap, the Tri-Superfecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the second-half Tri-Superfecta carryover is frozen, one hundred percent (100%) of the net Tri-Superfecta pool for each individual contest will be distributed to winners of the first-half of the Tri-Superfecta pool. (1-1-09)T

15. Request to Distribute Carryover. A written request for permission to distribute the Tri-Superfecta carryover on a specific performance may be submitted to the Racing Commission. The request must contain justification for the distribution, an explanation of the benefits to be derived, and the intended date and performance for the distribution. (1-1-09)T

16. Winning Precedence. Should the Tri-Superfecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second-half of the Tri-Superfecta after completion of the first-half of the Tri-Superfecta: (1-1-09)T

a. As a single price pool to those whose combination finished in correct sequence as the first four (4)

betting interests; but if there are no such wagers, then; (1-1-09)T

b. As a single price pool to those whose combination included, in correct sequence, the first three (3) betting interests; but if there are no such wagers, then; (1-1-09)T

c. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; (1-1-09)T

d. As a single price pool to those whose combination included, in correct sequence, the first-place betting interest only; but if there are no such wagers, then; (1-1-09)T

e. As a single price pool to holders of valid exchange tickets. (1-1-09)T

f. As a single price pool to holders of outstanding first-half winning tickets. (1-1-09)T

17. Exchange of Tickets. Contrary to Subsection 214.04 of these rules, during a performance designated to distribute the Tri-Superfecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the Tri-Superfecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first- and second-place betting interests. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the Tri-Superfecta, all first-half tickets will become winners and will receive one hundred percent (100%) of that day's net Tri-Superfecta pool and any existing Tri-Superfecta carryover as a single price pool. (1-1-09)T

18. Carryover Designation. The Tri-Superfecta carryover may be designated for distribution on a specified date and performance only under the following circumstances: (1-1-09)T

a. Upon written approval from the Racing Commission as provided in Subsection 214.15 of these rules. (1-1-09)T

b. Upon written approval from the Racing Commission when there is a change in the carryover cap or when the Tri-Superfecta is discontinued. (1-1-09)T

c. On the closing performance of the meet or split meet. (1-1-09)T

19. Carryover from Past Subsequent Meet. If, for any reason, the Tri-Superfecta carryover must be held over to the corresponding Tri-Superfecta pool of a subsequent meet, the carryover must be deposited in an interest-bearing account approved by the Racing Commission. The Tri-Superfecta carryover plus accrued interest will then be added to the second-half Tri-Superfecta pool of the following meet on a date and performance so designated by the Racing Commission. (1-1-09)T

20. Prohibited Information. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited until the race is made official. This does not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data. (1-1-09)T

21. Contest Approval. The racing association must obtain written approval from the Racing Commission concerning the scheduling of Tri-Superfecta contest, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved Tri-Superfecta format requires prior approval from the Racing Commission. (1-1-09)T

215. TWIN SUPERFECTA POOLS.

01. Twin Superfecta Pools. The Twin Superfecta requires selection of the first four (4) finishers, in their exact order, in each of two (2) designated contests. Each winning ticket for the first Twin Superfecta contest

must be exchanged for a free ticket on the second Twin Superfecta contest in order to remain eligible for the second-half Twin Superfecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second Twin Superfecta contest. Winning first-half Twin Superfecta tickets will receive both an exchange and a monetary payoff. Both of the designated Twin Superfecta contests will be included in only one (1) Twin Superfecta pool. (1-1-09)T

02. Dividing Pools. After wagering closes for the first-half of the Twin Superfecta and commissions have been deducted from the pool, the net pool must then be divided into two (2) separate pools: the first-half Twin Superfecta pool and the second-half Twin Superfecta pool. (1-1-09)T

03. Winning Precedence. In the first Twin Superfecta contest only, winning wagers must be determined using the following precedence, based upon the official order of finish for the first Twin Superfecta contest: (1-1-09)T

a. As a single price pool to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such wagers, then; (1-1-09)T

b. As a single price pool to those whose combination included, in correct sequence, the first three (3) betting interests; but if there are no such wagers, then; (1-1-09)T

c. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; (1-1-09)T

d. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; (1-1-09)T

e. The entire Twin Superfecta pool must be refunded on Twin Superfecta wagers for that contest and the second-half must be cancelled. (1-1-09)T

04. Carryover Pool -- First Race. If no first-half Twin Superfecta ticket selects the first four (4) finishers of that contest in exact order, winning ticket holders will not receive any exchange tickets for the second-half Twin Superfecta pool. In such case, the second-half Twin Superfecta pool will be retained and added to any existing Twin Superfecta carryover pool. (1-1-09)T

05. Winning Distribution. Winning tickets from the first-half of the Twin Superfecta will be exchanged for tickets selecting the first four (4) finishers of the second-half of the Twin Superfecta. The second-half Twin Superfecta pool must be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Twin Superfecta contest: (1-1-09)T

a. As a single price pool, including any existing carryover monies, to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such tickets, then; (1-1-09)T

b. The entire second-half Twin Trifecta pool for that contest must be added to any existing carryover monies and retained for the corresponding second-half Twin Superfecta pool of the next performance. (1-1-09)T

06. Forfeiture of Second-Half Rights. If a winning first-half Twin Superfecta ticket is not presented for cashing and exchange prior to the second-half Twin Superfecta contest, the ticket holder may still collect the monetary value associated with the first-half Twin Superfecta pool but forfeits all rights to any distribution of the second-half Twin Trifecta pool. (1-1-09)T

07. Prohibited Entries. Coupled entries and mutuel fields are prohibited in Twin Superfecta contests. (1-1-09)T

08. Scratched First-Half Interest. Should a betting interest in the first-half of the Twin Superfecta be scratched, those Twin Superfecta tickets including the scratched betting interest must be refunded. (1-1-09)T

09. Scratched Second-Half Interest. Should a betting interest in the second-half of the Twin Superfecta be scratched, an announcement concerning the scratch must be made and a reasonable amount of time

must be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Twin Superfecta contest, the ticket holder forfeits all rights to the second-half Twin Superfecta pool. (1-1-09)T

10. Late Scratch. If, due to a late scratch, the number of betting interests in the second-half of the Twin Superfecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets will be entitled to the second-half Twin Superfecta pool for that contest as a single price pool, but not the Twin Superfecta carryover. (1-1-09)T

11. Dead Heat. If there is a dead heat or multiple dead heats in either the first- or second-half of the Twin Superfecta, all Twin Superfecta tickets selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, is a winner. In the case of a dead heat occurring in:

- a. The first-half of the Twin Superfecta, the payoff is calculated as a profit split. (1-1-09)T
- b. The second-half of the Twin Superfecta, the payoff is calculated as a single price pool. (1-1-09)T

12. Canceled Contest. If either of the Twin Superfecta contests are cancelled prior to the first Twin Superfecta contest, or the first Twin Superfecta contest is declared "no contest," the entire Twin Superfecta pool must be refunded on Twin Superfecta wagers for that contest and the second-half must be cancelled. (1-1-09)T

13. Canceled Second-Half Contest. If the second-half Twin Superfecta contest is cancelled or declared "no contest," all exchange tickets and outstanding first-half winning Twin Superfecta tickets will be entitled to the net Twin Superfecta pool for that contest as a single price pool, but not the Twin Superfecta carryover. If there are no such tickets, the net Twin Superfecta pool must be distributed as described in Subsection 215.03 of these rules. (1-1-09)T

14. Capped Carryover. The Twin Superfecta carryover may be capped at a designated level approved by the Racing Commission so that if, at the close of any performance, the amount in the Twin Superfecta carryover equals or exceeds the designated cap, the Twin Superfecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the second-half Twin Superfecta carryover is frozen, one hundred percent (100%) of the net Twin Superfecta pool for each individual contest will be distributed to winners of the first-half of the Twin Superfecta pool. (1-1-09)T

15. Request for Carryover. A written request for permission to distribute the Twin Superfecta carryover on a specific performance may be submitted to the Racing Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. (1-1-09)T

16. Winning Precedence. Should the Twin Superfecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second-half of the Twin Superfecta: (1-1-09)T

- a. As a single price pool to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such wagers, then; (1-1-09)T
- b. As a single price pool to those whose combination included, in correct sequence, the first three (3) betting interests; but if there are no such wagers, then; (1-1-09)T
- c. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; (1-1-09)T
- d. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; (1-1-09)T
- e. As a single price pool to holders of valid exchange tickets. (1-1-09)T

f. As a single price pool to holders of outstanding first-half winning tickets. (1-1-09)T

17. Exchange Ticket Distribution. Contrary to Subsection 215.04 of these rules, during a performance designated to distribute the Twin Superfecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the Twin Superfecta. If there are no wagers correctly selecting the first-, second-, third-, and fourth-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first-, second-, and third-place betting interests. If there are no wagers correctly selecting the first-, second- and third-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first- and second-place betting interests. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the Twin Superfecta, all first-half tickets will become winners and will receive one hundred percent (100%) of that day's net Twin Superfecta pool and any existing Twin Superfecta carryover as a single price pool. (1-1-09)T

18. Carryover Distribution. The Twin Superfecta carryover must be designated for distribution on a specified date and performance only under the following circumstances: (1-1-09)T

a. Upon written approval from the Racing Commission as provided in Subsection 215.15 of these rules. (1-1-09)T

b. Upon written approval from the Racing Commission when there is a change in the carryover cap or when the Twin Superfecta is discontinued. (1-1-09)T

c. On the closing performance of the meet or split meet. (1-1-09)T

19. Carryover Held. If, for any reason, the Twin Superfecta carryover must be held over to the corresponding Twin Superfecta pool of a subsequent meet, the carryover must be deposited in an interest-bearing account approved by the Racing Commission. The Twin Superfecta carryover plus accrued interest will then be added to the second-half Twin Superfecta pool of the following meet on a date and performance so designated by the Racing Commission. (1-1-09)T

20. Prohibited Information. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited until the race is made official. This does not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data. (1-1-09)T

21. Written Approval. The racing association must obtain written approval from the Racing Commission concerning the scheduling of Twin Superfecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved Twin Superfecta format require prior approval from the Racing Commission. (1-1-09)T

216. -- 989. (RESERVED).

990. PENALTIES.

Any person violating any of the provisions of these rules is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code and any of the Racing Commission rules. (1-1-09)T

991. -- 998. (RESERVED).

999. MINOR VIOLATIONS.

Nothing in these rules may be construed as requiring the Racing Commission to report minor violations when the Racing Commission believes that the public interest will be best served by suitable warnings or other administrative action. (1-1-09)T

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

11.04.09 - RULES GOVERNING CLAIMING RACES

DOCKET NO. 11-0409-0901 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2506, Idaho Code.

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

TUESDAY - JANUARY 13, 2009 - 6:00 p.m.

**NAMPA CIVIC CENTER
Home Federal Room
311 3RD Street South, Nampa, ID**

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

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

This rule provides a clear concise rule Chapter on Claiming Races. In addition, this rule conforms more closely with the Association of Racing Commissioners International Model Rules in a plain English format.

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

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. However this rule was developed with input from a committee comprised of representatives of all segments of the horse racing industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Idaho State Racing Commission, 208-884-7080.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 12th day of November, 2008.

Dennis Jackson
Executive Director
Idaho State Racing Commission
Phone: 208-884-7080 / Fax: 208-884-7098

700 S. Stratford Drive
PO Box 700
Meridian, ID 83780-0700

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0409-0901

IDAPA 11
TITLE 04
CHAPTER 09

IDAHO STATE RACING COMMISSION

11.04.09 - RULES GOVERNING CLAIMING RACES

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (1-1-09)T

001. TITLE AND SCOPE.

01. Title. This chapter is cited as IDAPA 11.04.09 "Rules Governing Claiming Races". (1-1-09)T

02. Scope. This chapter describes the procedures and requirements for the claiming of horses and the conduct of claiming races. (1-1-09)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (1-1-09)T

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal racing commission actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (1-1-09)T

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference into these rules. (1-1-09)T

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

01. Physical Address. The central office of the Idaho State Racing Commission is located at 700 S. Stratford Drive, Meridian, Idaho. (1-1-09)T

02. Office Hours. The central office is open 8 a.m. to 5 p.m., Mountain Time, Monday thru Friday, except holidays designated by the state of Idaho. (1-1-09)T

03. Mailing Address. The mailing address for the central office is Idaho State Racing Commission, P.O. Box 700, Meridian, Idaho 83680-0700. (1-1-09)T

04. Telephone Number. The telephone of the office is (208) 884-7080. (1-1-09)T

05. Fax Number. The facsimile number of the office is (208) 884-7098. (1-1-09)T

06. Website. The Racing Commission website is <http://www.isp.state.id.us/race>. (1-01-08)T

006. PUBLIC RECORDS COMPLIANCE AND AVAILABILITY.

These rules are public records available for inspection and copying at the Idaho State Racing Commission central office or on the Racing Commission website. (1-1-09)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

- 01. Certificate of Registration.** A document identifying a horse, its breeding and registry. (1-1-09)T
- 02. Claimant.** A person who has successfully claimed a horse in a claiming race. (1-1-09)T
- 03. Claimed.** A horse that has been properly purchased under these rules. (1-1-09)T
- 04. Claiming Race.** A race in which any horse starting may be purchased for a designated amount in conformance with this chapter. (1-1-09)T
- 05. Colt.** An intact male horse under five (5) years of age. (1-1-09)T
- 06. Eligible.** A horse that is qualified to run in a race under these rules. (1-1-09)T
- 07. Eligible Person.** A licensed owner, licensed trainer or authorized agent who has been properly authorized to claim a horse. (1-1-09)T
- 08. Engagements.** Race days where a horse has been entered to race. (1-1-09)T
- 09. Filly.** A female horse that has not reached five (5) years of age. (1-1-09)T
- 10. Gelding.** An altered male horse of any age. (1-1-09)T
- 11. Horse.** Includes filly, mare, colt, horse or gelding in general; when referring to sex, a horse is an intact male when five (5) years old or older. (1-1-09)T
- 12. Ineligible or Undisclosed Person.** A person that is not eligible to be licensed or a person who has not been properly authorized to claim a horse. (1-1-09)T
- 13. In-foal.** A filly or mare that is pregnant. (1-1-09)T
- 14. Licensed Authorized Agent.** A person licensed by the Racing Commission and appointed by a written instrument, signed and acknowledged before a notary public by the owner in whose behalf the agent will act. (1-1-09)T
- 15. Mare.** A female horse that has reached the age of five (5) years. (1-1-09)T
- 16. Officials.** Persons licensed by the state to ensure the rules of racing are enforced. (1-1-09)T
- 17. Owner.** A person who holds any title, right or interest, whole or partial in a horse, including the lessee and lessor of a horse. (1-1-09)T
- 18. Racing Association.** Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering. (1-1-09)T
- 19. Racing Commission.** Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee. (1-1-09)T
- 20. Racing Commission Employee.** An employee of the Idaho State Police supervised by the Executive Director of the Racing Commission, who is necessary to implement, administer and enforce Section 54-2501, Idaho Code. (1-1-09)T
- 21. Racing Secretary.** The employee of a racing 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. (1-1-09)T

22. **Stable.** All the race horses belonging to a particular owner. (1-1-09)T
23. **Starter Allowance Race.** A race where entrants must have established eligibility by participation in a previous race. (1-1-09)T
24. **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. (1-1-09)T
25. **Title.** Legal document showing ownership of a horse. (1-1-09)T
26. **Transfer.** To convey the possession or legal title of a horse to another. (1-1-09)T
- 011. ABBREVIATIONS.**
There are no abbreviations used in these rules. (1-1-09)T
- 012. -- 019. (RESERVED).**
- 020. FREE AND CLEAR TITLE.**
No person may enter a horse in a claiming race unless the title to said horse is free and clear of any existing lien, either as security interest mortgage, bill of sale, or lien of any kind. (1-1-09)T
- 021. TITLE VESTED.**
Title to a claimed horse must be transferred to the claimant at the time the horse becomes an official starter. The successful claimant must then become the owner of the horse whether it be alive or dead, sound or unsound or injured at any time after becoming an official starter. A transfer of ownership arising from a recognized claiming race will terminate any existing prior lease for that horse. (1-1-09)T
- 022. -- 024. (RESERVED).**
- 025. IN-FOAL FILLY OR MARE.**
An in-foal filly or mare is eligible to be entered into a claiming race only if the following conditions are fulfilled: (1-1-09)T
01. **Condition Disclosed.** Full disclosure of such fact is on file with the racing secretary and such information is posted in the racing office; (1-1-09)T
02. **Service Certificate.** The stallion service certificate has been deposited with the racing secretary's office; and (1-1-09)T
03. **Release of Service Certificate.** The release of the stallion service certificate to the successful claimant at the time of claim is guaranteed. (1-1-09)T
- 026. -- 028. (RESERVED).**
- 029. RESCISSION OF CLAIM.**
The stewards may set aside and order rescission of a claim for any horse from a claiming race run in Idaho upon a showing that any party to the claim committed a prohibited action, as specified in any Racing Commission rule, or that the owner of the horse at the time of entry in the claiming race failed to comply with any requirement of any Racing Commission rule. Should the stewards order a rescission of a claim, they may make a further order for the costs of maintenance and care of the horse as they may deem appropriate. (1-1-09)T
- 030. CLAIMED FOR ENTERED PRICE.**
Any horse starting in a claiming race is subject to be claimed for its entered price by any: (1-1-09)T
01. **Licensed Owner.** Owner licensed in Idaho; (1-1-09)T
02. **Authorized Agent.** Licensed authorized agent acting on behalf of an eligible person. (1-1-09)T

031. -- 034. (RESERVED).

035. ELIGIBLE HORSES.

No horse which has been claimed out of a claiming race in which said horse was declared the official winner, is eligible to start in any other claiming race for a period of thirty (30) days, exclusive of the day it was claimed, for less than twenty-five percent (25%) more than the amount for which it was claimed. A horse which has been claimed out of a claiming race in which said horse was not declared the official winner may be eligible to start for any price desired by the claimant. No horse which has been claimed out of a claiming race is eligible to race at any other race meeting in this state or elsewhere until the close of the meeting where it was claimed, unless its removal from the grounds of such meeting is approved by the Stewards for good cause or is required by the Racing Association where it was claimed. (1-1-09)T

036. -- 039. (RESERVED).

040. STARTER ALLOWANCE RACE.

A horse which has been claimed must re-establish eligibility for a starter allowance race by running in a claiming race. (1-1-09)T

041. -- 049. (RESERVED).

050. PROHIBITIONS.

01. Financial or Beneficial Interest. A person may not claim a horse in which the person has a financial or beneficial interest as an owner or trainer. (1-1-09)T

02. Undisclosed Financial or Beneficial Interest. A person may not cause another person to claim a horse for the purpose of obtaining or retaining an undisclosed financial or beneficial interest in the horse. (1-1-09)T

03. Agreement. A person may not enter into an agreement for the purpose of preventing another person from obtaining a horse in a claiming race. (1-1-09)T

04. Ineligible or Undisclosed Person. A person may not claim a horse, or enter into any agreement to have a horse claimed, on behalf of an ineligible or undisclosed person. (1-1-09)T

05. No more than One Horse. A person may not claim more than one (1) horse in a race. No authorized agent may submit more than one (1) claim for the same horse in a race, even if the authorized agent represents several owners. (1-1-09)T

051. -- 059. (RESERVED).

060. VALID CLAIMS.

To make a valid claim for a horse, an eligible person must: (1-1-09)T

01. Funds on Deposit. Have on deposit with the horsemen's bookkeeper an amount equal to the amount of the claim, plus all transfer fees and applicable taxes; (1-1-09)T

02. Written Claim Form. Complete a written claim on a form furnished by the racing association and approved by the Racing Commission; (1-1-09)T

03. Horses Name. Identify the horse to be claimed by the spelling of its name as the name appears on the certificate of registration or as spelled on the official program; (1-1-09)T

04. Sealed Envelope. Place the completed claim form inside a sealed envelope furnished by the racing association and approved by the Racing Commission; (1-1-09)T

05. Time of Day. Have the time of day that the claim is entered, recorded or electronically stamped by

a racing official at the paddock on the envelope; and (1-1-09)T

06. Deposit Envelope. Have the envelope deposited in the claim box no later than ten (10) minutes prior to post time of the race for which the claim is entered. (1-1-09)T

061. -- 064. (RESERVED).

065. CLAIMS ARE IRREVOCABLE.
After a claim has been deposited in the claim box, it is irrevocable by the claimant and may not be withdrawn from the claim box until the time designated by the stewards. (1-1-09)T

066. -- 069. (RESERVED).

070. NO INFORMATION PROVIDED.
Officials and employees of the racing association may not provide any information as to the filing of claims until after the race has been run, except as is necessary for processing of the claim. (1-1-09)T

071. -- 079. (RESERVED).

080. MORE THAN ONE CLAIM.
If more than one (1) claim is filed on a horse, the successful claim must be determined by drawing lots conducted by the Stewards or their representatives. (1-1-09)T

081. -- 089. (RESERVED).

090. SEX OR AGE OF A HORSE CLAIMED.
Notwithstanding any designation of sex or age appearing in the racing program or in any racing publication, the claimant of a horse is solely responsible for the determination of the sex or age of any horse claimed. (1-1-09)T

091. -- 099. (RESERVED).

100. TRANSFER OF OWNERSHIP.
Upon successful claim an authorization of transfer of the horse from the original owner to the claimant must be issued by the stewards on forms approved by the Racing Commission. Copies of the transfer authorization must be forwarded to and maintained by the stewards and the racing office. Upon notification by the stewards, the horsemen's bookkeeper must immediately debit the claimant's account for the claiming price, applicable taxes and transfer fees. (1-1-09)T

101. -- 109. (RESERVED).

110. TRANSFER OF POSSESSION.
Transfer of possession of a claimed horse must take place immediately after the race has been run unless otherwise directed by the stewards. If the horse is required to be taken to the test barn for post-race testing, the original trainer or an authorized representative must maintain physical custody of the claimed horse and must observe the testing procedure and sign the test sample tag. The successful claimant or an authorized representative of that claimant may also accompany the horse to the test barn. (1-1-09)T

111. -- 119. (RESERVED).

120. DELIVERY OF A CLAIMED HORSE.
No person may refuse to deliver a properly claimed horse to the successful claimant. (1-1-09)T

121. -- 129. (RESERVED).

130. TRANSFER OF ENGAGEMENTS.
When a horse is claimed out of a claiming race, the horse's engagements and eligibilities are transferred, with the horse, to the claimant. (1-1-09)T

131. -- 139. (RESERVED).

140. RESALE OR TRANSFER OF OWNERSHIP.

Ownership interest in any horse claimed from a race may not be resold or transferred for thirty (30) days after such horse was claimed, except by claim from a subsequent race. (1-1-09)T

141. -- 149. (RESERVED).

150. CONTROL OR MANAGEMENT OF FORMER OWNER.

A claimed horse may not remain in the same stable or under the control or management of its former owner. (1-1-09)T

151. -- 989. (RESERVED).

990. PENALTIES.

Any person violating any of the provisions of these rules is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code and any of the Racing Commission rules. (1-1-09)T

991. -- 998. (RESERVED).

999. MINOR VIOLATIONS.

Nothing in these rules may be construed as requiring the Racing Commission to report minor violations when the Racing Commission believes that the public interest will be best served by suitable warnings or other administrative action. (1-1-09)T

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

11.04.10 - RULES GOVERNING LIVE HORSE RACES

DOCKET NO. 11-0410-0901 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2506, Idaho Code.

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

TUESDAY - JANUARY 13, 2009 - 6:00 p.m.

**NAMPA CIVIC CENTER
Home Federal Room
311 3RD Street South, Nampa, ID**

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

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

This rule provides a clear concise rule Chapter on Live Horse Races. In addition, this rule conforms more closely with the Association of Racing Commissioners International Model Rules in a plain English format.

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

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. However this rule was developed with input from a committee comprised of representatives of all segments of the horse racing industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Idaho State Racing Commission, 208-884-7080.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 12th day of November, 2008.

Dennis Jackson
Executive Director
Idaho State Racing Commission
Phone: 208-884-7080 / Fax: 208-884-7098

700 S. Stratford Drive
PO Box 700
Meridian, ID 83780-0700

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0410-0901

IDAPA 11
TITLE 04
CHAPTER 10

IDAHO STATE RACING COMMISSION

11.04.10 - RULES GOVERNING LIVE HORSE RACES

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (1-1-09)T

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.04.10, "Rules Governing Live Horse Races." (1-1-09)T

02. Scope. These rules govern the running of live horse races in Idaho. (1-1-09)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (1-1-09)T

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal commission actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (1-1-09)T

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference into these rules. (1-1-09)T

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

01. Physical Address. The central office of the Idaho State Racing Commission is located at 700 S. Stratford Drive, Meridian, Idaho. (1-1-09)T

02. Office Hours. The central office is open 8 a.m. to 5 p.m., Mountain Time, Monday thru Friday, except holidays designated by the state of Idaho. (1-1-09)T

03. Mailing Address. The mailing address for the central office is Idaho State Racing Commission, P.O. Box 700, Meridian, Idaho 83680-0700. (1-1-09)T

04. Telephone Number. The telephone of the office is (208) 884-7080. (1-1-09)T

05. Fax Number. The facsimile number of the office is (208) 884-7098. (1-1-09)T

06. Website. The Racing Commission website is <http://www.isp.state.id.us/race>. (1-1-09)T

006. PUBLIC RECORDS COMPLIANCE AND AVAILABILITY.

These rules are public records available for inspection and copying at the Idaho State Racing Commission central office or on the Racing Commission website, <http://www.isp.state.id.us/race>. (1-1-09)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

- 01. Apprentice Jockey.** A thoroughbred jockey who has ridden less than one (1) year and less than forty-five (45) winners since first having been licensed in any racing jurisdiction and who otherwise meets the requirements and qualifications for a license as a Jockey. (1-1-09)T
- 02. Authorized Agent.** A person appointed by a written instrument signed and acknowledged before a notary public by the owner and filed in accordance with these rules. (1-1-09)T
- 03. Calendar Day.** Twenty-four (24) hours ending at midnight. (1-1-09)T
- 04. Chemical.** A substance composed of chemical elements or obtained by chemical processes. (1-1-09)T
- 05. Claiming Race.** A race in which any horse entered therein may be claimed in conformity with these rules. (1-1-09)T
- 06. Dead Heat.** The finish of a race in which the noses of two (2) or more horses reach the finish line at the same time. (1-1-09)T
- 07. Declaration.** The act of withdrawing an entered horse from a race before the closing of overnight entries. (1-1-09)T
- 08. Disqualification.** Interference or a foul determined by the stewards in a contest that may result in an adjustment to the offending entrants finish position. (1-1-09)T
- 09. Engagements.** Race days where a horse has been entered to race. (1-1-09)T
- 10. Entry.** Means, according to the requirements of these rules: (1-1-09)T
- a.** A horse made eligible to run a race. (1-1-09)T
- b.** Two (2) or more horses that are entered or run in a race and are coupled because of common ties or ownership. (1-1-09)T
- 11. Equipment.** As applied to a horse means whips, blinkers, tongue straps, muzzle, nosebands, bits, shadow rolls, martingales, breast plate, bandages, boots, hoods, flipping halters, goggles and plates. (1-1-09)T
- 12. Forfeit.** Money due because of an error fault, neglect of duty, breach of contract or a penalty. (1-1-09)T
- 13. Foul.** A violation, by a jockey or horse, of these rules during a race. (1-1-09)T
- 14. Grounds.** Any area owned or leased by any licensed Racing Association which is operated for the purpose of conducting pari-mutuel racing. (1-1-09)T
- 15. Handicap.** A weight adjustment for entered horses for the purpose of equalizing the respective chances of winning. (1-1-09)T
- 16. Horse.** Includes filly, mare, colt, horse and gelding in general; when referring to sex, a filly becomes a mare when five (5) years old; a horse is an entire male when five (5) years old or older. (1-1-09)T
- 17. Jockey.** A race rider, whether a licensed Jockey, apprentice, or amateur. (1-1-09)T
- 18. Jostle.** To bump, push or shove. (1-1-09)T
- 19. Maiden.** A horse that has never won a race on the flat in a state or country where racing is

supervised by a legalized Racing Commission or board and where the races are covered by the Racing Form, American Quarter Horse chart books, the Appaloosa Horse Club chart books, the Paint Horse chart books and the Arabian Horse chart books. A maiden that has been disqualified after finishing first still is a maiden. (1-1-09)T

20. **Nomination.** The act of nominating to a stake race. (1-1-09)T
21. **Nominator.** A person in whose name a horse is entered for a race. (1-1-09)T
22. **Owner.** Includes the owner, part owner and lessee of any horse. An interest only in the earnings of a horse does not constitute ownership. In case of husband and wife, it is presumed that joint ownership exists. (1-1-09)T
23. **Paddock.** An enclosure in which horses scheduled to compete in a contest are saddled prior to racing. (1-1-09)T
24. **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. (1-1-09)T
25. **Place.** Means first, second or third and in that order is called "Win," "Place," and "Show." (1-1-09)T
26. **Post Position.** The starting position assigned. (1-1-09)T
27. **Post Time.** The time set for the arrival at the starting point. (1-1-09)T
28. **Preference System.** A method used by the Racing Secretary to determine the order of qualification for a race. (1-1-09)T
29. **Race.** A contest between horses for purse, stake or reward on any licensed race track and in the presence of a Judge or Judges. (1-1-09)T
30. **Race Day.** Any period of twenty-four (24) hours beginning at midnight and included in the period of a race meeting and in the matter of penalties the word "DAY" means a "CALENDAR DAY." (1-1-09)T
31. **Race Meet.** The entire consecutive period for which a license to race has been granted to any one (1) Racing Association by the Racing Commission. (1-1-09)T
32. **Racing Association.** Any person licensed by the Racing Commission to conduct live horse racing and pari-mutuel wagering. (1-1-09)T
33. **Racing Commission.** Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee. (1-1-09)T
34. **Racing Interest.** Any individual owner or any partnership of owners or corporations or any registered stable, but not including a lessee, which participates as an owning entity or nominator of a race horse. A licensed owner may participate in more than one (1) racing interest. (1-1-09)T
35. **Recognized Meet.** Any meet wherever held, which is under the jurisdiction of the Idaho State Racing Commission. The Racing Commission will recognize all race meets conducted under the jurisdiction of members of the National Association of State Racing Commissioners International, or associate members or state and other recognized authority. (1-1-09)T
36. **Ringer.** In addition to the definitions expressed in these rules, means any horse which runs under the name and identity of another or under a fictitious name. (1-1-09)T
37. **Scratch.** The act of withdrawing an entered horse from the race after closing of overnight entries.

(1-1-09)T

38. Scratch Time. The time set by the Racing Association for the closing of applications for permission to withdraw from the races of that day. (1-1-09)T

39. Stake Race. A race to which nominators of the engaged entries contribute to a purse; to which money, or any other award, may be added; but no overnight race, regardless of its conditions, is deemed a stake race. (1-1-09)T

40. Starter. (1-1-09)T

a. The individual approved to dispatch the horses in a race. (1-1-09)T

b. The horse is a “starter” for a race when the stall doors of the starting gate open in front of it at the time the starter dispatches the horses. (1-1-09)T

41. Stewards. The Stewards of the meeting or their duly appointed deputies. (1-1-09)T

42. Suspension. A temporary remedial measure designed to protect the safety and integrity of the horse racing industry and the participants therein. (1-1-09)T

43. Trial. A race to determine qualifiers for a future race. (1-1-09)T

44. Straightway Race. A race ran for a specified distance with no turns. (1-1-09)T

45. Weight for Age. Standard weight according to the scale adopted by the Racing Commission and set forth herein. (1-1-09)T

46. Year. A calendar year. (1-1-09)T

011. ABBREVIATIONS.
There are no abbreviations used in these rules. (1-1-09)T

012. -- 019. (RESERVED).

020. ENTER, SEARCH, AND INSPECT.

Every Racing Association, the Racing Commission, the Stewards, or trained and qualified agents of the Idaho State Police, have the right to enter, search and inspect the buildings, stables, rooms and other places where horses that are eligible to race are kept, or where property and effects of the licensee are kept within the grounds of the Racing Association. Any licensee accepting a license is deemed to have consented to such search and to the seizure of any non-approved or prohibited materials, chemicals, drugs or devices and anything apparently intended to be used in connection therewith. (1-1-09)T

021. -- 029. (RESERVED).

030. ILLEGAL PRACTICES.

01. Offer of Bribes. No person may give, offer or promise, directly or indirectly, to anyone any bribe, gift or gratuity in any form for the purpose of improperly influencing the result of a race. (1-1-09)T

02. Acceptance of Bribes. No person licensed by the Racing Commission, nor any other person, may accept or offer to accept, on his own behalf or on behalf of another, any bribe, gift or gratuity in any form to influence the result of a race. (1-1-09)T

03. Conspire. No person may conspire with any other person for the commission of any corrupt or fraudulent practice in relation to racing, nor may he commit such an act on his own account. (1-1-09)T

04. Bets. No person except the Owner or Trainer of the horse the Jockey is riding may make a bet for the account of any Jockey and then only on the horse being ridden by said Jockey. (1-1-09)T

05. Shodding. A horse starting in a race must not be shod with ordinary shoes, training shoes or bar plates except by permission of the Stewards. (1-1-09)T

06. Devices. No electrical or mechanical device or other appliance designed to increase or decrease the speed of a horse, other than ordinary whip, may be possessed by anyone or applied by anyone to a horse at any time on the grounds of a Racing Association during a meeting whether in a race or otherwise. (1-1-09)T

07. Tampering. No person may improperly tamper or attempt to tamper with any horse in such a way as to affect his speed in a race, nor may he counsel or in any way aid or abet any such tampering. (1-1-09)T

08. Jockey's Spouse. A jockey may not compete in any race against a horse which is trained by the jockey's spouse. (1-1-09)T

031. -- 039. (RESERVED).

040. CONSUMPTION OF ALCOHOL.

No jockey, starter, assistant starter, pony person, outrider, or racing official may have present within his body any amount of alcohol while participating in any horse race held that day. (1-1-09)T

041. -- 049. (RESERVED).

050. HORSE RACES -- GENERAL RULES.

01. Post Time. Post time must be shown a reasonable time prior to the race on a clock device, provided for that purpose, prominently displayed and clearly readable from the grandstand. (1-1-09)T

02. Paddocks. Horses must be in the paddock at least twenty (20) minutes before post time. (1-1-09)T

03. Saddled. Each horse must be saddled in the paddock. (1-1-09)T

04. Number. In a race, each horse must carry a conspicuous saddlecloth number and a head number, corresponding to the assigned number on the official program. In the case of an Entry, each horse making up the Entry must carry the same number (head and saddlecloth) with a distinguishing letter. In the case of a Field, the horses comprising the Field must carry an individual number. (1-1-09)T

05. Jockey. After the horses enter the track, no Jockey may dismount and no horse is entitled to the care of an attendant without consent of the Stewards or the Starter, and the horse must be free of all hands other than those of the Jockey or assistant starter before the starter dispatches the Field. (1-1-09)T

06. Accidents. In case of accident to a Jockey, his mount, or equipment, the Stewards or the starter may permit the Jockey to dismount and the horse to be cared for during the delay, and may permit all Jockeys to dismount and all horses to be attended during the delay. (1-1-09)T

07. Injured Jockey. If a Jockey is injured on the way to the post so as to require replacement, the horse must be taken to the paddock and another Jockey and equipment obtained. (1-1-09)T

08. Parade. All horses must parade and, under penalty of disqualification, must carry their weight from the paddock to the starting post, such parade to pass the Stewards' stand. (1-1-09)T

09. Delays. After entering the track, no more than twelve (12) minutes may be consumed in the parade of the horses to the post except in cases of unavoidable delay. After passing the stand once, horses will be allowed to break formation and canter, warm up or go as they please to the post. When horses have reached the post, they must be started without unnecessary delay. (1-1-09)T

- 10. Willful Delay.** No person may willfully delay the arrival of a horse at the post. (1-1-09)T
- 11. Selection of Horses.** When the number of horses competing in a race exceeds the numbered capacity of the tote, the Field horses are to be selected by the handicapper or the Racing Secretary. (1-1-09)T
- 12. Limit on Number of Horses.** No more than eight (8) horses may start in any race on a one-half (1/2) mile track. (1-1-09)T
- 13. Start.** A horse may not be qualified to start in any race unless the horse has been and continues to be properly entered therein. (1-1-09)T
- 054. -- 059. (RESERVED).**
- 060. STRAIGHTAWAY RACES.**
- 01. Maintain Position.** In a Straightaway Race every horse must maintain position as nearly as possible in the lane in which it starts. (1-1-09)T
- 02. Entitled to Room.** Every horse in the race is entitled to racing room and may not be deliberately impeded. If a horse is ridden or drifts out of its lane in such a manner that it interferes with or impedes another horse in any way, it is a foul. (1-1-09)T
- 03. Offending Horse.** The offending horse may be disqualified when, in the opinion of the Stewards, the outcome of the race was affected by the foul. This applies whether the foul was caused by the horse or by the rider, irrespective of cause. (1-1-09)T
- 04. Caused by Horse.** When the Stewards rule that the foul was caused by the horse, in spite of obvious efforts of the Jockey to maintain position in its lane, no blame will be attached to the Jockey. (1-1-09)T
- 05. Effort of Jockey.** When the Stewards rule that the Jockey did not make an effort to prevent the foul, then the Jockey may be fined or suspended, or both. (1-1-09)T
- 06. Fined or Suspended.** A Jockey who rides the horse out of its lane or fails to make an effort to hold the horse in its lane when the horse is lugging either in or out may be fined or suspended even though no actual foul occurs. (1-1-09)T
- 061. -- 069. (RESERVED).**
- 070. RACES AROUND A TURN.**
- 01. Race Around a Turn.** In a race run around a turn, a horse that is in the clear may be taken to any part of the track, except that weaving back and forth in front of another horse may be considered interference or intimidation and may be penalized. (1-1-09)T
- 02. Jostles.** If a horse or Jockey jostles another horse, the aggressor may be disqualified unless the jostled horse or Jockey was at fault or the jostle was wholly caused by the fault of some other horse or Jockey. (1-1-09)T
- 03. Crossing Another Horse.** A horse crossing another so as to actually impede it is disqualified, unless the impeded horse was partly in fault or the crossing was wholly caused by the fault of some other horse or Jockey. (1-1-09)T
- 04. Strikes.** If a Jockey willfully strikes another horse or Jockey or rides willfully or carelessly so as to injure another horse, which is in no way at fault, or so as to cause other horses to do so, the Jockey's horse is disqualified. (1-1-09)T
- 05. Shorten Strides.** No Jockey may unnecessarily shorten his horses stride so as to give the

appearance of having suffered a foul. (1-1-09)T

071. -- 079. (RESERVED).

080. DISQUALIFICATION.

The Stewards are vested with the power to determine the extent of disqualification in case of fouls. (1-1-09)T

01. Placing. They may place the offending horse behind such horses as in their judgment it interfered with or they may place it last. (1-1-09)T

02. Entries. When a horse is disqualified under these rules, the other horse or horses in the same race coupled as an Entry may be disqualified. (1-1-09)T

081. -- 089. (RESERVED).

090. CLAIMS OF FOUL.

Claims of foul under these rules can only be received from the owner, trainer or jockey of the horse alleged to be aggrieved and must be made to the Clerk of the Scales or to the Stewards before the jockey has passed the scales. But nothing in these rules prevents the Stewards taking cognizance of foul riding. (1-1-09)T

01. Fouls. Any Jockey against whom a foul is claimed will be given the opportunity to appear or communicate with the Stewards before any decision is made. (1-1-09)T

02. Frivolous Complaints. An owner, trainer, or jockey who frivolously complains his horse was crossed or jostled may be subject to disciplinary action. (1-1-09)T

091. -- 099. (RESERVED).

100. BEST EFFORT.

All horses are expected to give their best efforts in races in which they run and any instructions or advice to Jockeys to ride or handle their mounts otherwise than for the purpose of winning are forbidden and such instructions must be reported immediately to the Board of Stewards by the Jockey. All persons giving or following such instructions or advice are subject to disciplinary action by the Board of Stewards. (1-1-09)T

101. -- 109. (RESERVED).

110. ENTRIES AND DECLARATIONS.

The Racing Secretary is authorized to receive entries and declarations for all races. (1-1-09)T

01. Overnight Race. Overnight Race Entries closes at a time designated and published by the Racing Secretary. (1-1-09)T

02. Ineligible. No person may enter or start a horse which is known or believed to be ineligible or disqualified. (1-1-09)T

03. Ringer. No person may enter or start a horse which is a ringer. (1-1-09)T

04. Declaring an Entry. No person may offer or receive money or any other benefit for declaring an Entry from a race. (1-1-09)T

05. Entry Refused. The entries of any person, or the transfer of any Entry, may be refused without notice for reasons deemed to be in the best interest of racing as determined by the stewards. (1-1-09)T

06. Eligible. All horses must be eligible to start at time of Entry. To compete in a race, a horse must be eligible at the time of starting that race. (1-1-09)T

07. Responsibility. Any person participating in the entry will be jointly and severally responsible and

liable with the Trainer for the accuracy and authority of the entry. (1-1-09)T

08. Trainer. No horse is permitted to enter or to start unless in the care and attendance of a licensed Trainer. (1-1-09)T

09. Name of Jockey. Upon making an entry every Trainer is required to furnish the name of the Jockey who will ride the entry or, if this is not possible, in any event to furnish the information not later than scratch time. If no Jockey has been named by that hour, the Stewards will name the best available rider for the horse. (1-1-09)T

10. Entry Void. If any entry from any disqualified person or a disqualified horse is received, such entry is void and any money paid for such entry may be forfeited to the purse of the race. (1-1-09)T

11. Entries. All entries are under the supervision of the Stewards. (1-1-09)T

111. -- 112. (RESERVED).

113. COUPLED ENTRIES.

01. Coupled Entries. Two (2) or more horses that are entered in a race will be joined as a mutuel entry and single betting interest if they are owned or leased in whole or in part by the same racing interest or are trained by a trainer who owns or leases any interest in any of the other horses in the race, except: (1-1-09)T

a. Multiple horses owned by the same racing interest may be uncoupled in stake races for the purpose of pari-mutuel wagering; or (1-1-09)T

b. Multiple horses owned by the same racing interest may be uncoupled in straightaway races for the purpose of pari-mutuel wagering. (1-1-09)T

02. Overnight Race. No more than two (2) horses owned by the same racing interest may be entered in an overnight race. Under no circumstances may both horses of a coupled entry start to the exclusion of a single entry. When making a coupled entry, a preference for one (1) of the horses must be made. (1-1-09)T

114. (RESERVED).

115. WRITTEN ENTRIES.

Entries and declarations must be made in writing and signed by the Trainer of the horse, or his delegate or some person deputized by him, except: (1-1-09)T

01. Telephone. Entries may be made by telephone or facsimile if approved by the State Steward. All telephone or facsimile entries must be signed by the Trainer of the horse, or his delegate or some person authorized by him, before the horse will be allowed to start in any race. (1-1-09)T

02. Entry Blanks. Each Racing Association must provide blank forms or templates on which entries and declarations are to be made. These forms or templates must be approved by the Racing Commission. (1-1-09)T

116. -- 119. (RESERVED).

120. REGISTRATION.

01. Duly Registered. No thoroughbred horse will be allowed to enter or start in any race unless duly registered and named at the registry office of the Jockey Club (New York), nor will a quarter horse be allowed to enter or start in any race unless duly registered with the American Quarter Horse Association (Amarillo, Texas), nor any Appaloosa horse will be allowed to enter or start unless duly registered with the Appaloosa Horse Club, Inc., (Moscow, Idaho), with the exception that the Stewards may at their discretion, for good cause, waive this requirement if the horse is otherwise properly identified. (1-1-09)T

02. Certificate or Facsimile. At the time of entry, certificate or facsimile of registration from the

Jockey Club (New York) or the American Quarter Horse Association (Amarillo, Texas) or the Appaloosa Horse Club, Inc., (Moscow, Idaho) of every horse starting must be filed in the office of the Racing Secretary. The Stewards may at their discretion waive this rule in the case of haul in horses. (1-1-09)T

03. New Name. If the name of a horse is changed, the new name together with the former name will be published in the official program for the first three (3) starts after the change has been made. No change of names will be acceptable unless first granted by the Jockey Club, the American Quarter Horse Association, the Appaloosa Horse Club or other registry under which the horse is registered. Violation of any part of this rule will cause the horse to be named a "RINGER" and the horse and all persons connected with the violation will be ruled off and referred to the Racing Commission. (1-1-09)T

04. Sex Altered. All geldings and all fillies and mares which have been "spayed" (i.e., rendered incapable of conception by whatever procedure, including removal of the ovaries) must be reported promptly by the owner or person in charge of the animal to the registry office, giving, in the case of geldings, the date of castration (or any other procedures having the effect of castration) and, in the case of fillies and mares, the date and nature of the procedure employed. (1-1-09)T

121. -- 129. (RESERVED).

130. IDENTIFICATION.

01. Identification. If entered for the first time, a horse will be identified by stating his name, color, sex and age and the name of his sire and dam as registered. This description must be repeated in every entry until a description of the horse with its name has been published in the official program or the list of entries of the Association or in such other publication as the Racing Commission may designate. In every entry after such publication, its name and age will be sufficient. (1-1-09)T

02. Permitted to Start. No horse is permitted to start that has not been fully identified. (1-1-09)T

03. Responsibility. Responsibility in the matter of establishing either the identity of a horse or its complete and actual ownership is as binding on the persons so identifying or undertaking to establish as it is on the person having the horse requiring identification and the same penalty applies to them in case of fraud or attempt at fraud. (1-1-09)T

04. Method of Identification. All horses must have either a lip tattooed or be identified by a National Animal Identification System compliant device. (1-1-09)T

131. -- 139. (RESERVED).

140. OWNERSHIP.

01. Disclosure of Ownership. All ownerships in a horse must be filed with the Racing Secretary before the horse may start, as also must every change in ownership thereafter during the race meeting. Failure to disclose all ownerships may result in a fine or suspension, or both. (1-1-09)T

02. Registration of Partnerships. No horse involved in a partnership will be permitted to enter or to start until the rules for the registration of partnerships have been complied with. (1-1-09)T

03. Disqualified. No horse will be qualified to be entered or to start in any race if owned in whole or in part by or if under the direct or indirect management of a person disqualified under Idaho Law or Racing Commission rules. (1-1-09)T

141. -- 149. (RESERVED).

150. WORKOUTS.

01. Minimum Number of Workouts. A horse that has never run at a recognized race meet must have

a minimum of two (2) official workouts and be approved by the Starter before being eligible to start in an official race. (1-1-09)T

02. Recognized Meet. Any horse that has not run at a recognized race meet in the forty-five (45) days prior to the race in which it is sought to be entered must have at least one (1) official workout before being eligible to start in an official race. (1-1-09)T

03. Workout Around the Turn. Any horse that has not raced around one (1) turn must have one (1) official workout around the turn before being able to enter or start any race around the turn. (1-1-09)T

151. -- 159. (RESERVED).

160. ENTRIES CLOSED.

01. Entries Closed at Advertised Time. Entries must be closed at an advertised time and no entry accepted thereafter. The Racing Secretary, however, with the consent of the Stewards, may postpone closing of overnight races. (1-1-09)T

02. Absence of Notice. In the absence of notice to the contrary, entrance and declarations for a stakes race must be at the office of the Racing Secretary who will make provisions therefore. (1-1-09)T

03. Hour of Closing. When the hour for closing is designated, entries and declaration for stake races cannot be received afterwards. If an hour is not designated, then the close of entries and declarations will be at the close of the day's draw. (1-1-09)T

04. Entries Compiled. Entries that have closed must be compiled without delay by the Racing Secretary and conspicuously posted. (1-1-09)T

05. Changes. No changes may be made in any entry after closing of entries except the Racing Secretary may correct an error with the approval of the Stewards. (1-1-09)T

06. Unclosed Race. The Racing Association has the right to withdraw or change any unclosed race. (1-1-09)T

161. -- 169. (RESERVED).

170. NOT QUALIFIED TO START.

01. Listed. No horse on the Stewards, Veterinarians, Starters, or Paddock list is qualified to start. (1-1-09)T

02. Money Paid. No horse is allowed to start in a race unless any stake or entrance money payable in respect to that race has been duly paid. (1-1-09)T

03. Nominator. The nominator is liable for the entrance money or stake and the death of a horse or mistake in its entry does not release the subscriber or transferee from liability for stake. The entrance money to the purse that is run off will not be returned on the death of a horse or its failure to start for any cause whatever. (1-1-09)T

04. Registration Papers. No horse is allowed to start unless the horses registration papers are on file in the Racing Secretary's office. (1-1-09)T

05. Unlicensed Owner. No horse is allowed to start unless the horses owner has been licensed by the Racing Commission. (1-1-09)T

171. -- 189. (RESERVED).

190. PREFERENCE SYSTEM.

01. Preferred List. A copy of the preferred list will be made available to the Racing Commission and horsemen before taking entries for the following race day. (1-1-09)T

02. Excluded Twice. If a horse has been excluded twice consecutively, it has preference over a horse excluded only once and so on. (1-1-09)T

03. Opportunity. No horse will be placed on the preferred list if the Owner or Trainer thereof did not accept the opportunity of starting when it was presented. (1-1-09)T

04. No Consideration. Horses whose names appear in the entries and have an opportunity to start will be given no consideration whatsoever should they be entered for the following race day and the race overfills, except stakes races. (1-1-09)T

05. Claim. In entering horses on the preferred list, a claim of preference must be made at time of entry and noted on the entry or the preference will be lost and no claim of error will be considered by the Stewards if the person making the claim has signed an entry not marked in keeping with these rules. (1-1-09)T

191. -- 194. (RESERVED).

195. NOMINATIONS AND ENGAGEMENTS.

01. Nominations and Engagements. Nominations and all entries or rights of entry are valid when a horse is sold with its engagements duly transferred in duly registered partnerships when subscriptions, entries and rights of entry survive in the remaining partners and when entries under the decedent's subscriptions have been made previous to the decedent's death by the transfer of the rights of entry. (1-1-09)T

02. When Nominations Void. Nominations and all entries or rights of entry become void on the death of a nominator except in the case of duly registered partnerships or except, subject to the sanction of the Stewards, when the personal representative of an estate of the decedent nominator for the privilege of transfer agrees to assume any and all obligations incident to the original entries. (1-1-09)T

03. Transfer. In case of any transfer of a horse with its engagements, such horse will not be eligible to start in any stake unless at the usual time of the running of the stake, or prior thereto, the transfer of the horse and its engagements are exhibited to the Racing Secretary when demanded. (1-1-09)T

04. Sold. Should a horse be sold with its engagements, or any part of them, the seller cannot strike the horse out of any such engagements. (1-1-09)T

05. Claimed Out. When a horse is claimed out of a claiming race, its engagements are included. (1-1-09)T

06. Engagements Voided. If a horse is sold to a disqualified person, said horse's racing engagements is void as of the date of sale. (1-1-09)T

196. -- 199. (RESERVED).

200. POST POSITIONS.

01. Post Positions Determined by Lot. Post positions are determined publicly by lot in the presence of the Racing Secretary and Steward. Thereafter if a regular carded horse is excused from a race, all horses will move up in post position order. (1-1-09)T

02. Applicability. This rule applies unless the Association specifically provides otherwise in writing in its stake or condition book. (1-1-09)T

03. Position. Horses must take their position at the post in the post position order in which their names have been drawn, beginning from the inside rail. (1-1-09)T

04. Starter. The starter is the final authority as to the horses' numerical loading order into the starting gate and the order may be changed by the starter with the approval of the Board of Stewards. (1-1-09)T

201. -- 209. (RESERVED).

210. NUMBER OF STARTERS.

01. Limit. The race is limited to the number of starters as specified in the conditions. (1-1-09)T

02. More Than the Specified Number. If more than the specified number of entries is received in an overnight race, then: (1-1-09)T

a. Winners of a stakes race have first preference; (1-1-09)T

b. Winners have second preference; (1-1-09)T

c. Stake placed maidens have third preference; (1-1-09)T

d. Other maidens have fourth preference; and (1-1-09)T

e. Non-starters have fifth preference. (1-1-09)T

211. -- 219. (RESERVED).

220. DEAD HEAT.

01. Dead Heat. When two (2) or more horses run a dead heat, the dead heat will not be run off. (1-1-09)T

02. Purse Divided Equally. The owners of the horses in a dead heat must equally divide the purse money and other prizes. If no agreement can be reached as to which receives the cup, plate or other indivisible prize, they must draw lots for it in the presence of one (1) or more of the Stewards. (1-1-09)T

03. First Place. If a dead heat is for first place, each horse is considered a winner of the amount received in accordance with Subsection 202.02 of these rules. (1-1-09)T

221. -- 229. (RESERVED).

230. DECLARATIONS.

01. Scratched or Declared. No horse is considered scratched or declared until the Trainer or an authorized agent, or some person authorized by the Trainer, has given due and timely notice in writing to the Racing Secretary. (1-1-09)T

02. Stake Races. For stake races, if a horse is not named through the entry box at the specified time of closing, the horse is automatically out. (1-1-09)T

03. Irrevocable. The declaration or scratch of a horse is irrevocable. (1-1-09)T

04. Miscarriage. If the miscarriage of any declaration by mail or otherwise is alleged, satisfactory proof of such miscarriage is required; otherwise, the declaration is accepted as of the time alleged. (1-1-09)T

05. Stewards. All declarations are under the supervision of the Stewards. (1-1-09)T

231. -- 239. (RESERVED).

240. SCRATCHES.

01. Scratches. A horse may be scratched from a race if eight (8) betting interests remain in the race. (1-1-09)T

02. Request to Withdraw. If there are more requests to withdraw than are available, permission to withdraw will be decided by lot. However, in all races involving the Daily Double or Trifecta, no entry may be withdrawn that would reduce the starting field to less than the number designated by the Racing Secretary except with the permission of the Stewards. (1-1-09)T

03. Other Causes. No other entries will be excused except upon receipt of a Veterinarian's Certificate of unfitness, a change of track conditions since the time of entry, or other causes acceptable to the Stewards. (1-1-09)T

241. -- 249. (RESERVED).

250. COLORS.

01. Racing Colors. Owners may obtain suitable racing colors that must be registered annually, together with the owners' license application. (1-1-09)T

02. Fine. Anyone using colors other than their own are subject to a fine. However, in case of emergency, the Stewards may allow the use of substitute colors which must be of standard track colors furnished by the Racing Association. (1-1-09)T

03. Standard Colors. Racing Associations may use standard colors if approved by the Racing Commission. If standard colors are used, such colors must be furnished by the Racing Association and in these instances the owner will not be required to provide colors. (1-1-09)T

251. -- 259. (RESERVED).

260. WEIGHTS.

The following weights are carried when they are not stated in the condition of the race: (1-1-09)T

01. Intermediate Length. In races of intermediate lengths, the weights for the shorter distance are carried. (1-1-09)T

02. Allowances. In all races, except handicaps and races where the conditions expressly state to the contrary, two-year old fillies are allowed three (3) pounds, three-year old and older fillies and mares are allowed five (5) pounds before the first of September and three (3) pounds thereafter. (1-1-09)T

03. Overnight Races. In all overnight races, except handicaps, not more than six (6) pounds may be deducted from the scale of weight for age, except allowances; but in no case may the total of allowance of any type reduce the lowest weight below one hundred three (103) pounds, except that this minimum weight need not apply to two-year olds or three-year olds when racing older horses. (1-1-09)T

04. Penalties. Penalties and allowances of weight are not cumulative unless so declared by the conditions of the race. Horses not entitled to the first weight allowance in a race are not entitled to the second and so on. (1-1-09)T

261. -- 262. (RESERVED).

263. APPRENTICE JOCKEY WEIGHT ALLOWANCE.

01. Weight Allowance. An Apprentice Jockey must ride with a five (5) pound weight allowance

beginning with the first mount for one (1) full year from the date of the fifth winning mount. (1-1-09)T

02. After One Year. If after riding one (1) full year from the date of the fifth winning mount the Apprentice Jockey has failed to ride a total of forty (40) winners from the date of the first winning mount, the apprentice must continue to ride with a five (5) pound weight allowance for one (1) more year from the date of the fifth winning mount or until the apprentice has ridden a total of forty (40) winners, whichever comes first. (1-1-09)T

03. If Unable to Ride. If an Apprentice Jockey is unable to ride for a period of fourteen (14) consecutive days or more from the date of the apprentice's fifth winning mount because of service in the Armed Forces of the United States or because of physical disablement, the Racing Commission may extend the time during which such apprentice weight allowance may be claimed for a period not to exceed the period such Apprentice Jockey was unable to ride. (1-1-09)T

264. (RESERVED).

265. WEIGHTS IN HANDICAP RACES.

01. Weight Assignment. The Handicapper or Board of Handicappers assigns all weight to be carried in a handicap race. (1-1-09)T

02. No Alterations. No alteration may be made after publication except in the case of omission through error of the name or weight of a horse duly entered; in which case, by permission of the Stewards, the omission may be rectified by the Handicapper. (1-1-09)T

266. -- 269. (RESERVED).

270. WEIGHT FOR AGE.

01. Scale of Weight for Age.

DISTANCE	AGE	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
1/4 Mile	2yrs	104	104	104	108	108	108	112	112	112	116	116	116
	3yrs	120	120	120		122	122	124	124	124	126	126	126
	4yrs & up	128	128	128	128	128	128	128	128	128	128	128	128
1/2 Mile	2yrs	105	108	111	114	114							
	3yrs	117	117	119	119	121	123	125	127	127	128	129	129
	4yrs	130	130	130	130	130	130	130	130	130	130	130	130
	5yrs	130	130	130	130	130	130	130	130	130	130	130	130
	& up	13	13	11	11	9	7	5	4	3	2	1	1
Furlongs	2yrs	102	105	108	111	111							
	3yrs	114	114	117	117	119	121	123	125	126	127	128	128
	4yrs	129	129	130	130	130	130	130	130	130	130	130	130
	5yrs	130	130	130	130	130	130	130	130	130	130	130	130
	& up	15	15	13	13	11	9	7	5	4	3	2	2

One Mile	2yrs	96	99	102	102								
	3yrs	107	107	111	111	113	115	117	119	121	122	123	123
	4yrs	127	127	128	128	127	126	126	126	126	126	126	126
	5yrs	128	128	128	128	127	126	126	126	126	126	126	126
	& up	20	20	17	17	14	11	9	7	5	4	3	3
1-1/4 Mile	2yrs												
	3yrs	101	101	107	107	111	113	116	118	120	121	122	122
	4yrs	125	125	127	127	127	126	126	126	126	126	126	126
	5yrs	127	127	127	127	127	126	126	126	126	126	126	126
	& up	24	24	20	20	16	13	10	8	6	5	4	4
1-1/2 Mile	2yrs												
	3yrs	98	98	104	104	108	111	114	117	119	121	122	122
	4yrs	124	124	126	126	126	126	126	126	126	126	126	126
	5yrs	126	126	126	126	126	126	126	126	126	126	126	126
	& up	26	26	22	22	18	15	12	9	7	5	4	4
2 Miles	3yrs	96	96	92	92	106	109	112	114	117	119	120	120
	4yrs	124	124	126	126	126	126	126	125	125	124	124	124
	5yrs	126	126	126	126	126	126	126	125	125	124	124	124
	& up	28	28	24	24	20	17	14	11	8	5	4	4

(1-1-09)T

02. Limit. Exclusively for three-year olds or four-year-olds the weight is one hundred twenty-six (126) pounds and in races exclusively for two-year olds it is one hundred twenty-two (122) pounds. (1-1-09)T

271. -- 279. (RESERVED).

280. CLERK OF THE SCALES.

01. In Charge of the Scales. The Clerk of the Scales is in charge of the scales furnished by the Racing Association. (1-1-09)T

02. Check the Weight. The Clerk of the Scales must check the weight of all Jockeys out and perform such other duties as are customarily required. (1-1-09)T

03. Record. At the time of weighing out the Clerk of the Scales must record all overweights. Overweights must be announced publicly or posted in a conspicuous place prior to the first race of the day and before the running of each race. (1-1-09)T

04. Weigh In. After each race the Clerk of the Scales must weigh in all Jockeys running fourth or better. (1-1-09)T

281. -- 284. (RESERVED).

285. PRE-RACE WEIGH OUT.

01. Specific Horse. Every Jockey must be weighed for a specified horse no more than thirty (30) minutes before the time fixed for the race. (1-1-09)T

02. Jockey Equipment. A Jockey's weight includes riding clothes, saddle and pad but does not include the safety helmet or whip. (1-1-09)T

286. -- 289. (RESERVED).

290. OVERWEIGHT.

01. Overweight. If a Jockey intends to carry overweight, the amount thereof must be declared at the time of weighing out. If in doubt as to the proper weight, the weight to be carried may be declared. (1-1-09)T

02. More Than Two Pounds. If a Jockey intends to carry overweight exceeding by more than two (2) pounds the weight which the horse is to carry and the Trainer consents, the Jockey must declare the amount of overweight to the Clerk of the Scales at least forty-five (45) minutes before the time appointed for the race and the Clerk must state the overweight on the notice board immediately. Failure on the part of the Jockey to comply with this rule must be reported to the Stewards. (1-1-09)T

03. No More Than Seven Pounds. No horse may carry more than seven (7) pounds overweight, except at fair circuit racetracks with the permission of the stewards. (1-1-09)T

291. -- 294. (RESERVED).

295. POST RACE WEIGH IN.

01. Upon Completion of a Race. After a race has been run and after the Jockey has pulled up the horse ridden, the Jockey must ride promptly to the area designated by the Stewards. After obtaining permission from the Judges, the Jockey must dismount and present himself to the Clerk of the Scales to be weighed in. If a Jockey is prevented from riding a mount to the Judges stand because of an accident or an illness either to the Jockey or the horse, the Jockey may walk or be carried to the scales or may be excused by the Stewards from weighing. (1-1-09)T

02. Preparation for Weigh In. Except by permission of the Stewards upon returning to the Placing Judges stand, every Jockey must unsaddle the horse ridden. No person may touch the Jockey or the horse, except by the bridle, nor cover the horse in any manner until the Jockey has removed the equipment to be weighed. (1-1-09)T

03. Carrying Equipment. Each Jockey must weigh in carrying over the Scales all pieces of equipment with which weighed out. Thereafter, the equipment may be given to the Jockey's attendant. (1-1-09)T

04. Same Weight. Each Jockey must weigh in at the same weight as that which he weighed out and, if short of it by more than two (2) pounds, the horse will be disqualified. (1-1-09)T

05. More Weight. If any Jockey weighs in at more than two (2) pounds over the proper or declared weight, the Jockey will be fined or suspended or ruled off by the Stewards, having due regard for any excess weight caused by rain or mud. The case must be reported to the Racing Commission for such action as it may deem proper. (1-1-09)T

296. -- 299. (RESERVED).

300. PADDOCK JUDGE.

The Paddock Judge is in charge of the paddock. (1-1-09)T

01. Horses. The Paddock Judge must check all horses for each race. (1-1-09)T

02. Records. The Paddock Judge must keep a record of equipment carried by horses in races under the Paddock Judge's jurisdiction. The Paddock Judge must not permit any change in equipment not authorized by the Stewards. (1-1-09)T

03. Shod. The Paddock Judge must determine that horses in the paddock are properly shod and must report any irregularities to the Stewards. (1-1-09)T

04. Bandages. The Paddock Judge and the Commission Veterinarian must inspect bandages on horses prior to the participation in a race. They may order removal and replacement of bandages. They must report any indications of fraud in the type of bandages or other equipment to the Stewards. (1-1-09)T

05. Commands. The Paddock Judge issues the command "RIDERS UP" and the order to proceed to the post parade. (1-1-09)T

06. Conduct. The Paddock Judge is responsible for the conduct of all persons in the paddock and all irregularities in conduct must be reported to the Stewards. (1-1-09)T

07. Paddock Safety. The Paddock Judge is responsible for safety in the paddock and for safety reasons may limit the number of people allowed in the paddock area. (1-1-09)T

301. -- 309. (RESERVED).

310. EQUIPMENT.

01. Permission Needed for Equipment Change. Permission for any change of equipment from that which a horse carried in its last race must be secured from the Paddock Judge before being granted by the Stewards. Such change must be announced or posted for public information. (1-1-09)T

02. Blinkers. Permission to use or discontinue the use of blinkers must be secured from the starter before being granted by the Stewards. (1-1-09)T

03. Bridles and Whips. All bridles and whips must be of racing design and in a clean serviceable condition approved by the Stewards. All whips must have a minimum of three (3) rows of feathers. (1-1-09)T

04. Tongue Tie. Permission to use or discontinue the use of a tongue tie must be secured from the Paddock Judge before being granted by the Stewards. (1-1-09)T

05. Change. Any equipment change from the time the horses enter the track until the horses are dispatched at the start of the race must be made by the Starter. If schooled before the Starter and approved by him and the Stewards before time of entry, a whip or blinkers, or both, may be used on two-year-olds and other first time starters. (1-1-09)T

06. Head Number. Every horse in a race must have a head number which must be attached at the junction of the brow band and the head piece of the bridle. This number must correspond to the saddle cloth number of the horse as shown on the program. The Stewards may for good cause excuse this requirement. (1-1-09)T

311. -- 319. (RESERVED).

320. THE STARTER.

01. Starter. The Starter must give orders to secure a fair start. To avoid delay, if after reasonable efforts a horse cannot be led or backed into position, the Starter will request the horse scratched by the Stewards. (1-1-09)T

02. Starting Gate. All races must utilize a starting gate approved by the Racing Commission, except that with permission of the Stewards a race may be started with or without a gate. When the starting gate is used, it must be placed on the track at the direction of the Starter. (1-1-09)T

03. Assistants. The Starter may appoint assistants but neither the Starter nor assistants may strike or use abusive language toward a Jockey. The Starter or assistant will be disciplined by the Stewards for violation of this rule. (1-1-09)T

04. Schooled. Horses must be schooled under the supervision of the Starter or assistants and the Starter must designate the horses to be placed on the starters list, a copy of which must be posted in the office of the Racing Secretary. (1-1-09)T

05. Approval. The Starter must approve all entries of two-year-olds and first time starters before they are allowed to start. (1-1-09)T

06. Disciplinary Action. The Starter may recommend to the Stewards disciplinary action against Jockeys or other persons. (1-1-09)T

321. -- 329. (RESERVED).

330. TIMER.

01. Timers. The Timers, the number to be determined by the Stewards, must occupy the Timer's stand or other appropriate place during the running of a race and they will record the time of each race for posting. At the close of each day's racing, they must file a written report of the time, including the fractional time, of each race of the day with the Racing Secretary. (1-1-09)T

02. Recorded Time. The time recorded for the first horse to cross the finish line is the official time of the race. If a horse establishes a track record and it is later determined there is a presence of a drug, such track record is null and void. (1-1-09)T

03. Electronic Timing. Electronic timing devices must be approved by the Racing Commission. (1-1-09)T

331. -- 339. (RESERVED).

340. PATROL JUDGE.

01. Duties. The Racing Association may appoint and assign Patrol Judges, as required by the Stewards, whose duties are to view each race from the vantage point assigned to them by the Stewards. (1-1-09)T

02. Communication. The Racing Association must provide communication devices between the Patrol Judges and the Stewards. (1-1-09)T

03. Report. Prior to 9 a.m. the following work day the Patrol Judge must report in writing the Judge's observation of each race. The report must be provided to the Stewards. (1-1-09)T

341. -- 349. (RESERVED).

350. PLACING JUDGES.

The Placing Judge or Judges may decide which horse wins and assign respective places in the race as is proper, usually the first four (4) finishing positions. When the Judges differ, the majority governs. In determining the places of horses at the finish of a race, the Placing Judges must consider only the respective noses of such horses. (1-1-09)T

351. -- 359. (RESERVED).

360. PHOTO FINISH CAMERA.

01. Approved Camera. A photo finish camera that has been approved by the Racing Commission must be installed as an aid to the Placing Judges at each track. (1-1-09)T

02. Judges Decision. The camera is merely an aid and the decision of the Judges is final. The finish line must appear in the photos. (1-1-09)T

03. Photo Posted. The photograph of each photo finish must be posted in at least one (1) conspicuous place at the track as promptly as possible after each such race. (1-1-09)T

04. Photographic Record. The Racing Association must keep a photographic record of each race on file for the duration of the race meet for reference or reproduction upon request of the Racing Commission. (1-1-09)T

361. PLACING ERRORS.

01. Errors. Nothing in these rules may be construed to prevent the Placing Judges, with the approval of the Stewards, from correcting an error before the display of the sign "OFFICIAL." (1-1-09)T

02. Method. If the "OFFICIAL" sign is displayed in error, the pools and purses must be calculated for both error and correction and the Racing Association must make up any losses. (1-1-09)T

362. VIDEO RECORDS.

In instances where there was an inquiry, disqualification or suspension as a result of the running of the race, video camera tapes of races will be kept until released in writing by the Racing Commission. (1-1-09)T

363. -- 369. (RESERVED).

370. CLAIMING RACES.

All claiming races must be run in conformance with these rules and IDAPA 11.04.09 "Rules Governing Claiming Races". (1-1-09)T

371. -- 399. (RESERVED).

400. STAKE RACE APPLICATIONS.

01. Stake Race Nomination Applications. Stake race nomination applications must be submitted to the Racing Commission for approval. Rules adopted by the Racing Commission supersede conditions of the race. (1-1-09)T

02. Weights. Weights, or the method of selection of weights, must be listed on the nomination application. (1-1-09)T

03. Purse. Stake nomination applications must indicate the amount of money to be added to the purse by the Racing Association or sponsor, if any. (1-1-09)T

04. No Deductions. No deductions may be withheld from the purse unless so stated on the nomination application. (1-1-09)T

401. -- 404. (RESERVED).

405. STAKE RACE NOMINATIONS.

If a nominee is sold, the entry goes with the foal and fees may be kept up by the buyer. There will be no refunds. If a nominee dies, the entry fees remain in the race. (1-1-09)T

406. -- 409. (RESERVED).

410. NOMINATION AND ENTRY FEES.

01. Fees Deposited. Nomination and entry fees must be deposited in an account approved by the Racing Commission. (1-1-09)T

02. Interest. Accrued interest must be added to the purse of the stakes race. (1-1-09)T

03. List. A list of all horses remaining eligible must be sent to the Racing Commission and each nominator or made available on a website listed on the nomination application to the stake no later than fourteen (14) days after the closing of each payment. (1-1-09)T

04. Deposits. All monies and accrued interest must be deposited with the Horsemen's Bookkeeper prior to the day of entry. (1-1-09)T

05. Refund. Any horses drawing outside the gate will have the entry fee refunded. (1-1-09)T

411. -- 414. (RESERVED).

415. CANCELLATION OF A STAKES RACE.

A Racing Association reserves the right, with the consent of the Racing Commission, to cancel or postpone a stakes race. (1-1-09)T

416. -- 419. (RESERVED).

420. FAILURE OF STALL GATE.

No liability will be incurred beyond the refund of starting and entry fees if a stall gate fails to open and such horse is declared a nonstarter. (1-1-09)T

421. -- 424. (RESERVED).

425. RACE OFF.

If a stake race is declared off, all nominations and fees and accrued interest paid in connection with that race must be refunded. Incurred administration expense may be deducted, subject to review by the Racing Commission. (1-1-09)T

426. -- 429. (RESERVED).

430. STAKE TRIALS.

01. Trial. Except in cases where the starting gate physically restricts the number of horses starting, each trial must consist of no more than ten (10) horses. (1-1-09)T

02. Less Than Ten Stalls. If the Racing Association's starting gate has less than ten (10) stalls, then the maximum number of qualifiers will correspond to the maximum number of starting gate positions. (1-1-09)T

03. Finals Only. The Racing Association may choose to run a finals only if the number of horses eligible is less than the available stalls in the starting gate. (1-1-09)T

431. -- 434. (RESERVED).

435. TRIALS RACED UNDER SAME CONDITIONS.

01. Same Conditions. The trials must be raced under the same conditions as the finals and the number of qualifiers for the finals must correspond to the number of stalls in the starting gate for the finals. (1-1-09)T

02. Conducted On Same Day. If the trials are conducted on the same day, the number of horses corresponding to the stalls available in the starting gate per the conditions of the race will qualify to participate in the finals. (1-1-09)T

03. Conducted On Two Days. If the trials are conducted on two (2) days, one-half (1/2) of the horses that qualify for the finals must come from the first day of trials and one-half (1/2) of the horses that qualify for the finals must come from the second day of trials. (1-1-09)T

04. More Than One Entry. When trials are conducted on two (2) days, the Racing Secretary must split owners with more than one (1) entry into separate days. (1-1-09)T

436. -- 439. (RESERVED).

440. QUALIFICATION BASED ON TIME.

01. Qualifying. In the time trials, horses qualify on the basis of time and order of finish. The times of the horses in the time trial will be determined to the limit of the timer. (1-1-09)T

02. Same Trial Heat. The only exception is when two (2) or more horses have the same time in the same trial heat. Then the order of finish also determines the preference in qualifying for the finals. (1-1-09)T

03. Different Trial Heats. Should two (2) or more horses in different time trials have the same qualifying time to the limit of the timer for the final qualifying position(s), then a draw by public lot will be conducted as directed by the Stewards. (1-1-09)T

04. Not Determined Beyond the Limit of the Timer. Qualifying times in separate trials will not be determined beyond the limit of the timer by comparing or enlarging photo-finish images, or both. (1-1-09)T

05. Adjustments. No adjustments will be made in the times recorded in the time trials to account for head-wind, tail-wind, off-track, etc. (1-1-09)T

441. -- 444. (RESERVED).

445. DISQUALIFICATION.

01. Disqualification. Except in the case of disqualification, under no circumstances will a horse qualify ahead of a horse that finished ahead of that horse in the official order of finish in a time trial. (1-1-09)T

02. Interference. Should a horse be disqualified for interference during the running of a time trial, it will receive the time of the horse it is immediately placed behind plus one hundredth (.01) of a second, or the maximum accuracy of the electronic timing device. (1-1-09)T

03. No Time. If a horse is disqualified for interference with another horse causing loss of rider or the horse not to finish the race, the disqualified horse will be given no time plus one hundredth (.01) of a second, or the maximum accuracy of the electronic timing device. (1-1-09)T

446. -- 449. (RESERVED).

450. TIMER MALFUNCTION IN A TIME TRIAL.

01. Electronic Time Malfunction. Should a malfunction occur with electronic timer on any time trial, finalists from that time trial will then be determined by official hand times operated by three (3) official and disinterested persons. (1-1-09)T

02. Average of Times. The average of the three (3) hand times will be utilized for the winning time, unless one (1) of the hand times is clearly incorrect. In such cases, the average of the two (2) accurate hand times will be utilized for the winning time. Other horses will be given times according to the order and margins of finish with the aid of the photo-finish, if available. (1-1-09)T

03. Malfunction in Some Trials Only. When there is a malfunction of the timer in some time trials, but the timer operates correctly in other time trials, the accurate electronic times will not be discarded, nor will the average of the hand times be used for all time trials. (1-1-09)T

04. Accuracy Questioned. If the accuracy of the electronic timer or the average of the hand times, or both, are questioned, the video of a time trial may be used by the stewards to estimate the winning time by counting the number of video frames in the race from the moment the starting gate stall doors are fully open parallel to the racing track. (1-1-09)T

05. Based on Video. When the timer malfunctions and there are no hand times, the stewards may select qualifiers based on the video. (1-1-09)T

451. QUALIFICATION BASED ON ORDER OF FINISH.

01. Order of Finish. Qualification for finals may be based upon order of finish in the trials as opposed to time. (1-1-09)T

02. Top Finishers. The top finishers in each trial heat will qualify in equal numbers from each heat with the total number of qualifiers limited to the maximum number of starting gate positions. (1-1-09)T

03. Equal Number of Qualifiers. In the event an equal number of qualifiers from each trial heat will not be sufficient to fill all starting gate positions, the remaining positions will be filled by lot between the horses in each trial heat that finished directly behind those that qualified. (1-1-09)T

452. -- 454. (RESERVED).

455. STARTING GATE MALFUNCTION.

01. Malfunction. Should there be a malfunction of the starting gate, and one (1) or more stall doors do not open or open after the exact moment when the starter dispatches the field, the stewards may declare the horses with malfunctioning stall doors non-starters and the starting and entry fees refunded, or may allow any horse whose stall door opened late, but still ran a time fast enough to qualify to be declared a starter for qualifying purposes. (1-1-09)T

02. Breaks Through Gate. If a horse breaks through the stall door, or the stall door opens prior to the exact moment the starter dispatched the field, the horse must be declared a non-starter and the starting and entry fees refunded. If the field has not been dispatched, the horse may be allowed to start at the discretion of the Stewards. (1-1-09)T

03. Considered Starters. If one (1) or more, but not all, stall doors open at the exact moment the starter purposely dispatches the field, all horses should be considered starters for qualifying purposes and placed according to their electronic time. (1-1-09)T

456. -- 459. (RESERVED).

460. SCRATCHED FROM TRIALS.

If a horse should be scratched from the trials, the horse's owner is not eligible for a refund of the fees paid and is not allowed to enter the final. (1-1-09)T

461. -- 464. (RESERVED).

465. SCRATCHED FROM FINALS.

If a horse that qualified for the final should be unable to enter due to racing soundness, or scratched for any reason other than a positive drug test or a rule violation, the horse is deemed to have earned and the owner will receive, last place purse money. If more than one (1) horse is scratched from the final, then those purse monies will be added together and divided equally among those owners. (1-1-09)T

466. -- 469. (RESERVED).

470. QUALIFIER INELIGIBLE.

01. Prior to Entry. If a qualifier for a final or consolation is disqualified for ineligibility or a rule violation after the trials are declared official, but prior to entry for the final or consolation, the next eligible horse to qualify will replace the disqualified horse. (1-1-09)T

02. After Entry. If a qualifier is disqualified after entry for the final or consolation for ineligibility or a rule violation in the trials, the purse will be redistributed, and the next eligible horse to qualify will receive last place purse money. (1-1-09)T

471. -- 474. (RESERVED).

475. ALSO ELIGIBLE.

01. Also Eligibles. There will be no more than four (4) also eligibles selected when one (1) division of a stake is to be run. Horses cannot be advanced after the regular advertised scratch time. (1-1-09)T

02. No Also Eligible List. When two (2) or more divisions of the same stake are to be run, there will be no "also eligible list" in any of the two (2) or more divisions and if a horse should scratch, the owner will receive last place purse money in that particular division for which the horse qualified. (1-1-09)T

03. More Than One Scratch. If more than one (1) horse should scratch out of the same division, than those monies will be added together and divided equally among those scratching out of that division. (1-1-09)T

476. -- 499. (RESERVED).

500. JOCKEY ROOM CUSTODIAN.

The Jockey Room Custodian must be in attendance at all times that the Jockeys are in the Jockey room. The Custodian is authorized to regulate the conduct of Jockeys. (1-1-09)T

501. -- 529. (RESERVED).

530. IDENTIFIER.

01. Identifier. The Identifier is responsible for positively identifying all horses entered to race. (1-1-09)T

02. Inspection. The Identifier inspects each horse prior to its departure for the post. (1-1-09)T

03. Other. The Identifier inspects, identifies and prepares I.D. cards by using the lip tattoo, markings from photos, written descriptions, or National Animal Identification System compliant devices. (1-1-09)T

531. -- 989. (RESERVED).

990. PENALTIES.

Any person violating any of the provisions of these rules is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code and any of the Racing Commission rules. (1-1-09)T

991. -- 998. (RESERVED).

999. MINOR VIOLATIONS.

Nothing in these rules may be construed as requiring the Racing Commission to report minor violations when the Racing Commission believes that the public interest will be best served by suitable warnings or other administrative action. (1-1-09)T

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

**11.04.11 - RULES GOVERNING EQUINE VETERINARY PRACTICES, PERMITTED MEDICATIONS,
BANNED SUBSTANCES AND DRUG TESTING OF HORSES**

DOCKET NO. 11-0411-0901 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2506, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

TUESDAY - JANUARY 13, 2009 - 6:00 p.m.

**NAMPA CIVIC CENTER
Home Federal Room
311 3RD Street South, Nampa, ID**

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

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

This rule provides a clear concise rule Chapter on Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses. In addition, this rule conforms more closely with the Association of Racing Commissioners International Model Rules in a plain English format.

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

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. However this rule was developed with input from a committee comprised of representatives of all segments of the horse racing industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Idaho State Racing Commission, 208-884-7080.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 12th day of November, 2008.

Dennis Jackson, Executive Director
Idaho State Racing Commission
700 S. Stratford Drive
PO Box 700, Meridian, ID 83780-0700
Phone: 208-884-7080 / Fax: 208-884-7098

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0411-0901

IDAPA 11
TITLE 04
CHAPTER 11

IDAHO STATE RACING COMMISSION

**11.04.11 - RULES GOVERNING EQUINE VETERINARY PRACTICES, PERMITTED MEDICATIONS,
BANNED SUBSTANCES AND DRUG TESTING OF HORSES**

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (1-1-09)T

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.04.11, "Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses." (1-1-09)T

02. Scope. These rules governs the practices of veterinarians licensed by the Racing Commission, permitted medication of horses and drug testing of horses by the Idaho State Racing Commission. (1-1-09)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (1-1-09)T

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal racing commission actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (1-1-09)T

004. INCORPORATION BY REFERENCE.

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

01. Physical Address. The central office of the Idaho State Racing Commission is located at 700 S. Stratford Drive, Meridian, Idaho. (1-1-09)T

02. Office Hours. The central office is open 8 a.m. to 5 p.m., Mountain Time, Monday thru Friday, except holidays designated by the state of Idaho. (1-1-09)T

03. Mailing Address. The mailing address for the central office is Idaho State Racing Commission, P.O. Box 700, Meridian, Idaho 83680-0700. (1-1-09)T

- 04. Telephone Number.** The telephone of the office is (208) 884-7080. (1-1-09)T
- 05. Fax Number.** The facsimile number of the office is (208) 884-7098. (1-1-09)T
- 06. Website.** The Racing Commission website is <http://www.isp.state.id.us/race>. (1-1-09)T

006. PUBLIC RECORDS COMPLIANCE AND AVAILABILITY.

These rules are public records available for inspection and copying at the Idaho State Racing Commission central office or on the Racing Commission website, <http://www.isp.state.id.us/race>. (1-1-09)T

007. -- 009. (RESERVED)

010. DEFINITIONS.

- 01. Bleeder List.** A list maintained by the commission veterinarian with all horses that have demonstrated external evidence of exercise induced pulmonary hemorrhage from one (1) or both nostrils during or after a race or workout. (1-1-09)T
- 02. Calendar Year.** A calendar year beginning January 1 and ending December 31. (1-1-09)T
- 03. Colt.** An intact male horse under five (5) years of age. (1-1-09)T
- 04. Commission Veterinarian.** A Racing Commission appointed veterinarian having authority to enforce the Racing Commission's rules relating to veterinary practices. (1-1-09)T
- 05. Filly.** A female horse that has not reached five (5) years of age. (1-1-09)T
- 06. Gelding.** An altered male horse of any age. (1-1-09)T
- 07. Horse.** Includes filly, mare, colt, horse or gelding in general; when referring to sex, a horse is an intact male five (5) years old or older. (1-1-09)T
- 08. Hypodermics.** Any hypodermic instrument, hypodermic syringe or hypodermic hollow needle used for injection of substances into the body of a horse. (1-1-09)T
- 09. Inspection of Horses.** A veterinarian inspection to assess the racing condition of every horse entered in an official race. (1-1-09)T
- 10. Mare.** A female horse that has reached the age of five (5) years. (1-1-09)T
- 11. Medication Report Form.** A form signed by the treating veterinarian disclosing the identity of the horse, the permitted drug being used with dosage or procedure administered, the time administered and the name of the trainer. (1-1-09)T
- 12. Mitigating Circumstances.** An event that constitutes detail to support a penalty to be waived or less harsh. (1-1-09)T
- 13. Needle and Syringe.** See Hypodermics - Subsection 010.08 of these rules. (1-1-09)T
- 14. 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. (1-1-09)T
- 15. Paddock.** An enclosure in which horses scheduled to compete in a contest are saddled prior to racing. (1-1-09)T
- 16. Penalties.** For this chapter, a penalty issued against an individual(s) found guilty of medication and drug violations. (1-1-09)T

17. **Prohibited Substances.** Medication and drugs that should not be administered to a horse. (1-1-09)T
18. **Racing Association.** Any person licensed by the Racing Commission to conduct live or simulcast pari-mutuel wagering. (1-1-09)T
19. **Racing Commission.** Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee. (1-1-09)T
20. **Racing Condition.** The physical ability to race of a horse determined by the commission veterinarian. (1-1-09)T
21. **Sample.** A blood or urine sample taken from a horse at the direction of the commission veterinarian. (1-1-09)T
22. **Split Sample.** A blood or urine sample taken from a horse that is greater than the minimum sample requirement. (1-1-09)T
23. **Suspension.** Punishment for violation of the Racing Commission rules. The offender is denied privileges of the racing facilities for a specified period of time. (1-1-09)T
24. **Test Area.** A barn provided by a racing association used for taking specimens of urine, blood or other bodily substances or tissues for testing. (1-1-09)T
25. **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. (1-1-09)T
26. **Veterinarian's List.** A list of all horses which are ineligible to be entered in any race due to a physical condition. (1-1-09)T
27. **Veterinarians' Reports.** The Medication Report Form completed by every veterinarian who treats a racehorse at any location under the jurisdiction of the Racing Commission. (1-1-09)T
28. **Veterinarian.** Practicing Private practitioner employed by owners and trainers on an individual case or contract basis. (1-1-09)T
- 011. ABBREVIATIONS.**
DMSO. Dimethyl Sulfoxide. (1-1-09)T
- 012. -- 019. (RESERVED).**
- 020. ENTER, SEARCH AND INSPECT.**
Every Racing Association, the Racing Commission, the Stewards or trained and qualified agents of the Idaho State Police, have the right to enter, search and inspect the buildings, stables, rooms and other places where horses which are eligible to race are kept, or where property and effects of the licensee are kept within the grounds of the Racing Association. Any licensee accepting a license is deemed to have consented to such search and to the seizure of any non-approved or prohibited materials, chemicals, drugs or devices and anything apparently intended to be used in connection therewith. (1-1-09)T
- 021. AUTHORITY OF THE COMMISSION VETERINARIAN.**
The Commission Veterinarian has the authority to supervise the actions of veterinarians licensed by the Racing Commission while they are practicing at any location under the jurisdiction of the Racing Commission. The commission veterinarian recommends to the Stewards or the Racing Commission disciplinary actions for any veterinarian who violates any Racing Commission rule. (1-1-09)T
- 022. REPORT OF DISEASE.**

All practicing veterinarians must promptly notify the commission veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in his charge. (1-1-09)T

023. RESTRICTIONS OF WAGERING.

A practicing veterinarian may not wager on the outcome of any race if the practicing veterinarian has treated a horse participating in the race within the past thirty (30) days. (1-1-09)T

024. -- 029. (RESERVED).

030. TREATMENT RESTRICTIONS.

Except as otherwise provided by these rules, no person other than a veterinarian licensed to practice veterinary medicine in Idaho and licensed by the Racing Commission may administer a prescription or controlled medication, drug, chemical or other substance, including any medication, drug, chemical or other substance by injection, to a horse at any location under the jurisdiction of the Racing Commission. (1-1-09)T

031. ADMINISTRATION OF NON-INJECTABLE SUBSTANCES.

These rules do not apply to the administration of the following substances in approved quantitative levels present in post-race samples, if any, or as they may interfere with post-race testing: (1-1-09)T

01. Nutritional Supplement. A recognized non-injectable nutritional supplement or other substance approved by the commission veterinarian; (1-1-09)T

02. Prescription. A non-injectable substance on the direction or by prescription of a licensed veterinarian; or (1-1-09)T

03. Non-Prescription. A non-injectable non-prescription medication or substance. (1-1-09)T

032. -- 034. (RESERVED).

035. HYPODERMIC NEEDLES.

01. Possession Prohibited. No person may possess a hypodermic needle, syringe or injectable of any kind on Racing Association grounds, unless approved by the Racing Commission. (1-1-09)T

02. Disposable Needles. At any location under the jurisdiction of the Racing Commission, licensed veterinarians may use only one-time disposable needles, and must dispose of them in a manner approved by the Racing Commission. (1-1-09)T

03. Medical Condition. If a person has a medical condition that makes it necessary to have a syringe at any location under the jurisdiction of the Racing Commission, that person must: (1-1-09)T

a. Request permission of the Stewards or the Racing Commission in writing; (1-1-09)T

b. Furnish a letter from a licensed physician explaining why it is necessary for the person to possess a syringe; and (1-1-09)T

c. Comply with any conditions and restrictions set by the Stewards or the Racing Commission. (1-1-09)T

036. -- 039. (RESERVED).

040. BANNED SUBSTANCES.

01. Banned Substances. Any medication, drug, chemical, narcotic, anesthetic, or analgesic that is not specifically permitted by these rules is banned from use in horses that are eligible to race in Idaho and are located on the grounds of a racing association. (1-1-09)T

02. Administration by Veterinarians. All practicing veterinarians administering drugs, medications or other substances are responsible for ensuring that the drugs, medications or other substances and the veterinary treatment of horses are administered in accordance with these rules. (1-1-09)T

041. -- 049. (RESERVED).

050. NON-PERMITTED MEDICATION.

If the Stewards find that any non-permitted medication, drug, chemical, narcotic, anesthetic, or analgesic has been administered to a horse in such a manner that it is present in a pre-race or post-race test sample, such presence constitutes prima facie evidence of a violation of these rules. (1-1-09)T

051. -- 059. (RESERVED).

060. MEDICATIONS.

01. Taking Samples. The Commission Veterinarian, the Racing Commission, or any member of the Board of Stewards may take samples of any medicines or other materials suspected of containing improper medication, drugs or chemicals that would affect the racing condition of a horse in a race. (1-1-09)T

02. Location. Any substances found in stables or elsewhere on the grounds of a racing association or in the possession of any person connected with racing are subject to sampling. (1-1-09)T

03. Testing. Substances sampled must be delivered to a laboratory designated by the Racing Commission for testing. (1-1-09)T

061. -- 069. (RESERVED).

070. ANTI-ULCER MEDICATIONS.

The following anti-ulcer medications are permitted to be administered, at the stated dosage, up to twenty-four (24) hours prior to the race in which the horse is entered: (1-1-09)T

01. Cimetidine (Tagamet®). Dosage 8-20 mg/kg PO BID-TID. (1-1-09)T

02. Omeprazole (Gastrogard®). Dosage 2.2 grams PO SID. (1-1-09)T

03. Ranitidine (Zantac®). Dosage 8 mg/kg PO BID. (1-1-09)T

071. -- 074. (RESERVED).

075. ENVIRONMENTAL CONTAMINANTS AND SUBSTANCES OF HUMAN USE.

The following substances can be environmental contaminants in that they are endogenous to the horse or that they can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases. (1-1-09)T

01. Caffeine. Caffeine is recognized as a substance of human use and could be found in the horse due to its close association with humans. The regulatory threshold for caffeine is 100 nanograms of caffeine per milliliter of serum or plasma. (1-1-09)T

02. Positive Test. If the preponderance of evidence presented in a hearing shows that a positive test is the result of environmental contamination or inadvertent exposure due to human drug use it should be considered as a mitigating factor in any disciplinary action taken against the affected trainer. (1-1-09)T

076. -- 099. (RESERVED).

100. TESTING FACILITIES.

The Racing Commission may require the Racing Association to provide such facilities for medication, drug or other tests of a horse as may be required by the Racing Commission. (1-1-09)T

101. -- 104. (RESERVED).

105. LABORATORY MINIMUM STANDARDS.

Laboratories conducting either primary or split post-race sample analysis must meet at least the following minimum standards: (1-1-09)T

01. Lab Accreditation. A testing laboratory must be accredited by a recognized accrediting body to any standards set forth and required by the Racing Commission. (1-1-09)T

02. Instrumentation for Screening. A testing laboratory must have, or have access to, LC/MS instrumentation for screening or confirmation purposes, or both. (1-1-09)T

03. Standards of Detection. A testing laboratory must be able to meet minimum standards of detection, which is defined as the specific concentration at which a laboratory is expected to detect the presence of a particular drug or metabolite, or both, or by the adoption of a regulatory threshold. (1-1-09)T

106. -- 109. (RESERVED).

110. TESTING.

01. Testing. The official winning horse and any other horse ordered by the Racing Commission or the Stewards must be taken to the testing area to have a blood or urine sample taken at the direction of the commission veterinarian. (1-1-09)T

02. Examination. Examination of the race winner or other designated horses must be made by the Commission Veterinarian or his assistant. (1-1-09)T

03. Specimens. All specimens must be collected by the Commission Veterinarian or his assistant. (1-1-09)T

111. -- 114. (RESERVED).

115. RANDOM OR EXTRA TESTING.

Random or extra testing may be required by the Stewards or the Racing Commission at any time on any horse on Racing Association grounds. Unless otherwise directed by the Stewards or the Commission Veterinarian, a horse that is selected for testing must be taken directly to the testing area. (1-1-09)T

116. -- 119. (RESERVED).

120. TRAINER PRESENT.

01. Present During Testing. The Trainer, or his authorized representative, must be present in the testing area when a urine or other specimen is taken from a horse. (1-1-09)T

02. Tag Signed. The sample tag must be signed by the Trainer or his representative, as witness to the taking of the specimen. (1-1-09)T

03. Refusal. Willful failure to be present at or a refusal to allow the taking of such specimen, or any act or threat to impede or prevent or otherwise interfere therewith, subjects the person or persons doing so to immediate suspension by the Stewards and the matter will be referred to the Racing Commission for such further penalty as may be determined. (1-1-09)T

121. -- 129. (RESERVED).

130. SPECIMENS.

01. Delivery to Approved Laboratory. All specimens taken by or under direction of the Commission Veterinarian, or other authorized representative of the Racing Commission, must be delivered to the laboratory approved by the Racing Commission for official analysis. (1-1-09)T

02. Number and Date. Each specimen must be marked by number and date and may also bear such information as may be essential to its proper analysis. (1-1-09)T

03. Identity. The identity of the horse from which the specimen was taken or the identity of its Owner, Trainer, Jockey, or stable must not be revealed to the laboratory. (1-1-09)T

04. Container. The container of each specimen must be sealed as soon as the specimen is placed therein and must bear the name of the Racing Commission. (1-1-09)T

131. -- 139. (RESERVED).

140. DETERMINATION OF SAMPLE.

01. Minimum Sample. The commission veterinarian will determine a minimum sample requirement for the primary testing laboratory. (1-1-09)T

02. Less Than The Minimum. If the specimen obtained from a horse is less than the minimum sample requirement, the entire specimen must be sent to the primary testing laboratory. (1-1-09)T

03. More Than The Minimum. If a specimen obtained is greater than the minimum sample requirement, the portion of the sample that is greater than the minimum sample requirement may be secured as the split sample if proper storage capabilities exist and it is requested by the owner or trainer in writing prior to sample collection from the tested horse. All costs of collecting and storing samples will be at the expense of the owner or trainer requesting the split sample. (1-1-09)T

141. -- 149. (RESERVED).

150. STORAGE AND SHIPMENT OF SPLIT SAMPLES.

Split samples obtained in accordance with Subsection 140.03 of these rules, must be secured and made available for further testing in accordance with the following procedures: (1-1-09)T

01. Secured. A split sample must be secured under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. (1-1-09)T

02. Transferred to a Freezer. Split samples must then be transferred to a freezer at a secure location approved by the Racing Commission. (1-1-09)T

151. -- 159. (RESERVED).

160. TESTING SPLIT SAMPLES.

After having been notified that a written report from a primary laboratory states that a prohibited substance has been found in a specimen obtained pursuant to these rules, a trainer or owner of a horse may request that a split sample corresponding to the portion of the specimen tested by the primary laboratory be sent to another laboratory approved by the Racing Commission. The request must be made in writing and delivered to the Stewards not later than three (3) business days after the trainer of the horse receives written notice of the findings of the primary laboratory. Any split sample so requested must be shipped within an additional forty-eight (48) hours. (1-1-09)T

161. -- 169. (RESERVED).

170. REQUEST FOR TEST PROCEDURE.

01. Requester Responsible for Costs. The owner or trainer requesting testing of a split sample is

responsible for any and all costs of shipping and testing. (1-1-09)T

02. Failure to Appear. Failure of the owner, trainer or designee to appear at the time and place designated by the Commission Veterinarian constitutes a waiver of all rights to split sample testing. (1-1-09)T

03. Lab's Willingness to Test. Prior to shipment, the Racing Commission must confirm the split sample laboratory's willingness to: (1-1-09)T

a. Simultaneously provide the testing requested; (1-1-09)T

b. The laboratory's willingness to send results to both the person requesting the testing and the Racing Commission; and (1-1-09)T

c. Arrangements for payment satisfactory to the split sample laboratory. (1-1-09)T

171. -- 179. (RESERVED).

180. CHAIN OF CUSTODY.

The Racing Commission will provide a split sample chain of custody verification form. (1-1-09)T

181. -- 199. (RESERVED).

200. NON-STEROIDAL ANTI-INFLAMMATORY DRUGS.

01. Exception. No horses may be entered into a race utilizing a Non-Steroidal Anti-Inflammatory Drug, except DMSO, unless: (1-1-09)T

a. The Trainer and Veterinarian of the horse submit to the Commission Veterinarian the Non-Steroidal Anti-Inflammatory Drug Request Form; and (1-1-09)T

b. The Commission Veterinarian has granted written approval for the use. (1-1-09)T

02. Procedures. The Commission Veterinarian must establish and publish reasonable procedures pertaining to use of the Non-Steroidal Anti-Inflammatory Drug Request Form. (1-1-09)T

03. Posted. A copy of the established procedures must be posted in the office of the Racing Secretary. (1-1-09)T

201. -- 209. (RESERVED).

210. NON-STEROIDAL ANTI-INFLAMMATORY DRUG REQUEST FORM.

The Non-Steroidal Anti-Inflammatory Drug Request Form submitted to the Commission Veterinarian must include and be processed as follows: (1-1-09)T

01. Name of Horse. The name, age, sex and breed of the horse; (1-1-09)T

02. Name of Trainer and Veterinarian. The name of the licensed Trainer and veterinarian; (1-1-09)T

03. Nature of Injury. The nature of the horse's injury or disease as determined by an examination by a qualified and duly licensed veterinarian; (1-1-09)T

04. Name of Drug Requested. The name of the Non-Steroidal Anti-Inflammatory drug requested and the proposed time and method of administration; (1-1-09)T

05. Signature. Signature of Trainer and veterinarian attending the horse and the Commission Veterinarian. (1-1-09)T

06. Filing. The trainer or veterinarian attending the horse must file the completed request form with the racing secretary. (1-1-09)T

211. -- 219. (RESERVED).

220. APPROVAL OF NON-STEROIDAL ANTI-INFLAMMATORY DRUG REQUEST

The Commission Veterinarian will approve the Non-Steroidal Anti-Inflammatory Drug request only if: (1-1-09)T

01. Professional Judgment. In the exercise of his professional judgment, a need for the use of the Non-Steroidal Anti-Inflammatory Drug for the particular horse's injury or disease has been satisfactorily demonstrated. (1-1-09)T

02. Professional Diagnosis. In arriving at the decision, the Commission Veterinarian may take into account or rely upon the written professional diagnosis made by a qualified and duly licensed veterinarian. (1-1-09)T

221. -- 229. (RESERVED).

230. EXPIRATION OF APPROVAL.

Approved medication may be discontinued with permission of the Commission Veterinarian. (1-1-09)T

231. -- 239. (RESERVED).

240. PERMITTED NON-STEROIDAL ANTI-INFLAMMATORY DRUGS.

The only Non-Steroidal Anti-Inflammatory Drugs permitted by these rules are: (1-1-09)T

01. Phenylbutazone (Butazoladin); (1-1-09)T

02. Mechlofenamic Acid (Arquel); (1-1-09)T

03. Flunixin (Banamine); and (1-1-09)T

04. Ketoprofen (Ketofen). (1-1-09)T

241. -- 249. (RESERVED).

250. DAILY RACING PROGRAM.

Horses that are on a Non-Steroidal Anti-Inflammatory Drug must be indicated on the daily racing programs or any other publications and a list of horses on a Non-Steroidal Anti-Inflammatory Drug will be posted at a location designated by the Racing Commission. (1-1-09)T

251. -- 259. (RESERVED).

260. NON-STEROIDAL ANTI-INFLAMMATORY DRUG ADMINISTRATION.

No Non-Steroidal Anti-Inflammatory Drug may be administered to the horse later than twenty-four (24) hours prior to the time the horse is scheduled to race. Only one (1) Non-Steroidal Anti-Inflammatory Drug may be in a horse's system on race day. (1-1-09)T

261. -- 264. (RESERVED).

265. BLEEDER TREATMENT.

01. Written Approval Needed. Epistaxis treatment for bleeders is permitted as a race day medication provided that written approval of the Commission Veterinarian is obtained prior to race day treatment on the Medication Request Form. (1-1-09)T

02. Bleeders. Bleeders that have been running under Epistaxis treatment must obtain written approval of the Commission Veterinarian prior to entry in any race before running without similar treatment. (1-1-09)T

03. Premarin. Premarin is a permissible Epistaxis treatment and may be used up to two (2) hours before post time. (1-1-09)T

04. Lasix. Lasix is a permissible Epistaxis treatment. (1-1-09)T

266. -- 269. (RESERVED).

270. IDAHO BLEEDER LIST.

Any horse which exhibits symptoms of Epistaxis or respiratory tract hemorrhage is eligible for placement on the Idaho Bleeder List and for treatment on race days with approved medication to prevent or limit bleeding during racing. (1-1-09)T

01. Placed on Idaho Bleeder List. To be placed on the Idaho Bleeders List a horse must be found to have shed free blood from one (1) or both nostrils or bled internally in the respiratory tract during or immediately following a race or workout. The Commission Veterinarian, following his personal examination of a horse or after consulting with the horses' private veterinarian, may certify a horse as a bleeder. (1-1-09)T

02. Bleeder. (1-1-09)T

a. Any horse that bleeds a second time in Idaho will not be able to race for a period of thirty (30) days from the date of the second bleeding offense. (1-1-09)T

b. Any horse that bleeds a third time in Idaho, and each time thereafter, will be suspended from racing for a period of one (1) year from the date of each bleeding offense. (1-1-09)T

03. Bleeder from Another Jurisdiction. A bleeder horse shipped into Idaho from another racing jurisdiction must comply with Racing Commission rules. Any horse on a bleeder list in another racing jurisdiction may be placed on the Idaho Bleeder List provided a current certificate from the jurisdiction where it was confirmed on the bleeder list, or a letter from the horses private veterinarian, who is currently licensed by the racing jurisdiction, is presented to the Commission Veterinarian for his approval. (1-1-09)T

04. Removal from Bleeder List. The Commission Veterinarian may remove a horse from the Idaho Bleeder List, provided the proper paperwork is complete and it is the recommendation of the licensed veterinarian treating the horse, or after an examination by the Commission Veterinarian, it is determined that the horse is not a bleeder and is no longer eligible for the Bleeder List. (1-1-09)T

271. -- 279. (RESERVED).

280. URINE SAMPLES.

01. Phenylbutazone. No urine sample taken from a horse authorized to use phenylbutazone may exceed one hundred sixty-five (165) micrograms total of phenylbutazone or its metabolites per milliliter of urine. (1-1-09)T

02. Lasix. Any horse whose post-race urine creatinine is less than forty (40) milligrams creatinine per one hundred (100) milliliters urine, and the ratio of urine furosemide to urine creatinine does not exceed fifteen hundredths (.15), with urine furosemide being measured in micrograms per milliliter of urine will be said to be positive for Lasix overage. (1-1-09)T

281. -- 289. (RESERVED).

290. BLOOD SAMPLES.

No blood sample taken from a horse authorized to use the following substances may exceed these limits: (1-1-09)T

01. Phenylbutazone. May not exceed five (5) micrograms of phenylbutazone or oxyphenbutazone per milliliter of plasma; (1-1-09)T

- 02. Flunixin** (Banamine). May not exceed twenty (20) nanograms per milliliter of plasma. (1-1-09)T
- 03. Mechlofenamic Acid** (Arquel). May not exceed one (1) microgram per milliliter of plasma. (1-1-09)T
- 04. Ketoprofen** (Ketofen). May not exceed ten (10) nanograms per milliliter of plasma. (1-1-09)T
- 05. Lasix** (Furosemide) May not exceed one hundred (100) nanograms of furosemide per milliliter of plasma. (1-1-09)T

291. -- 299. (RESERVED).

300. LASIX ADMINISTRATION.

- 01. Time of Treatment.** Horses on the Bleeder List must be treated at least four (4) hours prior to post time with the bleeder medication furosemide (ie. Lasix). (1-1-09)T
- 02. Dosage.** Bleeder medication must be administered in the manner and at a dose level approved by the Commission Veterinarian, such dosage not to exceed two hundred fifty (250) mg. (1-1-09)T
- 03. Witness.** At his request, the Commission Veterinarian or his designee may witness the administration of lasix by the trainer's private licensed veterinarian. (1-1-09)T
- 04. Reporting.** Administration of lasix must be reported in writing, on the form designated by the Racing Commission, to the Commission Veterinarian no later than three (3) hours prior to the scheduled post time of the last live race of the program. (1-1-09)T

301. -- 319. (RESERVED).

320. HORSES NOT STABLED ON GROUNDS.

Any horse on the Idaho Bleeder List that is not stabled on the actual grounds of the Racing Association where it is to race must be brought on to the grounds of the Racing Association where it is scheduled to race at least five (5) hours prior to the post time for the race for which it is entered. (1-1-09)T

321. -- 399. (RESERVED).

400. BICARBONATE TESTING.

- 01. Administration Prohibited.** No biocarbonate-containing substance or alkalizing substance that effectively alters the serum or plasma pH or concentration of bicarbonates or carbon dioxide in a horse may be administered to a horse on race day. (1-1-09)T
- 02. Positive Test Level.** Test samples collected from a horse either before or within one (1) hour following a race may not exceed thirty-seven point zero (37.0) millimoles of total carbon dioxide concentration per liter of serum or plasma. A serum total carbon dioxide level exceeding this value constitutes a positive test.(1-1-09)T
- 03. Collection of Test Samples.** The Commission Veterinarian, the Board of Stewards, or the Executive Director acting on behalf of the Racing Commission may at their discretion and at any time order the collection of test samples from any horses ordered to the test area to determine the serum or plasma pH or concentration of bicarbonate, carbon dioxide, or electrolytes. A sample consisting of at least thirteen (13) ml in a SST tube must be taken from any horse either just prior to a race or up to one (1) hour after a race to determine the serum total carbon dioxide concentration. If the primary testing laboratory finds that the total carbon dioxide levels in the tubes exceed the standard test values of thirty-seven point zero (37.0) millimoles per liter, this may be grounds for disciplinary action. (1-1-09)T
- 04. Split Sample Testing Prohibited.** When taking samples for total carbon dioxide levels, split

samples are prohibited. The procedures for split sample testing does not apply to bicarbonate testing procedures. (1-1-09)T

401. -- 499. (RESERVED).

500. PROTECTION OF HORSES.

The Trainer, groom and any other person having charge, custody or care of a horse is obligated to properly protect the horse and guard it against actual or attempted administration of drugs. If the Stewards find that any person has failed to properly protect and guard a horse, they may impose such penalty and take such other action as they deem proper. (1-1-09)T

501. -- 599. (RESERVED).

600. NON-APPROVED MEDICATION.

A horse owner or trainer found to have administered any non-approved medication substances is in violation of these rules. (1-1-09)T

601. -- 699. (RESERVED).

700. MEDICATION REPORT FORM.

01. Submission of Medication Report Form. All practicing licensed Veterinarians must submit daily to the Commission Veterinarian a Medication Report Form furnished by the Racing Commission. (1-1-09)T

02. Content of Medication Report Form. The form must contain the following information: (1-1-09)T

a. The name, age, sex and breed of the horse; (1-1-09)T

b. The permitted drug used; (1-1-09)T

c. The time the permitted drug was administered; and (1-1-09)T

d. The route and dosage of the administration. (1-1-09)T

03. Signed and Dated. The report must be dated and signed by the licensed Veterinarian so administering the medication. (1-1-09)T

04. Confidential. Any such report is confidential and its content may not be disclosed except in a proceeding before the Stewards or the Racing Commission or in the exercise of the Racing Commission's jurisdiction. (1-1-09)T

701. -- 989. (RESERVED).

990. PENALTIES.

Any person violating any of the provision of these rules is subject to the penalties provided for in Title 54, Chapter 25 Idaho Code and any of the Racing Commission rules. (1-1-09)T

991. -- 994. (RESERVED).

995. VIOLATIONS.

Any person violating any of the provisions of these rules is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code and any of the Racing Commission rules. (1-1-09)T

01. First Violation. The first violation of these rules will result in the issuance of a fine to the horse's Trainer and such other penalty deemed appropriate. (1-1-09)T

02. Second Violation. The second violation of this chapter by the same Trainer during the same calendar year will result in a suspension, a fine and such other penalty deemed appropriate. (1-1-09)T

03. Third Violation. A third violation of this chapter will be referred to the Racing Commission for appropriate action up to and including revocation of license. (1-1-09)T

04. Not Detected. If a Non-Steroidal Anti-inflammatory Drug other than DMSO is not detected in the urine or in any other specimen taken from a horse authorized to use the Non-Steroidal Anti-Inflammatory Drug, a fine up to five hundred dollars (\$500) may be imposed upon the horse's Trainer without loss of purse. (1-1-09)T

05. Detected. If a Non-Steroidal Anti-Inflammatory Drug is detected in the urine or in any other specimen taken from a horse not authorized to use the Non-Steroidal Anti-Inflammatory Drug, the violation will result in loss of purse and the horse's Trainer is subject to such penalties deemed appropriate. (1-1-09)T

996. -- 998. (RESERVED).

999. MINOR VIOLATIONS.

Nothing in these rules may be construed as requiring the Racing Commission to report minor violations when the Racing Commission believes that the public interest will be best served by suitable warnings or other administrative action. (1-1-09)T

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

11.04.13 - RULES GOVERNING THE IDAHO STATE RACING COMMISSION

DOCKET NO. 11-0413-0801 (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 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 54-2506, 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 181 through 186.

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 Dennis Jackson, Executive Director, 208-884-7080.

DATED this 12th day of November, 2008.

Dennis Jackson
Executive Director
Idaho State Racing Commission
700 S. Stratford Drive
PO Box 700, Meridian, ID 83780-0700
Phone: 208-884-7080 / Fax: 208-884-7098

DOCKET NO. 11-0413-0801 - 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 181 through 186.

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 11 - IDAHO STATE POLICE
IDAHO STATE RACING COMMISSION**

**11.04.14 - RULES GOVERNING OWNERS, TRAINERS, AUTHORIZED AGENTS, JOCKEYS,
APPRENTICE JOCKEYS, AND JOCKEY AGENTS**

DOCKET NO. 11-0414-0901 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2506, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

TUESDAY - JANUARY 13, 2009 - 6:00 pm

**NAMPA CIVIC CENTER
Home Federal Room
311 3RD Street South, Nampa, ID**

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

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

This rule provides a clear concise rule Chapter on Owners, Trainers, Authorized Agents, Jockeys, Apprentice Jockeys, and Jockey Agents. In addition, this rule conforms more closely with the Association of Racing Commissioners International Model Rules in a plain English format.

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 reasons: Confers a benefit.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. However this rule was developed with input from a committee comprised of representatives of all segments of the horse racing industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Idaho State Racing Commission, 208-884-7080.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 12th day of November, 2008.

Dennis Jackson
Executive Director
Idaho State Racing Commission
700 S. Stratford Drive
PO Box 700, Meridian, ID 83780-0700
Phone: 208-884-7080 / Fax: 208-884-7098

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0414-0901

IDAPA 11
TITLE 04
CHAPTER 14

IDAHO STATE RACING COMMISSION

**11.04.14 - RULES GOVERNING OWNERS, TRAINERS, AUTHORIZED AGENTS, JOCKEYS,
APPRENTICE JOCKEYS, AND JOCKEY AGENTS**

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (1-1-09)T

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.04.14, "Rules Governing Owners, Trainers, Authorized Agents, Jockeys, Apprentice Jockeys, and Jockey Agents". (1-1-09)T

02. Scope. These rules govern the conduct of Owners, Trainers, Authorized Agents, Jockeys, Apprentice Jockeys, and Jockey Agents in Idaho. (1-1-09)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for these rules. (1-1-09)T

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal Racing Commission actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (1-1-09)T

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference into these rules. (1-1-09)T

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

01. Physical Address. The central office of the Idaho State Racing Commission is located at 700 S. Stratford Drive, Meridian, Idaho. (1-1-09)T

02. Office Hours. The central office is open 8 a.m. to 5 p.m., Mountain Time, Monday thru Friday, except holidays designated by the state of Idaho. (1-1-09)T

03. Mailing Address. The mailing address for the central office is Idaho State Racing Commission,

P.O. Box 700, Meridian, Idaho 83680-0700. (1-1-09)T

04. Telephone Number. The telephone of the office is (208) 884-7080. (1-1-09)T

05. Fax Number. The facsimile number of the office is (208) 884-7098. (1-1-09)T

06. Website. The Racing Commission website is <http://www.isp.state.id.us/race>. (1-1-09)T

006. PUBLIC RECORDS COMPLIANCE AND AVAILABILITY.

These rules are public records available for inspection and copying at the Idaho State Racing Commission central office or on the Racing Commission website, <http://www.isp.state.id.us/race>. (1-1-09)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Apprentice Jockey. A Jockey who has ridden less than one (1) year and less than forty-five (45) thoroughbred winners since first having been licensed in any racing jurisdiction and who otherwise meets the requirements and qualifications for a license as a Jockey. (1-1-09)T

02. Authorized Agent. A person appointed by a written instrument signed and acknowledged before a notary public by the Owner and filed in accordance with these rules. (1-1-09)T

03. Bleeder. Any horse known to have bled from its nostrils during a workout or race, and so designated by the Commission Veterinarian. (1-1-09)T

04. Bribe. Anything of value not limited to money. (1-1-09)T

05. Calendar Day. Twenty-four (24) hours ending at midnight. (1-1-09)T

06. Chemical. A substance composed of chemical elements or obtained by chemical processes. (1-1-09)T

07. Declaration. The act of withdrawing an entered horse from a race before the closing of overnight entries. (1-1-09)T

08. Disqualified Person. A person whose license is suspended. (1-1-09)T

09. Drug. Any chemical compound or any noninfectious biological substance not used for its mechanical properties, which may be administered to or used on or for patients, either human or animal, as an aid in diagnosis, treatment or prevention of disease or other abnormal condition, for the relief of pain or suffering, or to control or improve any physiological or pathological condition. (1-1-09)T

10. Engagement. An agreement between a Jockey and an Owner or Trainer. (1-1-09)T

11. Entry. A horse made eligible to run a race. (1-1-09)T

12. Equipment. As applied to a horse means whips, blinkers, tongue straps, muzzle, nosebands, bits, shadow rolls, martingales, breast plate, bandages, boots, hoods, flipping halters, goggles and plates. (1-1-09)T

13. Gifts. Anything of value not limited to money. (1-1-09)T

14. Gratuities. Anything of value not limited to money. (1-1-09)T

15. Grounds. Any area owned or leased by any licensed Racing Association, which is operated for the purpose of conducting pari-mutuel wagering. (1-1-09)T

- 16. Horse.** Any filly, mare, colt, horse or gelding includes filly, mare, colt, horse and gelding in general; when referring to sex, a filly becomes a mare when five (5) years old; a horse is an intact male when five (5) years old or older. (1-1-09)T
- 17. Jockey.** A person licensed by the Racing Commission to ride in races. (1-1-09)T
- 18. Jockey Agent.** A person who helps a Jockey obtain mounts in return for a portion of the Jockey's earnings. (1-1-09)T
- 19. Jockey's Fees.** The approved amount of money a Jockey receives for riding in a race. (1-1-09)T
- 20. Month.** A calendar month. (1-1-09)T
- 21. Nerved.** A surgical procedure in which the nerve supply to the navicular area is removed. The toe and remainder of the foot have feeling. (1-1-09)T
- 22. Nomination.** Submitting the name of a horse to run in a certain race or series of races accompanied by the payment of any prescribed fee. (1-1-09)T
- 23. Nominator.** A person in whose name a horse is entered for a race. (1-1-09)T
- 24. Overnight Race.** A race for money or any other prize to which the Owners of the horses do not contribute. (1-1-09)T
- 25. Owner.** Includes the owner, part owner and lessee of any horse. An interest only in the earnings of a horse does not constitute ownership. In case of husband and wife, it is presumed that joint ownership exists. (1-1-09)T
- 26. Paddock.** An enclosure in which horses scheduled to compete in a contest are saddled prior to racing. (1-1-09)T
- 27. 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. (1-1-09)T
- 28. Place.** Means first, second or third and in that order is called "Win," "Place," and "Show." (1-1-09)T
- 29. Post Time.** The time set for the arrival at the starting point. (1-1-09)T
- 30. Prescription Drug.** (1-1-09)T
- a.** A drug which under federal law is required prior to being dispensed or delivered to be labeled with either of the following statements: (1-1-09)T
- i.** "Caution: Federal law prohibits dispensing without a prescription"; or (1-1-09)T
- ii.** "Caution: Federal law restricts this drug to be used by or on the order of a licensed Veterinarian." (1-1-09)T
- b.** Or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by practitioner only. (1-1-09)T
- 31. Race.** A contest between horses for purse, stake or reward on any licensed race track and in the presence of a Judge or Judges. (1-1-09)T
- 32. Race Meet.** The entire consecutive period for which a license to race has been granted to any one

- (1) racing association by the Racing Commission. (1-1-09)T
- 33. Racing Association.** Any person licensed by the Racing Commission to conduct live or simulcast pari-mutuel wagering. (1-1-09)T
- 34. Racing Colors.** Racing silks, the jacket and cap worn by Jockeys. Silks can be generic and provided by the track or specific to one (1) Owner. (1-1-09)T
- 35. Racing Commission.** Three (3) member Idaho State Racing Commission created by Section 53-2503, Idaho Code, or its designee. (1-1-09)T
- 36. Recognized Race Meet.** Any race meet wherever held, which is under the jurisdiction of the Racing Commission. The Racing Commission will recognize all race meets conducted under the jurisdiction of members of the Association of Racing Commissioner International, or associate members or state and other recognized authority. (1-1-09)T
- 37. Ringer.** Any horse which runs under the name and identity of another or under a fictitious name. (1-1-09)T
- 38. Safety Equipment.** Any safety equipment required to be worn by these rules. (1-1-09)T
- 39. Scratch.** The act of withdrawing an entered horse from the race after closing of overnight entries. (1-1-09)T
- 40. Scratch Time.** The time set by the Racing Association for the closing of applications for permission to withdraw from the races of that day. (1-1-09)T
- 41. Sound.** A horse that is in competitive racing condition. (1-1-09)T
- 42. Stake Race.** A race to which nominators of the engaged entries contribute to a purse; to which money, or any other award, may be added; but no overnight race, regardless of its conditions, may be deemed a stake race. (1-1-09)T
- 43. Steward.** A horse racing official who presides over a race meet, has jurisdiction over all racing officials, rules on protests and claims of foul, and imposes fines and suspensions. (1-1-09)T
- 44. Suspension.** Punishment for infraction of the rules. The offender is denied privileges of the racetrack for a specified period of time. (1-1-09)T
- 45. 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. (1-1-09)T
- 46. Valet.** An employee who takes care of a Jockey's equipment, ensures that the correct silks are at the Jockey's locker, and the Jockey has the proper weight in the lead pad. (1-1-09)T
- 47. Weight In.** Post race weight of the Jockey and equipment. (1-1-09)T
- 48. Weight Out.** Pre race weight of the Jockey and equipment. (1-1-09)T
- 49. Winner.** The horse whose nose reaches the finish line first or is place first through disqualification by stewards. (1-1-09)T
- 50. Year.** A calendar year. (1-1-09)T
- 011. ABBREVIATIONS.**
There are no abbreviations used in these rules. (1-1-09)T

012. -- 019. (RESERVED).

020. OWNERS AND TRAINERS.

All Owners and Trainers of horses and their stable employees are subject to the Laws of Idaho and the Rules promulgated by the Racing Commission upon occupancy of stabling accommodations on the grounds of a Racing Association or upon entering a horse to run in a race on a Racing Association track. (1-1-09)T

021. -- 024. (RESERVED).

025. ENTER, SEARCH, AND INSPECT.

Every Racing Association, the Racing Commission, the Stewards or trained and qualified Agents of the Idaho State Police, has the right to enter, search and inspect the buildings, stables, rooms and other places where horses which are eligible to race are kept, or where property and effects of the licensee are kept within the grounds of the Racing Association. Any licensee is deemed to have consented to such search and to the seizure of any non-approved or prohibited materials, chemicals, drugs or devices and anything apparently intended to be used in connection therewith. (1-1-09)T

026. -- 029. (RESERVED).

030. EMPLOYEES.

Any Owner or Trainer that employs any person in a capacity that is required to be licensed by the Racing Commission prior to the Racing Commission granting such a license will be subject to suspension or fine, or both, to be determined by the Board of Stewards. (1-1-09)T

031. -- 034. (RESERVED).

035. BRIBES, GIFTS, AND GRATUITIES.

No Owner or Trainer may accept or offer, directly or indirectly, any bribe, gift or gratuity in any form which might influence the result of any race or tend to do so. (1-1-09)T

036. -- 039. (RESERVED).

040. ILLNESS OF HORSES.

The Owner or Trainer or their representative must immediately report any illness or an unusual condition of his horse to the Racing Secretary, Board of Stewards or Commission Veterinarian. (1-1-09)T

041. -- 049. (RESERVED).

050. TRAINER CHANGES.

If an Owner changes trainers, the racing secretary and stewards must be notified within twenty-four (24) hours. (1-1-09)T

051. -- 059. (RESERVED).

060. REPRESENTATION FOR ENTRIES.

A Trainer licensed in Idaho may represent the Owner in the matter of entries, declarations and the employment of Jockeys. (1-1-09)T

061. -- 069. (RESERVED).

070. RESTRICTIONS ON OWNERS AND TRAINERS.

No Owner or Trainer may enter or start a horse that: (1-1-09)T

01. Is Not Sound. Is not in sound competitive racing condition. (1-1-09)T

02. Has Been Nerved. (1-1-09)T

a. Horses that have had posterior digital neurectomy (heel nerved) may be permitted to race subject to the pre-race veterinary examination and subject to posting with the racing secretary and being recorded on its foal certificate. (1-1-09)T

b. Horses that have been nerved, blocked with alcohol or any other medical drug that desensitizes the nerves, other than posterior digital nerves, will not be permitted to race. (1-1-09)T

03. Impaired Vision. Has impaired vision in both eyes. (1-1-09)T

071. -- 079. (RESERVED).

080. POWERS AND DUTIES OF AUTHORIZED AGENTS.

A licensed Authorized Agent may perform on behalf of a licensed owner-principal all acts as relate to racing, as specified in the Racing Commission approved agency appointment, that could be performed by the principal if such principal were present. The acts of the Authorized Agent are deemed the acts of his licensed principal and the principal accepts responsibility for the Authorized Agent's acts. (1-1-09)T

01. Documents. In executing any document on behalf of the principal, the Authorized agent must clearly identify the Authorized Agent and the owner-principal. (1-1-09)T

02. Ownership Disclosure. Authorized Agents are responsible for disclosure of the true and entire ownership of each horse for which they have authority. Any change in ownership must be reported immediately to, and approved by, the stewards and recorded by the racing secretary. (1-1-09)T

03. Entering a Claim. When an Authorized Agent enters a claim for the account of a principal, the name of the licensed Owner for whom the claim is being made and the name of the Authorized Agent must appear on the claim slip or card. (1-1-09)T

081. -- 099. (RESERVED).

100. TRAINER IS ABSOLUTE INSURER.

The Trainer is the absolute insurer of, and responsible for, the condition of the horses entered in a race regardless of the acts of third parties. (1-1-09)T

01. Chemical Tests. Should the analysis of blood or urine samples or tests of other materials prove positive, showing the presence of any chemical or drug of any kind or description, except as permitted in IDAPA 11.04.11, "Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses," the Trainer of the horse will be fined or suspended, or both. (1-1-09)T

02. Trainer Absent. When a Trainer is absent from the stable or the grounds for a period of more than two (2) days and the Trainer's horses are to be entered, a substitute licensed Trainer must assume the complete responsibility of the horses entered or running. Such licensed Trainer must sign a form in the presence of the Stewards accepting complete responsibility for the horse or horses being entered or running. (1-1-09)T

101. -- 109. (RESERVED).

110. SAFETY EQUIPMENT.

The Trainer is responsible to ensure that every Jockey and exercise person wears an approved helmet properly fastened when exercising horses. (1-1-09)T

111. -- 114. (RESERVED).

115. DISQUALIFIED PERSON.

No Trainer may have charge or supervision of any horse owned, in whole or part, by a disqualified person. (1-1-09)T

116. -- 129. (RESERVED).

130. HORSES IN PADDOCK AT APPOINTED TIME.

All Trainers must have their horses in the paddock in accordance with IDAPA 11.04.10, "Rules Governing Live Horse Races," Subsection 050.02. (1-1-09)T

131. -- 139. (RESERVED).

140. TRAINER'S PRESENCE IN PADDOCK.

All Trainers must attend their horses in the paddock and must be present to supervise saddling unless the permission of a steward has been obtained to send another licensed Trainer to substitute. (1-1-09)T

141. -- 199. (RESERVED).

200. PREVENTING JOCKEYS FROM RIDING.

No Owner or Trainer may employ a Jockey for the purpose of preventing him from riding for another Trainer in any race. (1-1-09)T

201. -- 209. (RESERVED).

210. JOCKEYS MUST BE LICENSED.

All Jockeys must be licensed by the Racing Commission. (1-1-09)T

211. -- 219. (RESERVED).

220. PHYSICAL EXAMINATION.

The Stewards may require any Jockey to be examined by a licensed medical professional at any time and may refuse to allow any Jockey to ride until such examination has been satisfactorily completed. (1-1-09)T

221. -- 224. (RESERVED).

225. JOCKEY FALLS FROM HORSE.

In the event any Jockey falls or is thrown from a mount prior to, during or after a race, the Stewards may refuse to allow that Jockey to ride until examined by a licensed medical professional and determined by such examiner to be physically fit to ride. (1-1-09)T

226. -- 229. (RESERVED).

230. JOCKEYS OBLIGATIONS.

All Jockeys must faithfully fulfill all engagements to ride except when excused by the stewards. An excuse may be given by a medical professional with the approval of the stewards. (1-1-09)T

231. -- 239. (RESERVED).

240. JOCKEYS APPEARANCE.

All Jockeys must be neat in appearance. (1-1-09)T

241. -- 244. (RESERVED).

245. RACING COLORS.

All Jockeys must wear the colors of the Owner or Owners of the horse being ridden, except by special permission of the Stewards or where approved standard colors are used. (1-1-09)T

246. -- 249. (RESERVED).

250. SAFETY EQUIPMENT.

All Jockeys must wear the following safety equipment: (1-1-09)T

- 01. Helmet.** All Jockeys when mounted must wear a fastened protective helmet approved by the

Jockey Guild. (1-1-09)T

02. Safety Vest. All Jockeys must wear a safety vest when riding in any official or exhibition race. The safety vest must weigh no more than two (2) pounds and must be designed to provide shock absorbing protection to the upper body of at least a rating of five (5), as defined by the British Equestrian Trade Racing Association. (1-1-09)T

251. -- 254. (RESERVED).

255. JOCKEY'S VALET.
No Jockey may have a valet other than one (1) provided by the Racing Association. (1-1-09)T

256. -- 259. (RESERVED).

260. JOCKEYS WEIGHED.
Every Jockey who is engaged in a race must report to the Jockey's Room on the day of the race at the time required by the Stewards. (1-1-09)T

01. Engagements. The Jockey's engagements and overweight, if any, must then be reported to the clerk of the scales and, thereafter, the Jockey may not leave the Jockey Room except to view the races from a point approved by the Stewards or to ride in a race until all engagements of the day have been fulfilled. (1-1-09)T

02. Weighed Out. Jockeys are required to present themselves to be weighed out at the time fixed by the clerk of the scales. (1-1-09)T

261. -- 269. (RESERVED).

270. RESTRICTIONS ON JOCKEYS.

01. Owner. No licensed Jockey may be the Owner or Trainer of any race horse. (1-1-09)T

02. Betting. No Jockey may make a bet on any race nor accept the promise or the token of any bet with respect to the race in which riding, except through or from the Owner or Trainer of the horse being ridden and then only that horse. (1-1-09)T

03. Spurs. No Jockey may use spurs or steels of any kind in an official or exhibition race. (1-1-09)T

271. -- 279. (RESERVED).

280. JOCKEY'S FEES.
Jockey's riding fees for a race meet must be approved by the Racing Commission. (1-1-09)T

01. Engagements. If any Owner or Trainer engages two (2) or more Jockeys for the same race, each engaged Jockey not riding in the race must be paid the losing fee. The proper fee must be paid the Jockey riding. (1-1-09)T

02. Fees. A Jockey's fee are considered earned when the Jockey is weighed out by the Clerk of the Scales. The fee is not considered earned if the Jockey takes himself off of his mount where injury to the horse or rider is not involved. Any conditions or considerations not covered by this Section are at the discretion of the stewards. (1-1-09)T

03. Posted Fees. The fee to a Jockey in all races must be posted prominently and provided to the Horsemen's Bookkeeper by the Racing Association at each race meet. (1-1-09)T

04. Dead Heat. In a dead heat the Jockeys involved will divide equally the total fees they would have received individually had one (1) beaten the other or others. The Owners of the horses involved must pay an equal share of the fees. (1-1-09)T

281. -- 289. (RESERVED).

290. JOCKEY SUSPENSIONS.

A Jockey who is under suspension will not be permitted to fulfill any engagements, including stake races. (1-1-09)T

01. Suspended in Another Jurisdiction. A Jockey under suspension in any other State will not be permitted to ride in Idaho during such suspension. (1-1-09)T

02. Time Suspension Begins. The suspension of a Jockey for an offense not including fraud begins at the time set by the stewards. (1-1-09)T

03. Temporary Suspensions. A Jockey temporarily suspended may be permitted by the stewards to exercise or gallop horses during the morning hours. (1-1-09)T

291. -- 299. (RESERVED).

300. APPRENTICE JOCKEYS.

Apprentice Jockeys are bound by all the rules for Jockeys, except in the instance of a specific exception for an Apprentice Jockey. (1-1-09)T

01. End of Apprenticeship. The apprenticeship automatically terminates one (1) year from the date of the apprentice's fifth winning ride or on the first anniversary of the date of issuance of the license as an Apprentice Jockey if during such first year the apprentice has ridden at least forty-five (45) thoroughbred winners. Otherwise, the apprenticeship automatically terminates after the first anniversary date on the date of the forty-fifth winning mount is ridden by the apprentice or on the date of the third anniversary of the first apprentice license, whichever comes first. (1-1-09)T

02. Extend Apprenticeship Termination. For good cause, the Racing Commission may extend the termination date of any apprenticeship or the conditions under which the apprenticeship may be granted. (1-1-09)T

03. Races Considered. Races other than recognized thoroughbred races in the United States, Canada or Mexico reported in the Daily Racing Form or other similar official publication will not be considered in determining eligibility for a license as Apprentice Jockey; provided, however, that any person who has ridden as a licensed Jockey at any recognized meeting in the United States or other country will have the burden of establishing that the granting of an apprentice license to such person is in the best interest of thoroughbred racing in Idaho. (1-1-09)T

301. -- 319. (RESERVED).

320. MANAGEMENT OF APPRENTICE JOCKEYS.

No person other than an Owner, Trainer, Jockey Agent or an Authorized Agent of an Owner may make engagements for or manage Apprentice Jockeys. (1-1-09)T

321. -- 329. (RESERVED).

330. APPRENTICE WEIGHT ALLOWANCE.

An Apprentice Jockey must ride with a five (5) pound weight allowance beginning with the first mount for one (1) full year from the date of the fifth winning mount. (1-1-09)T

01. After One Year. If after riding one (1) full year from the date of the fifth winning mount the Apprentice Jockey has failed to ride a total of forty (40) winners from the date of the first winning mount, the apprentice must continue to ride with a five (5) pound weight allowance for one (1) more year from the date of the fifth winning mount or until the apprentice has ridden a total of forty (40) winners, whichever comes first. (1-1-09)T

02. Unable to Ride. If an Apprentice Jockey is unable to ride for a period of fourteen (14) consecutive days or more from the date of the apprentice's fifth winning mount because of service in the Armed Forces of the

United States or because of physical disablement, the Racing Commission may extend the time during which such apprentice weight allowance may be claimed for a period not to exceed the period such Apprentice Jockey was unable to ride. (1-1-09)T

331. -- 339. (RESERVED).

340. APPRENTICE JOCKEY CONTRACTS.

An Apprentice Jockey may be granted an apprentice certificate in lieu of an apprentice contract. The apprentice certificate grants an apprentice all the allowances and conditions granted to the apprentice who is under contract. (1-1-09)T

01. Forms. Apprentice contracts entered into in the state of Idaho must be made on forms supplied by the Idaho State Racing Commission and a copy must be filed with the Racing Commission. (1-1-09)T

02. Filed With Racing Commission. A copy of all apprentice contracts, wherever entered into, must be filed with the Racing Commission. (1-1-09)T

03. Contract Transferred. If an apprentice contract is transferred, said transfer must be approved by the stewards and registered with the Racing Commission by both the transferrer and the transferee. (1-1-09)T

04. Certificate. An application for a license as an Apprentice Jockey must be accompanied by an original or photostatic copy of his birth certificate or an apprentice certificate. (1-1-09)T

341. -- 349. (RESERVED).

350. ONLY ONE JOCKEY AGENT.

No Jockey may have more than one (1) agent. All engagements to ride, other than those for contract employers, must be made by the Jockey's Agent. A Jockey may make his own engagements. (1-1-09)T

351. -- 359. (RESERVED).

360. JOCKEY AGENT.

No person may act as a Jockey Agent prior to being licensed by the Racing Commission. Each Jockey Agent is permitted to make the riding engagements of three (3) riders only; two (2) Jockeys and one (1) Apprentice Jockey. (1-1-09)T

01. Other Jockeys. No Jockey Agent may make or assist in making any engagement for any rider other than those he is licensed to represent. (1-1-09)T

02. Records. Each Jockey Agent must keep a record of all engagements made for the represented riders. This record must be up to date and ready at all times for inspection by the Stewards. (1-1-09)T

03. Notify Stewards. If any Jockey Agent gives up the making of engagements for any rider, the Stewards must be immediately provided a written list of any unfilled engagements. All rival claims for the services of a rider will be adjusted by the Stewards. (1-1-09)T

361. -- 369. (RESERVED).

370. GIVING INFORMATION PROHIBITED.

No Jockey Agent may give to anyone, directly or indirectly, any information or advice pertaining to a race or engage in the practice commonly known as "touting" for the purpose of influencing or tending to influence any person in the making of a wager on any race. (1-1-09)T

371. -- 379. (RESERVED).

380. JOCKEY AGENT ACCESS.

No Jockey Agent is permitted within the saddling enclosure during racing hours; nor may said Agent have access to

the Jockey Room at any time; nor may said Agent be allowed on the race track at the conclusion of any race run; nor may said Agent communicate with any Jockey during racing hours except with the approval of the Stewards.

(1-1-09)T

381. -- 989. (RESERVED).

990. PENALTIES.

Any person violating any of the provisions of these rules are subject to the penalties provided for in Title 54, Chapter 25, Idaho Code, and any of the Racing Commission rules.

(1-1-09)T

991. -- 998. (RESERVED).

999. MINOR VIOLATIONS.

Nothing in these rules may be construed as requiring the Racing Commission to report minor violations when the Racing Commission believes that the public interest will be best served by suitable warnings or other administrative action.

(1-1-09)T

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

**11.04.15 - RULES GOVERNING CONTROLLED SUBSTANCE AND ALCOHOL TESTING
OF LICENSEES, EMPLOYEES, AND APPLICANTS**

DOCKET NO. 11-0415-0901 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 54-2506, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

TUESDAY - JANUARY 13, 2009 - 6:00 p.m.

**NAMPA CIVIC CENTER
Home Federal Room
311 3RD Street South, Nampa, ID**

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

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

This rule provides a clear concise rule Chapter on Controlled Substance and Alcohol Testing of Licensees, Employees, and Applicants. In addition, this rule conforms more closely with the Association of Racing Commissioners International Model Rules in a plain English format.

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 reasons: Confers a benefit.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. However this rule was developed with input from a committee comprised of representatives of all segments of the horse racing industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Idaho State Racing Commission, 208-884-7080.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 12th day of November, 2008.

Dennis Jackson, Executive Director
Idaho State Racing Commission
700 S. Stratford Drive
PO Box 700, Meridian, ID 83780-0700
Phone: 208-884-7080 / Fax: 208-884-7098

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0415-0901

IDAPA 11
TITLE 04
CHAPTER 15

IDAHO STATE RACING COMMISSION

**11.04.15 - RULES GOVERNING CONTROLLED SUBSTANCE AND ALCOHOL TESTING
OF LICENSEES, EMPLOYEES, AND APPLICANTS**

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (1-1-09)T

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.04.15, "Rules Governing Controlled Substance and Alcohol Testing of Licensees, Employees, and Applicants," of the Idaho State Racing Commission. (1-1-09)T

02. Scope. These rules govern controlled substance and alcohol testing of licensees, employees, and applicants by the Idaho State Racing Commission. (1-1-09)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (1-1-09)T

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal racing commission actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (1-1-09)T

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference into these rules. (1-1-09)T

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

01. Physical Address. The central office of the Idaho State Racing Commission is located at 700 S. Stratford Drive, Meridian, Idaho. (1-1-09)T

02. Office Hours. The central office is open 8 a.m. to 5 p.m., Mountain Time, Monday thru Friday, except holidays designated by the state of Idaho. (1-1-09)T

03. Mailing Address. The mailing address for the central office is Idaho State Racing Commission, P.O. Box 700, Meridian, Idaho 83680-0700. (1-1-09)T

- 04. Telephone Number.** The telephone of the office is (208) 884-7080. (1-1-09)T
- 05. Fax Number.** The facsimile number of the office is (208) 884-7098. (1-1-09)T
- 06. Website.** The Racing Commission website is <http://www.isp.state.id.us/race>. (1-1-09)T

006. PUBLIC RECORDS COMPLIANCE AND AVAILABILITY.

These rules are public records available for inspection and copying at the Idaho State Racing Commission central office or on the Racing Commission website, <http://www.isp.state.id.us/race>. (1-1-09)T

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Alcohol. The intoxicating agent in beer, wine, or liquor, as the terms are defined in Title 23, Idaho Code, and includes ethyl, methyl, and isopropyl alcohols. (1-1-09)T

02. Applicant. Any person who has applied to the Racing Commission for a license. (1-1-09)T

03. Controlled Substance. A drug, substance, or immediate precursor listed in schedules I through V of Article II of Title 37, Chapter 27, Idaho Code. (1-1-09)T

04. Employee. Any person employed by the Racing Commission within the state of Idaho. (1-1-09)T

05. Licensee. Any person who has been issued a license by the Racing Commission. (1-1-09)T

06. 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. (1-1-09)T

07. Racing Association. Any person licensed by the Racing Commission to conduct live horse races and pari-mutuel wagering. (1-1-09)T

08. Racing Commission. Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee. (1-1-09)T

09. Reasonable Suspicion. Behavior or pattern of behavior indicates that the licensee, employee, or applicant is under the influence of a controlled substance or alcohol. The basis of the suspicion may be a specific, contemporaneous event or conduct that has been observed over a period of time. (1-1-09)T

10. Suspension. A temporary remedial measure designed to protect the safety and integrity of the horse racing industry and the participants therein. (1-1-09)T

11. Sample. A urine sample collected for the purpose of drug testing, or a blood, breath, or saliva sample collected for the purpose of alcohol testing. (1-1-09)T

011. ABBREVIATIONS.

There are no abbreviations used in these rules. (1-1-09)T

012. -- 019. (RESERVED).

020. PRIMARY PURPOSE.

In order to protect the integrity of horse racing in the state of Idaho, to protect the health and welfare of licensees, employees, and applicants engaged in horse racing within the state of Idaho, to prevent exploitation of the public, licensees, employees, and applicants engaged in horse racing in the state of Idaho, to foster fairness of competition within the racing industry and in order to protect public safety within the state of Idaho, the Racing Commission intends to regulate the use of any controlled substance and alcohol at all race meets licensed by it. (1-1-09)T

021. -- 049. (RESERVED).

050. USE OF CONTROLLED SUBSTANCES.

No licensee, employee, or applicant may have within their body any unauthorized controlled substance while within the enclosure of or on the premises managed by any racing association or the Racing Commission. (1-1-09)T

051. -- 059. (RESERVED).

060. CONSUMPTION OF ALCOHOL.

No jockey, starter, assistant starter, pony person, outrider, or racing official may have present within his body any amount of alcohol while participating in any horse race held that day. (1-1-09)T

061. -- 099. (RESERVED)

100. TESTING.

The Board of Stewards, or the Racing Commission acting through the executive director, may require any licensee, employee, or applicant to provide blood, urine, or saliva samples for the purpose of drug or alcohol analysis under either of the following circumstances: (1-1-09)T

01. Random Testing. As part of a random testing program. (1-1-09)T

02. Reasonable Suspicion. When the Board of Stewards finds that there is reasonable suspicion to believe that the proposed testee has used any controlled substance. (1-1-09)T

101. -- 119. (RESERVED).

120. POST-ACCIDENT TESTING.

At its discretion the Board of Stewards may conduct post-accident controlled substance or alcohol testing of any licensee, employee, or applicant who is involved in a racing or job-related accident on the track or on racing association grounds that requires treatment away from the scene of the accident. (1-1-09)T

121. -- 129. (RESERVED).

130. REFUSAL TO TEST.

01. Refusal to Supply a Sample. When any licensee, employee, or applicant is requested to submit to a drug test in a manner prescribed in these rules, the person must do so in a prompt manner. Refusal to supply such sample will result in: (1-1-09)T

a. The immediate suspension of the licensee, employee, or applicant; and (1-1-09)T

b. A hearing before the Board of Stewards in accordance with IDAPA 11.04.04, "Rules Governing Disciplinary Hearings and Appeals," Section 050. (1-1-09)T

02. Suspended from Racing for Refusal to Test. (1-1-09)T

a. If the Board of Stewards finds at the hearing that said refusal to test occurred, the licensee, employee, or applicant will be suspended from racing for seven (7) calendar days and be subject to random testing for one (1) year. (1-1-09)T

b. In the event of a finding of just cause the licensee, employee, or applicant must submit to a test immediately once the conditions which justly prevented testing abate or can be eliminated. (1-1-09)T

03. Subject to Random Testing. In the event a licensee, employee, or applicant refuses to test when requested after previously refusing to test or previously testing positive for drugs, that licensee, employee, or applicant will be suspended from racing for a period of ninety (90) calendar days and subject to random testing for a

period of one (1) year. (1-1-09)T

131. -- 149. (RESERVED).

150. TESTING PROCEDURE.

01. Accordance with Established Procedures. Testing must be done in accordance with established medical and law enforcement procedures in the state of Idaho. (1-1-09)T

02. Retesting. The sample may be retested at the request of the licensee, employee, or applicant at either the laboratory used by the Racing Commission or a separate laboratory selected from a list provided by the Racing Commission. The licensee, employee, or applicant is responsible for all costs associated with the retesting of the sample. (1-1-09)T

151. -- 199. (RESERVED).

200. A POSITIVE TEST.

On receiving written notice from the approved laboratory that a sample has been found positive for a controlled substance, the Racing Commission will initiate the following procedure: (1-1-09)T

01. Notification. The Racing Commission, through the Executive Director, will notify the presiding Steward and forward the test results to the Board of Stewards. (1-1-09)T

02. Hearing Set. The Board of Stewards will set a hearing in accordance with IDAPA 11.04.04, "Rules Governing Disciplinary Hearings and Appeals," within the next two (2) racing days or seven (7) calendar days, whichever is less, after they receive notice of a positive test from the Executive Director. (1-1-09)T

03. Written Notice. (1-1-09)T

a. Notice of Hearing. Written notice of the hearing must be given to the licensee, employee or applicant as soon as the hearing date is set. The hearing may be held within a shorter or longer period of time if the licensee, employee, or applicant named and the Board of Stewards agree. (1-1-09)T

b. Service of Notice. Service must be to the licensee, employee, or applicant personally by leaving the notice at the person's residence with someone of reasonable age and discretion residing therein, or by mail to the person's last known address. If by mail, service is deemed completed on the third day after mailing. (1-1-09)T

04. Opportunity for Explanation. The hearing must be conducted before the Board of Stewards pursuant to IDAPA 11.04.04, "Rules Governing Disciplinary Hearings and Appeals." At the hearing, the licensee, employee or applicant will be provided an opportunity to present evidence and explain the positive test. (1-1-09)T

05. Confidentiality. The Board of Steward's hearing must be closed and the facts therein will be kept confidential, unless for use with respect to any subsequent contested hearing or order by the Racing Commission or judicial hearing with regard to such facts. Closure of the hearing and confidentiality of the proceedings may be waived by the licensee, employee, or applicant. (1-1-09)T

06. Lacking Satisfactory Explanation. Lacking a satisfactory explanation and documentation or upon the licensee, employee, or applicant agreeing with the test results, the Board of Stewards will suspend the licensee, employee, or applicant in accordance with Section 220 of these rules. (1-1-09)T

201. -- 219. (RESERVED).

220. PROCEDURES FOLLOWING A POSITIVE CHEMICAL ANALYSIS.

01. First Positive Test. For a licensee's, employee's, or applicant's first positive drug test he will not be allowed to participate in racing for seven (7) calendar days and until such time as he has received a substance abuse evaluation and has begun the recommended rehabilitation program. Additionally, the licensee, employee or

applicant will be subject to random testing for a period of one (1) year from the date the positive sample was taken. (1-1-09)T

02. After Evaluation. After such evaluation, but not before the tolling of the seven (7) calendar days awarded in Subsection 220.01 of these rules, if said licensee's, employee's or applicant's condition proves non-addictive and not detrimental to the best interest of racing, said licensee, employee, or applicant will be allowed to participate in racing provided he can produce a negative test result from a laboratory approved by the Racing Commission and agrees to further testing at the discretion of the Stewards or designated Racing Commission representative to ensure his unimpairment. (1-1-09)T

03. Second Violation. For a licensee's, employee's or applicant's second violation, he will be suspended for ninety (90) consecutive days and until he provides the Stewards with documentation that he has enrolled and is progressing satisfactorily in a certified drug rehabilitation program approved by the Racing Commission. (1-1-09)T

04. Third Violation. For a licensee's, employee's or applicant's third violation, he will be suspended and the case referred to the Racing Commission for consideration of revocation of the individual's license. (1-1-09)T

221. -- 249. (RESERVED).

250. CONFIDENTIALITY OF TEST RESULTS.

All test results are obtained as part of an inquiry into a person's fitness to be granted or to retain a license and are exempt from public disclosure pursuant to Section 9-304C, Idaho Code. A statistical summary will be made available annually. (1-1-09)T

251. -- 299. (RESERVED).

300. TESTING EXPENSE.

Except for retesting requested by a licensee, employee, or applicant, all testing ordered pursuant to these rules, whether blood, urine, or breath, will be at the expense of the Racing Commission. All expense of drug or alcohol evaluation, treatment, reports, and fees will be at the expense of the licensee, employee, or applicant undergoing such evaluation or treatment. (1-1-09)T

301. -- 989. (RESERVED).

990. PENALTIES.

Any person violating any of the provisions of these rules is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code. (1-1-09)T

991. -- 998. (RESERVED).

999. MINOR VIOLATIONS.

Nothing in these rules may be construed as requiring the Racing Commission to report minor violations when the Racing Commission believes that the public interest will be best served by suitable warnings or other administrative action. (1-1-09)T

IDAPA 12 - IDAHO DEPARTMENT OF FINANCE

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-0701

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 Sections 26-3105(1)(e) and 26-3105(2)(b), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 2, 2008 Idaho Administrative Bulletin, Vol. 08-7, pages 33 through 38.

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 anticipated fiscal impact to the state general fund related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael Larsen, Consumer Finance Bureau Chief, Idaho Department of Finance at (208) 332-8000.

DATED this 10th day of November, 2008.

Michael Larsen
Consumer Finance Bureau Chief
Idaho Department of Finance
800 Park Boulevard, Suite 200
P.O. Box 83720, Boise, Idaho 83720-0031
Telephone: (208) 332-8000 / Fax: (208) 332-8096
mlarsen@finance.idaho.gov

DOCKET NO. 12-0110-0701 - 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 08-7, July 2, 2008, pages 33 through 38.

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0801

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 36-104(b) and 36-1101, 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:

Adopt a self-certification rule allowing a disabled applicant to self-certify that they are capable of holding, or holding and firing, without assistance from other persons, legal hunting and fishing equipment; amend rules so that required documentation in the disability license and motor vehicle permit rules are correctly referenced; and adopt a definition of 'physician.' Amend the lifetime license application to streamline the process. Adopt a rule to allow reasonable accommodations for persons with disabilities in special weapon hunts.

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 192 through 198.

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 Sharon Kiefer (208) 287-2780.

DATED this 12th day of November, 2008.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707

DOCKET NO. 13-0104-0801 - 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 1, pages 192 through 198.

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0802

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 36-104(b) and 36-1101, 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:

Replace the term “handicapped” with “disabled” to ensure consistency with governing law.

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 199 and 200.

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 Sharon Kiefer (208) 287-2780.

DATED this 12th day of November, 2008.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

DOCKET NO. 13-0104-0802 - 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 199 and 200.

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0803

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 36-104(b) and 36-1101, 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:

Set outfitter set-aside tags for the 2008 seasons. Set outfitter allocation tags proportionate among resident hunters, non-outfitted nonresident hunters, and outfitted hunters. Add a separate additional 1,500 white-tail deer nonresident tag quota. Consider reducing the elk tag cap for Selway A and B tags for resident and nonresident hunters.

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 201 through 204.

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 Brad Compton (208) 287-2756.

DATED this 12th day of November, 2008.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

DOCKET NO. 13-0104-0803 - 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 1, pages 201 through 204.

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.07 - RULES GOVERNING THE TAKING OF UPLAND GAME ANIMALS

DOCKET NO. 13-0107-0801

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 36-104(b) and 36-1101, 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 the rule to ensure consistency in references to the Disabled Motor Vehicle Hunting Permit.

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 205 and 206.

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 Sharon Kiefer (208) 287-2780.

DATED this 12th day of November, 2008.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

DOCKET NO. 13-0107-0801 - 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 205 and 206.

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-0801

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 36-104(b) and 36-1101, 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 Wolf Management Plan calls for maintaining viable wolf populations at or near current levels of 500-700 wolves. The proposed rules allow hunting of wolves pursuant to seasons set by the Commission.

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 208 through 222.

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 Chris Wright (208) 287-2759.

DATED this 12th day of November, 2008.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

DOCKET NO. 13-0108-0801 - 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 208 through 222.](#)

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-0802

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 36-104(b) and 36-1101, 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 the rule to allow the use of "red dot" scopes on crossbows by disabled archers. Allow senior and disabled hunters to apply for leftover youth controlled hunt permits. Simplify the evidence-of-sex rule to apply only during transportation of a big game carcass to a final place of storage or a Commercial meat processing facility. Correct obsolete rules concerning 3/4 curl and mandatory class requirements for bighorn sheep hunters.

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 223 through 232.

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 Chris Wright (208) 287-2759.

DATED this 12th day of November, 2008.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

DOCKET NO. 13-0108-0802 - 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 08-10, October 1, 2008, Book 1, pages 223 through 234.

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-0803

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 36-104(b) and 36-1101, 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 January 2007, the Department recommended and the Commission adopted changes to muzzleloader equipment rules. The most controversial rule change has been the requirement for a pivoting hammer, functionally prohibiting the use of many in-line muzzleloaders in muzzleloader-only hunts. The Department recommends that the muzzleloader equipment rules be amended to allow the use of in-line muzzleloaders.

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 233 through 236.

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 Brad Compton (208) 287-2756.

DATED this 12th day of November, 2008.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

DOCKET NO. 13-0108-0803 - 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 1, pages 233 through 236.

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0109-0801

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 36-104(b) and 36-1101, Idaho Code.

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

The Department is proposing to extend the youth pheasant hunt season, revise the Wildlife Management Area pheasant program hunter-orange rule, increase turkey controlled hunt tags for general and youth only, expand general season youth hunt, correct terminology and delete obsolete rules.

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 238 through 250.

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 Don Kemner (208) 287-2748.

DATED this 12th day of November, 2008.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

DOCKET NO. 13-0109-0801 - 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 238 through 250.](#)

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-0801

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 36-104(b) and 36-901, 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 the two pole permit rule to comply with amendments in governing law.

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 253 and 254.

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 Sharon Kiefer (208) 287-2780.

DATED this 12th day of November, 2008.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

DOCKET NO. 13-0111-0801 - 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 253 and 254.

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-0802

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 36-104(b) and 36-901, 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:

Biannual review of fishing rules, and set the 2008-2009 fishing seasons and regional exceptions. Remove the general 12 inch minimum size limit on bass in North Idaho waters (Salmon River and north); restrict the use of live leeches, frogs, salamanders and shrimp as bait; increase the maximum size of traps and seines for minnows and crayfish.

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 255 through 258.

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 Dave Parrish (208) 287-2773.

DATED this 12th day of November, 2008.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

DOCKET NO. 13-0111-0802 - 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 255 through 258.

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.16 - RULES GOVERNING THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS

DOCKET NO. 13-0116-0801

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 36-104(b), 36-1101 and 36-1103, Idaho Code.

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

The Department is proposing to increase otter harvest quotas in the Magic Valley and Upper Snake Regions; close beaver trapping on Willow Creek drainage in Units 66 and 69; increase beaver trapping opportunity in the Southeast and Magic Valley Regions; and amend the list of Wildlife Management Areas open to trapping.

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 262 and 263.

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 Don Kemner (208) 287-2748.

DATED this 12th day of November, 2008.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

DOCKET NO. 13-0116-0801 - 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 262 and 263.

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.17 - RULES GOVERNING THE USE OF BAIT FOR TAKING BIG GAME ANIMALS

DOCKET NO. 13-0117-0801

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 36-104(b) and 36-1101, 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 the rules to clarify the application to bait containers, and the required removal at the end of each season.

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 265 and 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 the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Brad Compton (208) 287-2756.

DATED this 12th day of November, 2008.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

DOCKET NO. 13-0117-0801 - 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 265 and 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.

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.19 - RULES FOR OPERATING, DISCONTINUING, AND SUSPENDING VENDORS

DOCKET NO. 13-0119-0801

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 36-104(b) and 36-301, 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:

Delete obsolete rules concerning reimbursement of telecommunication costs, correct statutory references and terminology; and amend several rules concerning ordering supplies and canceling documents to update terminology to the computerized licensing system.

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 267 through 272.

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 Craig Wiedmeier (208) 287-2704.

DATED this 12th day of November, 2008.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

DOCKET NO. 13-0119-0801 - 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 267 through 272.](#)

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 13 - IDAHO FISH AND GAME COMMISSION

13.01.20 - SELECTION RULES OF NEW FISH AND GAME LICENSE VENDORS

DOCKET NO. 13-0120-0801

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 36-104(b) and 36-301, Idaho Code.

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

The Department recommends that the application process be simplified and streamlined to provide better response time to vendor applicants, and that the active vendor ceiling number be amended because of the decreased number of license vendors.

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 273 through 276.

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 Craig Wiedmeier (208) 287-2704.

DATED this 12th day of November, 2008.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707

DOCKET NO. 13-0120-0801 - 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 273 through 276.

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
DIVISION OF HUMAN RESOURCES AND IDAHO PERSONNEL COMMISSION**

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

DOCKET NO. 15-0401-0801

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 November 21, 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 67-5309, 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 rules are being adopted for the reasons set forth in the Notice of Rulemaking published October 1, 2008, with the following explanation and description of changes to the text of the pending rules:

The proposed rules eliminate **Rule 240.04-Medical, Dental, or Optical Appointments Leave (MDA)** in its entirety. The majority of comments expressed concern that a lack of MDA leave would discourage employees from seeking routine preventative care or taking advantage of wellness examinations, or that it would make it impossible for them to accompany children or other family members to those appointments. Because there is no statutory basis for the granting of MDA leave, and because leave for preventative care or routine wellness examinations, for employees or for employees accompanying family members, is allowed under **Rule 240.03 -Sick Leave**, the MDA leave rule will not be reinstated.

A substantial number of comments were directed toward **Rule 241.02-Disability Layoff**. The temporary rule reduced from six (6) months to twelve (12) weeks, the amount of time which a disabled employee had to return to work before his position would be declared vacant. Employees were concerned that the temporary rule unnecessarily shortened the time frame for return to work and that it required layoffs in all circumstances. Although the time frame is not being changed, allowing more flexibility in agency management, the text of the pending rule has been amended to address the employees' concerns with respect to declaring the position vacant. The rule is being revised to provide that, when an employee becomes disabled and is unable to return to work after twelve (12) weeks' absence (or when accrued sick leave has been exhausted, whichever is longer), the position "**may**" – rather than "**shall**" - be declared vacant.

Several additional clerical changes were discovered as a part of the review process. The text of the following pending rules has been amended to reflect changes to: **Rule 024-Conflict of Interest and Personal Conduct**, deleting reference to a rule which no longer exists; **Rule 073.04.a-Holiday Pay Calculation**, eliminating the reference to Section 59-1607, Idaho Code; **Rule 073.04.c-Holiday Pay Calculation**, adding back formula for calculation of holiday pay for part time employees; **Rule 143.02-Calculation of Retention Points**, eliminating incorrect reference to rule; and **Rules 250.08.a and 250.08.b-Leave of Absence with Pay**, replacing "administrative leave" with "leave of absence with pay" for consistency in terminology.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. The Division has also 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 1 of the October 1, 2008 Idaho

Administrative Bulletin, Vol. 08-10, pages 288 through 328.

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 Dennis Moberly, Human Resources Program Manager, (208) 429-5531.

DATED this 19th day of November 2008.

Judie Wright
Administrator
Division of Human Resources
700 W. State St.
P. O. Box 83720, Boise, ID 83720-0066
Phone: (208) 854-3054 / Fax: (208) 334-2438

**DOCKET NO. 15-0401-0801 - 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 1, pages 288 through 328.](#)

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 15-0401-0801**

024. CONFLICT OF INTEREST AND PERSONAL CONDUCT.

The maintenance of a high standard of honesty, ethics, impartiality, and conduct by state employees is essential to ensure proper performance of state business and strengthen the faith and confidence of the people of Idaho in the integrity of state government and state employees. All appointing authorities shall establish such policies and standards necessary to ~~implement Rule 273~~ *prevent conflicts of interest.* ~~(3-16-04)(11-21-08)T~~

Subsection 073.04.a. and 073.04.c. through 073.04.f.

073. CALCULATION OF PAY.

034. Holiday Pay Calculation.

(7-1-87)

a. ~~All classified employees of like classification, shall be treated equally with reference to hours of employment. Paid time off for holidays, and vacation leave is a benefit and must be allocated in a substantially similar manner to all employees in the same classification. (Ref. Section 67-5326 59-1607, Idaho Code)~~

~~(3-30-01)(8-24-08)F(11-21-08)T~~

073.04.c. through 073.04.f.

c. A part-time employee who has a regular work schedule shall be paid for a holiday in the same ratio as eight (8) hours is to a forty (40) hour work week, which for calculation purposes converts to two tenths (.20) x hours normally worked. (3-16-04)

d. To avoid inequities with regard to the Family Medical Leave Act (FMLA) during holiday weeks, if an employee is recording all hours for the week as Family Medical "Leave Without Pay," no hours will be coded on the holiday. Therefore, in both Paragraphs 073.03.b. and 073.03.d. of these rules, the holiday will not be counted toward the twelve (12) weeks of family medical leave. (8-24-08)T

de. If a part-time employee's hourly schedule is so irregular that a normal workweek cannot be determined, the holiday benefit is in the same proportion that the hours the employee works during a week in which a holiday occurs relate to forty (40). (3-16-04)

ef. Schedules resulting in holiday time off in excess of eight (8) hours ~~must only~~ may be approved ~~in such a way as to treat all members of the affected job classification equally~~ by the appointing authority if included in the agency compensation plan. Appointing authorities may also suspend flex schedules during holiday weeks ~~or may grant administrative leave~~ or otherwise adjust work schedules to ensure equity internal consistency. (3-30-01)(8-24-08)T

Subsection 143.02

143. REDUCTION IN FORCE DETERMINATION AND NOTIFICATION.

143.02

02. Calculation of Retention Points. Retention points will be calculated for all employees assigned to the classification of position including those serving in underfill positions ~~(Ref. Rule Subsection 0101.604)~~. Retention points need not be calculated where layoff involves a single-incumbent class. ~~(3-16-04)(8-24-08)F(11-21-08)T~~

Subsection 241.02

241. WORKERS COMPENSATION AND DISABILITY.

02. Layoff After ~~Six Months'~~ Twelve Weeks' Disability. If the employee becomes disabled, whether or not due to a workers compensation injury, and is unable to return to work after ~~six twelve (6)12 months' weeks'~~ absence or when accrued sick leave has been exhausted, whichever is longer, the employee's position ~~shall~~ will may be declared vacant unless otherwise prohibited by state or federal law. The employee's name is certified to a reemployment preference register when the administrator has been notified by the physician that the employee is able

to return to work. (Ref. Rule Subsection 101.01) ~~The period of absence is not interrupted by the employee's full return to work for less than two (2) consecutive work weeks. Return to work as part of a rehabilitation program does not interrupt the calculation of the period of absence.~~ (3-30-01)(8-24-08)F(11-21-08)T

Subsection 250.03, 250.08.a. and 250.08.b.

250. SPECIAL LEAVES.

043. Military Leave With Pay. Employees who are members of the National Guard or reservists in the armed forces of the United States ~~who are directed by proper military authority to participate in ordered and authorized field training under the National Defense Act shall receive military leave with pay for a maximum fifteen (15) working days in any one (1) calendar year engaged in military duty ordered or authorized under the provisions of law, are entitled each calendar year to fifteen (15) days one hundred twenty (120) hours of military leave of absence from their respective duties without loss of pay, credited state service or evaluation of performance. Such leave is exclusive of separate from~~ vacation, ~~and~~ sick leave, ~~and~~ holiday, or compensatory time off for overtime. (Ref. Section 46-216, Idaho Code). (4-5-85)(8-24-08)F(11-21-08)T

~~408.~~ **Leave During Facility Closure or Inaccessibility.** (7-1-93)

a. Authorization. When a state facility is closed or declared inaccessible because of severe weather, civil disturbances, loss of utilities or other disruptions, affected employees ~~shall be~~ are authorized ~~administrative~~ leave ~~of absence~~ with pay (Ref. ~~Rule 250.06~~) to cover their scheduled hours of work during the closure or inaccessibility. (4-5-85)(8-24-08)F(11-21-08)T

250.08.b.

eb. Early release. When the appointing authority or designated representative authorizes early release of employees ~~pursuant to Rule 250.11.a.~~, the resulting time off ~~shall~~ will be charged to ~~administrative~~ leave ~~of absence~~ with pay. (Ref. ~~Rule 250.06~~) (3-16-04)(8-24-08)F(11-21-08)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.08 - VITAL STATISTICS RULES

DOCKET NO. 16-0208-0801

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 39-242 and 39-5403, Idaho Code, as well as Section 39-268, 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 Wednesday, May 7, 2008, Idaho Administrative Bulletin, Vol. 08-5, pages 51 and 52.

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 anticipated fiscal impact to the state general fund related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Greg Heitman at (208) 334-5986.

DATED this 7th day of November, 2008.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

DOCKET NO. 16-0208-0801 - 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 51 and 52.

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

16.02.24 - CLANDESTINE DRUG LABORATORY CLEANUP

DOCKET NO. 16-0224-0801

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 the "Clandestine Drug Laboratory Cleanup Act," Section 6-2604, 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 Wednesday, October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 329 through 333.

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 anticipated fiscal impact to the state general fund associated with this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kara Stevens at (208) 332-7319.

DATED this 7th day of November, 2008.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

DOCKET NO. 16-0224-0801 - 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 329 through 333.

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

16.02.26 - RULES GOVERNING THE IDAHO CHILDREN'S SPECIAL HEALTH PROGRAM

DOCKET NO. 16-0226-0801

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 56-1003 and 56-1019, 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 substance of the rules changes are: to add the full range of medical foods to the program-funded PKU diet, and to switch the families' co-payments from a post-service billing/collections model, to a pre-service payment business model. Based on comments to the rule from the Legislative Services Office and the Department, three new definitions are being added to the rule for clarification of the terms "care coordinator," "medical food," and "patient." Due to budget restrictions, changes were made to the proposed rule to eliminate the proposed sliding fee scale for adult PKU clients.

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 1 of the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 334 through 342.

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 56-1007, Idaho Code:

While there are no proposed changes to fees, the rule changes switch the payment collections system for PKU medical foods and formula from a post-service billing model, to a pre-pay model to reduce the cost of collections to the Department.

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

This rule change will have a positive fiscal impact of greater than \$10,000 on the 100% federally-funded section of the Children's Special Health Program. Federal fund savings are anticipated to be approximately \$32,400 in the first year, with possible increased savings in future years as the PKU patients become accustomed to using medical foods.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Dieuwke Spencer at (208) 334-0670.

DATED this 7th day of November, 2008.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720

Boise, ID 83720-0036
(208) 334-5564 phone
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DOCKET NO. 16-0226-0801 - ADOPTION OF PENDING FEE 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 1, pages 334 through 342.**

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. 16-0226-0801

Section 010

~~0040~~**010. DEFINITIONS.**

For the purposes of these rules, the following terms are used: (7-1-97)

01. Applicant. A person under age eighteen (18) or persons of any age with cystic fibrosis or Phenylketonuria (PKU) seeking services provided by CSHP. (~~7-1-97~~)()

02. Care Coordinator. *A Department employee or contractor responsible for receiving and processing CSHP applications and supporting documentation from current and potential CSHP clients. A care coordinator issues authorization memos for services authorized by CSHP.* ()

023. Children's Special Health Program (CSHP). The program section within the Idaho Department of Health and Welfare, Division of Health, which is responsible for the administration of services leading to the identification, diagnosis, and aftercare of children with special health care needs. (7-1-97)

Subsection 010.04 (amendment deleted - no change to the codified text)

~~034~~**034. Client.** A person under age eighteen (18) with a chronic physically disabling condition which meets one of the diagnostic categories of CSHP or persons of any age with cystic fibrosis for which he is receiving or has applied to receive services from CSHP. (7-1-97)

~~045~~**045. Department.** The Idaho Department of Health and Welfare. (7-1-97)

~~056~~**056. Diagnosis.** The act of identifying a disease from its signs or symptoms. (7-1-97)

067. Division. The Division of Health, a division of the Idaho Department of Health and Welfare, and where CSHP is housed administratively. (7-1-97)

08. Medical Food. *A food which is formulated to be consumed or administered enterally (i.e., passing through the stomach and digested in the intestine), under the supervision of a physician and metabolic nutritionist, and which is intended for the specific dietary management of PKU.* ()

09. Patient. The term "patient" is synonymous with the term "client" as defined in Subsection 101.04 of this rule. ()

Subsection 107.02

107. PHENYLKETONURIA (PKU).

Under this program eligible patients are provided treatment services which include nutritional assessment, dietary counseling and provision of formula medical foods, including formula, in compliance with the patient's treatment plan. Persons over eighteen (18) years of age with PKU may purchase formula from CSHP at CSHP's cost. (7-1-97)()

01. PKU Patients Under Eighteen Years of Age. PKU patients under eighteen (18) years of age may purchase medical foods from CSHP or CSHP's contractor(s) by pre-paying the appropriate percentage, if any, of CSHP's cost. The percentage of cost is based on the sliding fee scale in Section 157 of these rules. ()

02. PKU Patients Eighteen Years of Age and Over. PKU patients eighteen (18) years of age and over may purchase medical foods from CSHP or CSHP's contractor(s) by pre-paying CSHP's cost. ()

Table 107.02 is Being Removed

Section 151

151. AGE.

Applications may be accepted on persons up to age eighteen (18), or any age for persons with cystic fibrosis ~~or phenylketonuria (PKU).~~ With the exception of cystic fibrosis, CSHP will pay for no services after the patient's 18th birthday unless the person is receiving active inpatient treatment at the time of the birthday. In that case CSHP will pay for services until discharge if they fall within the guidelines described in Section 054 of these rules. (7-1-97)()

Section 153 (amendments deleted - no change to the codified rule)

Section 157

157. SLIDING FEE SCALE.

A The sliding fee scale in Table 157 of this rule is used to determine the family's percentage of financial participation for a CSHP client's treatment, except for adult PKU. Families with incomes below one hundred eight five percent (185%) of federal poverty guidelines will receive CSHP services at no cost; incomes between one hundred eighty five percent (185%) and one hundred ninety nine percent (199%) will be responsible for ten percent (10%) of costs up to a one thousand eight hundred dollar (\$1,800) maximum; incomes between two hundred percent (200%) and two hundred twenty four percent (224%) will be responsible for twenty percent (20%) of costs up to a three thousand six hundred dollar (\$3,600) maximum; incomes between two hundred twenty five percent (225%) and two hundred forty nine percent (249%) will be responsible for thirty percent (30%) of costs up to a five thousand four hundred dollar (\$5,400) maximum; incomes between two hundred fifty percent (250%) and two hundred seventy four percent (274%) will be responsible for fifty percent (50%) of costs up to a nine thousand dollar (\$9,000) maximum; incomes between two hundred seventy five percent (275%) and two hundred ninety nine percent (299%) will be responsible for seventy five percent (75%) of costs up to a thirteen thousand five hundred dollar (\$13,500) maximum; and incomes of three hundred percent (300%) and above will be responsible for one hundred percent (100%) of costs up to an eighteen thousand dollar (\$18,000) maximum. Each percentage category includes an annual per-client maximum for which a family would be responsible in any given year. The percentage amount applies to all costs incurred for services provided to ~~their child~~ the client up to the annual maximum indicated.

TABLE 157 - SLIDING FEE SCALE FOR CSHP SERVICES (Excluding Adult PKU).		
<u>Percent of Federal Poverty Level</u>	<u>Percentage of Cost Sharing Responsibility for Responsible Party</u>	<u>Annual Maximum Responsibility Per Client</u>
<u>0% - 185%</u>	<u>0%</u>	<u>\$0</u>
<u>186% -199%</u>	<u>10%</u>	<u>\$1,800</u>
<u>200% - 224%</u>	<u>20%</u>	<u>\$3,600</u>
<u>225% -249%</u>	<u>30%</u>	<u>\$5,400</u>
<u>250% -274%</u>	<u>50%</u>	<u>\$9,000</u>
<u>275% -299%</u>	<u>75%</u>	<u>\$13,500</u>
<u>300% and above</u>	<u>100%</u>	<u>\$18,000</u>

(7-1-97)()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.01 - ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-0802

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 56-202, 56-203, 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 proposed changes will allow low income individuals to earn additional income and gain job experience on a temporary basis without jeopardizing their Medicaid benefits. The complete text of the proposed rule was published in Book 1 of the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 343 and 344.

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 anticipated fiscal impact to state general funds for exempting this temporary income for current Medicaid eligible individuals.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Peggy Cook at (208) 334-5969.

DATED this 13th day of November, 2008.

Tamara Prisock
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DOCKET NO. 16-0301-0802 - 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 343 and 344.

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

16.03.03 - RULES GOVERNING CHILD SUPPORT SERVICES

DOCKET NO. 16-0303-0802

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 7-1206, 32-1209, 32-1217, 56-203A, and 56-1004, Idaho Code; also 42 U.S.C. Section 666(a)(10) as amended by 4 Stat. 120 (February 8, 2006).

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 Wednesday, October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 345 through 348.

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 anticipated fiscal impact to the state general fund associated with this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kandee Yearsley (208) 334-0620.

DATED this 7th day of November, 2008.

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DOCKET NO. 16-0303-0802 - 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 345 through 348.

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

16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

DOCKET NO. 16-0304-0803

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 October 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 56-203, Idaho Code, and the 2008 Federal Farm Bill, P.L. 110-234, Section 4102, 4103, 4107, 4113, 4114, and 4115; US H.R. 2419.

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:

These rule changes were made in order for the Department to be in compliance with changes made in federal code with the 2008 Farm Bill. Based on comments received, the term "Individual Development Account" is being deleted and a cite to Idaho Code for individual development accounts is being done in a later section of rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the proposed rule was published in Book 1 of the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 349 thorough 359.

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

There is no fiscal impact due to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Rosie Andueza at (208) 334-5553.

DATED this 10th day of November, 2008.

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**DOCKET NO. 16-0304-0803 - 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 349 through 359.**

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 16-0304-0803

Subsection 011.21 (deletion and renumbering)

011. DEFINITIONS E THROUGH L.

For the Food Stamp Program, the following definitions apply: (4-11-06)

~~**21. Individual Development Account (IDA).** Matched funds savings accounts that can only be used to save for a certain asset goal. (10-1-08)T~~

21. Institution of Higher Education. Any institution which normally requires a high school diploma or equivalency certificate for enrollment. These institutions include colleges, universities, and business, vocational, technical, or trade schools at the post-high school level. (7-1-97)

22. Institution of Post Secondary Education. Educational institutions normally requiring a high school diploma or equivalency certificate for enrollment, or admits persons beyond the age of compulsory school attendance. The institution must be legally authorized by the state and provide a program of training to prepare students for gainful employment. (4-11-06)

23. Legal Noncitizen. A qualified alien under 8 USC Section 1641(b). (4-6-05)

24. Limited Utility Allowance (LUA). Utility deduction given to a food stamp household that has a cost for more than one (1) utility. This includes electricity and fuel for purposes other than heating or cooling, water, sewage, well and septic tank installation and maintenance, telephone, and garbage or trash collection. (4-11-06)

Section 365

365. INDIVIDUAL DEVELOPMENT ACCOUNT EXCLUDED AS A RESOURCE.

The cash value of an Individual Development Account (IDA) established in compliance with Section 56-1101(5), Idaho Code, is excluded as a resource. (10-1-08)T(10-1-08)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

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

DOCKET NO. 16-0305-0802

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 January 1, 2009. 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 56-202, 56-203, 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 amended from the original proposed text so that the census income is excluded from Medicaid only. The complete text of the proposed rule was published in Book 1 of the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 360 and 361.

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 anticipated fiscal impact to state general funds for exempting this temporary income for current Medicaid eligible individuals.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Peggy Cook at (208) 334-5969.

DATED this 13th day of November, 2008.

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**DOCKET NO. 16-0305-0802 - 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 360 and 361.](#)

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 16-0305-0802

359. TEMPORARY CENSUS INCOME.

For Medicaid only. All wages paid by the Census Bureau for temporary employment related to U.S. Census activities are excluded. ~~(1-1-09)~~(1-1-09)T

~~35960.~~ -- 399. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)

DOCKET NO. 16-0308-0803

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 56-202 and 56-203, 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 proposed rule changes were made to better serve families and individuals in Idaho who are in need of cash assistance. The complete text of the proposed rule was published in Book 1 of the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 362 through 368.

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 fiscal impact due to this rulemaking is anticipated to be \$2502 of state general funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Genie Sue Weppner (208) 334-5656.

DATED this 13th day of November, 2008.

Tamara Prisock
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DOCKET NO. 16-0308-0803 - 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 1, pages 362 through 368.

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

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-0801

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, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202(b), 56-203, 56-2091, 56-250 through 257, and 56-1003, Idaho Code.

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

The text of the proposed rule is being amended to place a five-year lifetime cap on substance abuse treatment services for adults. Changes are also being made to definitions to clarify the terms "Assessment" and "Case Management." 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 1 of the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 369 through 375.

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

The state's matching funds fiscal impact for Substance Abuse Treatment and Prevention is \$963,600, as appropriated by the 2008 Legislation.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Pat Guidry (208) 364-1813.

DATED this 13th day of November, 2008.

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**DOCKET NO. 16-0309-0801 - 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 1, pages 369 through 375.](#)

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 16-0309-0801

Subsections 690.01 and 690.02

690. SUBSTANCE ABUSE TREATMENT SERVICES - DEFINITIONS.

The following definitions apply to Sections 690 through 696 of these rules.

(7-1-08)T

01. Assessment Services. *Assessment services includes annual assessment, interviewing, and treatment plan building.*

~~(7-1-08)T~~(7-1-08)T

02. Case Management Services. *Case management services consists of the following:*

~~(7-1-08)T~~(7-1-08)T

Subsection 692.02 (addition and renumbering)

692. SUBSTANCE ABUSE TREATMENT SERVICES - COVERAGE AND LIMITATIONS.

02. Lifetime Cap. *Substance abuse treatment services provided under this chapter of rules are limited to a lifetime cap of five (5) years. The five-year period begins on the date of the initial assessment, regardless of the source of payment for that assessment. This lifetime cap applies only to participants twenty-two (22) years of age or older.*

(7-1-08)T

023. Excluded Services. *Services specifically excluded are described in IDAPA 16.07.17, "Alcohol and Substance Use Disorders Services," residential services, and life skills training services.*

(7-1-08)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-0802

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 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, 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 Wednesday, October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 376 through 378.

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 anticipated fiscal impact to the state general fund related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Randy May at (208) 364-1815.

DATED this 7th day of November, 2008.

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DOCKET NO. 16-0309-0802 - 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 376 through 378.

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

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-0803

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 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, 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:

Based on extensive input received during the public comment period, many amendments clarifying this rulemaking have been added to this rule.

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 1 of the Wednesday, October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 379 through 399.

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

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:

These rule changes reflect year one of a three-year planning process to incorporate new evidenced-based benefits and best practices. Also included are changes which improve the management of existing benefits, incorporating standards and applying appropriate limits. As rules are further defined, costs and cost-containment details will be identified. The overall impact is anticipated to slow the expenditure growth of Medicaid-paid mental health services while improving quality and maintaining access. Cost containment will be achieved by establishing clear assessment criteria and reducing inappropriate utilization.

There is no anticipated fiscal impact related to the changes to rules associated with occupational therapy and speech language pathology services.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Pat Guidry at (208) 364-1813.

DATED this 24th day of November, 2008.

Tamara Prisock
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DOCKET NO. 16-0309-0803 - 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 1, pages 379 through 399.**

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. 16-0309-0803

Subsection 010.16

010. DEFINITIONS -- A THROUGH H.

For the purposes of these rules, the following terms are used as defined below: (3-30-07)

16. Collateral Contact. ~~Contact made with a parent, guardian, or other individual having a primary relationship to the patient by an appropriately qualified treatment professional. The contact must be ordered by a physician, contained in the treatment plan, directed at the medical treatment of the patient, and documented in the progress notes or continuous service record. Coordination of care communication that is initiated by a medical or qualified treatment professional with members of a participant's interdisciplinary team or consultant to the interdisciplinary team. The communication is limited to interpretation or explanation of results of psychiatric or other medical examinations and procedures or other accumulated data to family or responsible persons or advising them how to assist participant.~~ Collateral contact is used to: (3-30-07)()

- a.** Coordinate care between professionals who are serving the participant; ()
- b.** Relay medical results and explanations to members of the participant's interdisciplinary team; or ()
- c.** Conduct an intermittent treatment plan review with the participant and his interdisciplinary team. ()

Section 707 (entire section)

707. MENTAL HEALTH CLINIC SERVICES - DEFINITIONS.

01. Adult. An adult is an individual who is eighteen (18) years of age or older for the purposes of Mental Health Clinic and other outpatient mental health services. (3-30-07)

02. Comprehensive Diagnostic Assessment. A thorough assessment of the participant's current

condition and complete medical and psychiatric history. ()

03. Functional Assessment. In rehabilitative mental health, this assessment is used to provide supplemental information to the comprehensive diagnostic assessment and provides information on the current or required capabilities needed by a participant to maintain himself in his chosen environment. It is a description and evaluation of the participant's practical ability to complete tasks that support activities of daily living, family life, life in the community, and promote independence. This assessment assists participants to better understand what skills they need to achieve their rehabilitation goals. ()

04. Intake Assessment. An agency's initial assessment of the participant that is conducted by an agency staff person who has been trained to perform mental status examinations and solicit sensitive health information for the purpose of identifying service needs prior to developing an individualized treatment plan. The intake assessment must contain a description of the reason(s) the participant is seeking services and a description of the participant's current symptoms, present life circumstances across all environments, recent events, resources, and barriers to mental health treatment. If this is the initial screening process, then it must be used to document the indicators that mental health services are a medical necessity for the participant. ()

05. Interdisciplinary Team. Group that consists of two (2) or more individuals in addition to the participant, the participant's parent or legal guardian, and the participant's natural supports. This may include professionals from several fields or professions. Team members combine their skills and resources to provide guidance and assistance in the creation of the participant's treatment plan. Professionals working with the participant to fulfill the goals and objectives on the treatment plan are members of the participant's interdisciplinary team whether they attend treatment plan meetings or not. At a minimum, professional members of the team include the medical professional authorizing the treatment plan and the specific agency staff member who is working with the participant. ()

06. Level of Care. Clinical treatment decisions that determine service site, modality, urgency, and specific interventions needed to address the key presenting signs, symptoms, and environmental factors that indicate the severity of illness and the intensity of service needed by the participant. It also takes into account relevant external factors affecting clinical treatment decisions. ()

07. Licensed Practitioner of the Healing Arts. A licensed physician, physician assistant, nurse practitioner, or clinical nurse specialist. The nurse practitioner and clinical nurse specialist must have experience prescribing medications for psychiatric disorders. ()

028. Mental Health Clinic. A mental health clinic, also referred to as "agency," must be a proprietorship, partnership, corporation, or other entity, in a distinct location, employing at least two (2) staff qualified to deliver clinic services under this rule and operating under the direction of a physician. (3-30-07)

09. Neuropsychological Testing. Assessment of brain functioning through structured and systematic behavioral observation. Neuropsychological tests are designed to examine a variety of cognitive abilities, including speed of information processing, attention, memory, language, and executive functions, which are necessary for goal-directed behavior. These data can provide information leading to the diagnosis of a cognitive deficit or to the confirmation of a diagnosis, as well as to the localization of organic abnormalities in the central nervous system; the data can also guide effective treatment methods for the rehabilitation of impaired participants. ()

10. Objective. A milestone toward meeting the goal that is concrete, measurable, time-limited, and identifies specific behavior changes. ()

11. Occupational Therapy. For the purposes of mental health treatment, the use of purposeful, goal-oriented activity to achieve optimum functional performance and independence, prevent further disability, and maintain health with individuals who are limited by the symptoms of their mental illness. ()

12. Pharmacological Management. The in-depth management of medications for psychiatric disorders for relief of a participant's signs and symptoms of mental illness, provided by a licensed practitioner of the healing arts. ()

13. **Psychiatric Nurse, Licensed Master's Level.** A certified psychiatric nurse, Clinical Nurse Specialist or Psychiatric Nurse Practitioner, must be licensed in accordance with Title 54, Chapter 14, Idaho Code, or certified by a recognized national certification organization, and have a minimum of a master's degree. (3-30-07)

14. **Psychological Testing.** Psychological testing refers to any measurement procedure for assessing psychological characteristics in which a sample of an examinee's behavior is obtained and subsequently evaluated and scored using a standardized process. This does not refer to assessments that are otherwise conducted by a professional within the scope of his license for the purposes of determining a participant's mental status, diagnoses or functional impairments. (3-30-07)

15. **Psychotherapy.** A method of treating and managing psychiatric disorders through the use of evidenced-based *psychological treatment* modalities that *match the participant's ability to benefit from the service. The focus of the service is on behavioral, emotional, and cognitive aspects of a participant's functioning.* ()

16. **Restraints.** Restraints include the use of physical, mechanical, or chemical interventions, *or other means to temporarily subdue or modify participant behavior.* ()

a. *A restraint includes:* ()

i. Any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a participant to move his arms, legs, body, or head freely; or ()

ii. A drug or medication when it is used as a restriction to manage the participant's behavior or restrict the participant's freedom of movement and is not a standard treatment or dosage for the participant's condition; ()

b. *A restraint does not include physical escorts or devices, such as orthopedically prescribed devices, to permit the participant to engage in activities without the risk of physical harm.* ()

17. **Seclusion.** *Seclusion is the involuntary confinement of a participant alone in a room or area from which the participant is prevented from leaving.* ()

18. **Serious Emotional Disturbance (SED).** In accordance with the Children's Mental Health Services Act, Section 16-2403, Idaho Code, SED is: ()

a. *An emotional or behavioral disorder according to the DSM-IV-TR, which results in a serious disability; and* ()

b. *Requires sustained treatment interventions; and* ()

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

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

19. **Serious Mental Illness (SMI).** In accordance with 42 CFR 483.102(b)(1), a person with SMI: ()

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

b. *Must have a functional impairment which substantially interferes with or limits one (1) or more major life activities. Functional impairment is defined as difficulties that substantially interfere with or limit role functioning with an individual's basic daily living skills, instrumental living skills, and functioning in social, family, vocational or educational contexts. Instrumental living skills include maintaining a household, managing money, getting around the community, and taking prescribed medication. An adult who met the functional impairment*

criteria during the past year without the benefit of treatment or other support services is considered to have a serious mental illness. ()

20. Serious and Persistent Mental Illness (SPMI). Participants must meet the criteria for SMI, have at least one (1) additional functional impairment, and have a diagnosis under DSM-IV-TR with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis. ()

05- Social History. A social history contains a description of the reason(s) the participant is seeking services, a description of his current symptoms, present life circumstances, recent events, his resources, and barriers to mental health treatment. (3-30-07)

21. Treatment Plan Review. The practice of obtaining input from members of a participant's interdisciplinary team that is focused on evaluating the programs, progress, and future plans of a participant. This review should provide feedback and suggestions intended to help team members and the participant to accomplish the goals identified on the participant's individualized treatment plan. ()

Section 708 and Subsection 708.01

708. MENTAL HEALTH CLINIC SERVICES - PARTICIPANT ELIGIBILITY.

If an individual who is not eligible for medical assistance receives intake services from any staff not having the required degree(s) as provided in Subsection 715.03 of these rules, and later becomes eligible for medical assistance, a new intake assessment and individualized treatment plan will be required which must be developed by a qualified staff person and authorized prior to any reimbursement. Eligibility must be established through the assessment services described under Subsections 709.03.a. and 709.03.b. of these rules. The following are requirements for establishing eligibility for mental health clinic services. (3-30-07)()

708.01

01. History and Physical Examination. The participant must have documented evidence of a history and physical examination that has been completed by his primary care physician. This examination must be within the last twelve (12) months immediately preceding the initiation of mental health clinic services and annually thereafter. Providers must refer those participants who have not had a history and physical examination to their primary care provider for this service prior to the delivery of mental health services. A participant who is in crisis may receive mental health services as described under Subsection 709.06 of these rules prior to obtaining a history and physical examination. ()

Subsections 709.03, through 709.03.f., 709.05, 709.07, 709.07.b., and new Subsections 709.11 through 709.11.d.

7409. MENTAL HEALTH CLINIC SERVICES - COVERAGE AND LIMITATIONS.

All mental health clinic services must be provided at the clinic unless provided to an eligible homeless individual. (3-30-07)

709.03

03. Evaluation and Diagnostic Services in Mental Health Clinics. Participants must obtain either an intake assessment or a comprehensive diagnostic assessment as the initial evaluation in mental health clinics, depending on their clinical presentation. (3-30-07)()

a. Social History An intake assessment is a reimbursable evaluation and diagnostic service when the following conditions are met: (1-1-08)F()

i. The intake assessment must be conducted by staff trained to perform mental status examinations and to conduct interviews intended to solicit sensitive health information for the purpose of identifying a participant's

treatment needs and developing an individualized treatment plan. ()

ii. The intake assessment must be documented in the participant's medical record and must contain a current mental status examination and a review of the participant's strengths and needs. ()

b. The comprehensive diagnostic assessment must incorporate information typically gathered in an intake assessment process if an intake assessment has not been completed by the provider agency conducting the comprehensive diagnostic assessment. The comprehensive diagnostic assessment must include a current mental status examination, a description of the participant's readiness and motivation to engage in treatment, participate in the development of his treatment plan and adhere to his treatment plan. The assessment must include the five (5) axes diagnoses under DSM-IV-TR with recommendations for level of care, intensity, and expected duration of treatment services. A comprehensive diagnostic assessment is a reimbursable service when: ()

i. A comprehensive diagnostic assessment is medically necessary in order to provide Basic Plan mental health services and staff determines that the intake assessment does not provide sufficient clinical information; ()

ii. The participant is seeking Enhanced Plan services; or ()

iii. When the assessment is performed by qualified staff identified under Subsection 715.02 of these rules. ()

c. Functional assessment is a reimbursable evaluation service when the comprehensive diagnostic evaluation indicates that the participant may benefit from rehabilitative skill training. A functional assessment must be conducted by a qualified staff person capable of assessing a participant's strengths and needs. The functional assessment must describe and evaluate the participant's practical ability to complete tasks that support activities of daily living, family life, life in the community, and that promote independence. ()

bd. Psychological testing may be provided as a reimbursable service when provided in direct response to a specific evaluation question. The psychological report must contain the reason for the performance of this service. Agency staff may deliver this service if they meet one (1) of the following qualifications: (1-1-08)T

i. Licensed Psychologist; (3-30-07)

ii. Psychologist extenders as described in IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners"; or (3-30-07)

iii. A qualified therapist listed in Subsection 715.03 of these rules who has documented evidence of education or training qualifying him to administer, score, interpret, and report findings for the psychological test he will be performing. (3-30-07)

~~**e.** A psychiatric diagnostic interview exam may be provided as a reimbursable service when delivered by one (1) of the following licensed professionals: (1-1-08)F~~

~~i. Psychiatrist; (3-30-07)~~

~~ii. Physician; (3-30-07)~~

~~iii. Practitioner of the healing arts; (3-30-07)~~

~~iv. Psychologist; (3-30-07)~~

~~v. Clinical Social Worker; (3-30-07)~~

~~vi. Clinical Professional Counselor; or (3-30-07)~~

~~vii. Licensed Marriage and Family Therapist. (3-30-07)~~

~~d. Evaluations performed by qualified registered occupational therapists, O.T.R., performed in conjunction with the development of an individualized treatment plan are reimbursable. (1-1-08)F~~

e. Neuropsychological testing may be provided as a reimbursable service when provided in direct response to a specific evaluation question for participants whose clinical presentation indicates possible neurological involvement or central nervous system compromise from either a congenital or acquired etiology impacting the individual's functional capacities. The neuropsychological evaluation report must contain the reason for the performance of this service. Agency staff may deliver this service if they are a licensed psychologist or psychologist extender with specific competencies in neuropsychological testing. ()

f. Occupational therapy assessment may be provided as a reimbursable service when recommended by the treatment team. This service may include the administration of standardized and non-standardized assessments and must be provided by an occupational therapist licensed in accordance with IDAPA 22.01.09, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants." ()

Subsection 709.05 (amendment deleted - no change to the codified text)

05. Family Psychotherapy. Family psychotherapy services must be delivered in accordance with the goals of treatment as specified in the individualized treatment plan. The focus of family psychotherapy is on the dynamics within the family structure as it relates to the participant. (1-1-08)T

Subsections 709.07 and 709.07.b.

07. Collateral Contact. Collateral contact, as defined in Section 010 of these rules, is ~~covered by Medicaid if a reimbursable service when~~ it is included on the individualized treatment plan and it is necessary for professional staff to gather and exchange share information, provide interpretation or explanation of results of psychiatric evaluations, medical examinations and procedures, other accumulated data to family or other responsible persons, with members of the participant's interdisciplinary team, or advise them how to assist the participant. (1-1-08)F()

709.07.b.

b. Collateral contact ~~may~~ can be provided by telephone by agency staff ~~qualified to deliver clinical providing treatment~~ services when this is the most expeditious and effective way to ~~exchange~~ provide information. (1-1-08)F()

Subsection 709.11

11. Occupational Therapy Services. Occupational therapy services are reimbursable when included as part of the participant's individualized treatment plan. Agency staff may deliver these services if they are an occupational therapist licensed in accordance with IDAPA 22.01.09, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants." The practice of occupational therapy encompasses the evaluation, consultation, and treatment of individuals whose abilities to cope with the tasks of daily living are threatened or impaired. It includes a treatment program through the use of specific techniques that enhance functional performance and includes evaluation or assessment of the participant's: ()

- a. Self-care, functional skills, cognition, and perception; ()
- b. Sensory and motor performance; ()
- c. Play skills, vocational, and prevocational capacities; and ()
- d. Need for adaptive equipment. ()

Section 710, Subsections 710.01.b., 710.02.a., 710.02.b.ii., 710.02.e. and 710.05

70910. MENTAL HEALTH CLINIC SERVICES - WRITTEN INDIVIDUALIZED TREATMENT PLAN.

A written individualized treatment plan is a medically-ordered plan of care. An individualized treatment plan must be developed and implemented for each participant receiving mental health clinic services. Timeframes for treatment plans must not exceed twelve (12) months. Treatment planning is reimbursable if conducted by a qualified professional identified in Subsection 715.03 of these rules. (3-30-07)(____)

01. Individualized Treatment Plan Development. The individualized treatment plan must be developed by the following: (3-30-07)

710.01.b.

b. ~~The adult~~ participant, if capable, and ~~the adult participant's~~ his parent or legal guardian, or in the case of a minor the minor's parent or legal guardian. The participant ~~or his parent or~~ and his parent or legal guardian may also choose others to participate in the development of the plan. (3-30-07)(____)

02. Individualized Treatment Plan Requirements. An individualized treatment plan must include, at a minimum, the following: (3-30-07)

710.02.a.

a. Statement of the overall goals as identified by the participant or his parent or legal guardian and concrete, measurable treatment objectives to be achieved by the participant, including time frames for completion. The goals and objectives must be individualized, ~~and must be directly related to the clinic service needs that are identified in the assessment~~ and must reflect the choices of the participant or his parent or legal guardian. The goals and objectives must address the emotional, behavioral, and skill training needs identified by the participant or his parent or legal guardian through the intake and assessment process. The goals must be specific to the type of modality used and must specify the frequency and anticipated duration of therapeutic services. (3-30-07)(____)

b. Documentation of who participated in the development of the individualized treatment plan. (3-30-07)

710.02.b.ii.

ii. ~~The adult~~ participant, ~~the adult participant's when able,~~ and his parent or legal guardian, or in the case of a minor the minor's parent or legal guardian must sign the treatment plan indicating their agreement with service needs identified and their participation in its development. If these signatures indicating participation in the development of the treatment plan are not obtained, then the agency must document in the participant's record the reason the signatures were not obtained, including the reason for the participant's refusal to sign. A copy of the treatment plan must be given to the ~~adult~~ participant and his parent or legal guardian or to his parent or legal guardian if the participant is a minor. (3-30-07)(____)

710.02.e.

e. Tasks that are specific, time-limited activities and interventions designed to accomplish the objectives in the individualized treatment plan that are recommended by the participant's interdisciplinary team and agreed to by the participant or his parent or legal guardian. Each task description must specify the anticipated place of service, the frequency of services, the type of service, and the person(s) responsible to provide the service. (____)

710.05 (amendment deleted - no change to the codified text)

05. Continuation of Services. Continuation of services after the first year must be based on documentation of the following: (3-30-07)

Section 711 (entire section)

711. MENTAL HEALTH CLINIC SERVICES - EXCLUDED SERVICES NOT REIMBURSABLE UNDER MEDICAID.

01. Inpatient Medical Facilities. ~~The Medical Assistance Program~~ Medicaid will not pay for mental health clinic services rendered to ~~medical assistance~~ participants residing in inpatient medical facilities, including nursing homes, hospitals, or public institutions ~~as~~ defined in 42 CFR 435.1009; or (3-30-07)()

02. Non-Reimbursable. ~~Any service not adequately documented in the participant's record by the signature of the therapist providing the therapy or participant contact, the length of the therapy session, and the date of the contact, will not be reimbursed by the Department. The Department will not reimburse a service unless the participant's medical record includes the signature and credential of the professional staff providing the therapy or participant contact, the length of the session, and the date of the contact.~~ (3-30-07)()

03. Non-Eligible Staff. Any treatment or contact provided as a result of an individualized treatment plan that is performed by any staff other than those qualified to deliver services under Subsection 715.03 of these rules is not ~~be~~ eligible for reimbursement by the Department. (3-30-07)()

04. Recoupment. If a record is determined not to meet minimum requirements as set forth herein, any payments made on behalf of the participant are subject to recoupment. (3-30-07)

Subsection 714.03.a. through new Subsection 714.04.e., 714.08, 714.11.a., and new Subsections 714.12 through 714.12.b. (previously proposed Subsections 714.12.a. through 714.12.f. have been deleted)

714. MENTAL HEALTH CLINIC SERVICES - PROVIDER AGENCY REQUIREMENTS.
Each agency that enters into a provider agreement with the Department for the provision of mental health clinic services must meet the following requirements: (3-30-07)

714.03.a. through 04.e.

03. Staff to Participant Ratio. The following treatment staff-to-participant ratios for group treatment services must be observed: ()

a. For children under *four (4)* years of age, the ratio must be 1:1. No group work is allowed. ()

b. For children *four (4)* to twelve (12) years of age, the ratio must be 1:6 for groups. Group size must not exceed twelve (12) participants. ()

c. For children over age twelve (12) years of age, the ratio must be 1:10 for groups. Group size must not exceed twelve (12) participants. ()

04. Family Participation Requirement. The following standards must be observed for services provided to children: ()

a. For a child under *four (4)* years of age, the *child's parent or legal guardian should be actively involved by being present on the premises and available for consultation with the staff during the delivery of mental health services. The child's parent or legal guardian does not have to participate in the treatment session or be present in the room in which the service is being conducted.* ()

b. For a child *four (4)* to twelve (12) years of age, the *child's parent or legal guardian should be actively involved. The child's parent or legal guardian does not have to participate in the treatment session but must be available for consultation with the staff providing the service.* ()

c. For a child over twelve (12) years of age, the *child's parent or legal guardian should be involved, as appropriate. If the interdisciplinary team recommends that the child's parent or legal guardian not be involved in any aspect of the treatment, then the reasons for excluding the child's parent or legal guardian must be documented in the*

medical record. ()

d. For a child whose parent or legal guardian does not participate in the services, the provider must document efforts made to involve the parent or legal guardian and must make appropriate adjustments to the treatment plan to address the parent or legal guardian's lack of involvement. ()

e. Nothing in these rules may interfere with compliance to provisions of Section 16-2428, Idaho Code, regarding confidentiality and disclosure of children's mental health information. ()

714.08

048. **Assessment.** All treatment in mental health clinics must be based on ~~an individualized one (1) or more~~ assessments of the participant's needs, ~~including a current mental status examination, required under Section 709.03 of these rules~~ and provided under the direction of a licensed physician. (3-30-07)()

714.11.a.

~~0711.~~ **Supervision.** The agency must ensure that staff providing clinical services are supervised according to the following guidelines: (3-30-07)

a. Standards and requirements for supervision ~~set by~~ under the rules of the Idaho Bureau of Occupational Licenses ~~are~~ and the Idaho State Board of Medicine must be met; (3-30-07)()

714.12

12. **Restraints and Seclusion.** ()

a. Restraints and seclusion must not be employed under any circumstances except when an agency staff person employs physical holds as an emergency response to assault or aggression or other immediate safety risks in accordance with the following requirements in Subsections 714.12.a.i. through 714.12.a.iii.: ()

i. The agency must have an accompanying policy and procedure that addresses the use of the such holds. ()

ii. The physical holds employed must be a part of a nationally recognized non-violent crisis intervention model. ()

iii. The staff person who employs the hold technique(s) must have evidence in his personnel record of current certification in the method. ()

b. Provider agencies must develop policies that address the agency's response by staff to emergencies involving assault or aggression or other immediate safety risks. All policies and procedures must be consistent with licensure requirements, federal, state, and local laws, and be in accordance with accepted standards of healthcare practice. ()

Subsections 715.01, 715.01.l. through 715.02.l., 715.03.h., 715.05, 715.05.h., and 715.05.k. through new Subsection 715.06

715. MENTAL HEALTH CLINIC SERVICES - AGENCY STAFF QUALIFICATIONS.

01. Staff Qualifications. The mental health clinic must assure that each agency staff person delivering clinical treatment services to ~~eligible medical assistance~~ Medicaid participants works within the scope of his license and has, at a minimum, one (1) or more of the following qualifications credentials: (3-30-07)()

715.01.l.

- ~~h~~l. Certified Psychiatric Nurse, (RN), as described in Subsection 707.013 of these rules; (3-30-07)()

715.01.m. (amendment deleted - no change to the codified text)

- ~~h~~m. Licensed Professional Nurse, R.N.; or (3-30-07)
- ~~m~~n. Registered Licensed Occupational Therapist, ~~O.T.R.~~ (3-30-07)()

715.02.

~~02. **Support Staff Qualified to Deliver a Comprehensive Diagnostic Assessment.** For the purposes of this rule, support staff is any person who does not meet the qualifications of professionals as listed in Subsection 715.01 of this rule. The agency may elect to employ support staff to provide support services to participants. Such support services may include providing transportation, cooking and serving meals, cleaning and maintaining the physical plant, or providing general, non-professional supervision. Support staff must not deliver or assist in the delivery of services that are reimbursable by Medicaid. A comprehensive diagnostic assessment is a reimbursable service when delivered by one (1) of the following licensed professionals: (3-30-07)()~~

- ~~a. Psychiatrist: ()~~
- ~~b. Physician: ()~~
- ~~c. Practitioner of the healing arts: ()~~
- ~~d. Psychologist: ()~~
- ~~e. Clinical Social Worker: ()~~
- ~~f. Clinical Professional Counselor: ()~~
- ~~g. Licensed Marriage and Family Therapist: ()~~
- ~~h. Certified Psychiatric Nurse, (RN), as described in Subsection 707.13 of these rules: ()~~
- ~~i. Licensed Professional Counselor whose provision of diagnostic services is supervised as described in IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists": ()~~
- ~~j. Licensed Masters Social Worker whose provision of diagnostic services is supervised as described in IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners": ()~~
- ~~k. Licensed Associate Marriage and Family Therapist whose provision of diagnostic services is supervised as described in IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists": or ()~~
- ~~l. Psychologist Extender, registered with the Bureau of Occupational Licenses whose provision of diagnostic services is supervised as described in IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." ()~~

715.03.h.

~~03. **Qualified ~~Therapist~~ Interdisciplinary Treatment Planning Staff.** The ~~social history and~~ individualized treatment plan development is reimbursable if conducted by a ~~primary therapist~~ qualified staff person who, at a minimum, has one (1) or more of the following qualifications: (3-30-07)()~~

~~f.~~ Licensed Physician ~~or Licensed Psychiatrist or other licensed practitioner of the healing arts;~~
(3-30-07)()

715.05.
05. Staff Qualifications for Psychotherapy Services. Licensed, qualified professionals providing psychotherapy services as set forth in Subsections ~~7409.054-a.~~ through ~~7409.056-e.~~ of these rules must have, at a minimum, one (1) or more of the following ~~degrees~~ credentials:
(3-30-07)()

715.05.h.
h. Licensed Professional Counselor whose provision of psychotherapy is supervised ~~by persons qualified under Subsections 715.15.a. through 715.1.g. of this rule in compliance with IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists";~~
(3-30-07)()

715.05.k.
k. A Psychologist Extender, registered with the Bureau of Occupational Licenses: ~~whose provision of diagnostic services is supervised in compliance with IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners."~~
(3-30-07)()

715.06
06. Support Staff. For the purposes of this rule, support staff is any person who is not a professional listed in Subsection 715.01 of this rule. The agency may elect to employ support staff to provide support services to participants. Such support services may include providing transportation, cooking and serving meals, cleaning and maintaining the physical plant, or providing general, non-professional supervision. Support staff must not deliver or assist in the delivery of services that are reimbursable by Medicaid.
()

Subsections 716.01 and 716.02

716. MENTAL HEALTH CLINIC SERVICES - RECORD REQUIREMENTS FOR PROVIDERS.

01. Social Histories Assessments. ~~Social histories~~ An intake assessment or comprehensive diagnostic assessment must be contained in all participant medical records.
(3-30-07)()

02. Informed Consent. The agency must ensure that participants who receive services through the agency have obtained informed consent from the participant or his legal guardian indicating agreement with all of the elements on the individualized treatment plan including choice of the provider agency, designated services, times, dates, frequencies, objectives, goals, and exit criteria. For a minor: child, informed consent must be obtained from the minor's parent or legal guardian.
(3-30-07)()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0801

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 56-202(b), 56-203(g) and (l), and 56-250 through 257, Idaho Code; 42 CFR Parts 431, 440 and 441.

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

In order to maintain high quality services and on-going compliance with federal regulations, these rules have been amended and reorganized. The changes being made to the proposed text are based on comments received during the public hearings and those provided during the comment period from providers that provide service coordination services, participants who are eligible and need service coordination, advocates, Department staff, and other stakeholders. The moratorium that is currently in place on federal regulations that govern these services is expected to expire on April 1, 2009. The amendments to these rules will meet the new regulations.

Changes have been made to the proposed rules regarding the following issues:

1. Definitions for Service Coordination sections of rules;
2. Issues regarding service coordination for children from birth through 36 months of age;
3. Service coordination eligibility, coverage and limitations, referral and related activities, crisis assistance, procedural requirements, provider qualifications, supervision and staff qualifications, assessments, plan development; and
4. Provider reimbursement for services.

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, Book 1, pages 400 through 418.

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 anticipated fiscal impact to the state general fund.

NEGOTIATED RULEMAKING: Pursuant to 67-5220, Idaho Code, negotiated rulemaking was conducted with Medicaid providers, Case Manager Associations of Idaho, Idaho School Districts, Medicaid staff, advocates and other stakeholders. The negotiated rulemaking published in the March 5, 2008 Idaho Administrative Bulletin, Vol. 08-3, Page 16.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact David Simmitt at (208) 364-1992.

DATED this 24th day of November, 2008.

Tamara Prisock
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DOCKET NO. 16-0310-0801 - 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 1, pages 400 through 418.**

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 FOR DOCKET 16-0310-0801

Section 721 (entire section)

721. SERVICE COORDINATION - DEFINITIONS.

The following definitions apply for Sections 721 through 736 of these rules.

()

01. Agency. An agency is a business entity that provides management, supervision, and quality assurance for service coordination and includes at least ~~at~~ two (2) individuals, one (1) supervisor and a minimum of one (1) service coordinator. (3-19-07)()

02. Brokerage Model. Referral or arrangement for services identified in an assessment. This model does not include the provision of direct services. (3-19-07)

03. Conflict of Interest. A situation in which an agency or person directly or indirectly influences, or appears to influence the direction of a participant to other services for financial gain. ()

034. Crisis. An unanticipated event, circumstance or life situation that places a participant at risk of at least one (1) of the following: (3-19-07)

a. Hospitalization; (3-19-07)

b. Loss of housing; (3-19-07)

- c. Loss of employment or major source of income; (3-19-07)
- d. Incarceration; or (3-19-07)
- e. Physical harm to self or others, including family altercation or psychiatric relapse. (3-19-07)

~~04. **Crisis Service Coordination.** Crisis service coordination services are linking, coordinating and advocacy services provided to assist a participant to access emergency community resources in order to resolve a crisis. Crisis service coordination does not include crisis counseling, transportation to emergency service providers, or direct skill building services. (3-19-07)~~

~~05. **Current Assessment.** An assessment that accurately reflects the status of the participant. (3-19-07)~~

065. High Cost Services. As used in Subsection 725.01 of these rules, high cost services are medical services that result in expensive claims payment or significant state general fund expenditure that may include: (3-19-07)

- a. Emergency room visits or procedures; (3-19-07)
- b. Inpatient medical and psychiatric services; (3-19-07)
- c. Nursing home admission and treatment; (3-19-07)
- d. Institutional care in jail or prison; (3-19-07)
- e. State, local, or county hospital treatment for acute or chronic illness; and (3-19-07)
- f. Outpatient hospital services. (3-19-07)

~~076. **Human Services Field.** A particular area of academic study in health care, social services, education, behavioral science or counseling. (3-19-07)()~~

~~07. **Idaho Infant Toddler Program.** The Department's program that provides early intervention services to eligible infants and toddlers, from birth through thirty-six (36) months. ()~~

~~08. **Paraprofessional.** An adult who has a minimum of a bachelor's degree in a human services field but no experience with participants, or a person without a degree but with a high school diploma or equivalency who has at least twelve (12) months' supervised work experience with the population to whom they will be providing services. (3-19-07)()~~

~~09. **Person-Centered Planning.** A planning process facilitated by the service coordinator that includes the participant and individuals significant to the participant, to collaborate and develop a plan based on the expressed needs and desires of the participant. For children, this planning process must involve the child's family. ()~~

~~0910. **Practitioner of the Healing Arts.** For purposes of this rule, a nurse practitioner, physician assistant or clinical nurse specialist. (3-19-07)~~

~~101. **Service Coordination.** Service coordination is a ~~an~~ case management activity which assists individuals eligible for Medicaid in gaining and coordinating access to necessary care and services appropriate to the needs of ~~an~~ the individual. Service coordination is a brokerage model of case management. (3-19-07)()~~

~~12. **Service Coordination Plan.** The service coordination plan, also known in these rules as the "plan," includes two components: ()~~

~~a. An assessment that identifies the participant's need for service coordination as described in Section 730 of these rules; and ()~~

b. A plan that documents the supports and services required to meet the service coordination needs of the participant as described in Section 731 of these rules. ()

13. Service Coordination Plan Development. An assessment and planning process performed by a service coordinator using person-centered planning principles that results in a written service coordination plan. The plan must accurately reflect the participant's need for assistance in accessing and coordinating supports and services. ()

14. Service Coordinator. An individual, excluding a paraprofessional, who provides service coordination to a Medicaid eligible participant, is employed by or contracts with a service coordination agency, and meets the training, experience, and other requirements in Section 729 of these rules. (3-19-07)()

15. Supports. Formal and informal services and activities that are not paid for by the Department and that enable an individual to reside safely in the setting of his choice. (3-19-07)

Section 723 (entire section)

723. SERVICE COORDINATION - ELIGIBILITY - INDIVIDUALS WITH A DEVELOPMENTAL DISABILITY.

An individual with a developmental disability as defined in Section 66-402, Idaho Code and Section 500 through 506 of these rules, is eligible for to receive service coordination if they he meets the following requirements in Subsection 723.01 through 723.03 of this rule. (3-19-07)()

01. Age. Are An adults eighteen (18) years of age or older, or adolescents fifteen to eighteen (15-18) years of age who are is authorized to receive services through the Idaho State School and Hospital (ISSH) waiver, and (3-19-07)()

02. Diagnosis. Are Is diagnosed with a developmental disability, defined in Section 66-402, Idaho Code and Section 500 through 506 of these rules, which means a chronic disability of a person which appears before the age of twenty-two (22) years of age and that: (3-19-07)()

a. Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism or other condition found to be closely related to or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; and (3-19-07)()

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and (3-19-07)

c. Reflects the need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and individually planned and coordinated; and (3-19-07)()

03. Need Assistance. Requires and chooses assistance to adequately access services and supports necessary to maintain their his independence in the community. (3-19-07)()

Section 724 (entire section)

724. SERVICE COORDINATION - ELIGIBILITY - INDIVIDUALS ~~WHO RECEIVE~~ ELIGIBLE FOR PERSONAL ASSISTANCE SERVICES.

An individual who is eligible to receive personal assistance services are eligible for service coordination if they: he meets the following requirements in Subsections 724.01 and 724.02 of this rule. (3-19-07)()

01. Personal Care and Waiver Services. Are Adults or children age eighteen (18) and older, who

~~have been approved~~ is eligible to receive state plan personal care services; ~~and~~ or (3-19-07)

~~02. Waiver Services. Are adults who have been approved to receive~~ Aged and Disabled Home and Community Based Waiver Services; ~~Waiver; and~~ (3-19-07)(____)

~~032. Need Assistance. Requires~~ and chooses assistance to access services and supports necessary to maintain ~~their~~ his independence in the community. (3-19-07)(____)

Section 725, Subsections 725.01 through 725.03

725. SERVICE COORDINATION - ELIGIBILITY - INDIVIDUALS WITH ~~SEVERE~~ SERIOUS AND PERSISTENT MENTAL ILLNESS.

~~An Adults with severe and persistent mental illness are~~ is eligible for service coordination if ~~they~~ he meets the following requirements in Subsections 725.01 through 725.03 of this rule. (3-19-07)(____)

~~01. Adults Using Uses High Cost Services. Are~~ Is eighteen (18) years of age or older and ~~using, or have uses, or has~~ a history of using, high cost medical services associated with periods of increased severity of mental illness; ~~and~~ (3-19-07)(____)

~~02. Diagnosis of Mental Illness.~~ (3-19-07)

~~a. Are diagnosed by a licensed physician or other licensed practitioner of the healing arts (licensed psychologist, licensed clinical social worker, licensed professional counselor, or licensed marriage or family therapist) with a condition of severe and persistent mental illness. The participant must have undergone a comprehensive diagnostic assessment that meets the definition in Section III of these rules, that is listed in the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR) within one (1) of the following classification codes. This assessment must be completed by one (1) of the licensed professionals listed under IDAPA 16.03.09, "Medicaid Basic Plan Benefits." Subsection 715.02, and the participant must meet the criteria for:~~ (3-19-07)(____)

~~i. Schizophrenia and other psychotic disorders. Serious and Persistent Mental Illness (SPMI) that meets the definition in Section III of these rules;~~ (3-19-07)(____)

~~ii. Delirium dementia, and amnesic disorders; other cognitive disorders; and mental disorders due to a general medical condition; or~~ (3-19-07)(____)

~~iii. Mood disorders—bipolar and depressive;~~ (3-19-07)

~~iv. Schizoid, schizotypal, paranoid or borderline personality disorders; and~~ (3-19-07)(____)

~~b. If the only diagnosis is mental retardation or is a substance use related disorder, then the person is not included in the target population for mental health service coordination.~~ (3-19-07)(____)

New Subsection 725.02.c. has been deleted

~~03. Need Assistance. Have mental illness of sufficient severity to cause a disturbance in their ~~not~~ performance or coping skills in at least two (2) of the following areas, on either a continuous (more than one (1) year) or an intermittent (at least once per year) basis:~~ (3-19-07)(____)

Section 726 (entire section)

726. SERVICE COORDINATION - ELIGIBILITY - ~~CHILDREN~~ INDIVIDUALS UP TO THE AGE OF TWENTY-ONE.

To be eligible for children's service coordination, ~~under the Early and Periodic Screening Diagnosis and Treatment~~

~~program (EPSDT), children a participant~~ must meet the following ~~requirements in Subsections 726.01 through 726.06 or the requirements in Subsection 726.07 of this rule. Eligibility is determined initially and annually by the Department based on information provided by the service coordination agency or the family. All information necessary to make the eligibility determination must be received by the Department twenty (20) business days prior to the anticipated start date of any service coordination services. The eligibility determination must be made by the Department prior to the initiation of initial and ongoing plan development and services.~~ (3-19-07)(____)

01. Age. ~~Children from birth~~ From the age of thirty-seven (37) months through the month in which their twenty-first birthday occurs; ~~and~~ (3-19-07)(____)

02. Diagnosis. Must be identified by a physician or other practitioner of the healing arts ~~in an EPSDT screen~~ as having one (1) of the diagnoses found in Subsections 726.03 through 726.05 of ~~these~~ this rules. (3-19-07)(____)

03. Developmental Delay or Disability. A physical or mental condition which has a high probability of resulting in developmental delay or disability, or children who meet the definition of developmental disability as defined in Section 66-402, Idaho Code. (3-19-07)

04. Special Health Care Needs. Have special health care needs requiring medical and multidisciplinary habilitation or rehabilitation services to prevent or minimize a disability. (3-19-07)

05. Serious Emotional Disturbance (SED). Have a serious emotional disturbance (SED) with an expected duration of at least one (1) year. The following definition of the SED target populations is based on the definition of SED found in the Children's Mental Health Services Act, Section 16-2403, Idaho Code. (3-19-07)

a. Presence of an emotional or behavioral disorder, according to the DSM-IV-TR or subsequent revisions to the DSM, which results in a serious disability; and (3-19-07)

b. Requires sustained treatment interventions; and (3-19-07)

c. Causes the child's functioning to be impaired in thought, perception, affect, or behavior. (3-19-07)

d. The disorder is considered to be a serious disability if it causes substantial impairment in functioning. Functional impairment must be assessed using the Child and Adolescent Functional Assessment Scale/Preschool and Early Childhood Functional Assessment Scale (CAFAS/PECFAS). Substantial impairment requires ~~a full eight (8) scale score of eighty (80) or higher on the CAFAS or a full seven (7) scale score of eighty (80) or higher on the PECFAS with "moderate" impairment in at least one (1) of the following three (3) scales: that the child scores in the "moderate" impairment range in at least two (2) of the subscales. One (1) of the two (2) must be from the following:~~ (3-19-07)(____)

i. Self-Harmful Behavior; (3-19-07)

ii. Moods/Emotions; or (3-19-07)

iii. Thinking. (3-19-07)

e. A substance abuse disorder, or conduct disorder, or developmental disorder, alone, does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance. (3-19-07)

06. Need Assistance. Have one (1) or more of the following problems ~~in Subsection 726.06.a. through 726.06.e. of this rule~~ associated with their diagnosis: (3-19-07)(____)

a. The condition has resulted in a level of functioning below normal age level in one (1) or more life areas such as school, child care setting, family, or community; ~~or~~ (3-19-07)(____)

b. The child is at risk of placement in a more restrictive environment or the child is returning from an

out of home placement as a result of the condition; ~~or~~ (3-19-07)()

c. There is danger to the health or safety of the child or the parent is unable to meet the needs of the child; ~~or~~ (3-19-07)()

d. Further complications may occur as a result of the condition without provision of service coordination services; or (3-19-07)

e. The child requires multiple service providers and treatments. (3-19-07)

07. Eligibility for Infants and Toddlers. ()

a. Birth through thirty-six (36) months of age; ()

b. Must be identified by a physician or other practitioner of the healing arts to have a condition requiring early intervention services; and ()

c. Must meet the eligibility requirements for early intervention services administered by the Idaho Infant Toddler Program. ()

Section 727 (entire section)

727. SERVICE COORDINATION - COVERAGE AND LIMITATIONS.

~~Service coordination consists of the following functions:~~ Service coordination consists of services provided to assist individuals in gaining access to needed medical, psychiatric, social, early intervention, educational, and other services. Service coordination includes the following activities described in Subsections 727.01 through 727.10 of this rule. (3-19-07)()

01. Linking the Participant to Needed Services. ~~“Linking” includes:~~ **Plan Assessment and Periodic Reassessment.** Activities that are required to determine the participant's needs by development of a plan assessment and periodic reassessment as described in Section 730 of these rules. These activities include: (3-19-07)()

a. Finding, arranging and assisting the participant to maintain services, supports, and community resources identified on the service plan; and Taking a participant's history; (3-19-07)()

b. Advocating for the unmet needs of the participant and to encourage independence. Identifying the participant's needs and completing related documentation; and (3-19-07)()

c. Gathering information from other sources such as family members, medical providers, social workers, and educators, to form a complete assessment of the participant. ()

02. Monitoring and Coordination of Services. ~~Monitoring and coordinating services includes:~~ **Development of the Plan.** Development and revision of a specific plan, described in Section 731 of these rules that includes information collected through the assessment and specifies goals and actions to address medical, psychiatric, social, early intervention, educational, and other services needed by the participant. The plan must be updated at least annually and as needed to meet the needs of the participant. (3-19-07)()

a. Assisting the participant and his family or guardian to coordinate and retain services, and assure consistency and non-duplication between services; and (3-19-07)

b. Assuring that services are satisfactory to the participant and making adjustments in the plan of service when needed. (3-19-07)

03. Assessment. ~~Assessment for service coordination includes evaluation of the participant's ability to gain access to needed services; coordinate or maintain those services; and identify the services and supports the participant needs to maintain his highest level of independence in the community. The assessment is an interactive~~

~~process with maximum feasible involvement of the participant.~~ **Referral and Related Activities.** Activities that help link the participant with medical, psychiatric, social, early intervention, educational providers or other programs and services that are capable of providing needed services to address identified needs and achieve goals specified in the service coordination plan. (3-19-07)(____)

~~a. Assessment Content for Developmental Disability. A person with a developmental disability is assessed through the developmental disability eligibility criteria identified in Section 66-402, Idaho Code. The need for assistance, as defined in Sections 723 through 726 of these rules, must be determined through the person centered planning process as defined in IDAPA 16.04.11, "Developmental Disabilities Agencies," Section 011. (3-19-07)~~

~~b. Assessment Content for Personal Assistance Services. A comprehensive evaluation of the participant's ability to function in the community including: (3-19-07)~~

- ~~i. Medical needs, physical problems and strengths; (3-19-07)~~
- ~~ii. Mental and emotional problems and strengths; (3-19-07)~~
- ~~iii. Physical living environment; (3-19-07)~~
- ~~iv. Vocational and educational needs; (3-19-07)~~
- ~~v. Financial and social needs; (3-19-07)~~
- ~~vi. Evaluation of the community support system including the involvement of family or significant others; (3-19-07)~~
- ~~vii. Safety and risk factors; and (3-19-07)~~
- ~~viii. Legal status. (3-19-07)~~

~~e. Assessment Content for Mental Health. The assessment must focus on the following areas: (3-19-07)~~

- ~~i. Mental status (psychiatric status for individuals with mental illness); (3-19-07)~~
- ~~ii. Medical history and needs; (3-19-07)~~
- ~~iii. Vocational status and needs; (3-19-07)~~
- ~~iv. Financial status and needs; (3-19-07)~~
- ~~v. Social relationships and supports; (3-19-07)~~
- ~~vi. Family status and supports; (3-19-07)~~
- ~~vii. Basic living skills and needs; (3-19-07)~~
- ~~viii. Housing status and needs; and (3-19-07)~~
- ~~ix. Community and legal status and needs. (3-19-07)~~

~~d. EPSDT Assessment. The assessment for EPSDT Service Coordination services is completed by the Department. (3-19-07)~~

04. ~~Crisis Assistance.~~ **Monitoring and Follow-Up Activities. Monitoring and follow-up contacts that are necessary to ensure the plan is implemented and adequately addresses the participant's needs. These activities may be with the participant, family members, providers, or other entities or individuals and conducted as frequently**

~~as necessary. These activities must include at least one face-to-face contact with the participant at least every ninety (90) days, to determine whether the following conditions are met:~~ (3-19-07)(____)

~~a. Crisis Assistance. Crisis assistance, including services to prevent hospitalization or incarceration, may be provided before the completion of assessment and development of a plan of service. Services are being provided according to the participant's plan:~~ (3-19-07)(____)

~~b. Crisis Assistance for Children Receiving EPSDT Service Coordination. Additional crisis hours may be authorized for service coordination for children receiving EPSDT service coordination if at least four (4) hours of service coordination have already been provided in the month. Services in the plan are adequate; and~~ (3-19-07)(____)

~~c. Crisis Assistance for Adults With a Developmental Disability. Crisis assistance for adults with a developmental disability may be authorized under community crisis supports as found in Section 507 through 515 of these rules. Whether there are changes in the needs or status of the participant, and if so, making necessary adjustments in the plan and service arrangements with providers.~~ (3-19-07)(____)

~~d. Crisis Assistance for Adults With Severe and Persistent Mental Illness. Crisis assistance may be delivered prior to, or after, the completion of the assessment and individual service plan. Without authorization by the Department crisis assistance is limited to a total of three (3) hours per calendar month. The Department may authorize additional crisis case management services beyond the three (3) hour limit if a participant still has severe or prolonged crisis case management needs that meet all of the following criteria:~~ (3-19-07)

~~i. The service participant is at imminent risk within fourteen (14) days of hospitalization or institutionalization, including jail or nursing home; and~~ (3-19-07)

~~ii. The service participant is experiencing symptoms of psychiatric decompensation; and~~ (3-19-07)

~~iii. The service participant has already received the maximum number of monthly hours of ongoing case management and crisis case management services; and~~ (3-19-07)

~~iv. No other crisis assistance services are available to the participant under other Medicaid mental health option services, including Psychosocial Rehabilitation Services (PSR).~~ (3-19-07)

~~e. Crisis Assistance for Individuals Who Receive Personal Assistance Services. Additional hours for crisis assistance may be authorized for individuals who receive personal assistance services, if at least eight (8) hours of service coordination have already been provided in the month.~~ (3-19-07)

05. Limitations on the Provision of Direct Services. ~~Providers of service coordination services may not provide both service coordination and direct service to the same Medicaid participant except for the following: Crisis Assistance. Crisis assistance is service coordination used to assist a participant to access community resources in order to resolve a crisis. Crisis service coordination does not include crisis counseling, transportation to emergency service providers, or direct skill-building services. The need for all crisis assistance hours must meet the definition of crisis in Section 721 of these rules.~~ (3-19-07)(____)

~~a. Early and Periodic Screening Diagnosis and Treatment (EPSDT). Providers of service coordination to children under the EPSDT option; or Crisis Assistance for Children's Service Coordination. Crisis hours are not available until four and a half (4.5) hours of service coordination have already been provided in the month. Crisis hours for children's service coordination must be authorized by the Department.~~ (3-19-07)(____)

~~b. Adults With Severe and Persistent Mental Illness. Providers of service coordination to adults with severe and persistent mental illness. Crisis Assistance for Adults With a Developmental Disability. Crisis hours are not available until four and a half (4.5) hours of service coordination have already been provided in the month. Crisis assistance for adults with a developmental disability must be authorized by the Department and is based on community crisis supports as found in Section 507 through 515 of these rules.~~ (3-19-07)(____)

~~c. Crisis Assistance for Adults with Serious and Persistent Mental Illness. Initial crisis assistance is~~

limited to a total of three (3) hours per calendar month. Additional crisis service coordination services must be authorized by the Department and may be requested when the participant is at imminent risk of reinstitutionalization within fourteen (14) days following discharge from a hospital, institution, jail or nursing home, or meets the criteria listed in Subsection 727.05.c.i. through 727.05.c.iii. of this rule: ()

i. The participant is experiencing symptoms of psychiatric decompensation that interferes or prohibits the participant from gaining or coordinating necessary services; ()

ii. The participant has already received the maximum number of monthly hours of ongoing service coordination and crisis service coordination hours; and ()

iii. No other crisis assistance services are available to the participant under other Medicaid mental health option services, including Psychosocial Rehabilitation Services (PSR). ()

d. Crisis Assistance for Individuals Eligible for Personal Assistance Services. Crisis hours are not available until eight (8) hours of service coordination have already been provided in the month. Crisis hours must be authorized by the Department. ()

e. Authorization for crisis assistance hours may be requested retroactively as a result of a crisis, defined in Section 721 of these rules, when a participant's service coordination benefits have been exhausted and no other means of support is available to the participant. In retroactive authorizations, the service coordinator must submit a request for crisis services to the Department within seventy-two (72) hours of providing the service. ()

06. Limitations on Service Coordination. When an assessment indicates the need for medical, psychiatric, social, educational, or other services, referral or arrangement for such services may be included as service coordination services. Service coordination is limited to the following: **Contacts for Assistance.** Service coordination may include contacts with non-eligible individuals only when the contact is directly related to identifying the needs and supports to help the participant access services. (3-19-07)()

~~a. Service Coordination for Persons With Mental Illness. Five (5) hours per month for participants with mental illness. (3-19-07)~~

~~b. Service Coordination for Personal Assistance Services. Up to eight (8) hours per month for participants who have been approved to receive personal assistance services, as prior authorized by the Department. (3-19-07)~~

~~c. Other Populations. Service coordination services to participants with developmental disabilities and children under the EPSDT option are prior authorized by the Department on a monthly basis. (3-19-07)~~

~~d. Assessment and Plan Development. Assessment and plan development are reimbursable except for the initial plan development for EPSDT service coordination. (3-19-07)~~

~~e. Initial Plan Development. Reimbursement for the initial evaluation and individual service plan development will be paid based on an hourly rate, not to exceed six (6) hours. (3-19-07)~~

07. Exclusions. Service coordination does not include activities that are: ()

a. An integral component of another covered Medicaid service; ()

b. Integral to the administration of foster care programs; ()

c. Integral to the administration of another non-medical program for which a participant may be eligible. This exclusion does not apply to case management provided as part of the individualized education program or individualized family service plan required by the Individuals with Disabilities Education Act. ()

08. Limitations on the Provision of Direct Services. Providers of service coordination services may only provide both service coordination and direct services to the same Medicaid participant when the participant is

receiving either children's service coordination or service coordination for adults with mental illness. The service coordination provider must document that the participant has made a free choice of service coordinators and direct service providers. ()

09. Limitations on Service Coordination. Service coordination is limited to the following: ()

a. Service Coordination for Persons with Mental Illness. Up to five (5) hours per month of ongoing service coordination for participants with mental illness. ()

b. Service Coordination for Personal Assistance Services. Up to eight (8) hours per month for participants who are eligible to receive personal assistance services. ()

c. Service Coordination for Children. Up to four and a half (4.5) hours per month for participants who meet the eligibility qualifications for Children's Service Coordination. ()

d. Service Coordination for Adults with a Developmental Disability. Up to four and a half (4.5) hours per month for participants with developmental disabilities. ()

10. Limitations on Service Coordination Plan Assessment and Plan Development. Reimbursement for the annual assessment and plan development cannot exceed six (6) hours annually for children, adult participants with mental illness, or adult personal assistance participants. Plan development for adult participants with developmental disabilities cannot exceed twelve (12) hours annually. ()

Section 728 (entire section)

728. SERVICE COORDINATION - PROCEDURAL REQUIREMENTS.

01. Prior Authorization for Service Coordination Services. All service coordination services must be prior authorized by the Department, except the following: ()

a. ~~Adult mental health service coordination services: initial assessment for services, service coordination plan development and five (5) hours of ongoing service coordination per month; and the first three (3) hours of crisis service coordination per month. For adults with mental illness, crisis service coordination over three (3) hours per month must be prior authorized.~~ (3-19-07)()

b. Children's service coordination services: four and a half (4.5) hours of ongoing service coordination per month. ()

02. Service Coordination Plan Development. ()

a. A written ~~service coordination~~ plan, described in Section 731 of these rules, must be developed and implemented within sixty (60) days after the participant chooses a service ~~coordination agency~~ coordinator except in the case of adults with ~~severe~~ serious and persistent mental illness; in which case the time limit is thirty (30) days. ()

b. The plan must be updated at least annually and amended as necessary. ()

c. The plan must address the service coordination needs of the participant as identified in the assessment described in Section 730 of these rules. (3-19-07)()

d. The plan must be developed prior to ongoing service coordination being provided. ()

~~**a.** Service Plan Content for Individuals With Developmental Disabilities. The service coordination plan for individuals with developmental disabilities is incorporated into the participant's plan of service. The content is identified in Section 512 of these rules.~~ (3-19-07)

- ~~**b.** Service Plan Content for Individuals Receiving Personal Assistance Services. The individual's service plan must contain at least the following: (3-19-07)~~
- ~~i. Problems identified during the assessment; (3-19-07)~~
 - ~~ii. Overall goals to be achieved; (3-19-07)~~
 - ~~iii. Reference to all services and contributions provided by the informal support system including the actions, if any, taken by the service coordinator to develop the support system; (3-19-07)~~
 - ~~iv. Documentation of who has been involved in the service planning, including the participant's involvement; (3-19-07)~~
 - ~~v. Schedules for service coordination monitoring and reassessment; (3-19-07)~~
 - ~~vi. Documentation of unmet needs and service gaps; and (3-19-07)~~
 - ~~vii. References to any formal services arranged including costs, specific providers, schedules of service initiation, frequency or anticipated dates of delivery. (3-19-07)~~
- ~~**c.** Service Plan Content for Individuals With Severe And Persistent Mental Illness. The service coordination plan must include the following: (3-19-07)~~
- ~~i. A list of problems and needs identified during the assessment; (3-19-07)~~
 - ~~ii. Concrete measurable goals and objectives to be achieved by the service coordinator; (3-19-07)~~
 - ~~iii. Time frames for achievement of the goals and objectives; (3-19-07)~~
 - ~~iv. Reference to any formal services arranged including specific providers; (3-19-07)~~
 - ~~v. Frequency of services initiated; and (3-19-07)~~
 - ~~vi. Documentation of who was involved in the service planning. (3-19-07)~~
- ~~**d.** Service Plan Development for EPSDT Service Coordination. The initial plan for EPSDT service coordination is completed by the Department or designee. An EPSDT service coordination, agency selected by the family develops an annual service coordination plan and submits it to the Department for prior authorization of continued service coordination. (3-19-07)~~

03. Documentation of Service Coordination. Agencies must maintain records that contain documentation describing the services provided, review of the continued need for service coordination, and progress toward each service coordination goal. Documentation must be completed as required in Section 56-209(h), Idaho Code. All active records must be immediately available. Documentation must include all of the following: (3-19-07)

- a.** ~~Name.~~ The name of the eligible participant. (3-19-07)(____)
- b.** ~~Provider.~~ The name of the provider agency and the person providing the ~~direct~~ services. (3-19-07)(____)
- c.** ~~Time and Place of Service.~~ The date, time, duration, and place the service was provided. (3-19-07)(____)
- d.** The nature, content, units of the service coordination received and whether goals specified in the plan have been achieved. (____)
- e.** Whether the participant declined any services in the plan. (____)

- f.** The need for and occurrences of coordination with any non-Medicaid case managers. ()
- g.** The timeline for obtaining needed services. ()
- h.** The timeline for re-evaluation of the plan. ()
- di.** Documentation of Eligibility: A copy of the *current* assessment or prior authorization from the Department that documents eligibility for service coordination services, and a dated and signed *service* plan. (3-19-07)()
- ej.** Description: Agency records must contain documentation describing details of the service provided signed by the person who delivered the service. (3-19-07)()
- ej.** Description: Agency records must contain documentation describing details of the service provided signed by the person who delivered the service. (3-19-07)()
- fk.** Progress Review: Documented ~~R~~review of participant's continued need for service coordination and progress toward each service coordination goal. A review must be completed at least every one hundred eighty (180) days after the plan development or update. Progress reviews must include the date of the review, and the signature of the service coordinator completing the review. (3-19-07)()
- gl.** Satisfaction With Service: Documentation of the participant's, family's, or *legal* guardian's satisfaction with service. (3-19-07)()
- hm.** Informed Consent: A copy of the informed consent form signed by the participant, *parent*, or *legal* guardian which documents that the participant has been informed of the purposes of service coordination, his rights to refuse service coordination, and his right to choose his *service coordinator and other service* providers. (3-19-07)()
- in.** Service Plan: A *service* plan that is signed by the participant, *parent*, or *his* legal ~~representative~~ *guardian*, and the ~~plan developer~~ *service coordinator*. Mental health service coordination plans must also be signed by a physician or other practitioner of the healing arts. The plan must reflect person-centered planning principles and document the participant's inclusion in the development of the plan. The service coordinator must also document that a copy of the plan was given to the participant or his legal representative. The plan must be updated and authorized when required, but at least annually. Children's service coordination plans cannot be effective before the date that the child's parent or legal guardian has signed the plan. (3-19-07)()
- j04.** Documentation of Crisis Assistance ~~Documentation~~ for Adults With Severe Serious and Persistent Mental Illness. Documentation to support authorization of crisis assistance beyond the monthly limitation must be submitted to the Department before such authorization may be granted. The crisis situation and the crisis service coordination services must be documented in the progress notes of the participant's medical record. Documentation to support delivery of crisis assistance must also be maintained in the participant's agency record and must include: (3-19-07)()
- ia.** A description of the crisis, including identification of unanticipated events that precipitate the need for crisis ~~ease management~~ *service coordination* services; (3-19-07)()
- ib.** A brief review of ~~ease management~~ *service coordination* and other services or supports available to, or already provided to, the participant to resolve the crisis; (3-19-07)()
- ic.** A crisis resolution plan; and (3-19-07)
- id.** Outcomes of crisis assistance service provision. (3-19-07)
- 05.** Documentation Completed by a Paraprofessional. Each entry completed by a paraprofessional must be reviewed by the participant's service coordinator and include the date of review and the service coordinator's

signature on the documentation. ()

046. Participant Freedom of Choice of Service Coordination Providers. ~~Eligible A participants must have the option to freedom of choice when selecting from the service coordinators available to him. A participant must have free choice of a service coordination provider. The service coordinator cannot restrict the participant's choice of other health care providers.~~ (3-19-07)()

057. Service Coordinator Contact and Availability. ~~At least every thirty (30) days, service coordinators must have contact with the participant, legal guardian or provider who can verify the participant's well being and whether services are being provided according to the written plan. The frequency of contact, mode of contact, and person being or entity to be contacted must be identified in the plan and must meet the needs of the participant. The contacts must verify the participant's well being and whether services are being provided according to the written plan. At least every ninety (90) days, the service coordinator must have a face-to-face contact with the participant except as described in Subsection 728.07.a. of this rule.~~ (3-19-07)()

~~a. The mode and frequency of contact for developmental disability service coordination must be identified in the plan and must meet the needs of the participant. Service coordinators must have face-to-face contact with each participant at least every ninety (90) days.~~ (3-19-07)

~~ba. The mode and frequency of contact for mental health service coordination must be identified in the plan and must meet the needs of the participant. Mental health service coordinators must have face-to-face contact every month with each participant.~~ (3-19-07)()

~~eb. The mode and frequency of contact for Early and Periodic Screening and Diagnosis and Treatment (EPSDT) service coordination must be identified in the plan and must meet the needs of the child. EPSDT When it is necessary for the children's service coordinators must have to conduct a face-to-face contact with the a child and the child's family at least every ninety (90) days participant without the parent or legal guardian present, the service coordinator must notify the parent or legal guardian prior to the face-to-face contact with the participant. Notification must be documented in the participant's file.~~ (3-19-07)()

~~d. The mode and frequency of contact for Personal Care Service (PCS) service coordination must be identified in the plan and must meet the needs of the participant. PCS service coordinators must have face to face contact with the participant and others at least every ninety (90) days as necessary to coordinate and monitor the progress of the existing individual service plan.~~ (3-19-07)

~~ec. Hours of Availability. Service coordinators do not have to be available on a twenty-four (24) hour basis, but must include an individualized objective on the plan describing what the participant, families, and providers should do in an emergency situation. The individualized objective must include how the service coordinator will coordinate needed services after an emergency situation.~~ (3-19-07)()

08. Service Coordinator Responsibility Related to Conflict of Interest. Service coordinators have a primary responsibility to the participant whom they serve, to respect and promote the right of the participant to self-determination, and preserve the participant's freedom to choose services and providers. In order to assure that participant rights are being addressed, service coordinators must: ()

a. Be alert to and avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment. ()

b. Inform the participant parent, or legal guardian when a real or potential conflict of interest arises and take reasonable steps to resolve the issue in a manner that makes the participant's interests primary and protects the participant's interests to the greatest extent possible. ()

09. Agency Responsibility Related to Conflict of Interest. To assure that participants are protected from restrictions to their self-determination rights because of conflict of interest, the agency must guard against conflict of interest, and inform all participants and guardians of the risk. Each agency must have a document in each participant's file that contains the following information: ()

- a. The definition of conflict of interest as defined in Section 721 of these rules; ()
- b. A signed statement by the agency representative verifying that the concept of conflict of interest was reviewed and explained to the participant parent, or legal guardian; and ()
- c. The participant's, parent's, or legal guardian's signature on the document. ()

Section 729 (entire section)

729. SERVICE COORDINATION - PROVIDER QUALIFICATIONS.

~~Services will~~ coordination services must be provided by an ~~organized provider~~ agency ~~that has entered into a provider agreement with the Department~~ as defined in Section 721 of these rules. (3-19-07)()

01. Provider Agreements. Service coordinators must be employees or contractors of an agency that has a valid provider agreement with the Department. (3-19-07)

02. ~~Work Experience and Supervision.~~ ~~All service coordinators must have at least twelve (12) months' experience working with the population they will be serving or be supervised by a qualified service coordinator. The agency must provide supervision to all service coordinators and paraprofessionals. The agency must clearly document:~~ (3-19-07)()

a. Each supervisor's ability to address concerns about the services provided by employees and contractors under their supervision, and ()

b. That a paraprofessional is not a supervisor. ()

03. ~~Minimum Education Requirements.~~ ~~All service coordinators must have a minimum of a bachelor's degree in a human services field from a nationally accredited university or college; or be a licensed professional nurse, also referred to as a registered nurse (RN).~~ **Agency Supervisor Required Education and Experience.** (3-19-07)()

a. Master's Degree in a human services field from a nationally accredited university or college, and have twelve (12) months supervised work experience with the population being served; or ()

b. Bachelor's degree in a human services field from a nationally accredited university or college, and have twenty-four (24) months supervised work experience with the population being served. ()

c. Be a licensed professional nurse (RN), and have twenty-four (24) months supervised work experience with the population being served. ()

d. For mental health service coordination, the supervisor must have obtained the required supervised work experience in a mental health treatment setting with the serious and persistent mentally ill population. ()

04. Service Coordinator Education and Experience. ()

a. Minimum of a Bachelor's degree in human services field from a nationally accredited university or college and have twelve (12) months supervised work experience with the population being served; or ()

b. Be a licensed professional nurse (RN); and have twelve (12) months work experience with the population being served. ()

c. When an individual meets the education or licensing requirements in Subsections 729.04.a. or 729.04.b. of this rule, but does not have the required supervised work experience, the individual must be supervised by a qualified service coordinator while gaining the required work experience. ()

05. Paraprofessional Education and Experience. Under the supervision of a qualified service

coordinator, a paraprofessional may be used to assist in the implementation of the plan. Paraprofessionals must have the following qualifications: ()

a. Be at least eighteen (18) years of age and have a minimum of a high school diploma or equivalency: ()

b. Be able to read and write at an appropriate level to process the required paperwork and forms involved in the provision of the service; and ()

c. Have twelve (12) months supervised work experience with the population being served. ()

06. Limitations on Services Delivered by Paraprofessionals. ()

a. Paraprofessionals must not conduct assessments, evaluations, person-centered planning meetings, ninety (90) day face-to-face contacts described in Section 728.07 of these rules, one hundred eighty (180) day progress reviews, plan development, or plan changes. Paraprofessionals cannot be identified as the service coordinator on the plan and they cannot supervise service coordinators or other paraprofessionals. ()

b. Mental Health Service Coordination does not allow for service provision by paraprofessionals. ()

047. ~~Mandatory~~ Criminal History Check Requirements. Service coordination agencies must verify that each service coordinator and paraprofessional they employ or with whom they contract has complied with IDAPA 16.05.06, "Criminal History and Background Checks." (3-19-07)()

058. Health, Safety and Fraud Reporting. Service coordinators are required to report any concerns about health and safety to the appropriate governing agency and to the Department. Service coordinators must also report fraud, including billing of services that were not provided, to the Department unit responsible for authorizing the service; and to the Surveillance and Utilization Review Unit (SUR) within the Department or its toll-free Medicaid fraud hotline. (3-19-07)

09. Individual Service Coordinator Case Loads. The total caseload of a service coordinator must assure quality service delivery and participant satisfaction. ()

10. Infant Toddler Provider Network. Service coordination for children from birth through thirty-six (36) months may only be provided through the Infant Toddler network of service coordinators. ()

Section 730 (entire section)

730. SERVICE COORDINATION - ~~PARAPROFESSIONALS PLAN DEVELOPMENT -- ASSESSMENT.~~ ~~Under the supervision of a qualified service coordinator, paraprofessionals may be used to assist in the implementation of a service coordination plan except for plans of participants with a mental illness. Paraprofessionals must be able to read and write at a level equal with the paperwork and forms involved in the provision of service.~~ (3-19-07)

01. Assessment Process. The service coordination assessment must be completed by a service coordinator as part of the person-centered planning process. The focus of the assessment is to identify the participant's need for assistance in gaining and coordinating access to care and services. The participant must be included in the assessment process. The parent or legal guardian, when appropriate, and pertinent service providers as identified by the participant must also be included during the assessment process. The assessment component is used to determine the prioritized needs and services of the participant and must be documented in the plan. When the participant is a child, the assessment must include identification of the family's needs to ensure the child's needs are met. ()

02. Components of an Assessment. The components in the assessment of a participant's service coordination needs must document the following information: ()

- a. Basic needs: ()
 - b. Medical needs: ()
 - c. Health and safety needs: ()
 - d. Therapy needs: ()
 - e. Educational needs: ()
 - f. Social and integration needs: ()
 - g. Personal needs: ()
 - h. Family needs and supports: ()
 - i. Long range planning: ()
 - j. Legal needs: ()
 - k. Financial needs; and ()
 - l. For adults with mental illness the comprehensive diagnostic assessment used to establish service coordination eligibility described in Section 725 of these rules ()
- 03. Assessment for Mental Health Service Coordination.** The assessment for mental health service coordination must not duplicate the comprehensive diagnostic assessment. ()

Section 731 (entire section)

731. SERVICE COORDINATION - SUPERVISION OF SERVICE COORDINATION PLAN DEVELOPMENT - WRITTEN PLAN.

Service coordination agencies must provide supervision to qualified service coordinators and paraprofessionals employed by the agency. Agency supervisors must have the following qualifications: The service coordination plan is developed using information collected through the assessment of the participant's service coordination needs. The plan must specify the goals and actions to address the service coordination needs of the participant identified in the assessment process. The plan must include goals developed using the person-centered planning process. (3-19-07)()

01. Master's Degree. Master's degree in a human services field and one (1) year's experience with the population for whom they will be supervising services. For supervisors of service coordination for participants with mental illness, this experience must be in a mental health service setting; or **Plan Implementation.** The plan must identify activities required to respond to the assessed needs of the participant. (3-19-07)()

02. Bachelor's Degree. Bachelor's degree in a human services field or RN degree and two (2) years' experience with the population for whom they will be supervising services. For supervisors of service coordination to participants with mental illness, this experience must be in a mental health service setting. **Plan Content.** Plans must include the following: (3-19-07)()

- a. A list of problems and needs identified during the assessment: ()
- b. Identification of each and any potential risk or substantiation that there are no potential risks. The plan must identify services and actions that will be implemented in case of a participant crisis situation. ()
- c. Concrete, measurable goals and objectives to be achieved by the participant: ()

- d. Reference to all services and contributions provided by the participant's supports including the actions, if any, taken by the service coordinator to develop the support system; ()
- e. Documentation of who has been involved in the service planning, including the participant's involvement; ()
- f. Schedules for service coordination monitoring, progress review, and reassessment; ()
- g. Documentation of unmet needs and service gaps including goals to address these needs or gaps; ()
- h. References to any formal services arranged including costs, specific providers, schedules of service initiation, frequency or anticipated dates of delivery; and ()
- i. Time frames for achievement of the goals and objectives. ()

03. Adult Developmental Disability Service Coordination Plan. The plan for adults with developmental disabilities must be incorporated into the participant's developmental disability plan of service identified in Section 513 of these rules. ()

04. Children Birth Through Thirty-Six Months Service Coordination Plan. For children from birth through thirty-six (36) months, service coordination outcomes and objectives must be incorporated into an individualized family service plan for the child according to the Individuals with Disabilities Education Act, Part C. The plan must be developed jointly with the family and appropriate multi-disciplinary team. The team consists of the service coordinator, family members, and professionals that conduct evaluations and may include service providers. ()

Section 736 (entire section)

736. SERVICE COORDINATION - PROVIDER REIMBURSEMENT.

~~01.~~ ~~Limitations on Payment for Service Coordination.~~ (3-19-07)

~~01.~~ **Duplication.** Participants are only eligible for one (1) type of service coordination. If they qualify for more than one (1) type, the participant must choose one (1). Service coordination payment must not duplicate payment made to public or private sector entities under other program authorities for this same purpose. (3-19-07)

~~02.~~ **Payment for Service Coordination.** Subject to the service limitations in Subsection 736.01.F06 of this rule, only the following services are reimbursable: (3-19-07)()

a. Service coordination plan development defined in Section 721 of these rules. ()

~~ib.~~ Face-to-face contact ~~as~~ required in Subsection 728.057 of these rules. (3-19-07)()

~~iiic.~~ ~~Telephone contact~~ Two-way communication between the service coordinator and the participant, participant's service providers, family members, primary care givers, legal ~~representative guardian~~, or other interested persons; ~~or~~ (3-19-07)()

~~iiid.~~ Face-to-face contact between the service coordinator and the participant's family members, legal representative, primary caregivers, providers, or other interested persons. (3-19-07)

~~ive.~~ ~~Paperwork that is~~ Referral and related activities associated with obtaining ~~certain~~ needed services such as food stamps, energy assistance, emergency housing, or legal services as identified in the service coordination plan. (3-19-07)()

~~e03.~~ **Service Coordination During Institutionalization.** Service coordination is reimbursable on the

day a participant is admitted to a medical institution if the service is provided prior to admission. Service coordination is reimbursable on the day of discharge from a medical institution if the service is provided after discharge. *Service coordination may be provided during the last thirty (30) days of an inpatient stay, or if the stay is not expected to last longer than thirty (30) days, when the service does not duplicate the discharge responsibilities of the facility.* (3-19-07)()

a. Service coordination for reintegration into the community, can only be provided by and reimbursed to a service coordination agency when the following applies: ()

i. During the last fourteen (14) days of an inpatient stay which is less than one hundred eighty (180) days in duration; or ()

ii. During the last sixty (60) days of an inpatient stay of one hundred eighty (180) days or more. ()

b. Service coordination providers may not file claims for reimbursement until the participant is discharged and using community services; ()

c. Service coordination must not duplicate activities provided as part of admission or discharge planning activities of the medical institution. ()

#04. Incarceration. Service coordination is not reimbursable when the participant is incarcerated. (3-19-07)

#05. Services Delivered Prior to Assessment. Payment for on-going service coordination will not be made prior to the completion of the *assessment and* service *coordination* plan. (3-19-07)()

#06. Payment Limitations. Reimbursement is not allowed for missed appointments, attempted contacts, travel to provide the service, leaving messages, scheduling appointments with the Medicaid service coordinator, transporting participants, or documenting services. *For service coordination paid at an hourly rate, providers will not be reimbursed for more than one (1) contact during a single fifteen (15) minute time period.* (3-19-07)()

a. Service coordination providers are paid in unit increments of fifteen (15) minutes each. A service coordinator can only be reimbursed for the amount of time worked and must not bill for more than 4 billing units per hour. The following table is an example of minutes to billing units. ()

<u>Services Provided Are More Than Minutes</u>	<u>Services Provided Are Less Than Minutes</u>	<u>Billing Units</u>
<u>8</u>	<u>23</u>	<u>1</u>
<u>22</u>	<u>38</u>	<u>2</u>
<u>37</u>	<u>53</u>	<u>3</u>
<u>52</u>	<u>68</u>	<u>4</u>
<u>67</u>	<u>83</u>	<u>5</u>
<u>82</u>	<u>98</u>	<u>6</u>
<u>97</u>	<u>113</u>	<u>7</u>

()

b. Direct delivery of medical, educational, psychiatric, social, early intervention, or other service to which a participant has been referred is not reimbursable as service coordination. ()

c. Activities that are an integral component of another covered Medicaid service are not reimbursable as service coordination. ()

d. Activities that are integral to the administration of foster care programs are not reimbursable as service coordination. ()

e. Activities that are integral to the administration of another non-medical program are not reimbursable as service coordination. This exclusion does not apply to case management provided as part of the individualized education program or individualized family service plan required by the Individuals with Disabilities Education Act. ()

027. Healthy Connections. *If the A participant is enrolled in Healthy Connections, the must receive a referral for assessment and provision of services ~~must be authorized by a physician or other practitioner of the healing arts, except for participants who receive personal care services or aged and disabled waiver services~~ from his Healthy Connections provider, unless he receives personal care services or aged and disabled waiver services. To be reimbursed for service coordination, the Healthy Connections referral must cover the dates of service delivery.* (3-19-07)()

038. Group Service Coordination. Payment is not allowed for service coordination provided to a group of participants. (3-19-07)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0802

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 56-102, 56-135, and 56-202(b), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, Book 1, pages 419 through 423.

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 anticipated fiscal impact to the state general fund related to this rulemaking.

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

DATED this 13th day of November, 2008.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720, Boise, ID 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

DOCKET NO. 16-0310-0802 - 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 419 through 423.](#)

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

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0803

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 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, 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:

Based on extensive input received during the public comment period, many amendments clarifying this rulemaking have been added to this rule.

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 1 of the Wednesday, October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 424 through 451.

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:

These rule changes reflect year one of a three-year planning process to incorporate new evidenced-based benefits and best practices. Also included are changes which improve the management of existing benefits, incorporating standards and applying appropriate limits. As rules are further defined, costs and cost-containment details will be identified. The overall impact is anticipated to slow the expenditure growth of Medicaid-paid mental health services while improving quality and maintaining access. Cost containment will be achieved by establishing clear assessment criteria and reducing inappropriate utilization.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Pat Guidry at (208) 364-1813.

DATED this 24th day of November, 2008.

Tamara Prisock
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DOCKET NO. 16-0310-0803 - 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 1, pages 424 through 451.

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. 16-0310-0803

Subsection 010.21 through Subparagraph 010.21.c. and Subsection 010.39

010. DEFINITIONS A THROUGH D.

For the purposes of these rules, the following terms are used as defined below:

(3-19-07)

010.21

21. Collateral Contact. ~~Contact made with a parent, guardian, or other individual having a primary relationship to the patient by an appropriately qualified treatment professional. The contact must be ordered by a physician, contained in the treatment plan, directed at the medical treatment of the patient, and documented in the progress notes or continuous service record. Coordination of care communication that is initiated by a medical or qualified treatment professional with members of a participant's interdisciplinary team or consultant to the interdisciplinary team. The communication is limited to interpretation or explanation of results of psychiatric or other medical examinations and procedures or other accumulated data to family or responsible persons or advising them how to assist the participant.~~ Collateral contact is used to: (3-19-07)()

- a.** Coordinate care between professionals who are serving the participant; ()
- b.** Relay medical results and explanations to members of the participant's interdisciplinary team; or ()
- c.** Conduct an intermittent treatment plan review with the participant and his interdisciplinary team. ()

010.39

39. Durable Medical Equipment (DME). Equipment other than prosthetics or orthotics which can withstand repeated use by one (1) or more individuals, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of an illness or injury, is appropriate for use in the home, and is reasonable and necessary for the treatment of an illness or injury for a ~~medical assistance~~ Medicaid participant. (3-19-07)()

Section 110 and Subsection 110.03

110. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES.

In addition to mental health services covered under IDAPA 16.03.09 "Medicaid Basic Plan Benefits," Sections 709 through 717~~8~~, the Medicaid Enhanced Plan Benefits includes the following enhanced outpatient mental health benefits. (3-19-07)()

110.03

03. Psychotherapy. The enhanced services include additional psychotherapy in a Mental Health Clinic as described in Subsection 118.01 of these rules. ()

Subsections 111.03 through 111.32

111. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES - DEFINITIONS.

These definitions apply to Sections 100 through 146 of these rules. (3-19-07)

111.03 and 111.04

03. Community Reintegration. A psychosocial rehabilitation (PSR) service that provides practical information and *direct support to help the participant maintain his current skills, prevent regression, or practice newly-acquired life skills. The intention of this service is to provide the information and support needed by a participant to achieve the highest level of stability and independence that meets his ongoing recovery needs.* ()

04. Comprehensive Diagnostic Assessment. A thorough assessment of the participant's current condition and complete medical and psychiatric history. ()

Subsections 111.04.a. through 111.04.c. have been deleted

025. Demographic Information. Information that identifies participants and is entered into the Department's database collection system. (3-19-07)

06. Duration of Services. *Refers to length of time for a specific service to occur in a single encounter.* ()

07. Functional Assessment. *In rehabilitative mental health, this assessment is used to provide supplemental information to the comprehensive diagnostic assessment that provides information on the current or required capabilities needed by a participant to maintain himself in his chosen environment. It is a description and evaluation of the participant's practical ability to complete tasks that support activities of daily living, family life, life in the community, and promote independence. This assessment assists participants to better understand what skills they need to achieve their rehabilitation goals.* ()

038. Goal. The desired outcome related to an identified issue. (3-19-07)

042. Initial Contact. The date a participant, or participant's parent; or legal guardian comes in to an agency and requests Enhanced Plan services. (3-19-07)()

10. Intake Assessment. *An agency's initial assessment of the participant that is conducted by an agency staff person who has been trained to perform mental status examinations and solicit sensitive health information for the purpose of identifying service needs prior to developing an individualized treatment plan. The intake assessment must contain a description of the reason(s) the participant is seeking services and a description of the participant's current symptoms, present life circumstances across all environments, recent events, resources, and barriers to mental health treatment. If this is the initial screening process then it must be used to document the indicators that mental health services are a medical necessity for the participant.* ()

11. Interdisciplinary Team. Group that consists of two (2) or more individuals in addition to the

participant, the participant's legal guardian, and the participant's natural supports. *This may include professionals from several fields or professions. Team members combine their skills and resources to provide guidance and assistance in the creation of the participant's treatment plan. Professionals working with the participant to fulfill the goals and objectives on the treatment plan are members of the participant's interdisciplinary team whether they attend treatment plan meetings or not. At a minimum, professional members of the team include the medical professional authorizing the treatment plan and the specific agency staff member who is working with the participant.* ()

0512. Issue. A statement specifically describing the participant's behavior directly relating to the participant's mental illness and functional impairment. (3-19-07)

13. Level of Care. *Clinical treatment decisions that determine service site, modality, urgency, and specific interventions needed to address the key presenting signs, symptoms, and environmental factors that indicate the severity of illness and the intensity of service needed by the participant. It also takes into account relevant external factors affecting clinical treatment decisions.* ()

0614. Licensed Practitioner of the Healing Arts. A licensed physician, physician assistant, nurse practitioner, or clinical nurse specialist. The nurse practitioner and clinical nurse specialist must have experience prescribing ~~psychotropic medication~~ *medications for psychiatric disorders.* (3-19-07)()

15. Neuropsychological Testing. *Assessment of brain functioning through structured and systematic behavioral observation. Neuropsychological tests are designed to examine a variety of cognitive abilities, including speed of information processing, attention, memory, language, and executive functions, which are necessary for goal-directed behavior. These data can provide information leading to the diagnosis of a cognitive deficit or to the confirmation of a diagnosis, as well as to the localization of organic abnormalities in the central nervous system. The data can also guide effective treatment methods for the rehabilitation of impaired participants.* ()

0716. Objective. A milestone toward meeting the goal that is concrete, measurable, time-limited, and behaviorally specific. (3-19-07)

17. Occupational Therapy. *For the purposes of mental health treatment, the use of purposeful, goal-oriented activity to achieve optimum functional performance and independence, prevent further disability, and maintain health with individuals who are limited by the symptoms of their mental illness.* ()

0818. Partial Care. Partial care is treatment for those children with serious emotional disturbance and adults with severe and persistent mental illness whose functioning is sufficiently disrupted so as to interfere with their productive involvement in daily living. Partial care services are a structured program of therapeutic interventions that assist program participants in the stabilization of their behavior and conduct through the application of principles of behavior modification for behavior change and structured, goal-oriented group socialization for skill acquisition. (3-19-07)

19. Pharmacological Management. *The in-depth management of medications for psychiatric disorders for relief of a participant's signs and symptoms of mental illness, provided by a licensed practitioner of the healing arts.* ()

20. Psychiatric Nurse, Licensed Master's Level. A certified psychiatric nurse, Clinical Nurse Specialist or Psychiatric Nurse Practitioner, must be licensed in accordance with Title 54, Chapter 14, Idaho Code, or certified by a recognized national certification organization, and have a minimum of a master's degree. ()

0921. Psychosocial Rehabilitative Services (PSR). ~~Rehabilitative services provided both to children with serious emotional disturbance and to adults with severe and persistent mental illness to address functional deficits due to psychiatric illness and to restore independent living, socialization, and effective life management skills.~~ *An array of rehabilitative services that emphasize resiliency for children with serious emotional disturbance (SED) and recovery for adults with serious and persistent mental illness (SPMI). Services target skills for children that they would have appropriately developed for their developmental stage had they not developed symptoms of SED. Services target skills for adults that have been lost due to the symptoms of their mental illness.* (3-19-07)()

22. Psychotherapy. A method of treating and managing psychiatric disorders through the use of evidenced-based psychological treatment modalities that match the participant's ability to benefit from the service. The focus of the service is on behavioral, emotional, and cognitive aspects of a participant's functioning. ()

23. Psychological Testing. Psychological testing refers to any measurement procedure for assessing psychological characteristics in which a sample of an examinee's behavior is obtained and subsequently evaluated and scored using a standardized process. This does not refer to assessments that are otherwise conducted by a professional within the scope of his license for the purposes of determining a participant's mental status, diagnoses or functional impairments. ()

24. Restraints. Restraints include the use of physical, mechanical, or chemical interventions, or other means to temporarily subdue or modify participant behavior. ()

a. A restraint includes ()

i. Any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a participant to move his arms, legs, body, or head freely; or ()

ii. A drug or medication when it is used as a restriction to manage the participant's behavior or restrict the participant's freedom of movement and is not a standard treatment or dosage for the participant's condition; ()

b. A restraint does not include physical escorts or devices, such as orthopedically prescribed devices, to permit the participant to participate in activities without the risk of physical harm. ()

25. Seclusion. Seclusion is the involuntary confinement of a participant alone in a room or area from which the participant is prevented from leaving. ()

26. Serious Emotional Disturbance (SED). In accordance with the Children's Mental Health Services Act, Section 16-2403, Idaho Code, SED is: ()

a. An emotional or behavioral disorder, according to the DSM-IV-TR which results in a serious disability; and ()

b. Requires sustained treatment interventions; and ()

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

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

27. Serious Mental Illness (SMI). In accordance with 42 CFR 483.102(b)(1), a person with SMI: ()

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

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

28. Serious and Persistent Mental Illness (SPMI). *Participants must meet the criteria for SMI, have at least one (1) additional functional impairment, and have a diagnosis under DSM-IV-TR with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis.* ()

29. Skill Training. *The service of providing a curriculum-based method of skill building in a custom-tailored approach that meets the needs identified on the person's assessment, focuses on interventions that are necessary to maintain functioning, prevent regression, or achieve a rehabilitation goal, and promotes increased independence in thinking and behavior. Skill training may be delivered individually or in groups.* ()

30. Tasks. Specific, time-limited activities and interventions designed to accomplish the objectives in the individualized treatment plan. (3-19-07)

31. Treatment Plan Review. *The practice of obtaining input from members of a participant's interdisciplinary team that is focused on evaluating the programs, progress, and future plans of a participant. This review should provide feedback and suggestions intended to help team members and the participant to accomplish the participant's goals identified on the participant's individualized treatment plan.* ()

32. USPRA. *The United States Psychiatric Rehabilitation Association is an association that works to improve and promote the practice and outcomes of psychiatric rehabilitation and recovery. USPRA also maintains a certification program to promote the use of qualified staff to work for individuals with mental illness. <http://www.uspra.org>* ()

Section 112, Subsections 112.01, 112.06, and 112.07.a.i.

112. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES - PARTICIPANT ELIGIBILITY.
To qualify for enhanced outpatient mental health services, a participant must obtain a comprehensive diagnostic assessment as described in Section 1134 of these rules. The comprehensive diagnostic assessment for PSR, Partial Care, and Psychotherapy enhanced outpatient mental health services must include documentation of the medical necessity for each service to be provided. For partial care services, the comprehensive diagnostic assessment must also contain documentation that shows the participant is currently at risk for an out-of-home placement, further clinical deterioration that would lead to an out-of-home placement, or further clinical deterioration that would interfere with the participant's ability to maintain his current level of functioning. For PSR, the participant must also obtain a functional assessment that describes the need for skill training. (4-2-08)()

112.01

01. General Participant Eligibility Criteria. *The medical record must have documented evidence of a history and physical examination that has been completed by a participant's primary care physician. This examination must be within the last twelve (12) months immediately preceding the initiation of mental health clinic services and annually thereafter. Providers must refer those participants who have not had a history and physical examination to their primary care provider for this service. Participants who are in crisis as described at Subsection 123.04 of this rule may receive mental health services prior to obtaining a history and physical examination.* In order for a participant to be eligible for enhanced outpatient mental health services, the following criteria must be met and documented in the comprehensive diagnostic assessment: (3-19-07)()

112.06

06. Level of Care Criteria - Psychosocial Rehabilitation (PSR) Agencies Services and Partial Care Services for Adults. To be eligible for partial care services of or the PSR or Partial Care services of skill training and community reintegration, an adult must meet the criteria of SMI and Subsection 112.041~~b~~ of this rule. In addition, the following criteria in Subsections 112.06.a. and 112.06.b. of this rule must be met. (4-2-08)

~~a. The participant must have a diagnosis under DSM-IV-TR, of Schizophrenia, Schizoaffective~~

~~Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis; and~~ (4-2-08)

~~b.~~ The psychiatric disorder must be of sufficient severity to ~~cause~~ affect the participant's functional skills negatively, causing a substantial disturbance in role performance or coping skills in at least two (2) of the following areas in Subsection 112.056.b.a.i. through 112.056.b.l.viii. of this rule on either a continuous or an intermittent, at least once per year, basis. The detail of the adult's level and type of functional impairment must be described in the functional assessment: (4-2-08)(____)

- ~~ia.~~ Vocational/educational; (4-2-08)
- ~~iib.~~ Financial; (4-2-08)
- ~~iic.~~ Social relationships/support; (4-2-08)
- ~~iid.~~ Family; (4-2-08)
- ~~ie.~~ Basic living skills; (4-2-08)
- ~~if.~~ Housing; (4-2-08)
- ~~iig.~~ Community/legal; or (4-2-08)
- ~~iiih.~~ Health/medical. (4-2-08)

112.07

07. Criteria Following Discharge For Psychiatric Hospitalization. Children and adults discharged from psychiatric hospitalization and who meet the diagnostic criteria of the target population in these rules are eligible for enhanced outpatient mental health clinic and PSR services. (3-19-07)

a. Children and adults discharged from psychiatric hospitalization and who meet the diagnostic criteria of the target population in these rules, described in Subsection 112.02 of this rule for children, and in Subsection 112.03 of this rule for adults, are considered immediately eligible for PSR enhanced outpatient mental health services for a period of at least one hundred and twenty (120) days following discharge from the hospital. The individualized treatment plan must be completed and submitted to the Department for prior authorization documented in the medical record within ten (10) days of discharge. (4-2-08)(____)

112.07.a.i.

i. Up to two (2) hours of plan development hours may be used for coordinating with hospital staff and others the participant chooses. These plan development hours are to be used for the development of an individualized treatment plan based ~~solely~~ on the participant's hospital records and past history. The provider agency does not have to perform any additional assessment in order to initiate treatment nor does the participant need to qualify as described in ~~Subsection 1134-01~~ of these rules. (3-19-07)(____)

Section 113

113. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES - INTAKE ASSESSMENT.

Intake assessments may be performed by PSR agencies and Mental Health Clinics for participants who transfer to them from other agencies. Intake assessments must meet requirements listed at IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection 709.03. Intake assessments must not be performed as an initial evaluation service in PSR agencies when the PSR agency is performing a comprehensive diagnostic assessment. (____)

Section 114

1134. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES - COMPREHENSIVE DIAGNOSTIC ASSESSMENT.

In order to determine eligibility for enhanced outpatient mental health services, a comprehensive diagnostic assessment must first be completed by one (1) of the licensed professionals listed under IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection 715.02. For participants seeking services beyond twelve (12) months, a review of the existing assessment is required to determine whether a full comprehensive diagnostic assessment or an updated assessment is needed to reflect the participant's current status on an annual basis. The treatment staff's determination that the latest assessment accurately represents the status of the participant must be documented in the medical record. In such cases, only an updated assessment that includes a new mental status examination is required. The assessment must address the participant's strengths and supports, deficits and needs, and must be directed toward formulation of a diagnosis and a written individualized treatment plan. The participant, and the participant's parent or guardian when appropriate, must take part in the assessment to the fullest extent possible. The assessment must be directly related to the participant's mental illness and level of functioning. Information regarding services received from any of the participant's service provider(s) must be collected and reported on the comprehensive assessment. The assessment and supplemental psychiatric, psychological, or other specialty evaluations and tests must be written, dated, signed and be retained in the participant's medical record. The assessment is reimbursable if conducted by qualified PSR provider agency staff listed under Section 131 of these rules, or qualified Mental Health Clinic staff listed in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 715. Each of the following areas must be assessed initially and at least annually thereafter. The comprehensive diagnostic assessment must include a five (5) axes diagnosis under DSM-IV-TR documented in a face-to-face evaluation, a complete psychiatric and medical history, a current mental status examination, a description of the participant's readiness and motivation to engage in treatment, participate in the development of his treatment plan and adhere to his treatment plan, treatment recommendations including level of care, and any other information that contributes to the assessment of the participant's current psychiatric status and need for services. (3-19-07)(____)

Subsections 114.01 through 114.09 have been deleted

Section 115

115. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES - FUNCTIONAL ASSESSMENT.

For participants seeking the PSR services of skill training and community reintegration, a functional assessment must be completed by staff who meet the requirements under Section 131 of these rules. Staff performing the CAFAS/PECFAS must be the same staff completing the functional assessment. The functional assessment must incorporate the CAFAS/PECFAS findings. A functional assessment must evaluate the participant's use of critical skills that are needed for adaptive functioning in the various environments in which he lives. The number of skill areas that are targeted must be consistent with the participant's ability to engage and benefit from treatment. The functional assessment should include recommendations for training in skill areas from the following list in which the participant is interested in improving his skills. (____)

Section 116, Subsections 116.01, 116.02, 116.03, and 116.04

1146. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES - WRITTEN INDIVIDUALIZED TREATMENT PLAN.

A written individualized treatment plan must be developed and implemented for each participant of enhanced outpatient mental outpatient health services as a means to address the enhanced service needs of the participant. Each individualized treatment plan must specify the individual staff person responsible for providing each service, and the amount, frequency and expected duration of treatment. Treatment planning is reimbursable if conducted by a professional identified in Subsections 131.01 through 131.03 of these rules. When the assessment indicates that the participant would benefit from psychotherapy or additional diagnostic services, the treatment plan must be completed by a qualified professional listed under IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection 715.03. (3-19-07)(____)

Subsection 116.01 (entire subsection)

01. Goals. Services identified on the treatment plan must support the goals of any of the following ~~as~~ that are applicable to the participant's identified needs: (3-19-07)(____)

a. PSR Skill Training. The goal is ~~the maximum reduction of mental disability and achievement of the highest possible functioning level of that participant; for adults this means becoming independent or maintaining the highest level of independence; for children this means learning or maintaining developmentally appropriate role functioning~~ to assist the participant in regaining skills that have been lost due to the symptoms of his mental illness or that would have been otherwise developed except for the interference of his mental health condition. Through skill training, the participant should achieve maximum reduction of symptoms of mental illness or serious emotional disturbance that will allow for the greatest adjustment to living in the community. (3-19-07)(____)

b. Community Reintegration. The goal is to provide practical information and support for the participant to be able to be effectively involved in the rehabilitation process. (____)

bc. Partial care. The goal is to decrease the severity and acuity of presenting symptoms so that the participant may be maintained in the least restrictive setting and to increase the participant's interpersonal skills in order to obtain the optimal level of interpersonal adjustment. (3-19-07)

ed. Psychotherapy. The goal is to ~~develop and implement~~ engage in active treatment that involves ~~psychotherapeutic psychological~~ strategies for problem resolution to promote optimal functioning and a condition of improved mental health. (3-19-07)(____)

e. Pharmacological Management. The goal is to obtain a decrease or remission of symptoms of psychiatric illness and improve quality of life through the use of pharmacological agents without causing adverse effects. (____)

116.02

02. Plan Content. An individualized treatment plan must ~~include~~ meet the following requirements listed in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 710, ~~at a minimum~~. Additionally, at least one (1) objective is required in the areas that are most likely to lead to the greatest level of stabilization. (3-19-07)(____)

Subsections 116.02.a. through 116.02.e. have been deleted

116.03

03. Plan Timeframes. An individualized treatment plan must be developed and signed by a licensed physician or ~~a~~ other licensed practitioner of the healing arts within thirty (30) calendar days from initial contact. Intermittent treatment plan reviews must occur as needed to incorporate progress, different goals, or change in treatment focus, but must not exceed one hundred twenty (120) days between reviews. A new treatment plan must be developed for participants who will continue in treatment beyond twelve (12) months. (3-19-07)(____)

116.04

074. Choice of Providers. The eligible participant ~~will~~ or his parent or legal guardian must be allowed to choose whether or not he desires to receive enhanced outpatient mental health services and ~~who the which~~ provider(s) of services ~~will be~~ agency or agencies he would like to assist him in accomplishing the objectives stated in his individualized treatment plan. Documentation must be included in the participant's medical record showing that the participant or his parent or legal guardian has been informed of his rights to refuse services and choose providers' agencies. (3-19-07)(____)

Section 123 (entire section)

123. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - DESCRIPTIONS.

The goal of PSR services is to aid participants in work, school, family, community, or other issues related to their

~~mental illness. It is also to aid them in obtaining developmentally appropriate skills for living independently and to prevent movement to a more restrictive living situation.~~ All services provided must be clinically appropriate in content, service location and duration and based on measurable and behaviorally specific and achievable objectives in accordance with the treatment plan. In addition to the services described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 709, the PSR program consists of the following services described in Subsections 123.01 through 123.084 of this rule. (3-1-08)(____)

~~01. Pharmacological Management. Pharmacological management services must be provided in accordance with the individualized treatment plan. Pharmacological management, alone, may be provided if the plan indicates that this service is necessary and sufficient to prevent relapse or hospitalization and that functional deficits are either manageable by the participant or absent but expected to return if pharmacological management is not provided. The telephoning of prescriptions to the pharmacy is not a billable service. Medication prescriptions must be done by a licensed physician or other practitioner of the healing arts within the scope of practice defined in their license in visual contact with the participant.~~ (3-19-07)(____)

~~02. Individual Psychosocial Rehabilitation (PSR) Skill Training. Individual psychosocial rehabilitation~~ The service of skill training must be provided in accordance with the objectives specified in the individualized treatment plan. ~~Individual PSR is a service provided to an individual participant on a one-to-one basis. Individual PSR~~ Skill training is reimbursable if provided by an agency with a current provider agreement and the agency staff delivering the service meet the qualifications, in accordance with Section 131 of these rules. ~~Individual PSR~~ Skill training includes one (1) or more of the following: (3-19-07)(____)

a. ~~Assistance in gaining and utilizing skills necessary to undertake school, employment, or independence function adaptively in home and community settings and attain or retain capability for independence.~~ This includes helping the participant learn personal hygiene and grooming, selecting and acquiring appropriate clothing, time management and other skills related to participant's psychosocial circumstances; and other self-care skills needed for community integration. This service cannot be duplicative of other services the participant may be receiving from other programs. (3-19-07)(____)

b. ~~Ongoing on-site assessment, evaluation, and feedback sessions, including one hundred twenty (120) day reviews, to identify symptoms or behaviors related to the participant's mental illness and to develop interventions with the participant and his employer or teacher; Assistance in gaining and utilizing skills necessary for managing personal finances, living arrangements, and daily home care duties.~~ (3-19-07)(____)

c. Individual interventions in social skill training directly related to the participant's mental illness to improve communication skills community functioning and to facilitate appropriate interpersonal behavior, directly related to the participant's mental illness; (3-19-07)(____)

d. ~~Problem solving, support, and supervision related to activities of daily living to assist participants in gaining and utilizing skills such as personal hygiene, household tasks, use of transportation, and money management; Assistance in gaining and utilizing cognitive skills for problem-solving everyday dilemmas, listening, symptom management, and self-regulation.~~ (3-19-07)(____)

e. ~~Assisting the participant with receiving necessary services when he has difficulty or is unable to obtain them.~~ Assistance for gaining and utilizing communications skills for the participant to be able to express himself coherently to others including other service providers. (3-19-07)(____)

i. ~~This assistance may be given by accompanying him to Medicaid reimbursable appointments. For reimbursement purposes, the PSR agency staff person must be present during the appointment and deliver a PSR service during the appointment. Travel time and time waiting to meet with the Medicaid provider are not reimbursable; however, reimbursement is available for the delivery of prior authorized PSR services occurring during these times. For participants receiving skill training for communication issues who cannot express necessary information to his healthcare providers or understand instructions given to him by healthcare providers, the PSR agency staff person may accompany the participant to medical appointments as a part of the communication skill training service.~~ (3-19-07)(____)

ii. ~~To be eligible for this service, the participant must have a functional impairment that affects his~~

~~ability to communicate accurately due to a mental illness and be unable to report symptoms to a licensed practitioner, as identified in Subsection 131.01 of these rules, or be unable to understand the practitioner's instructions. The impairment must be identified in the assessment. The individualized treatment plan must identify how the impairment is to be resolved and include objectives toward independence in this area. For children, this service is not intended to replace the parent's responsibility in advocating for or attending appointments for their child; For reimbursement purposes, the PSR agency staff person must deliver a skill training service that is identified on the treatment plan during the appointment. Travel time and time waiting to meet with the Medicaid provider are not reimbursable.~~

~~(3-19-07)()~~

iii. The individualized treatment plan must identify how the issue is to be resolved and include objectives toward independence in this area. For children, this service is not intended to replace the parent's responsibility in advocating for or attending appointments for their child.

()

f. Medication education may be provided by a licensed physician, licensed nurse, or a licensed practitioner of the healing arts within the scope of his practice under state law. This service focuses on educating the participant about the role and effects of medications in treating symptoms of mental illness, and symptom management, and adherence to the treatment regimen.

~~(3-19-07)()~~

~~g. Development of coping skills and symptom management to identify the symptoms of mental illness that are barriers to successful community integration and crisis prevention. Assistance for gaining and utilizing skills needed by the participant to arrange for his transportation, or to access and utilize the public transportation system.~~

~~(3-19-07)()~~

~~h. May assist participant with "self" administration of medications by verbal prompts according to the direction of the prescribing physician. Verbal prompts must be delivered face-to-face and an assessment of the participant's functioning must be completed and documented. In cases where verbal prompts by phone are justified, they must be specifically prior authorized.~~

~~(3-19-07)~~

02. Community Reintegration. The service of community reintegration must be provided in accordance with the objectives specified in the individualized treatment plan. The service may include:

()

a. Assisting the participant with self-administration of medications by verbal prompts according to the direction of the prescribing physician. Verbal prompts must be delivered face-to-face and an assessment of the participant's functioning must be completed and documented. In cases where verbal prompts by phone are justified, they must be specifically prior authorized.

()

b. Assisting the participant with maintaining or obtaining services that the participant usually takes care of for himself but is temporarily unable to do so because of an exacerbation of his symptoms. The targeted skills must be necessary to maintain his status in the home or community.

()

c. Working with the participant's legal guardian immediately following the delivery of a mental health service in order to provide follow-up and support actions that facilitate the participant's positive response to the services.

()

03. Group Psychosocial Rehabilitation (PSR) Skill Training. Group PSR skill training must be provided in accordance with the objectives specified in the individualized treatment plan. Group PSR skill training is a service provided to two (2) or more individuals concurrently. Group PSR skill training is reimbursable if provided by an agency with a current provider agreement and the agency staff person delivering the service meets the qualifications in accordance with Section 131 of these rules. This service includes one (1) or more of the following:

~~(3-19-07)()~~

a. Medication education groups provided by a licensed physician, licensed nurse, or a licensed practitioner of the healing arts within the scope of his practice under state law. This service focuses on educating participants about the role and effects of medications in treating symptoms of mental illness, and symptom management, and skills for adhering to their medical regimen. These groups must not be used solely for the purpose of group prescription writing;

~~(3-19-07)()~~

b. ~~Employment or school-related~~ Community Living skills groups ~~to~~ that focus on occupation-related symptom management ~~on the job or in school~~, symptom reduction, and ~~education about~~ skills related to appropriate job or school-related behaviors; (3-19-07)(____)

c. Communication and interpersonal skills groups, the goals of which are to improve communication skills and facilitate appropriate interpersonal behavior; (3-19-07)

d. Symptom management groups to identify mental illness symptoms which are barriers to successful community integration, crisis prevention, problem identification and resolution, coping skills, developing support systems and planning interventions with teachers, employers, family members and other support persons; and (3-19-07)

e. Activities of daily living groups which help participants learn skills related to personal hygiene, grooming, household tasks, use of transportation, socialization, and money management. (3-19-07)

04. Crisis Intervention Service. Crisis support includes intervention for a participant in crisis situations to ensure his health and safety or to prevent his hospitalization or incarceration. Crisis intervention service is reimbursable if provided by an agency with a current provider agreement and the agency staff delivering the service meet the qualifications under Section 131 of these rules. A crisis may be precipitated by loss of housing, employment or reduction of income, risk of incarceration, risk of physical harm, family altercation or other emergencies. PSR agency staff may deliver direct services within the scope of these rules or ~~link~~ refer the participant to community resources to resolve the crisis or both. Crisis support may be provided prior to or after the completion of the assessment and service plan. Service is reimbursable if there is documentation that supports the need for the service and the individualized treatment is either authorized the next business day following the beginning of the crisis or prior authorized in anticipation of the need for crisis support. Crisis hours are authorized on a per incident basis. (1-1-08)F(____)

a. Crisis Support in a Community. Limitations to reimbursement in this place of service are described in Subsection 124 of these rules. (3-19-07)

b. Crisis Support in an Emergency Department. (3-19-07)

i. A service provided in a hospital emergency department as an adjunct to the medical evaluation completed by the emergency department physician. This evaluation may include a psychiatric assessment. (3-19-07)

ii. The goal of this service is to assist in the identification of the least restrictive setting appropriate to the needs of the participant. (3-19-07)

c. Crisis Support Limitations. Crisis support services are available up to a total of ten (10) hours per week. This limitation is in addition to any other PSR service hours within that same time frame. Crisis support hours must be authorized by the Department. (____)

~~**05. Collateral Contact.** Collateral contact, as defined in Section 010 of these rules, is covered by Medicaid if it is included on the individualized treatment plan and it is necessary to gather and exchange information, provide interpretation or explanation of results of psychiatric evaluations, medical examinations and procedures, other accumulated data to family or other responsible persons, or advise them how to assist the participant.~~ (1-1-08)F

~~a. Collateral contact may be provided face-to-face by agency staff qualified to deliver services. Face-to-face contact is defined as two (2) people meeting in person at the same time; or~~ (1-1-08)F

~~b. Collateral contact may be provided by telephone by agency staff qualified to deliver services, when this is the most expeditious and effective way to exchange information.~~ (1-1-08)F

~~**06. Nursing Service.** A service performed by licensed and qualified nursing personnel within the limits of the Nurse Practice Act, Section 54-1402, Idaho Code. This may include supervision, monitoring, and administration of medications.~~ (3-19-07)

~~07. **Psychotherapy.** Individual, group, and family psychotherapy must be prior authorized and provided in accordance with the objectives specified in the written individualized treatment plan, as described in Section 114 of these rules. Staff qualified to deliver psychotherapy and qualified supervisors of psychotherapy are identified in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 707 through 718. (1-1-08)F~~

~~08. **Occupational Therapy.** Occupational therapy services must be prior authorized by the Department, based on the results of an occupational therapy evaluation completed by a licensed Occupational Therapist in accordance with Subsections 131.11 and 140.08 of these rules. (1-1-08)F~~

Section 124 (entire section)

124. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - COVERAGE AND LIMITATIONS.

The following service limitations apply to PSR agency services, unless otherwise authorized by the Department ~~in~~ each region. (3-19-07)()

~~01. **Assessment.** Any combination of evaluations or diagnostic services is limited to a maximum of six (6) hours annually. Assessment services must not exceed six (6) hours per participant annually. The following assessments are included in this limitation: (3-19-07)()~~

~~a. Intake Assessment. ()~~

~~b. Comprehensive Diagnostic Assessment. This assessment must be completed for each participant at least once annually; ()~~

~~c. Functional Assessment. ()~~

~~d. Psychological and Neuropsychological Assessments. The duration of this type of assessment is determined by the participant's benefits and the presenting reason for such an assessment. ()~~

~~e. Occupational Therapy Assessment. The duration of this type of assessment is determined by the participant's benefits and the presenting reason for such an assessment. ()~~

~~02. **Individualized Treatment Plan.** Two (2) hours per year per participant per provider agency are available for treatment plan development. (3-19-07)~~

~~03. **Psychotherapy.** Individual, family and group psychotherapy services are limited to a maximum of twenty-four (24) hours annually. Services beyond six (6) hours weekly must be prior-authorized. (3-19-07)()~~

~~04. **Crisis Intervention Service.** A maximum of ~~twenty ten~~ (210) hours of crisis support in a community may be ~~reimbursed~~ authorized per crisis ~~during any consecutive~~ per ~~five~~ seven (57) day period. Authorization must follow procedure described above at Subsection 123.04 of these rules. This limitation is in addition to any other PSR service hours within that same time frame. (1-1-08)F()~~

~~05. **Psychosocial Rehabilitation Skill Training and Community Integration.** Any combination of PSR services excluding crisis hours are not to exceed twenty (20) hours per week and must be prior authorized by the Department. Services in excess of twenty (20) hours require additional review and prior authorization. Services are limited to five (5) hours weekly in any combination of individual or group skill training and community reintegration. Up to five (5) additional weekly hours are available with prior authorization. (3-19-07)()~~

~~06. **Pharmacological Management.** Pharmacological management services beyond twenty-four (24) encounters per calendar year must be prior authorized by the Department. ()~~

~~07. **Collateral Contact.** Collateral contact services beyond six (6) hours per calendar year must be prior authorized by the Department. ()~~

08. Occupational Therapy. Occupational therapy services must be prior authorized by the Department, based on the results of an occupational therapy evaluation completed by an Occupational Therapist licensed in accordance with IDAPA 22.01.09, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants." ()

069. Place of Service. PSR agency services are to be home and community-based. (3-19-07)()

a. PSR agency services must be provided to the participant in his home and community whenever possible. Any other location, including a provider's office or clinic, may be used if the specific place of service is stated in the individualized treatment plan and ~~is prior authorized~~ is necessary to maximize the impact of the service. (3-19-07)()

b. PSR agency services may be provided to a participant living in a residential or assisted living facility if the PSR services are determined by the Department to be appropriate, desired by the resident, and are not the responsibility of the facility or another agency under the Negotiated Service Agreement for residential or assisted living facilities. (3-19-07)()

c. Prior to delivering any services in a school-based setting, the PSR agency must have a contract with the school or the Infant Toddler program. The PSR agency must not bill Medicaid or the Medicaid participant for these contracted services. Only the school district, charter school, or the Idaho Infant Toddler program may bill Medicaid for these contracted services when provided in accordance with IDAPA 16.03.09 "Medicaid Basic Plan Benefits," Sections 850 through 856. (3-19-07)

Subsection 125.06

125. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - EXCLUDED SERVICES NOT REIMBURSABLE UNDER MEDICAID.

Excluded services are those services that are not reimbursable under Medicaid PSR. The following is a list of those services: (3-19-07)

125.06

~~06. Participant Staffing Within an Agency Services Primarily Available Through Service Coordination Agencies. A participant staffing between two (2) staff who both provide PSR services within the same agency is not reimbursable. A participant staffing may fall under the definition of collateral contact when it is prior authorized and occurs between two (2) staff who are providing services from different Medicaid programs either within or outside the same agency. Any service that is typically addressed by Service Coordination as described in Section 727 of these rules, is not included in the program of psychosocial rehabilitation services. The PSR agency staff should refer participants to service coordination agencies for these services.~~ (3-19-07)()

Subsections 128.02, 128.02.a., 128.02.b., 128.04, and 128.05

128. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - RESPONSIBILITIES OF THE DEPARTMENT.

The Department will administer the provider agreement for the provision of PSR agency services and is responsible for the following tasks: (3-19-07)()

128.02, 128.02.a. and 128.02.b.

~~02. Individualized Treatment Plan Requirements Prior Authorization Process. Individualized treatment plans must include the following: Reimbursement for specific services that require prior authorization will be authorized from the date the required documentation is received by the Department. The Department will complete the prior authorization process within ten (10) working days from the date all the required information is received from the provider. The specific documentation that is required for prior authorization is dependent on the request for additional services.~~ (3-19-07)()

ea. Hours and Type of Service. The Department must authorize the number of hours and type of services, as specifically required in these rules, which could be reasonably expected to lead to achievement of the individualized treatment plan objectives. (3-19-07)(____)

eb. Authorization Time Period. ~~Service~~ Prior authorizations are limited to no more than a twelve (12) month period and must be reviewed and updated at least annually to continue. (3-19-07)(____)

128.04

04. Increases in Individualized Treatment Plan Hours or Change in Service Type. When the Department is notified, in writing, by the provider of recommended increases in hours or change in type of service provided that requires prior authorization, the Department must review the request and either approve or deny the request within ten (10) working days of receipt. A clear rationale for the increase in hours or change in service type must be included with the request. (3-19-07)(____)

128.05

05. Changes to Individualized Treatment Plan Objectives or Tasks. When a provider believes that an individualized treatment plan needs to be revised without increasing hours or changing type of service, the provider should amend the individualized treatment plan at the time of the next ~~one hundred twenty day (120) treatment plan~~ review or when substantial changes in the participant's mental status or circumstances require immediate changes in the plan objectives. The amended individualized treatment plan must be retained in the participant's record and submitted to the Department upon request. (3-19-07)(____)

Subsections 129.05 through 129.07

129. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - PROVIDER RESPONSIBILITIES

05. Individualized Treatment Plan. The provider must develop an individualized treatment plan in accordance with Section 1146 of these rules. The signature of a licensed physician, or other licensed practitioner of the healing arts within the scope of his practice under state law is required on the individualized treatment plan indicating the services are medically necessary. The date of the initial plan is the date it is signed by the physician. ~~Reimbursement for services will be authorized according to Subsection 128.02.b. of these rules.~~ (3-19-07)(____)

06. Changes to Individualized Treatment Plan Objectives. When a provider believes that an individualized treatment plan needs to be revised, the provider should ~~include that recommendation and rationale in the documentation for the next one hundred twenty (120) day review~~ make those revisions in collaboration with the participant's interdisciplinary team and obtain required signatures. Amendments and modifications to the treatment plan objectives must be justified and documented in the medical record. (3-19-07)(____)

07. Effectiveness of Services. Effectiveness of services, as measured by a participant's achievement of his plan objectives, must be monitored by the provider and changes to the individualized treatment plan must be initiated when service needs change or interventions are shown to be ineffective. These measures must be included on the participant's ~~one hundred twenty (120) day next treatment plan~~ review. (3-19-07)(____)

Subsections 130.06 through 130.12

130. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - PROVIDER AGENCY REQUIREMENTS.

Each agency that enters into a provider agreement with the Department for the provision of PSR services must meet the following requirements: (3-19-07)

130.06 through 130.12

06. Supervision. The agency must provide staff with adequate supervision to insure that the tasks on a participant's individualized treatment plan can be implemented effectively in order for the individualized treatment plan objectives to be achieved. Individuals in Subsection 131.08 through 131.12 of these rules An agency staff person without a Master's degree must be supervised by an individuals in Subsection 131.01 through 131.07 of these rules with a Master's degree or a higher credential. (3-19-07)()

a. Case-specific supervisory contact must be made weekly, at a minimum, with staff for whom supervision is a requirement. Documentation of supervision must be maintained by the agency and be available for review by the Department. (3-19-07)

b. An agency must assure that clinical supervision, as required in the rules of the Idaho Bureau of Occupational Licenses and the Idaho State Board of Medicine, is available to all staff ~~that~~ who provide psychotherapy. The amount of supervision should be adequate to ensure that the individualized treatment plan objectives are achieved. Documentation of supervision must be maintained by the agency and be available for review by the Department. (3-19-07)()

c. The licensed physician or other licensed practitioner of the healing arts must review and sign the individualized treatment plan as an indicator that the services are medically necessary and prescribed. ()

07. Staff-to-Participant Ratio. The following treatment staff-to-participant ratios for group treatment services must be observed: ()

a. For children under four (4) years of age, the ratio must be 1:1. No group work is allowed. ()

b. For children four (4) to twelve (12) years of age, the ratio must be 1:6 for groups. Group size must not exceed twelve (12) participants. ()

c. For children over twelve (12) years of age, the ratio must be 1:10 for groups. Group size must not exceed twelve (12) participants. ()

08. Family Participation Requirement. The following standards must be observed for services provided to children: ()

a. For a child under four (4) years of age, the child's parent or legal guardian should be actively involved by being present on the premises and available for consultation with the staff during the delivery of mental health services. The child's parent or legal guardian does not have to participate in the treatment session or be present in the room in which the service is being conducted; ()

b. For a child four (4) to twelve (12) years of age, the child's parent or legal guardian should be actively involved. The child's parent or legal guardian does not have to participate in the treatment session, but must be available for consultation with the staff providing the service; ()

c. For a child over age twelve (12) years of age, the child's parent or legal guardian should be involved, as appropriate. If the interdisciplinary team recommends that the child's parent or legal guardian not be involved in any aspect of the treatment, then the reasons for excluding the child's parent or legal guardian must be documented in the medical record. ()

d. For a child whose parent or legal guardian does not participate in the services, the provider must document efforts made to involve the parent or legal guardian and must make appropriate adjustments to the treatment plan to address the parent or legal guardian's lack of involvement. ()

e. Nothing in these rules may interfere with compliance to provisions of Section 16-2428, Idaho Code, regarding confidentiality and disclosure of children's mental health information. ()

079. Continuing Education. The agency must assure that all staff complete twenty (20) hours of continuing education annually from the date of hire. Four (4) hours every four (4) years must be in ethics training.

Staff who are not licensed must select the discipline closest to their own and use the continuing education standards attached to that professional license. Nothing in these rules will affect professional licensing continuing education standards and requirements set by the Bureau of Occupational Licenses. (3-19-07)

~~0810.~~ **Crisis Service Availability.** PSR agencies must provide twenty-four (24) hour crisis response services for their participants or make contractual arrangement for the provision of those services. (3-19-07)

11. Restraints and Seclusion. ()

a. Restraints and seclusion must not be employed under any circumstances except when an agency staff person employs physical holds as an emergency response to assault or aggression or other immediate safety risks in accordance with the following requirements in Subsections 130.11.a.i. through 130.11.a.iii.: ()

i. The agency must have an accompanying policy and procedure that addresses the use of the such holds. ()

ii. The physical holds employed must be a part of a nationally recognized non-violent crisis intervention model. ()

iii. The staff person who employs the hold technique(s) must have evidence in his personnel record of current certification in the method. ()

b. Provider agencies must develop policies that address the agency's response by staff to emergencies involving assault or aggression or other immediate safety risks. All policies and procedures must be consistent with licensure requirements, federal, state, and local laws, and be in accordance with accepted standards of healthcare practice. ()

~~0912.~~ **Building Standards, Credentialing and Ethics.** All PSR agencies must comply with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 712 and Subsection 714.14. PSR agencies whose participants are in the agency building for treatment purposes must follow the rules in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsections ~~712 and 714.15.~~ (3-19-07)()

Section 131 (entire section)

131. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - AGENCY STAFF QUALIFICATIONS.
All agency staff delivering PSR direct services must ~~meet~~ have at least one (1) of the following qualifications credentials: (3-19-07)()

~~01. Licensed Physician or Psychiatrist.~~ A physician, psychiatrist, or other licensed practitioners of the healing arts within the scope of his practice under state law must be licensed in accordance with Title 54, Chapter 18, Idaho Code, to practice medicine. A licensed practitioner of the healing arts in Idaho may include Physician Assistants and Nurse Practitioners. Any of the Professions Listed Under IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection 715.01. (3-19-07)()

~~02. Licensed Master's Level Psychiatric Nurse.~~ A certified psychiatric nurse, Clinical Nurse Specialist or Psychiatric Nurse Practitioner, must be licensed in accordance with Title 54, Chapter 14, Idaho Code, or certified by a recognized national certification organization, and have a minimum of a master's degree. (3-19-07)

~~03. Licensed Psychologist.~~ A psychologist must be licensed in accordance with Title 54, Chapter 23, Idaho Code. (3-19-07)

~~04. Licensed Clinical Professional Counselor or Licensed Professional Counselor.~~ A clinical professional counselor or professional counselor must be licensed in accordance with Title 54, Chapter 34, Idaho Code and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." (3-19-07)

~~05. Licensed Marriage and Family Therapist. A marriage and family therapist must be licensed in accordance with Title 54, Chapter 34, Idaho Code and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." (3-19-07)~~

~~06. Licensed Masters Social Worker or Licensed Clinical Social Worker. A masters social worker (LMSW) or clinical social worker (LCSW), must hold a license in accordance with Title 54, Chapter 32, Idaho Code and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners." (3-19-07)~~

072. Clinician. A clinician must hold a master's degree, be employed by a state agency and meet the minimum standards established by the Idaho State Division of Human Resources and the Idaho Department of Health and Welfare Division of Human Resources. (3-19-07)(____)

~~08. Licensed Social Worker. A social worker must hold a license in accordance with Title 54, Chapter 32, Idaho Code and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners." (3-19-07)~~

~~09. Licensed Professional Nurse (RN). A licensed professional nurse or RN, must be licensed in accordance with Title 54, Chapter 14, Idaho Code. (3-19-07)~~

~~10. Psychosocial Rehabilitation (PSR) Specialist. A PSR specialist must hold at least a bachelor's degree from a nationally accredited university or college in behavioral science, education, or medicine. A PSR specialist must have at least twenty-one (21) semester credit hours (or quarter hour equivalent) in human service fields such as psychology, social work, special education, counseling, and psychosocial rehabilitation. An individual who has been denied licensure, or who is qualified to apply for licensure to the State of Idaho, Bureau of Occupational Licenses in the professions identified in Subsections 131.01 through 131.10 of this rule, is not eligible to provide services under the designation of Psychosocial Rehabilitation Specialist. Individuals approved as PSR specialists under previous rules in this section will be able to continue as qualified PSR specialists as long as they continue to work in the same agency as they did prior to the effective date of this rule. (3-19-07)~~

~~11. Licensed Occupational Therapist. An occupational therapist must be licensed in accordance with Title 54, Chapter 37, Idaho Code, and IDAPA 22.01.09, "Rules for the Licensing of Occupational Therapists and Occupational Therapist Assistants." Training and experience in a mental health setting are required. (3-19-07)~~

~~12. Psychologist Extender. A psychologist extender must work under the supervision of a licensed psychologist and be registered with the Bureau of Occupational Licenses. A copy of that registration must be retained in the extender's personnel file. (3-19-07)~~

03. Psychosocial Rehabilitation (PSR) Specialist. (____)

a. As of June 30, 2009, persons who are working as PSR Specialists delivering Medicaid-reimbursable mental health services may continue to do so until January 1, 2012, at which time they must be certified as PSR Specialists in accordance with USpra requirements. (____)

b. As of July 1, 2009, applicants to become PSR Specialists delivering Medicaid-reimbursable mental health services must have a bachelor's degree from a nationally-accredited university in Primary Education, Special Education, Adult Education, Counseling, Human Services, Early Childhood Development, Family Science, Psychology, or Applied Behavioral Analysis. Applicants who have a major in one (1) of these identified subject areas, but have a bachelor's degree in another field, also meet this requirement. (____)

c. An applicant who meets the educational requirements under Subsection 131.03.b. of this rule may work as a PSR Specialist for a period not to exceed eighteen (18) months while under the supervision of a staff member with a Master's degree or higher credential or a certified PSR Specialist. In order to continue as a PSR Specialist beyond a total period of eighteen (18) months, the worker must obtain the USpra certification. (____)

d. An individual who has been denied licensure or who is qualified to apply for licensure to the Idaho Bureau of Occupational Licenses, in the professions identified under Subsections 131.01 through 131.03 of this rule, is not eligible to provide services under the designation of PSR Specialist with the exception of those individuals who have obtained the USpra PSR Specialist certification. (____)

Subsections 136.05 and 136.10

136. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - RECORD REQUIREMENTS FOR PROVIDERS.

In addition to the development and maintenance of the individualized treatment plan, the following documentation must be maintained by the provider of PSR services: (3-19-07)

136.05

~~05. **One Hundred Twenty Day Treatment Plan Review.** A documented *outcome-specific* review of progress toward each individualized treatment plan goal and objective must be kept in the participant's file. These reviews should occur intermittently, but not more than one hundred twenty (120) days apart. (3-19-07)()~~

136.10

~~10. **Informed Consent.** The agency must ensure that participants who receive services through the agency have obtained informed consent from the participant or his legal guardian indicating agreement with all of the elements on the individualized treatment plan including choice of the provider agency, designated services, times, dates, frequencies, objectives, goals, and exit criteria. For a minor child, informed consent must be obtained from the minor's parent or legal guardian. ()~~

Subsections 140.06 through 140.10

140. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - PROVIDER REIMBURSEMENT.

Payment for PSR agency services must be in accordance with rates established by the Department. The rate paid for services includes documentation. (3-19-07)()

140.06 through 140.10

~~06. **Evaluations and Tests.** Evaluations and tests ~~may be provided as~~ are a reimbursable service ~~in conjunction with the assessment if provided in accordance with the requirements in IDAPA 16.03.09, "Medicaid Basic Plan Benefits."~~ (3-19-07)()~~

~~07. **Psychological Evaluations.** Psychological evaluations are reimbursable if provided in accordance with the requirements in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 707 through 718. (3-19-07)~~

~~08. **Evaluations by Occupational Therapists.** Evaluations performed by qualified licensed occupational therapists, performed in conjunction with development of an individualized treatment plan are reimbursable. (3-19-07)~~

~~09. **Psychiatric or Medical Inpatient Stays.** Community reintegration ~~S~~services may be provided during the last thirty (30) days of inpatient stay or if the inpatient stay is not expected to last longer than thirty (30) days, when not duplicating those services included in the responsibilities of the inpatient facility. Treatment services are the responsibility of the facility. (3-19-07)()~~

~~10. **Reimbursement for Services Provided in a School.** PSR Services provided by a PSR agency in a school-based setting, must be billed by the school district, charter school, or the Idaho Infant Toddler program. (3-19-07)~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0901

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of this temporary rule is January 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-203, 56-250 through 257, and 56-1003, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Hearing in Region 2: Monday, January 12, 2009	Hearing in Region 4: Tuesday, January 13, 2009	Hearing in Region 7: Wednesday, January 14, 2009
6:00 p.m. PST State Office Building 1118 F Street 3rd Floor Conference Room Lewiston, ID	6:00 p.m. MST DHW Region IV Office 1720 Westgate Dr., Suite D Room 119 Boise, ID	6:00 p.m. MST State Office Building 150 Shoup Avenue 2nd Floor Conference Room Idaho Falls, ID

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

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

The rule changes in this rulemaking are in response to the Governor's Executive Order No. 2008-03, Reduction of General Fund Spending Authority, that directed state agencies to hold back 1% of their general fund budget in the current 2009 fiscal year. In order to comply with this order, the Medicaid service benefits were reviewed and the following changes are being made to meet the Governor's Order. These changes reflect a reduction to the maximum amount of service hours under the Medicaid Enhanced Plan Benefits chapter of rule for Partial Care Services and Psychosocial Rehabilitation Services (PSR).

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because of his Executive Order No. 2008-3.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

*To meet the Governor's Executive Order to hold back 1% of the 2009 fiscal year budget, the following amounts include both state and federal funds to meet that savings for the 2009 Medicaid budget. The state general fund share of the savings listed is approximately 30%.

*Psychosocial Rehabilitative (PSR) services weekly reduction of services to 10 hours equals \$269,800 savings; and

*Partial Care weekly reduction of services to 12 hours equals \$3,550,500 savings.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because these changes were required to meet the Governor's Executive Order No. 2008-3.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 17th day of November, 2008.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720, Boise, ID 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING IS THE TEXT OF DOCKET 16-0310-0901

115. ENHANCED OUTPATIENT MENTAL HEALTH SERVICES - MENTAL HEALTH CLINICS (MHC).

All rules in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 707 through 718 apply to Mental Health Clinic services in this chapter with the following enhancements. (3-19-07)

01. Psychotherapy. Under the Medicaid Enhanced Plan, individual, family and group psychotherapy services are limited to forty-five (45) hours per calendar year. (3-19-07)

02. Partial Care Services. Under the Medicaid Enhanced Plan, partial care services are limited to ~~thirty-six~~ twelve (~~36~~12) hours per week per eligible participant. (~~3-19-07~~)(1-1-09)T

a. In order to be considered a Partial Care service, the service must: (3-19-07)

i. Be provided in a structured environment within the MHC setting; (3-19-07)

ii. Be a needed service as indicated through the comprehensive assessment in Section 113 of these rules and Section 114 of these rules on the individualized treatment plan with documented, concrete, and measurable goals and outcomes; and (3-19-07)

iii. Provide interventions for relieving symptoms and acquiring specific skills. These interventions must include the specific medical services, therapies, and activities that are used to meet the treatment objectives. (3-19-07)

b. Staff Qualifications for Partial Care Services. Licensed, qualified professionals providing partial care services must have, at a minimum, one (1) or more of the qualifications listed in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Subsection 715.01. (3-19-07)

c. Excluded Services. Services that focus on vocation, recreation or education are not reimbursable under Medicaid Partial Care. Services that are provided outside the clinic facility are not reimbursable. (3-19-07)

(BREAK IN CONTINUITY OF SECTIONS)

124. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - COVERAGE AND LIMITATIONS.

The following service limitations apply to PSR services, unless otherwise authorized by the Department in each region. (3-19-07)

01. Assessment. Any combination of evaluations or diagnostic services is limited to a maximum of six (6) hours annually. (3-19-07)

02. Individualized Treatment Plan. Two (2) hours per year per participant per provider agency are available for treatment plan development. (3-19-07)

03. Psychotherapy. Individual, family and group psychotherapy services are limited to a maximum of twenty-four (24) hours annually. (3-19-07)

04. Crisis Intervention Service. A maximum of twenty (20) hours of crisis support in a community may be reimbursed per crisis during any consecutive five (5) day period. Authorization must follow procedure described above at Subsection 123.04 of these rules. (1-1-08)T

05. Psychosocial Rehabilitation. Any combination of PSR services excluding crisis hours are not to exceed ~~twenty ten~~ (210) hours per week and must be prior authorized by the Department. ~~Services in excess of twenty (20) hours require additional review and prior authorization.~~ (3-19-07)(1-1-09)T

06. Place of Service. PSR services are to be home and community-based. (3-19-07)

a. PSR services must be provided to the participant in his home and community whenever possible. Any other location, including a provider's office or clinic, may be used if the specific place of service is stated in the individualized treatment plan and is prior authorized. (3-19-07)

b. PSR services may be provided to a participant living in a residential or assisted living facility if the PSR services are determined by the Department to be appropriate, desired by the resident, and are not the responsibility of the facility or another agency under the Negotiated Service Agreement for residential or assisted living facilities. (3-19-07)

c. Prior to delivering any services in a school-based setting, the PSR agency must have a contract with the school or the Infant Toddler program. The PSR agency must not bill Medicaid or the Medicaid participant for these contracted services. Only the school district, charter school, or the Idaho Infant Toddler program may bill Medicaid for these contracted services when provided in accordance with IDAPA 16.03.09 "Medicaid Basic Plan Benefits," Sections 850 through 856. (3-19-07)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0902

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of this temporary rule is January 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-203, 56-250 through 257, and 56-1003, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Hearing in Region 2: Monday, January 12, 2009	Hearing in Region 4: Tuesday, January 13, 2009	Hearing in Region 7: Wednesday, January 14, 2009
6:00 p.m. PST State Office Building 1118 F Street 3rd Floor Conference Room Lewiston, ID	6:00 p.m. MST DHW Region IV Office 1720 Westgate Dr., Suite D Room 119 Boise, ID	6:00 p.m. MST State Office Building 150 Shoup Avenue 2nd Floor Conference Room Idaho Falls, ID

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

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

The rule change in this rulemaking is in response to the Governor's Executive Order No. 2008-03, Reduction of General Fund Spending Authority, that directed state agencies to hold back 1% of their general fund budget in the current 2009 fiscal year. In order to comply with this order, Medicaid service benefits were reviewed and the following change is being made to meet the Governor's Order. This change reflects a reduction to the maximum amount of service hours under the Medicaid Enhanced Plan Benefits chapter of rule for Developmental Disability Agencies services.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of this rule is appropriate because of his Executive Order No. 2008-3.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

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

To meet the Governor's Executive Order to hold back 1% of the 2009 fiscal year budget, the following amount includes both state and federal funds to help meet that savings for the 2009 Medicaid budget. The state general fund share of the savings listed is approximately 30%.

Developmental Disabilities (DD) service cap reduction to 22 hours equals \$1,082,500 savings.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because these changes were required to meet the Governor's Executive Order No. 2008-3.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact Dave Simmitt at (208) 364-1992.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 17th day of November, 2008.

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THE FOLLOWING IS THE TEXT OF DOCKET 16-0310-0902

653. DDA SERVICES - COVERAGE REQUIREMENTS AND LIMITATIONS.

01. Requirement for Plan of Service and Prior Authorization. (3-19-07)

a. All therapy services for children must be identified on the Individual Program Plan developed by the developmental disabilities agency (DDA) as described in IDAPA 16.04.11, "Developmental Disabilities Agencies." (3-19-07)

b. All therapy services for adults with developmental disabilities and ISSH waiver participants must be identified on the plan of service and prior authorized as described in Sections 507 through 520 of these rules and IDAPA 16.04.11, "Developmental Disabilities Agencies." (3-19-07)

02. Assessment and Diagnostic Services. Twelve (12) hours is the maximum Medicaid reimbursable time allowed for the combination of all assessment, evaluation or diagnostic services provided in any calendar year. Additional hours may be approved for a child through the month of his twenty-first birthday with approval from EPSDT staff in the Division of Medicaid. The following assessment and diagnostic services are reimbursable when provided in accordance with these rules and IDAPA 16.04.11, "Developmental Disabilities Agencies": (3-19-07)

a. Comprehensive Developmental Assessment; (3-19-07)

b. Comprehensive Intensive Behavioral Intervention (IBI) Assessment. Before conducting the comprehensive IBI assessment, the DDA must receive prior authorization from the Department. The time required to complete this assessment is included in the thirty-six (36) month IBI limitation but does not count against the twelve (12) hour limitation described in this subsection; (3-19-07)

c. Occupational Therapy Assessment; (3-19-07)

d. Physical Therapy Assessment; (3-19-07)

e. Speech and Language Assessment; (3-19-07)

f. Medical/Social History; and (3-19-07)

g. Psychological Assessment. Includes psychological testing and psychiatric diagnostic interview.

(3-19-07)

03. Therapy Services. Developmental disabilities agency services must be recommended by a physician or other practitioner of the healing arts and provided in accordance with objectives as specified in IDAPA 16.04.11, "Developmental Disabilities Agencies." The following therapy services are reimbursable when provided in accordance with these rules and IDAPA 16.04.11, "Developmental Disabilities Agencies." (3-19-07)

a. Developmental Therapy. Developmental therapy may be delivered in a developmental disabilities agency center-based program, the community, or the home of the participant. Participants living in a certified family home must not receive home-based developmental therapy in a certified family home. Developmental therapy includes individual developmental therapy and group developmental therapy. (3-19-07)

b. Psychotherapy Services. Psychotherapy services, alone or in combination with supportive counseling, are limited to a maximum of forty-five (45) hours in a calendar year, and include: (3-19-07)

i. Individual psychotherapy; (3-19-07)

ii. Group psychotherapy; and (3-19-07)

iii. Family-centered psychotherapy which must include the participant and one (1) other family member at any given time. (3-19-07)

c. Supportive Counseling. Supportive counseling must only be delivered on an individualized, one-to-one basis. Supportive counseling, alone or in combination with psychotherapy services, is limited to a maximum of forty-five (45) hours in a calendar year. (3-19-07)

d. Speech-Language Pathology Services. Speech-language pathology services include individual or group therapy. These services are limited in accordance with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 730 through 739. (4-2-08)

e. Physical Therapy Services. Physical therapy services include individual or group therapy. These services are limited in accordance with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 730 through 739. (4-2-08)

f. Occupational Therapy Services. Occupational therapy services include individual occupational therapy and group occupational therapy. These services are limited in accordance with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 730 through 739. (4-2-08)

g. Intensive Behavioral Intervention (IBI). IBI is limited to a lifetime limit of thirty six (36) months. (3-19-07)

i. The DDA must receive prior authorization from the Department prior to delivering IBI services. (3-19-07)

ii. IBI must only be delivered on an individualized, one-to-one basis. (3-19-07)

h. Intensive Behavioral Intervention (IBI) Consultation. IBI consultation is included in the thirty-six (36) month IBI limitation. The DDA must receive prior authorization from the Department prior to providing IBI Consultation. (3-19-07)

i. Collateral Contact. Collateral contact is consultation or treatment direction about the participant to a significant other in the participant's life and may be conducted face-to-face or by telephone contact. Collateral contact for general staff training, regularly scheduled parent-teacher conferences, general parent education, or for treatment team meetings, even when the parent is present, is not reimbursable. (3-19-07)

j. Pharmacological Management. Pharmacological management is consultation for the purpose of prescribing, monitoring, or administering medications. These consultations must be provided by a physician or other

practitioner of the healing arts in direct face-to-face contact with the participant and be provided in accordance with the plan of service with the type, amount, frequency and duration of the service specified. The telephoning of prescriptions to the pharmacy is not a billable service. (3-19-07)

04. Excluded Services. The following services are excluded for Medicaid payments: (3-19-07)

a. Vocational services; (3-19-07)

b. Educational services; and (3-19-07)

c. Recreational services. (3-19-07)

05. Limitations on DDA Services. Therapy services may not exceed the limitations as specified below. (3-19-07)

a. The combination of therapy services listed in Subsections 653.03.a. through 653.03.g. of these rules must not exceed ~~thirty~~ twenty-two (~~30~~ 22) hours per week. (~~3-19-07~~)(1-1-09)T

b. Therapy services listed in Subsections 653.03.a. through 653.03.g. of these rules provided in combination with Community Supported Employment services under Subsection 703.04 of these rules must not exceed forty (40) hours per week. (3-19-07)

c. When a HCBS waiver participant under Sections 700 through 719 of these rules receives Adult Day Care as provided in Subsection 703.12 of these rules, the combination of Adult Day Care, Developmental Therapy and Occupational therapy must not exceed thirty (30) hours per week. (3-19-07)

d. Only one (1) type of therapy service will be reimbursed during a single time period by the Medicaid program. No therapy services will be reimbursed during periods when the participant is being transported to and from the agency. (3-19-07)

e. Prior to delivering any services in a school-based setting, the DDA must have a contract with the school or the Infant Toddler program. The DDA must not bill Medicaid or the Medicaid participant for these contracted services. Only the school district, charter school, or the Idaho Infant Toddler program may bill Medicaid for these contracted services when provided in accordance with IDAPA 16.03.09 "Medicaid Basic Plan Benefits," Sections 850 through 856. (3-19-07)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.20 - RULES GOVERNING ELECTRONIC PAYMENTS OF PUBLIC ASSISTANCE, FOOD STAMPS, AND CHILD SUPPORT

DOCKET NO. 16-0320-0801

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 56-202, Idaho Code, and the 2008 Farm Bill, P.L. 110-234, Section 4114; US H.R. 2419.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, Book 1, pages 452 through 458.

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

The fiscal impact of this rule change is a savings of approximately \$200,000. This amount has already been adjusted out of the Department's FY09 appropriation budget.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Orié Garcia at (208) 334-5820.

DATED this 10th day of November, 2008.

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DOCKET NO. 16-0320-0801 - 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 452 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 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.22 - RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES IN IDAHO

DOCKET NO. 16-0322-0801

NOTICE OF RULEMAKING - VACATION OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rulemaking previously initiated under this docket. The action is authorized pursuant to Section 39-3305, Idaho Code.

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

The Department held negotiations at the request of the Idaho Health Care Association for this rulemaking. Association representatives requested a rule change to the section that requires basic services be included in the base monthly rent. This proposed change would have allowed facilities to bill on an ala carte basis for basic services. Industry representatives, advocates and Department representatives worked together to write the proposed rule changes. The changes included allowing ala carte billing as requested by the association along with additional protections for the consumer to offset the potential problems associated with ala carte billing. During the public hearing, no providers stated they wanted to use ala carte billing or gave strong support to the proposed rule changes. Advocates for the consumer also expressed hesitation with the proposed rule changes.

The primary interest in using an ala carte billing for basic services comes from facilities owned and administered by out-of-state corporations. Facilities that currently or formerly utilize an ala carte billing comprise between 5% and 10% of the total number of assisted living facilities operating in Idaho. During the comment period, none of the corporations that use ala carte billing commented on the proposed rules. Local providers that attended the hearing did not express a need to allow for ala carte billing but were concerned with the burden of implementing the added requirements designed to ensure adequate consumer protections for ala carte billing.

The Department has decided to vacate these proposed rule changes due to lack of adequate support from providers, industry, consumers, and advocates of persons living in assisted living facilities. The proposed rules published in the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, Book 1, pages 459 through 474.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation or the negotiated rulemaking, contact Jamie Simpson at (208) 364-6626.

DATED this 10th day of November, 2008.

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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.16 - RULES GOVERNING THE DEPARTMENT OF ENERGY ADMINISTRATION WEATHERIZATION PROGRAM

DOCKET NO. 16-0416-0801 (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 56-202 and 56-203, Idaho Code, and Part Q of the Energy Conservation in Existing Buildings Act, 42 U.S.C. 6861, et seq. by the U.S. Department of Energy Organization Act, 42 U.S.C. 1701, et seq.

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. This chapter is being repealed in order to rewrite the chapter to align Idaho's rules with current federal regulations regarding the Weatherization Assistance Program governed by the U.S. Department of Energy. The rewrite of the chapter published under Docket No. 16-0416-0802. The complete text of the proposed rule was published in the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, Book 1, page 475. This chapter is repealed in its entirety.

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 anticipated fiscal impact to state general funds associated with this rulemaking. Funds for this program are provided by the U.S. Department of Energy.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Genie Sue Weppner at (208) 334-5656.

DATED this 13th day of November, 2008.

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DOCKET NO. 16-0416-0801 - 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, page 475.

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

16.04.16 - WEATHERIZATION ASSISTANCE PROGRAM IN IDAHO

DOCKET NO. 16-0416-0802 (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 56-202 and 56-203, Idaho Code, and Part Q of the Energy Conservation in Existing Buildings Act, 42 U.S.C. 6861, et seq. by the U.S. Department of Energy Organization Act, 42 U.S.C. 1701, et seq.

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. This chapter of rules is being rewritten to align with current federal regulations regarding the Weatherization Assistance Program in Idaho governed by the U.S. Department of Energy. The current chapter is being repealed in this Bulletin under Docket 16-0416-0801. The complete text of the proposed rule was published in the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, Book 1, page 476 through 485.

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 Genie Sue Weppner at (208) 334-5656.

DATED this 13th day of November, 2008.

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DOCKET NO. 16-0416-0802 - 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 476 through 485.

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

16.05.03 - RULES GOVERNING CONTESTED CASE PROCEEDINGS AND DECLARATORY RULINGS

DOCKET NO. 16-0503-0801

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 16-107, 56-133, 56-135, 56-202, 56-204A, 56-216, 56-1003, 56-1004, and 56-1005, Idaho Code; and 20 USC 1400, et seq. (IDEA).

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. At the recommendation of the Legislative Services Office, clarifications were added to the language regarding the extent of an administrative review. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 6, 2008, Idaho Administrative Bulletin, Vol. 08-8, pages 85 through 92.

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

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Jeanne Goodenough at (208) 334-5537.

DATED this 7th day of November, 2008.

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DOCKET NO. 16-0503-0801 - 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 08-8, August 6, 2008, pages 85 through 92.](#)

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. 16-0503-0801

Subsection 503.04

503. DIVISION OF FAMILY AND COMMUNITY SERVICES - INFANT TODDLER PROGRAM - ADMINISTRATIVE COMPLAINTS.

04. Extent of Review. No issue that is being addressed in *an active* hearing process can be dealt with in *an* administrative complaint until the conclusion of the hearing. Any issue that is not part of the hearing must be resolved within the sixty (60) day review time. Issues that have already been decided in the hearing are final and binding on the complainant. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES

DOCKET NO. 16-0601-0801

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: 16-1629, 16-2102, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, and 56-1004A, Idaho Code; and the Social Security Act, Title IV-E, Sections 471(a)(14) and 473(c)(3)(B).

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 Wednesday, October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 16 through 69.

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 only rule changes in this docket that will have a fiscal impact are those related to the Child Protection Central Registry:

1. Estimated *annual* costs for sending substantiated letters by certified mail, return receipt requested: \$5,900.
2. Estimated *one-time* cost for changes related to the Department's automated system (FOCUS) used to manage the data for the Child Protection Central Registry: \$2000.

Total estimated cost for implementation of rule changes related to the Child Protection Central Registry: \$7,900.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kathy Morris at (208) 334-5706.

DATED this 7th day of November, 2008.

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DOCKET NO. 16-0601-0801 - 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 16 through 69.
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
16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

DOCKET NO. 16-0602-0801

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. In accordance with Section 67-5224(5), Idaho Code, the pending rule will become final and effective on July 1, 2009 after approval by the legislature. If the pending rule is approved, amended, or modified by concurrent resolution, the agency will request that the effective date of July 1, 2009 be inserted into the language of the concurrent resolution rather than have the rule become effective upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code.

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

The following rules have been changed due to public comments received:

1. Occupational licensing statutes were incorporated by reference;
2. Definitions were revised for Child Care, Continued Care, Foster Care, Service Worker, and Social Worker;
3. Licensing and Certification on Local Option;
4. Continued Care;
5. Employee and Volunteer Orientation and Training;
6. Reporting of Child Abuse;
7. Religious and Culture Policy; and
8. Chief Administrator and Service Worker Supervisor Qualifications.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 3, 2008, Idaho Administrative Bulletin, Vol. 08-9, pages 48 through 108.

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 anticipated fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Brent Porges at (208) 334-5920.

DATED this 7th day of November, 2008.

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DOCKET NO. 16-0602-0801 - 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 08-9, September 3, 2008, pages 48 through 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.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0602-0801

New Subsections 004.01.f. through 01.h.

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference in this chapter of rules. ()

- rules;*
- 01. Idaho Statutes.** *The following are the Idaho Statutes incorporated by reference in this chapter of rules;* (3-30-01)()
- f. Psychologists.** *Sections 54-2301 through 54-2315, Idaho Code.* ()
- g. Social Work Licensing Act.** *Sections 54-3201 through 54-3217, Idaho Code.* ()
- h. Counselors and Therapists.** *Sections 54-3400 through 54-3415, Idaho Code.* ()

Subsections 010.06, 010.12, 010.20

010. DEFINITIONS A THROUGH M.

For the purposes of these rules *contained in this Chapter*, the following terms *are used as defined below:* apply. (3-30-01)()

Subsection 010.06 (amendment deleted - no change to the codified text)

056. Child Care. The care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care. (3-30-01)

142. Continued Care. The ongoing placement of an individual in a foster home, children's residential care facility, children's therapeutic outdoor program, or transitional living placement who reaches the age of eighteen (18) years but is less than twenty-one (21) years of age. (3-30-01)()

~~1920.~~ **Foster Care.** The twenty-four (24) hour substitute parental care of children; by persons who may or may not be related to a child; ~~in lieu of parental care in a foster home.~~ (3-30-01)(____)

Subsections 011.15 and 011.17

011. DEFINITIONS N THROUGH Z.

For the purposes of these rules, the following terms apply. (____)

15. Service Worker. An employee of an organization who has obtained at a minimum, a Bachelor's degree in a behavioral science, including social work, sociology, psychology, criminal justice, counseling, or a related field, whose duties may include assessment, service planning, supervision and support. (____)

17. Social Worker. An individual licensed by the state of Idaho in compliance with Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners." (____)

Subsection 100.01

100. LICENSING AND CERTIFICATION.

The purpose of licensing and certification is to ~~ensure insofar as possible that persons providing substitute parental care to children are~~ set minimum standards and to monitor compliance. Persons applying for licensure need to be physically and emotionally suited to ~~do so, that the care given~~ protect the health, safety and well-being of the children ~~and that the~~ in their care. ~~Physical surroundings must present no hazards to the~~ proper care of children in care. (3-30-01)(____)

01. Local Option. If a city or county, within its respective jurisdiction, has adopted and is enforcing ordinances for regulating or licensing of day care ~~center standards~~ services which are at least as stringent as those contained in Subsections 300.01 through ~~Subsection~~ 300.135 of these rules, then ~~the~~ those provisions of Sections ~~39-1101 through 39-1117~~ 39-1108, Idaho Code, ~~shall~~ will not apply within such city or county, unless the ordinance is subsequently repealed or is no longer enforced. (3-30-01)(____)

Sections 530 and 531

530. CONTINUED CARE.

Continued care is permitted as defined and authorized in the Idaho Child Care Licensing Reform Act Sections 39-1202 and 39-1213, Idaho Code, and Section 531 of these rules for individuals eighteen (18) to twenty-one (21) years of age. (____)

01. Department or Department of Juvenile Corrections (DJC) Placed Individuals. Continued care is permitted for individuals receiving services by, through, or with the authorization of the Department or the Department of Juvenile Corrections (DJC) prior to their eighteenth birthday. (____)

02. Individuals Not Placed by Department or DJC. Individuals who are in the care of a licensed child care program prior to turning eighteen (18) years of age may remain in the program for up to ninety (90) days after their eighteenth birthday, or, until the close of the current school year for individuals attending school. (____)

531. DOCUMENTATION REQUIREMENTS FOR CONTINUED CARE.

Prior to accepting an individual into continued care the following requirements must be met: (____)

01. Voluntary Agreement. A signed voluntary agreement to remain in the program, or a copy of a court order authorizing continued placement after the individual's eighteenth birthday. (____)

02. Assessment for Others Safety. An assessment to assure that an individual in continued care does not jeopardize the health, safety and well being of the children in care of the organization. ()

03. Additional Continued Care Plans. A plan that prohibits individuals in continued care from sharing a bedroom or other sleeping quarters with a child as defined in Section 010 of these rules. ()

04. Documentation of Care Prior to Eighteenth Birthday. Documentation verifying the individual in continued care was in the care of the organization prior to eighteenth birthday. ()

05. Documentation of Need for Continued Care. Documentation verifying the individual in continued care needs to remain in order to complete treatment, education, or other similar needs. ()

Sections 551 and 552

551. EMPLOYEE AND VOLUNTEER ORIENTATION.

An organization ~~shall~~ must document that each new employee, contractor, and volunteer participates in an orientation that includes: the information described as follows in Subsections 551.01 through 551.04 of this rule:

(3-30-01)()

01. Organization. The purpose of the organization. (3-30-01)

02. Job Function. The policies and procedures of the organization as they relate to his job function. (3-30-01)

03. Job Responsibilities. The employee's, contractor's, or volunteer's role and responsibilities; ~~and,~~
(3-30-01)()

04. Child Abuse, ~~and~~ Neglect, ~~and~~ Abandonment Reporting. The requirement to report suspected incidents of child abuse, ~~and~~ neglect, ~~and~~ abandonment. (3-30-01)()

552. EMPLOYEE AND VOLUNTEER TRAINING.

Except for a licensed professional under contract with the organization, an organization ~~shall~~ must document that each new employee and volunteer, and current employee and volunteer whose job function significantly changes, and whose primary role requires interaction with children, ~~shall~~ receive at least twenty-five (25) hours of planned training before working independently. Orientation ~~shall~~ cannot be counted toward the required training hours. The training ~~shall~~ must include specific instruction in job responsibilities, policies and procedures, emergency procedures, child safety, child abuse, ~~and~~ neglect, ~~or~~ abandonment, and the applicable licensing requirements. (3-30-01)()

Section 570

570. REPORTING OF CHILD ABUSE, ~~AND~~ NEGLECT, ~~AND~~ ABANDONMENT.

All suspected incidents of child abuse, ~~and~~ neglect, ~~or~~ abandonment ~~shall~~ must be reported immediately to law enforcement or the Department as required by Section 16-161905, Idaho Code. The chief administrator or designee of the children's agency or facility ~~shall~~ must ensure the safety and protection of children when the allegation is against an organization's staff or volunteer and ~~shall~~ must initiate a thorough investigation and administer appropriate disciplinary action, when indicated. (3-30-01)()

Section 579

579. RELIGIOUS AND CULTURE POLICY.

An organization ~~shall~~ must have and follow a written policy ~~on~~ regarding religious participation, religious training, ~~and~~ cultural heritage, and cultural practices of ~~a~~ children in its care. ~~The policy shall require reasonable attempts to accommodate the religious and cultural preferences of the child and parents. When it is required by the program that a child participate in religious practices, the provider's policy shall clearly state so and the parent, guardian and~~

~~referral source shall be informed of the requirement, before placement of the child. Before placement of any child with the organization, the child's parents or guardians must receive a copy of the religious and cultural policy and acknowledge receipt of the policy with their signature and date.~~ (3-30-01)()

01. Organizations That Accept State Placements. ~~An organization providing services to a child placed by the state must include in its policy a requirement to provide reasonable attempts to accommodate the religious and cultural preferences of the child and the child's parents. The organization will also commit in policy to assurances of respect for the religious and cultural beliefs and practices of all children placed in their program.~~ ()

02. Organizations That Accept Only Private Placements. ~~An organization that accepts only private placements and requires each child to participate in specific religious practices must include this requirement in their written religious and cultural policy signed by the child's parents or guardians.~~ ()

Sections 705 and 706

705. CHIEF ADMINISTRATOR QUALIFICATIONS.

A children's residential treatment care facility ~~shall~~ **must** employ or contract ~~for~~ **with** a full time chief administrator, ~~who shall~~ **At the time of appointment, the chief administrator must have**, at a minimum, possess at least one (1) of the following in Subsection 705.01 or 705.02 of this rule. ()

01. Bachelor's Degree. ~~A~~ **A** Bachelor's degree in a relevant discipline, two (2) years of experience working with children, and three (3) years experience in staff supervision and administration. ()

02. Career Development Program. ~~or have~~ **e**Completed a career development program which includes work-related experience, training or college credits, or a combination of these, that provide a level of achievement equivalent to the Bachelor's degree. Work experience must include two (2) years of experience working with children, and three (3) years of experience in staff supervision and administration. (3-30-01)()

706. SERVICE WORKER SUPERVISOR QUALIFICATIONS.

A service worker supervisor, at the time of appointment, ~~shall be at least twenty-one (21) years of age and shall~~ **must** possess at least one (1) of the following: in Subsection 706.01 or 706.02 of this rule. (3-30-01)()

01. Master's Degree. A Master's degree from an accredited college or university in a ~~human~~ behavioral science and one (1) year of experience as a service worker; ~~or~~. (3-30-01)()

02. Bachelor's Degree. Bachelor's degree from an accredited college or university in a ~~human~~ behavioral science, including social work, sociology, psychology, criminal justice, counseling, or another major where twenty five percent (25%) of the course credits earned toward the degree are in human behavioral sciences, a related field, and four (4) years of experience working with children, of which two (2) years ~~of which shall~~ **must** have been as a service worker. (3-30-01)()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING
DOCKET NO. 16-0602-0802 (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. In accordance with Section 67-5224(5), Idaho Code, the pending rule will become final and effective on July 1, 2009 after approval by the legislature. If the pending rule is approved, amended, or modified by concurrent resolution, the agency will request that the effective date of July 1, 2009 be inserted into the language of the concurrent resolution rather than have the rule become effective upon adoption of 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 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code.

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

The 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 70 through 74.

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 56-1004A, Idaho Code: This rulemaking increases the fee to employees of child care licensee applicants, volunteers, household members, and others who have unsupervised direct contact with children in a day care who are required to have a criminal history and background check through the Department. Under Section 56-1004A, Idaho Code, applicants are required to pay the cost of these checks which have increased from \$45 to \$55. Each individual required to complete a criminal history and background check will pay an extra \$10 with the exception of the initial licensee applicant.

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 anticipated fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lorraine Clayton at (208) 334-5699.

DATED this 7th day of November, 2008.

Tamara Prisock
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036

DHW - Administrative Procedures Section
(208) 334-5564 phone / (208) 334-6558 fax
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DOCKET NO. 16-0602-0802 - 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 70 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 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.12 - IDAHO CHILD CARE PROGRAM (ICCP)

DOCKET NO. 16-0612-0802 (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. In accordance with Section 67-5224(5), Idaho Code, the pending rule will become final and effective on July 1, 2009 after approval by the legislature. If the pending rule is approved, amended, or modified by concurrent resolution, the agency will request that the effective date of July 1, 2009 be inserted into the language of the concurrent resolution rather than have the rule become effective upon adoption of 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 56-202, 56-203, and 56-1004A, 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 proposed rules were amended to provide for a criminal history and background checks requirements for ICCP providers. The complete text of the proposed rule was published in Book 2 of the October 1, 2008, Idaho Administrative Bulletin, Vol.08-10, pages 75 through 77.

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 56-1004A, Idaho Code: This rulemaking adds a fee to registered ICCP providers and applicants, volunteers, household members, and other individuals who have direct contact with children in a child care setting who are required to have a criminal history and background check through the Department. Under Section 56-1004A, Idaho Code, it is the responsibility of the criminal history applicant to pay the cost of the check which is \$55.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no anticipated fiscal impact to state general funds associated with this rulemaking. The cost of the criminal history and background check is the responsibility of the applicant or provider.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Genie Sue Weppner at (208) 334-5656.

DATED this 13th day of November, 2008.

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DOCKET NO. 16-0612-0802 - 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 75 through 77.

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

16.06.12 - IDAHO CHILD CARE PROGRAM (ICCP)

DOCKET NO. 16-0612-0803

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. In accordance with Section 67-5224(5), Idaho Code, the pending rule will become final and effective on July 1, 2009, after approval by the legislature. If the pending rule is approved, amended, or modified by concurrent resolution, the agency will request that the effective date of July 1, 2009 be inserted into the language of the concurrent resolution rather than have the rule become effective upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-202, 56-203, and 56-1004A, 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:

Based on comments received, the Department has decided not to change the immunization requirements that are currently in rule. Proposed changes to those requirements have been removed. The complete text of the proposed rule was published in Book 2 of the October 1, 2008, Idaho Administrative Bulletin, Vol.08-10, pages 78 through 87.

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

There is no anticipated fiscal impact to state general funds associated with this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Genie Sue Weppner at (208) 334-5656.

DATED this 13th day of November, 2008.

Tamara Prisock
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DOCKET NO. 16-0612-0803 - 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 78 through 87.

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 16-0612-0803

Section 105 (amendment deleted - no change to the codified text)

Section 802 is being amended and Subsection 802.11 is being deleted

802. HEALTH AND SAFETY REQUIREMENTS.

All providers must ~~submit a written statement that they~~ comply with the health and safety requirements listed in Subsections 802.01 through 802.10 of ~~these~~ this rules. The provider must agree to a health and safety inspection. Compliance with these standards does not exempt a provider from complying with stricter health and safety standards under state law, tribal law, local ordinance, or other applicable law. (4-2-08)(____)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.14 - RULES GOVERNING THE PREVENTION OF MINORS' ACCESS
TO TOBACCO PRODUCTS

DOCKET NO. 16-0614-0801 (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 Section, 39-5704 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, page 110.

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 rulemaking will have no fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Terry Pappin at (208) 334-6542.

DATED this 7th day of November, 2008.

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DOCKET NO. 16-0614-0801 - 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, page 110.

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

16.07.01 - BEHAVIORAL HEALTH SLIDING FEE SCHEDULES

DOCKET NO. 16-0701-0801 - (FEE RULE - NEW CHAPTER)

NOTICE OF RULEMAKING

ADOPTION OF PENDING FEE RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is January 1, 2008. 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 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 16-2433, 19-2524, 20-520(i), 20-511A, 39-3137, and 39-309, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee 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 new chapter of rules updates the sliding fee scales for the adult mental health, children's mental health, and alcohol and substance use disorders programs and aligns them with the most current version of the federal poverty guidelines. This chapter also implements a fee schedule for persons convicted of a felony or serving on probation or parole.

The amendments to these rules are the result of comments from public hearings, written comments submitted during the comment period, and comments or corrections from the Department. The following are specific changes made to the pending and temporary rules:

1. Changes were made to clarify the term "allowable deductions" by showing them as "annual deductions."
2. The definition for "Federal Poverty Guidelines" was revised in order to be consistent with other Division of Behavioral Health rules.
3. The term "serious emotional disturbance" was deleted from the definition section to be consistent with IDAPA 16.07.37, "Children's Mental Health Services."
4. Supplemental Security Disability Income (SSDI) was added as an exclusion from consideration for income and counting purposes.
5. The definition for "legal guardian" was removed as it is not applicable to this rule.
6. The federal poverty level for eligibility for substance use disorder services was raised from 175% to 200%. The sliding fee schedule was adjusted accordingly.

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 Department and the Board of Health and Welfare 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 132 through 139.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. This fee or charge is being imposed pursuant to Section 19-2524, Idaho Code. The following is a specific description of the fee or charge imposed or increased:

Felony offenders in need of assessment, evaluation, and treatment services are being required to pay for a portion of their treatment based on their ability to pay. This rulemaking sets the schedule for these sliding fees based on federal poverty guidelines. Without this rule, access to services may be limited which increases the risk for offenders to endanger themselves and others.

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

The fiscal impact of this change is a decrease of \$2,126 in fee collection for Children's Mental Health services, which must be met by state general funds. The estimated fiscal impact on receipts collected for Adult Mental Health services is \$33,672. This fiscal impact is a decrease in collection of fees for the Adult Mental Health services. Neither of these funds will be replaced. There is no anticipated fiscal impact to the alcohol and substance disorders program. Changes to the computerized billing system to update the current fee table used by the Daily Activity Report (DAR) automated system will be required. The estimated cost to update the fee table will be an annual cost of approximately \$1000.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Scott Tiffany, Division of Behavioral Health, at (208) 332-7243.

DATED this 24th day of November, 2008.

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**DOCKET NO. 16-0701-0801 - 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 ~~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 08-1, January 2, 2008, pages 132 through 139.](#)

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 16-0701-0801**

Section 010 (entire section)

010. DEFINITIONS.

For the purposes of this chapter, the following definitions apply. (1-1-08)T

01. Ability to Pay. The financial capacity that is available to pay for the program services after allowable deductions in relation to gross income and family size exclusive of any liability of third party payor sources. (1-1-08)T

02. Adjusted Gross Income. Total family annual income less allowable annual deductions. (1-1-08)T

03. Adult. An individual 18 years of age or older. (1-1-08)T

04. Adult Mental Health Program. A program administered by the Idaho Department of Health and Welfare to serve severely and persistently mentally ill adults. (1-1-08)T

05. Allowable Annual Deductions. In determining ~~a person's~~ the family's ability to pay for behavioral health services, ~~acceptable adjustments to income which are limited to~~ the following are allowable annual deductions: ~~(1-1-08)F(1-1-08)T~~

a. Court-ordered obligations ~~paid annually;~~ and ~~(1-1-08)F(1-1-08)T~~

b. ~~Annual d~~Dependent support ~~payments;~~ and ~~(1-1-08)F(1-1-08)T~~

c. ~~Annual~~ child care payments necessary ~~to availability of for parental~~ employment; and ~~(1-1-08)F(1-1-08)T~~

d. ~~Annual~~ medical expenses. ~~(1-1-08)F(1-1-08)T~~

e. Transportation; ~~(1-1-08)T~~

f. Extraordinary rehabilitative expenses; and ~~(1-1-08)T~~

g. State and federal tax payments, including FICA taxes. ~~(1-1-08)T~~

06. Behavioral Health Services. Services offered by the Department to improve behavioral health issues or alcohol and substance use disorders. (1-1-08)T

07. Child. An individual who is under the age of eighteen (18) years. ~~(1-1-08)F(1-1-08)T~~

08. Children's Mental Health Program. A program as defined in IDAPA 16.07.37, "Children's Mental Health Services," administered by the Idaho Department of Health and Welfare ~~to serve children with serious emotional disturbance.~~ ~~(1-1-08)F(1-1-08)T~~

09. Client. The recipient of services. The term "client" is synonymous with the terms: patient, participant, resident, consumer, or recipient of treatment. (1-1-08)T

10. Court-Ordered Obligations. Financial payments which have been ordered by a court of law. (1-1-08)T

11. Court-Ordered Recipient. A person receiving behavioral health services under Sections 19-2524, 20-520(i), and 20-511A, Idaho Code. (1-1-08)T

12. Department. The Idaho Department of Health and Welfare. (1-1-08)T

13. Dependent Support. An individual that is dependent on his family's income for over fifty percent (50%) of his financial support. (1-1-08)T

14. Extraordinary Rehabilitative Expenses. Those payments incurred as a result of the disability needs of the person receiving services. They include annual costs for items including, but not limited to, wheelchairs,

adaptive equipment, medication, treatment, or therapy which were not included in the medical payments deduction and the annual estimate of the cost of services received. (1-1-08)T

15. Family. A family is an adult, or married adults, or adult(s) with children, living in a common residence. (1-1-08)T

16. Family Household. Persons in a family related by blood, marriage, or adoption. Step parents, step children, adult siblings, and individuals receiving Supplemental Security Income (SSI) *or Supplemental Security Disability Income (SSDI)*, are excluded from consideration as a member of the household for income and counting purposes. Income from minor siblings is excluded from household income. The term "family household" is synonymous with the term family unit. ~~(1-1-08)F(1-1-08)T~~

17. Federal Poverty Guidelines. Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income ~~amount for family units considering the number of persons in the family household limits.~~ *The federal poverty guidelines for the current year may be found at: <http://aspe.hhs.gov/poverty/>.* ~~(1-1-08)F(1-1-08)T~~

~~**18. Legal Guardian.** A representative appointed by a court of law who is responsible for making decisions related to another person.~~ ~~(1-1-08)T~~

198. Parent. The person who, by birth or through adoption, is legally responsible for a child. (1-1-08)T

~~**2019. Recipient.** The person receiving services. The term "recipient" is synonymous with the terms: patient, participant, resident, consumer, or client.~~ (1-1-08)T

~~**21. Serious Emotional Disturbance.** An emotional or behavioral disorder or a neuropsychiatric condition which results in a serious disability, which requires sustained treatment interventions and causes the child's functioning to be impaired in at least one (1) of the following areas: thought, perception, affect and behavior. A disorder is considered to be a serious disability if it causes substantial impairment in functioning. Functional impairment is assessed using the Child and Adolescent Functional Assessment Scale (CAFAS). Substantial impairment requires a full eight (8) scale score of eighty (80) or higher with "moderate" impairment in at least one (1) of the following three (3) scales: self-harmful behavior, moods/emotions, or thinking. A substance abuse disorder, conduct disorder, or developmental disorder, alone does not constitute a serious emotional disturbance, although one (1) or more of these conditions may co-exist with serious emotional disturbance.~~ ~~(1-1-08)T~~

220. Sliding Fee Scale. A scale used to determine an individual's ~~cost~~ *financial obligation* for services based on Federal Poverty Guidelines and the number of persons in the family household. ~~(1-1-08)F(1-1-08)T~~

~~**231. Substance Use Disorders Program.** A program administered by the Idaho Department of Health and Welfare to serve adolescents and adults with alcohol or substance use disorders.~~ (1-1-08)T

242. Third-Party Payer. A payer other than a person receiving services or a responsible party who is legally liable for all or part of the person's care. (1-1-08)T

Section 100 (entire section)

100. ~~CHARGES~~ **FINANCIAL RESPONSIBILITY OF PARENTS FOR CHILDREN'S MENTAL HEALTH SERVICES.**

Parents ~~or legal guardians~~ of children ~~with serious emotional disturbance eligible for services under IDAPA 16.07.37, "Children's Mental Health Services," Section 407~~ who receive services either directly from the Department's Children's Mental Health program or through Department contracts with private providers are responsible for paying for services provided to their child and to their family. ~~The amount charged~~ *Financial responsibility of the child's parent(s)* for each service ~~not covered by third party liable resources or payments, including private insurance and Medicaid~~ will be ~~established~~ in accordance with the child's parent(s) ~~or legal guardian(s)~~ ability to pay as determined by the sliding fee scale in Section 300 of these rules. ~~(1-1-08)F(1-1-08)T~~

Section 200 (entire section)

200. CHARGES FINANCIAL RESPONSIBILITY FOR ADULT MENTAL HEALTH SERVICES.

Adults receiving services either directly from the Department's Adult Mental Health program or through Department contracts with private providers are responsible for paying for services they receive. ~~The amount charged~~ Financial responsibility for each service not covered by third party liable resources or payments, including private insurance and Medicaid will be established in accordance with the individual's ability to pay as determined by the sliding fee scale in Section 300 of these rules. ~~(1-1-08)F(1-1-08)T~~

Section 300 (entire section)

300. SLIDING FEE SCHEDULE FOR CHILDREN AND ADULT MENTAL HEALTH SERVICES.

Following is the sliding fee schedule for children and adult mental health services:

TABLE 300 - SLIDING FEE SCHEDULE FOR CHILDREN AND ADULT MENTAL HEALTH SERVICES.	
Percent <u>Federal</u> of Poverty <u>Guidelines</u>	Percentage of Cost Sharing Responsibility of a Parent, <u>Guardian</u>, or Adult Client
0% - 99%	0%
100%-109%	5%
110%-119%	10%
120%-129%	15%
130%-139%	20%
140%-149%	25%
150%-159%	30%
160%-169%	35%
170%-179%	40%
180%-189%	45%
190%-199%	50%
200% - 209%	55%
210% - 219%	60%
220% - 229%	65%
230% - 239%	70%
240% - 249%	75%
250% - 259%	80%
260% - 269%	85%
270% - 279%	90%
280% - 289%	95%
290% - and above	100%

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

Section 400 (entire section)

400. CALCULATING INCOME TO APPLY THE SLIDING FEE SCHEDULE FOR CHILDREN'S MENTAL HEALTH AND ADULT MENTAL HEALTH SERVICES.

Prior to the delivery of behavioral health services, an application for services and a "Fee Determination" form must be completed by a child's parent(s) ~~or legal guardian(s)~~ when requesting Children's Mental Health services and by adults requesting Adult Mental Health services. The fee determination process includes the following considerations:

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

01. Ability to Pay. ~~Charges~~ Financial obligations are based upon the number of persons in the family household and the adjusted gross income of those persons as determined using the following: ~~(1-1-08)F(1-1-08)T~~

a. An ability to pay determination will be made at the time of the voluntary request for services or as soon as possible, thereafter. (1-1-08)T

b. Redetermination of ability to pay will be made at least annually or upon request of the parent(s) ~~or legal guardian(s)~~ or at any time changes occur in family size, income, or allowable deductions. ~~(1-1-08)F(1-1-08)T~~

c. In determining the family's ability to pay for services, the Department will deduct annualized amounts for the following: (1-1-08)T

i. Court-ordered obligations; (1-1-08)T

ii. Dependent support; (1-1-08)T

iii. Child care ~~payments~~ expenses necessary for parental ~~or legal guardian~~ employment; ~~(1-1-08)F(1-1-08)T~~

iv. Medical expenses; (1-1-08)T

v. Transportation; (1-1-08)T

vi. Extraordinary rehabilitative expenses; and (1-1-08)T

vii. State and federal tax payments, including FICA taxes. (1-1-08)T

02. Required Information. Information regarding third-party payors and other resources, including Medicaid or private insurance, must be identified and developed in order to fully determine the child's parent(s) ~~legal guardian(s)~~ or adult client's ability to pay and to maximize reimbursement for the cost of services provided.

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

e. It is the responsibility of the parents, legal guardian, or adult client to obtain and provide information not available at the time of the initial financial interview whenever that information becomes available.

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

023. Time of Payment. Payment for services will be due upon delivery of services unless other arrangements are made. (1-1-08)T

024. Charges. ~~Using the sliding fee scale in Section 300 of this rule, an amount will be charged based on family size, resources, income, assets and allowable deductions, exclusive of third-party liable sources, but in no case will the amount charged exceed the cost of the service.~~ **Financial Obligation.** A financial obligation for each service not covered by third party liable resources or payments, including private insurance and Medicaid, will be established in accordance with Section 300 and Subsection 400.01 of these rules but in no case will the amount owed exceed the cost of the service. In no case will the annual financial obligation exceed five percent (5%) of adjusted

gross income of the family household.

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

045. Fees Established By the Department. The maximum hourly fees or flat fees charged for Children's Mental Health services and Adult Mental Health services are established by the Department of Health and Welfare. The fees for services based on Medicaid reimbursement rates may vary according to Medicaid inflationary increases. Fees will be reviewed and adjusted as the Medicaid rates change. Current information regarding services and fee charges can be obtained from regional Children's Mental Health and Adult Mental Health offices. (1-1-08)T

Section 500 (entire section)

500. SLIDING FEE SCHEDULE FOR ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT SERVICES.

Adult clients above ~~one two~~ hundred ~~seventy-five percent (175200%)~~ of federal poverty guidelines are not eligible for services. Following is the sliding fee schedule for adolescent and adult alcohol and substance use disorders treatment services:

TABLE 500 - SLIDING FEE SCHEDULE FOR ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT SERVICES	
Percent of <u>Federal Poverty Guidelines</u>	Percentage of Cost Sharing Responsibility of a Parent, Guardian, or Adult <u>Client Service Recipient</u>
0% - 99% or a Medicaid Client	<u>50%</u>
100% - 1049%	105%
10510% - 1149%	210%
11520% - 1249%	3015%
12530% - 1349%	420%
13540% - 1449%	50 25%
14550% - 1549%	630%
15560% - 1649%	635%
16570% - 1759%	740%
180% - 189%	45%
190% - 199%	50%
200%	55%

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.07.17 - ALCOHOL AND SUBSTANCE USE DISORDERS SERVICES
DOCKET NO. 16-0717-0801 (NEW CHAPTER)
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 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. 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 fee rule and amended a temporary rule. The action is authorized pursuant to Sections 39-311 and 56-1003, 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 rulemaking is primarily being done because there is no formal appeal process in rule for adults or adolescents seeking services from the Department. This rulemaking provides this appeal process benefit and outlines how to appeal a denial of services decision made by the Department. This chapter also defines the scope of voluntary alcohol and substance use disorders services and describes the eligibility criteria, application requirements, individualized treatment plan, and selection of providers under these rules.

The amendments to these rules are the result of comments from public hearings, written comments submitted during the comment period, and comments or corrections from the Department. The following are specific changes made to the pending and temporary rules:

A new definition for “child” was added and the term “clinical” was deleted from the term “case management” under the definition for “Recovery Support Services.”

The federal poverty level for eligibility for substance use disorder services was raised from 175% to 200% to be consistent with the change in Docket 16-0701-0801 that deals with fees for services.

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 Department and the Board of Health and Welfare 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 149 through 158.

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

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Bethany Gadzinski, Division of Behavioral Health, at (208) 334-5756.

DATED this 7th day of November, 2008.

Tamara Prisock
DHW - Administrative Procedures Section
P.O. Box 83720
Boise, ID 83720-0036

450 W. State Street - 10th Floor
(208) 334-5564 phone; (208) 334-6558 fax
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**DOCKET NO. 16-0717-0801 - 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 08-1, January 2, 2008, pages 149 through 158.](#)

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 16-0717-0801**

Section 010

010. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below:

(1-1-08)T

Subsections 010.01 through 010.05 have no changes

06. ***Child.*** *An individual under the age of 14.*

(1-1-08)T

06Z. **Client.** A person receiving treatment for an alcohol or substance use disorder. The term “client” is synonymous with the terms: patient, resident, consumer, or recipient of treatment.

(1-1-08)T

07Z. **Clinical Judgment.** Refers to observations and perceptions based upon education, experience, and clinical assessment. This may include psychometric, behavioral, and clinical interview assessments that are structured, integrated, and then used to reach decisions, individually or collectively, about an individual's functional, mental, and behavioral attributes and alcohol and substance use disorders service needs.

(1-1-08)T

08Z. **Clinical Necessity.** Alcohol or substance use disorder services are deemed clinically necessary

when the Department, in the exercise of clinical judgment, would recommend services to an applicant for the purpose of evaluating, diagnosing, or treating alcohol or substance use disorders that are: (1-1-08)T

a. Clinically appropriate, in terms of type, frequency, extent, site and duration, and considered effective for treating the applicant's alcohol or substance use disorder; and (1-1-08)T

b. Not primarily for the convenience of the applicant or service provider and not more costly than an alternative service or sequence of services and at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the applicant's alcohol or substance use disorder. (1-1-08)T

0910. Clinical Team. A proposed client's clinical team may include: qualified clinicians, behavioral health professionals, professionals other than behavioral health professionals, behavioral health technicians and any other individual deemed appropriate and necessary to ensure that the assessment and subsequent treatment is comprehensive and meets the needs of the proposed client. (1-1-08)T

101. Clinically Managed High-Intensity Residential Treatment. Frequently referred to as long term residential care or a Therapeutic Community, twenty-four (24) hour intensive residential program designed to treat persons who have significant social and psychological problems. Individuals who are appropriate for this level of care typically have multiple deficits, which may include criminal activity, psychological problems, impaired functioning and disaffiliation from mainstream values. (1-1-08)T

112. Clinically Managed Low-Intensity Residential Treatment. Is a program that offers at least five (5) hours per week of outpatient or intensive outpatient treatment services along with a structured recovery environment, staffed twenty-four (24) hours per day, which provides sufficient stability to prevent or minimize relapse or continued use. This level of care is also known as a Halfway House. (1-1-08)T

123. Clinically Managed Medium-Intensity Residential Treatment. Frequently referred to as residential care, programs provide a structured, twenty-four (24) hour intensive residential program for clients who require treatment services in a highly structured setting. This type of program is appropriate for clients who need concentrated, therapeutic services prior to community residence. Community reintegration of residents in this level of care requires case management activities directed toward networking clients into community-based recovery support services such as housing, vocational services or transportation assistance so that the client is able to attend mutual/self-help meetings or vocational activities after discharge. (1-1-08)T

134. Contracted Intermediary. A third party contractor of the Department who handles direct contracting with network providers for treatment services to include network management, claims payment, data gathering per Federal and State requirements and census management. (1-1-08)T

145. Department. The Department of Health and Welfare or a person authorized to act on behalf of the Department. (1-1-08)T

156. Early Intervention Services. Early intervention services are designed to explore and address an adolescent's problems or risk factors that appear to be related to substance use, i.e., alcohol, tobacco, or other drugs, and to assist the adolescent in recognizing the harmful consequences of substance use. Early intervention services are intended to be a combination of prevention and treatment services for at-risk youth. (1-1-08)T

167. Emergency. An emergency exists if an adult or adolescent individual is gravely disabled due to mental illness or substance abuse or dependence or there is a substantial risk that physical harm will be inflicted by the proposed client: (1-1-08)T

a. Upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or (1-1-08)T

b. Upon another person as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm. (1-1-08)T

178. Federal Poverty Guidelines. Guidelines issued annually by the Federal Department of Health and

Human Services establishing the poverty income ~~amount for family units considering the number of persons in the family unit limits~~. The federal poverty guidelines for the current year may be found at: <http://aspe.hhs.gov/poverty/>.
(1-1-08)F(1-1-08)T

~~18. **Functional Impairment.** Difficulties that substantially interfere with or limit role functioning with an individual's basic daily living skills, instrumental living skills, or functioning in social, family, vocational or educational contexts.~~
(1-1-08)F

Subsections 010.19 through 010.26 have no changes

27. Recovery Support Services. These services include: safe and sober housing that is staffed; transportation; child care; family education; life skills education; marriage education; drug testing; peer to peer mentoring; and ~~clinical~~ case management.
(1-1-08)F(1-1-08)T

Subsections 010.28 through 010.32 have no changes

Subsection 102.02.a.

102. ELIGIBILITY DETERMINATION.

02. Eligibility Requirements. To be eligible for alcohol and substance use disorders services through a voluntary application to the Department, the applicant must:
(1-1-08)T

a. Be an adult or adolescent with family income at or below ~~one~~ two hundred ~~seventy-five percent~~ (175200%) of federal poverty guidelines;
(1-1-08)F(1-1-08)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.07.25 - PREVENTION OF MINORS' ACCESS TO TOBACCO PRODUCTS
DOCKET NO. 16-0725-0801 (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 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 39-5704, Idaho Code, and in accordance with Executive Order 2006-18.

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:

Four changes were made to the proposed rule based on comments to the rule. Two of these changes involved removing unneeded text from the definition for "Tobacco Product" and "Permit." The definition for the term "Delivery Service" was revised for clarity. The fourth change corrects a cite to Idaho Code.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 3, 2008 Idaho Administrative Bulletin, Vol. 08-9, pages 111 through 120.

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

There is no fiscal impact due to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Terry Pappin at (208) 334-6542.

DATED this 10th day of November, 2008.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
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DOCKET NO. 16-0725-0801 - 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 08-9, September 3, 2008, pages 111 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.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET 16-0725-0801

Subsections 010.03, 010.11, and 010.19

010. DEFINITIONS.

The terms used in this rule are defined as follows:

()

010.03

03. Delivery Service. Any person who is engaged in the commercial delivery of letters, packages, or other containers. This includes permittees *who take an order for tobacco products and then deliver the tobacco products without using a third party delivery service.*

()

010.11

11. Permit. A permit issued by the Department for the sale or distribution of tobacco products. ()

010.19

19. Tobacco Product. Any substance that contains tobacco including: ()

a. Cigarettes; ()

b. Cigars; ()

c. Pipes; ()

d. Snuff; ()

e. Smoking Tobacco; ()

f. Tobacco Paper; *and* ()

Proposed Subsection 010.19.g. is being deleted

g. Smokeless Tobacco. ()

Subsections 020.02 and 020.03

020. APPLICATION FOR PERMIT.

All businesses which sell or distribute tobacco products to the public must obtain a permit issued annually by the Department of Health and Welfare. ()

020.02

02. Permits. A separate permit must be obtained for each business location. The permit is non-transferable to another person, business, or location. The applicant must request endorsements for each method of sale or delivery it uses. If a place of business sells or distributes tobacco by more than one (1) method, it must have an endorsement for each type. ()

a. Issuance of a Permit. A permit may be issued when a new tobacco retail outlet has been established, when a currently permitted business is sold to new owners, or when a currently permitted business is moved to a different physical location. Permits may be issued to tobacco retailers established in a permanent location. Permits may not be issued for a retailer doing business in a temporary location. ()

b. Closure of a Permit. A permit may be closed when the permittee closes the business, no longer sells tobacco products, moves to a different physical location or sells the business to a new owner. ()

c. Revocation of a Permit. A permit may be revoked by the Department of Health and Welfare when: ()

i. It is determined a new permit was fraudulently obtained to avoid penalties accrued on an existing permit; *or* ()

ii. The holder of a permit, suspended as established in Section 39-5708(5), has failed to provide an effective training plan to the Department. ()

d. Temporary Permit. Temporary permits are not allowed under 39-5704, Idaho Code. ()

e. Expiration of a Permit. All permits expire annually at midnight on December 31 of each calendar year. ()

020.03

03. Renewal of Permit. All permits must be renewed annually and are valid for twelve (12) calendar months. ()

a. The Department will mail notices of renewal for permits no later than ninety (90) days prior to the expiration date on the permit. ()

b. An application for renewal must be submitted annually for each business location through written application or online services, where available. ()

c. A business with multiple *locations* may submit a single written application to renew the permit at each site, so long as the application is accompanied by a list of business permit numbers, locations, and addresses. ()

d. A permit will not be renewed for any location until any past due fines for violations are paid in full. Fines are considered past due when not paid within ten (10) days of the citation date, or within ten (10) days after notification that the fine is upheld upon appeal, whichever is later. Violation fines under appeal are not considered past due. ()

Appendix A

**APPENDIX A
EMPLOYEE TRAINING FORM**

The following may be used for training of employees to assure that they are aware of the current law regarding youth access to tobacco products in the state of Idaho. This would constitute "minimum" training required by the employer as indicated in Section 39-5701 et seq., Idaho Code.

Have the employee initial each section and sign at the bottom.

_____ I understand the state law prohibits the sale of ANY tobacco products to persons under 18 years of age and that verification of age is required for any sale of tobacco products.

_____ I understand that I am to ask for photo identification from any persons whom I do not personally know to be at least 18 years of age and verify their age before a sale of tobacco products.

_____ I understand that sales to anyone under the age of 18 can result in a personal fine to me of \$100 for the first offense.

_____ I understand that "tobacco products" includes any substance that contains tobacco including, but not limited to, cigarettes, cigars, pipes, snuff, smoking tobacco, tobacco papers, or smokeless tobacco. (Section 39-5702 (13), Idaho Code)

_____ I understand that this store may be inspected at any time for compliance with the state law regarding "youth access to tobacco products."

_____ I understand that all sales must be "vendor assisted" unless the store in which I work has 75% of the total merchandise available for sale as tobacco products. This store is _____ is not _____ exempted from the vendor assisted requirement. (check one)

_____ I understand that cigarettes must be sold only in their original sealed package from the manufacturer. (Section 39-5707, Idaho Code)

_____ I have been given a copy of Section 39-5701 et seq., Idaho Code, and IDAPA 16.07.25, "Prevention of Minor's Access to Tobacco Products."

I have read and agree to these statements and have had all my questions answered regarding my responsibilities as a seller of tobacco products in the state of Idaho.

By signing this agreement, I consent to having a current or potential employer contact the Department of Health and Welfare to determine if I have received citations for violation Title 39, Chapter 57, Idaho Code.

Printed Name of Employee

Employee's Signature

Witnessed

Date
(____)

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.33 - ADULT MENTAL HEALTH SERVICES

DOCKET NO. 16-0733-0801

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

COORDINATOR'S NOTE: This pending rule is being corrected to reflect changes made to companion dockets after the pending rule had published under Docket No. 16-0733-0801 in the October 1, 2008, Idaho Administrative Bulletin, Volume 08-10, Book 2. The Descriptive Summary below provides a full explanation of the corrections being made.

EFFECTIVE DATE: The effective date of the amendment to the 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5228, Idaho Code, notice is hereby given that this agency is correcting pending rule text in conjunction with the Office of the Administrative Rules Coordinator. These corrections have been made to the rule and are being published with this Notice of Correction as part of the pending rule. The action is authorized pursuant to Sections 39-3133, and 56-1003(3)(c), Idaho Code.

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

The amendments to these rules are the result of corrections made to companion dockets IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," and IDAPA 16.07.17, "Alcohol and Substance Use Disorders Services," based on comments from the Department received during the October 2008 public comment period. The changes align language used in this docket with the amendments made to the two other dockets. The following are specific changes made to these pending and temporary rules:

In Subsection 010.17, in the definition of "Sliding Fee Scale," the term "cost" (i.e., cost for mental health services) has been replaced with "financial obligation." In Section 300, references to the "amount charged" for mental health services have been replaced with the term "financial responsibility."

Only the Sections being corrected are printed in this Bulletin. The notice of pending rule published in the October 1, 2008, Idaho Administrative Bulletin, Volume 08-10, Book 2, on page 88. The original text of the temporary and proposed rule was published in the January 2, 2008, Idaho Administrative Bulletin, Volume 08-1, pages 159 through 166.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this correction, contact Scott Tiffany, Division of Behavioral Health, at (208) 332-7243.

DATED this 12th day of November, 2008.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET 16-0733-0801

Subsection 010.17

010. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below:

(1-1-08)T

17. Sliding Fee Scale. A scale used to determine an individual's cost financial obligation for services based on Federal Poverty Guidelines and found in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules."

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

Section 300

300. CHARGES FINANCIAL RESPONSIBILITY FOR MENTAL HEALTH SERVICES.

Individuals receiving adult mental health services through the Department are responsible for paying for the services provided. Individuals must complete a "Fee Determination Form" prior to the delivery of adult mental health services. The amount charged financial responsibility for each service will be in accordance with the individual's ability to pay as determined under Sections 300 and 400 of IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules."

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

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.37 - CHILDREN'S MENTAL HEALTH SERVICES

DOCKET NO. 16-0737-0801 (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 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 16-2404, 16-2406, 16-2423, 16-2433, 56-202(b), 56-203B, 56-204A, 56-1003, 56-1004, and 56-1004A, 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:

Amendments were made to:

1. Clarify language in the proposed text based on comments received during the public comment period;
2. Align proposed text with changes being made to companion chapter IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," based on comments received during the public comment period; and
3. Comply with legislative intent language in SCR 109 (2008) requiring the use of a standard mental health assessment.

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 Wednesday, October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 89 through 107.

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

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Chuck Halligan at (208) 334-6559.

DATED this 14th day of November, 2008.

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DOCKET NO. 16-0737-0801 - 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 2, pages 89 through 107.

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. 16-0737-0801

Subsection 011.04.b.

011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.

For the purposes of these rules, the following terms apply: ()

04. Guardian. ()

b. The Department, an agency, or an individual, other than a parent, who is acting in the place of a parent (in loco parentis) *or*, has assumed legal responsibility for, *legal* custody of, or *control* of a child. ()

Subsections 013.02 and 013.04 through 013.06.

013. DEFINITIONS AND ABBREVIATIONS S THROUGH Z.

For the purposes of these rules, the following terms apply: ()

02. Teens at Risk. Individuals attending Idaho secondary public schools who have been identified by *school personnel or their designee* as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance *abuse*, or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or substance *abuse*. ()

04. Title IV-E. Title IV-E under the Social Security Act provides funding for foster care maintenance and adoption assistance payments for certain eligible children. ()

05. Title XIX (Medicaid). Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program

pays for medical assistance for certain individuals and families with low income and limited resources. ()

06. Treatment Foster Care. A service that provides clinical intervention for children eligible for services under Subsection 407 of these rules within the private homes of trained, licensed foster families. ()

Section 401 and Subsection 401.03

401. TEENS AT RISK PROGRAM.

The Teens at Risk program is for individuals attending Idaho secondary public schools who have been identified by *school personnel or their designee* as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance use, or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or a substance use disorder. The Department may enter into contracts for Teens at Risk programs in cooperation with Idaho public school districts *subject to Department appropriations and available funding for this program*. The Department reserves the right to make the final determination to award a school district a Teens at Risk contract. ()

03. Services. Teen early intervention specialists hired or under contract with the school district will be available to serve teens at risk within the school setting *and offer* group counseling, recovery support, suicide prevention and other mental health and substance use disorder counseling services as needed. Teens at risk who are not enrolled in public schools may only participate in services *if assigned by a judge and* with the permission of the local school *administrator who administers* the Teens at Risk program. Parents of teens participating in the Teens at Risk program will not *incur a financial obligation* for services provided by the program. ()

Section 406 (entire section)

406. MENTAL HEALTH ASSESSMENT.

Once an application has been signed or a court order has been received for children's mental health services, the Department will schedule and conduct a mental health assessment. *Each mental health assessment will be documented using the Department's Idaho Standard Mental Health Assessment Report found at: http://www.healthandwelfare.idaho.gov/portal/alias__Rainbow/lang__en-US/tabID__3462/DesktopDefault.aspx.* A Department clinician will either complete a mental health assessment, or, at the Department's discretion, accept an assessment completed by another mental health professional. In order to be considered, assessments completed by other mental health professionals must have occurred within ninety (90) days prior to the date of application or court order. The Department clinician will gather additional information, as needed, in order to complete the assessment process. ()

Subsection 407.03

407. ELIGIBILITY DETERMINATION.

03. Ineligible Conditions. A child who does not meet the requirements under Subsections 407.01 *or* 407.02 of this rule is not eligible for children's mental health services, other than crisis response. A child with a diagnosis of substance use disorder alone, or developmental disorder alone, may be eligible for Department services under IDAPA 16.07.17, "Alcohol and Substance Use Disorders Services" or IDAPA 16.04.11, "Developmental Disabilities Agencies," for substance use or developmental disability services. ()

Subsection 410.03

410. NOTICE OF DECISION ON ELIGIBILITY.

03. Other Information that Must be Provided to the Parent. The clinician must also inform the parent that fees may be *incurred* for certain services, in accordance with IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," and that a parent has financial responsibility for the child. ()

Section 415 (entire section)

415. TREATMENT PLAN.

A treatment plan will be developed by the Department, a parent or guardian, and the child, if appropriate, and may include the service provider *or service providers*. This plan will be specific, measurable, and realistic in the identification of the goal(s), relevant areas of concern, and desired results, and will be developed in accordance with the requirements under Section 101 of these rules. ()

Sections 417 and Section 418 (entire sections)

417. USE OF PUBLIC FUNDS AND BENEFITS.

Public funds and benefits will be used to provide services for children eligible for services under Section 407 of these rules and their families. Services should be planned and implemented to maximize the support of the family's ability to provide adequate safety and well-being for the child at home. If the child cannot receive adequate services within the family home, *the Department will arrange services* to minimize the need for institutional or alternate care placement. Services will be individually planned with the family to meet the unique needs of each child and family. *The Department will not require a parent or guardian to relinquish custody of the child in order to receive Department-funded services.* ()

418. FINANCIAL RESPONSIBILITY OF PARENT(S).

Parent(s) of a child eligible for services under Section 407 of these rules who is receiving outpatient services either directly from the Department or through Department contracts with private providers, are *financially* responsible for services provided to their child and to their family, including court-ordered children's mental health services. The *financial responsibility* for each service will be in accordance with the ability of parent(s) to pay as determined under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." Parent(s) will not *incur a financial obligation* for services provided to their child through a Teens at Risk program. ()

Subsection 501.01 and new Subsections 501.01.a. through 501.01.d.

501. PROTECTIONS FOR CHILDREN IN ALTERNATE CARE.

01. Statutory Requirements. The Department must arrange alternate care in accordance with the protections established in: ()

a. Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980," as amended by Public Law 105-89, the Adoption and Safe Families Act of 1997; ()

b. The Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code; ()

c. The Child Protective Act, Title 16, Chapter 16, Idaho Code; and ()

d. The Indian Child Welfare Act, *25 USC 1901, et seq.* ()

Subsections 506.05 through 506.05.e. and Subsection 506.07

506. ALTERNATE CARE CASE MANAGEMENT.

Case management must continue while the child is in alternate care and must include the following: ()

05. Contact Requirements. The child's parent or guardian, the clinician, the alternate care provider, and the child, if of appropriate developmental age, must establish a schedule for frequent and regular visits between the child and the family and the clinician or his designee. ()

a. Face-to-face contact in the alternate care or treatment setting between the child and the clinician must occur at least monthly. ()

b. Face-to-face contact between the child's parent or guardian and the clinician must occur at least monthly. ()

c. Face-to-face contact in the alternate care or treatment setting between the alternate care provider and the clinician must occur at least monthly. ()

d. Frequent and regular contact between the child, the child's parent or guardian, and other family members will be encouraged and facilitated unless it is specifically determined by the Department not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures and the use of video and other technology as may be relevant and available. ()

e. When a child is placed in alternate care in another state, a Department clinician must maintain at least monthly contact with the child, the child's family, and the alternate care provider with whom he has been placed as long as the state of Idaho has the placement responsibility for the child, in accordance with Section 500 of these rules. The supervising agency in the state where the child is living will be requested to maintain monthly, face-to-face contact with the child and make quarterly reports to the Department in accordance with arrangements made through the Interstate Compact on the Placement of Children. ()

07. Accessing Services. As part of the transition planning, efforts will be coordinated to expedite access to community and Department services. ()

Section 584

584. ADDITIONAL PAYMENTS TO FAMILY ALTERNATE CARE PROVIDERS.

For those children who, as determined by the Department, require additional care above room, board, shelter, daily supervision, school supplies, and personal incidentals, the Department may pay the family alternate care provider an additional amount to that paid under Section 583 of these rules. The family alternate care rate is based upon a continuous ongoing assessment of the child's circumstances which necessitate special rates as well as the care provider's ability, activities, and involvement in addressing those special needs. Additional payment will be made as follows:

Additional Family Alternate Care Payments - Table 584		
Lowest Level of Need	Moderate Level of Need	Highest Level of Need
\$90 per month	\$150 per month	\$240 per month

()

Section 600 through Subsection 600.03

600. TREATMENT FOSTER CARE.

A family home setting in which treatment foster parents provide twenty-four (24) hour room and board as well as therapeutic services and a high level of supervision. Services provided in treatment foster care are at a more intense level than provided in foster care and at a lower level than provided in residential care. Services may include the following: participation in the development and implementation of the treatment plan, *behavior modification*, *community supports*, crisis intervention, documentation of services and the child's behavior, participation as a member of a multi-disciplinary team, and transportation. Placement into a treatment foster home for children eligible for services under Subsection 407 of these rules is based on the documented needs of the child, the inability of less restrictive settings to meet the child's needs, and the clinical judgement of the Department. ()

01. **Qualifications.** A treatment foster parent must: ()

a. Meet all foster family licensure requirements as set forth in IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing"; ()

b. Complete Department-approved treatment foster care initial training; and ()

c. Complete fourteen (14) hours of additional training per year *thereafter*. The fourteen (14) hours of additional training will be specified in an agreement developed between the treatment foster parents and the Department. ()

02. **Availability.** At least one (1) treatment foster parent must be available twenty-four (24) hours a day, seven (7) days a week to respond to the needs of the foster child. ()

03. **Payment.** The Department will pay treatment foster parents up to one thousand eight hundred (\$1,800) dollars *per month*, which includes the monthly payment rate specified in Section 583 of these rules. The payment will be made to treatment foster parents in accordance with a contract with the Department to enable them to fulfill the requirements for treatment foster parents under the treatment plan referenced in Subsection 600.05 of this rule. ()

Section 700

700. RESIDENTIAL CARE FACILITIES.

Residential care facilities provide a more *intensive* setting than treatment foster care. Residential care facilities in Idaho are licensed under IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing" to provide residential care for children and staffed by employees who cover assigned shifts. Children placed in residential care facilities receive services that may include the following: assessment, supervision, treatment plan development and implementation, documentation, behaviorally focused skill building, service coordination or clinical case management, consultation, psychotherapy, psychiatric care, and twenty-four (24) hour crisis intervention. Placement into a residential care facility for children eligible for services under Subsection 407 of these rules is based on the documented needs of the child and the inability of less restrictive settings to meet the child's needs. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.39 - APPOINTMENT OF DESIGNATED EXAMINERS AND DESIGNATED DISPOSITIONERS

DOCKET NO. 16-0739-0801 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 16-2403, 66-317, 56-1003, and 56-1004, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 21, 2009.

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 Department is defining in rule the qualifications, appointment requirements, and appointment process for designated examiners and designated dispositioners. This will better ensure these professionals have the education, training, and experience needed to perform reliably and effectively the duties required by these roles.

A "designated examiner" assesses individuals in circumstances where they appear to be gravely disabled due to mental illness or pose a grave danger to themselves or others. The designated examiner provides the court with a report stating whether the person is (1) mentally ill, (2) likely to injure himself or others, or (3) lacks the capacity to make informed decisions about treatment.

A "dispositioner" is a designated examiner, typically employed by the Department, who determines the appropriate location for care and treatment of involuntary patients.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a) Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to protect public health, safety, and welfare.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: NA

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

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted in Coeur d'Alene on Thursday, November 13, 2008, in Pocatello on Friday, November 21, 2008, and in Boise on Monday, November 24, 2008. The Notice of Negotiated Rulemaking was published in the Wednesday, November 5, 2008, Administrative Bulletin (Vol. 08-11).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Scott Tiffany at (208) 332-7243.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, January 28, 2009.

DATED this 13th day of November, 2008.

Tamara Prisock
DHW - Administrative Procedures Section
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0739-0801

IDAPA 16
TITLE 07
CHAPTER 39

16.07.39 - APPOINTMENT OF DESIGNATED EXAMINERS AND DESIGNATED DISPOSITIONERS

000. LEGAL AUTHORITY.

Under Sections 16-2403 and 66-317, Idaho Code, the Department is authorized to promulgate rules regarding who may be appointed as a designated examiner, a designated dispositioner, or both. Under Sections 56-1003 and 56-1004, Idaho Code, the Director is authorized to adopt rules to supervise and administer a mental health program. (1-1-09)T

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.07.39, "Appointment of Designated Examiners and Designated Dispositioners." (1-1-09)T

02. Scope. This chapter of rules sets forth the qualifications, appointment requirements, appointment process, duration of appointment, revocation of appointment, and requirements for reappointment for designated examiners and designated dispositioners in Idaho. (1-1-09)T

03. Effective Date and Appointments Prior to January 1, 2009. This chapter of rules is applicable to all new applications for appointment as a designated examiner or designated dispositioner, or both, received by the Department's Division of Behavioral Health on or after January 1, 2009. If an individual was granted an appointment prior to January 1, 2009, and met the requirements at that time, he may continue to have his appointment recognized until it expires or until January 1, 2011, whichever occurs first. Notwithstanding any prior appointment, however, effective January 1, 2011, all designated examiners and designated dispositioners in Idaho must be in compliance with these rules. (1-1-09)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for these rules. (1-1-09)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (1-1-09)T

004. INCORPORATION BY REFERENCE.

American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR) Washington, DC, American Psychiatric Association, 2000, is hereby incorporated by reference under this chapter of rules. Copies of the manual are available from the American Psychiatric Association, 1400 K Street, N.W., Washington, DC, 20005. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (1-1-09)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEB SITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (1-1-09)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (1-1-09)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (1-1-09)T

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (1-1-09)T

05. Internet Web Site. The Department's internet web site is found at: <http://www.healthandwelfare.idaho.gov>. (1-1-09)T

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (1-1-09)T

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (1-1-09)T

007. -- 008. (RESERVED).

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

All current Department employees, contract employees, and others working directly with children or vulnerable adults as described in Section 39-5302, Idaho Code, who are seeking appointment as a designated examiner or designated dispositioner, or both, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (1-1-09)T

010. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below: (1-1-09)T

01. Clinical Nurse Specialist, Licensed. An individual licensed as a Clinical Nurse Specialist in accordance with Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (1-1-09)T

02. Clinical Professional Counselor, Licensed (LCPC). An individual licensed in accordance with Title 54, Chapter 34, Idaho Code, and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." (1-1-09)T

03. Clinical Social Worker, Licensed (LCSW). An individual licensed in accordance with Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners." (1-1-09)T

04. Department. The Idaho Department of Health and Welfare. (1-1-09)T

05. Designated Dispositioner. In accordance with Section 66-317, Idaho Code, the practice of a designated dispositioner is professional in nature and requires specialized knowledge, training, and experience determining the appropriate location for care and treatment of involuntary patients. A designated dispositioner is a designated examiner employed by or under contract with the Department and designated by the Director. (1-1-09)T

06. Designated Examination. An evaluation by an appointed mental health professional to determine if an individual is mentally ill and if the individual is either likely to injure himself or others or is gravely disabled due to mental illness. (1-1-09)T

07. Designated Examiner. In accordance with Sections 16-2403 and 66-317, Idaho Code, the practice of a designated examiner is professional in nature and requires specialized knowledge, training, and experience in the diagnosis and treatment of mental illness. A designated examiner is a psychiatrist, psychologist, psychiatric nurse, social worker, or such other mental health professional as may be designated in accordance with these rules. (1-1-09)T

08. Director. The Director of the Idaho Department of Health and Welfare or his designee. (1-1-09)T

09. Division. The Department's Division of Behavioral Health. (1-1-09)T

10. Marriage and Family Therapist, Licensed (LMFT). An individual licensed in accordance with Title 54, Chapter 34, Idaho Code, and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." (1-1-09)T

11. Masters of Social Work, Licensed (LMSW). An individual licensed in accordance with Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners." (1-1-09)T

12. Nurse Practitioner, Licensed. An individual licensed as a Nurse Practitioner in accordance with Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (1-1-09)T

13. Physician, Licensed. An individual licensed to practice medicine, under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho." (1-1-09)T

14. Professional Counselor, Licensed (LPC). An individual licensed in accordance with Title 54, Chapter 34, Idaho Code, and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." (1-1-09)T

15. Psychiatrist, Board Certified. An individual licensed to practice medicine under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery" who is certified by the American Board of Psychiatry and Neurology in psychiatry. (1-1-09)T

16. Psychologist, Licensed. An individual licensed to practice psychology in Idaho under Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (1-1-09)T

011. -- 199. (RESERVED).

200. MINIMUM QUALIFICATIONS AND REQUIREMENTS FOR APPOINTMENT AS A DESIGNATED EXAMINER.

To be appointed and practice as a designated examiner in Idaho, an applicant must meet the following minimum qualifications and requirements: (1-1-09)T

01. Required License. Each applicant must maintain his professional licensure for the duration of his appointment and be one (1) of the following: (1-1-09)T

- a. Licensed Physician; (1-1-09)T
- b. Board-certified Psychiatrist; (1-1-09)T
- c. Licensed Psychologist; (1-1-09)T
- d. Licensed Clinical Nurse Specialist; (1-1-09)T
- e. Licensed Nurse Practitioner; (1-1-09)T
- f. Licensed Clinical Professional Counselor (LCPC); (1-1-09)T
- g. Licensed Professional Counselor (LPC); (1-1-09)T
- h. Licensed Clinical Social Worker (LCSW); (1-1-09)T
- i. Licensed Masters Social Worker (LMSW) with a supervision plan approved by the licensing board in accordance with IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners," Subsection 201.02; (1-1-09)T
- j. Licensed Marriage and Family Therapist (LMFT). (1-1-09)T

02. Required Experience and Abilities. The Division will determine whether an applicant meets and demonstrates the following experience and abilities, based on the documentation provided by the applicant as required under Subsection 400.02 of these rules: (1-1-09)T

- a. At least two (2) years of post-master's degree experience in a clinical mental health setting which includes: (1-1-09)T
 - i. Assessment of the likelihood of danger to self or others, grave disability, capacity to give informed consent, and capacity to understand legal proceedings; (1-1-09)T
 - ii. Use of DSM-IV-TR diagnostic criteria; (1-1-09)T
 - iii. Treatment of mental health disorders including knowledge of treatment modalities and experience applying treatment modalities in a clinical setting; and (1-1-09)T
 - iv. An understanding of the differences between behavior due to mental illness which poses a substantial likelihood of serious harm to self or others or which may result in grave disability from behavior which does not represent such a threat or risk. (1-1-09)T
- b. Knowledge of and experience applying Idaho mental health law. This must include: (1-1-09)T
 - i. Experience that demonstrates understanding of the judicial process, including the conduct of commitment hearings. (1-1-09)T
 - ii. Experience preparing reports for the court and testifying before a court of law. Experience must demonstrate an ability to provide the court with a thorough and complete oral and written evaluation that addresses the standards and questions set forth in the law; and (1-1-09)T
 - iii. Knowledge of a client's legal rights. (1-1-09)T

03. Required Training. Each applicant must have completed: (1-1-09)T

- a. A minimum of six (6) hours of training, provided by a Department-approved trainer, on the role of designated examiners and the processes used in fulfilling the responsibilities of designated examiners. (1-1-09)T

b. A minimum of four (4) additional hours observing a designated examiner conducting a designated examination. (1-1-09)T

201. -- 299. (RESERVED).

300. MINIMUM QUALIFICATIONS AND REQUIREMENTS FOR APPOINTMENT AS A DESIGNATED DISPOSITIONER.

To be appointed as a designated dispositioner in Idaho, an applicant must meet the following minimum qualifications and requirements. (1-1-09)T

01. Appointment as a Designated Examiner. Applicants for designated dispositioner must also be appointed as a designated examiner by the Director. (1-1-09)T

02. Required Experience and Abilities. Each applicant must have and demonstrate specific knowledge of available treatment alternatives in Idaho, types of treatment available for appropriate placement in Idaho, and level of care requirements in Idaho. (1-1-09)T

301. -- 399. (RESERVED).

400. PROCESS AND PROCEDURE FOR APPLICANTS SEEKING CONSIDERATION FOR AN INITIAL APPOINTMENT AS A DESIGNATED EXAMINER, DESIGNATED DISPOSITIONER, OR BOTH.

Each applicant seeking an initial appointment as a designated examiner or designated dispositioner, or both, must submit the following information to the Regional Behavioral Health Program Manager of the region where he intends to practice or the State Hospital Administrative Director of the hospital at which he intends to practice. (1-1-09)T

01. Complete an Application. Each applicant must complete and sign an application using Department form HW-0790. (1-1-09)T

02. Provide Verification of Education, Training, Experience, and Criminal Background Check. Each applicant must provide the Department with the following: (1-1-09)T

a. A current resume that documents: (1-1-09)T

i. The applicant's degree, the date the degree was awarded, and the school from which the degree was received; and (1-1-09)T

ii. How the applicant meets the requirements under Subsection 200.02 of these rules. (1-1-09)T

b. A copy of the applicant's license. If the applicant is an LMSW, he must also provide a copy of the supervision plan approved by the Board of Social Work Examiners; (1-1-09)T

c. Evidence of completion of the required ten (10) hours of training within sixty (60) days prior to the date of application in accordance with Subsection 200.03 of these rules showing the date(s), place(s), number of hours of training and the qualifications of the person(s) providing the training; (1-1-09)T

d. Documentation of a criminal history and background check clearance completed within ninety (90) days of the date of the application. (1-1-09)T

03. Regional or Hospital Recommendation. (1-1-09)T

a. To be eligible for consideration and appointment as a designated examiner or designated dispositioner, or both, each applicant must receive a favorable recommendation from the Regional Behavioral Health Program Manager of the region where he intends to practice or the State Hospital Administrative Director of the hospital at which he intends to practice. (1-1-09)T

b. Within thirty (30) days of the receipt of a completed and signed application, the Regional

Behavioral Health Program Manager or the State Hospital Administrative Director will review the applicant's qualifications and, if satisfied, sign the application and forward it to the Division along with all the information provided by the applicant as required under Subsection 400.02 of this rule. (1-1-09)T

04. Final Decision on Appointment. (1-1-09)T

a. Upon receiving a favorable recommendation in accordance with Subsection 400.03 of these rules, the Division will review each application for completeness and compliance with these rules. The review of the application will include such factors as the availability of funding, the degree of need in the regions and the state, and other factors, including the requirements under this rule. (1-1-09)T

b. Upon completion of this review, the Division will make recommendations to the Director regarding appointments as designated examiner or designated dispositioner, or both. (1-1-09)T

c. In accordance with Sections 66-317(5), 66-317(f), and 54-2303(a), Idaho Code, the Director has the authority to appoint applicants for designated examiner or designated dispositioner, or both, who meet the requirements under these rules. (1-1-09)T

d. The Division will notify each applicant in writing of the Department's decision within sixty (60) days of the date the application was received by the Division. Written notification of the Department's decision will also be sent to the Regional Behavioral Health Program Manager or State Hospital Administrative Director that rendered a favorable recommendation in accordance with Subsection 400.03 of these rules. (1-1-09)T

401. -- 499. (RESERVED).

500. DURATION OF APPOINTMENT AS DESIGNATED EXAMINER OR DESIGNATED DISPOSITIONER, OR BOTH.

01. Initial Appointment. Initial appointment of a designated examiner or a designated dispositioner, or both, expires one (1) year from the date of appointment, unless the designated examiner or designated dispositioner applies for, and is granted, reappointment in accordance with Section 600 of these rules. (1-1-09)T

02. Reappointment. Reappointment of an individual as a designated examiner or designated dispositioner, or both, expires two (2) years from the date of such appointment, unless the designated examiner or designated dispositioner applies for, and is granted, reappointment. (1-1-09)T

03. Expiration of Appointment Upon Leaving Department Employment. When an individual serving as a designated examiner, designated dispositioner, or both, leaves the employ of the Department, his appointment(s) expires the date his employment ends. He may reapply as a contractor under Section 600 of these rules. (1-1-09)T

501. -- 599. (RESERVED).

600. PROCESS AND PROCEDURE FOR APPLICANTS SEEKING CONSIDERATION FOR REAPPOINTMENT AS A DESIGNATED EXAMINER OR DESIGNATED DISPOSITIONER, OR BOTH.

Each applicant seeking reappointment as a designated examiner or designated dispositioner, or both, must submit the following information to the Regional Behavioral Health Program Manager of the region where he intends to practice or the State Hospital Administrative Director of the hospital at which he intends to practice. (1-1-09)T

01. Complete an Application. Each applicant must complete and sign an application using Department form HW-0790. (1-1-09)T

02. Regional or Hospital Recommendation. (1-1-09)T

a. To be eligible for consideration and appointment as a designated examiner or designated dispositioner, or both, each applicant must receive a favorable recommendation from the Regional Behavioral Health Program Manager of the region where he intends to practice or the State Hospital Administrative Director of the

hospital at which he intends to practice. (1-1-09)T

b. Within thirty (30) days of the receipt of a completed and signed application, the Regional Behavioral Health Program Manager or the State Hospital Administrative Director will review the applicant's qualifications and, if satisfied, sign the application and forward it to the Division along with all the information provided by the applicant as required under Subsection 400.02 of this rule. (1-1-09)T

03. Final Decision on Reappointment. (1-1-09)T

a. The request for reappointment must be received by the Division at least sixty (60) days prior to the expiration date of the previous appointment of the designated examiner or designated dispositioner. (1-1-09)T

b. The Division will notify each applicant in writing of the Department's decision within sixty (60) days of the date the application for reappointment was received by the Division. Written notification of the Department's decision will also be sent to the Regional Behavioral Health Program Manager or State Hospital Administrative Director that submitted the request for reappointment. (1-1-09)T

c. If a designated examiner or designated dispositioner allows his appointment to expire, the applicant must reapply in accordance with the initial appointment requirements under Section 400 of this rule. (1-1-09)T

601. -- 699. (RESERVED).

700. REVOCATION OF APPOINTMENT AS DESIGNATED EXAMINER OR DESIGNATED DISPOSITIONER, OR BOTH.

The Department may deny, suspend, or revoke the appointment or reappointment of designated examiners and designated dispositioners, or both, in accordance with the following procedures: (1-1-09)T

01. Emergency Denial, Suspension, Revocation of Appointment or Reappointment. The Department will deny, suspend, or revoke appointment or reappointment, without prior notice, when conditions exist as to endanger the health or safety of any client. (1-1-09)T

02. Written Request for Denial, Suspension, or Revocation of Appointment or Reappointment. In the absence of an emergency, a written request from the Regional Behavioral Health Program Manager or State Hospital Administrative Director must be made to the Division. The request must state the reason(s) for the requested denial, suspension, or revocation of an appointment or reappointment. (1-1-09)T

03. Grounds for Revocation of Appointment or Reappointment. The Department may deny, suspend, or revoke an appointment or reappointment for any of the following reasons: (1-1-09)T

a. Failure to comply with these rules. (1-1-09)T

b. Failure to furnish data, information, or records as requested by the Department. (1-1-09)T

c. Revocation or suspension of the applicant's professional license. (1-1-09)T

d. Refusal to participate in a quality assurance process as requested by the Department. (1-1-09)T

e. Inadequate knowledge or performance as demonstrated by repeated substandard peer or quality assurance reviews. (1-1-09)T

f. Misrepresentation by the applicant in his application, or in documents required by the Department, or by an appointee in which there is a criminal, civil, or administrative determination that he has misrepresented the facts or the law to the court or administrative agency. (1-1-09)T

g. Conflict of interest in which an appointee exploits his position as a designated examiner or designated dispositioner for personal benefit. (1-1-09)T

h. A criminal, civil, or administrative determination that an appointee has committed fraud or gross negligence in his capacity as a designated examiner or designated dispositioner. (1-1-09)T

i. Substantiated disposition of a child protection referral or adult protection referral. (1-1-09)T

j. Failure to correct within thirty (30) days of written notice, any unacceptable conduct, practice, or condition as determined by the Department to be detrimental to public health or safety. (1-1-09)T

04. Appeal of Department Decision. Applicants may appeal a Department decision to deny, suspend, or revoke an appointment in accordance with IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (1-1-09)T

05. Reapplication for Appointment. Following denial, suspension, or revocation of appointment or reappointment, the same appointee may not reapply for appointment for a period of one (1) year after the effective date of the action. (1-1-09)T

701. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.50 - RULES AND MINIMUM STANDARDS GOVERNING NON-HOSPITAL, MEDICALLY-MONITORED DETOXIFICATION/MENTAL HEALTH DIVERSION UNITS

DOCKET NO. 16-0750-0901 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 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 regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-304, 39-305, 39-311 and 56-1003, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

THURSDAY - JANUARY 15, 2009 - 1:30 p.m.

**DEPARTMENT OF HEALTH AND WELFARE
Pete Cenarrusa Bldg. - 3rd Floor, Rm. 3a
450 West State St.
Boise, ID**

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

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

A need has been identified for a medically-monitored detoxification/mental health facility; one is being constructed in Idaho. Currently there are no standards in Administrative Code for approving this new type of facility to better ensure the safety of the public. The Department has written a new chapter of rules for the minimum design and construction requirements for a medically-monitored detoxification/mental health diversion unit. (The standards of care and services will be added to this new chapter at a later date.)

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

New rules are needed to ensure that new detoxification/mental health diversion units are regulated in order to protect the health, safety, and welfare of the public.

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: NA

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

There is no fiscal impact to the state general fund due to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, informal negotiated rulemaking was conducted. Department staff met with interested stakeholders to discuss the changes proposed in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kathleen Allyn at (208) 334-6997.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 10th day of November, 2008.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING IS THE TEXT OF DOCKET 16-0750-0901

**IDAPA 16
TITLE 07
CHAPTER 50**

16.07.50 - RULES AND MINIMUM STANDARDS GOVERNING NON-HOSPITAL, MEDICALLY-MONITORED DETOXIFICATION/MENTAL HEALTH DIVERSION UNITS

000. LEGAL AUTHORITY.

Under Title 39, Chapter 3, Idaho Code, the Board of Health and Welfare has authority to adopt minimum standards, rules, and regulations for the development, construction, and operation of non-hospital, medically-monitored detoxification/mental health diversion units in Idaho (Detox/Mental Health Diversion Unit). The Idaho Legislature has delegated to the Department of Health and Welfare, as the state mental health and substance abuse authority, the responsibility to assure that mental health and substance use disorders treatment and services are available throughout the state of Idaho to individuals who need such care and who meet certain eligibility criteria under the Regional Mental Health Services Act and Alcoholism and Intoxication Treatment Act. Section 56-1003, Idaho Code, authorizes the Director of the Department to adopt and enforce rules to promote safe and adequate services and treatment of individuals within a Detox/Mental Health Diversion Unit. (10-1-08)T

001. TITLE, SCOPE, AND RESPONSIBILITIES.

01. Title. The title of this chapter is IDAPA 16.07.50, "Rules and Minimum Standards Governing Non-Hospital, Medically-Monitored Detoxification/Mental Health Diversion Units," and may also be known as "Detox/Mental Health Diversion Units." (10-1-08)T

02. Scope. These rules and minimum standards apply to every Detox/Mental Health Diversion Unit in Idaho, that provides: evaluation; observation; monitoring; care; and treatment; twenty-four (24) hours per day, seven (7) days a week, to persons who are suffering from a sub-acute psychiatric or drug/alcohol crisis. These services are offered in a residential setting under the supervision of a physician. A Detox/Mental Health Diversion Unit is designed to withdraw an individual from alcohol or other drugs and to prepare him to enter a more extensive treatment and rehabilitation program. These facilities are not intended to serve as a secure holding facility for the detention of any individual. The purpose of this chapter is to provide rules for: (10-1-08)T

a. The approval, denial, suspension, or revocation of certification or approval of Detox/Mental Health Diversion Unit facilities in Idaho; (10-1-08)T

b. To provide rules for the admittance of clients by Detox/Mental Health Diversion Unit facilities in Idaho; (10-1-08)T

c. To establish minimum standards of health, safety and quality for Detox/Mental Health Diversion Unit facilities in Idaho; and (10-1-08)T

d. To establish minimum standards the development, construction, and operation of non-hospital, medically-monitored detoxification/mental health diversion units in Idaho. (10-1-08)T

03. General Facility Responsibilities. Detox/Mental Health Diversion Unit facilities provide services and treatment to persons, who are suffering from a sub-acute psychiatric or drug/alcohol crisis, twenty-four (24) hours per day, seven (7) days a week, in a non-hospital medically supervised residential setting. Detox/Mental Health Diversion Unit facilities must assure quality services and dignity in a structured regime through an administrator and staff who have the knowledge and experience required to provide safe and appropriate services to all clients. Detox/Mental Health Diversion Unit facilities must be constructed and operated consistent with these rules and applicable statutes. (10-1-08)T

04. General Department Responsibilities. The Department is responsible for monitoring and enforcing the provisions of the statutes and these rules to protect clients by providing information, education and evaluating facilities to assure compliance with statutes and these rules. This responsibility includes: approving facilities and monitoring the services provided and the conditions of the facility. (10-1-08)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection as described in Sections 005 and 006 of these rules. (10-1-08)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals and all contested cases are governed by IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (10-1-08)T

004. INCORPORATION BY REFERENCE.

01. NFPA. National Fire Protection Association (NFPA) Documents. The NFPA documents referenced in this chapter of rules are available from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322-9908; 1-800-344-3555; and online at <http://www.nfpa.org>. (10-1-08)T

02. Idaho Diet Manual. This manual is available from the Idaho Dietetic Association, Ninth Edition, 2005, online at <http://eatrightidaho.org>. (10-1-08)T

03. Idaho Food Code. IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," April 2, 2008. These rules are available online at <http://adm.idaho.gov/adminrules/rules/idapa16/0219.pdf>. (10-1-08)T

04. Americans with Disabilities Act Accessibility Guidelines. 28 CFR Part 36, Appendix A. This code is available online at <http://www.ada.gov/publicat.htm>. Contact phone number is 1-800-514-0301. (10-1-08)T

05. Idaho Board of Nursing Rules. IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." These rules are available online at http://adm.idaho.gov/adminrules/idapa27/27_index.htm. (10-1-08)T

06. International Building Code. Edition 2003. This code is available from the International Code Council, 4051 West Flossmoor Rd., Country Club Hills, IL 60478-5795, phone: 1-888-422-7233 and online at <http://www.iccsafe.org>. (10-1-08)T

07. Life Safety Code. National Fire Protection Association Standard 101, the Life Safety Code, 2000 Edition, including mandatory references is incorporated by reference. A copy of the code is available at 1 Batterymarch Park, Quincy, Massachusetts, 02169-7471. The telephone contact number is 1 (800) 344-3555. The

internet address for the code is <http://www.nfpa.org/catalog/product.asp?pid=10100>. (10-1-08)T

08. American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People (ANSI/ICC A117.1-2003). These standards are incorporated by reference and are available at the following internet address: <http://www.ansi.org/>. (10-1-08)T

09. National Electric Code. National Electric Code AKA: NFPA Standard 70, the National Electric Code, 2000 Edition, is incorporated by reference. A copy of the code is available at the following internet address: <http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=70>. (10-1-08)T

10. Occupational Safety and Health Act of 1970 (OSHA). This rule incorporates by reference the OSHA construction standards and can be obtained by contacting OSHA at 200 Constitution Avenue, NW, Washington, DC 20210. The internet address is <http://www.osha.gov/doc/index.html>. (10-1-08)T

11. National Sanitation Federation. This rule incorporates by reference the National Sanitation Federation standards. They may be found at this website: http://www.nsf.org/business/about_NSF/. (10-1-08)T

12. 2006 AIA Guidelines for Design and Construction of Health Care Facilities (AII). 2006 AIA Guidelines for Design and Construction of Health Care Facilities (AII) are incorporated by reference and are applicable to airborne infection isolation rooms for facilities operating a sobering station (optional). The guidelines may be obtained at the following internet address: http://www.aia.org/aah_gd_hospcons#howto. (10-1-08)T

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

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (10-1-08)T

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (10-1-08)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State St., Boise, Idaho 83720. (10-1-08)T

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (10-1-08)T

05. Internet Website. The Department's internet website is found at: <http://www.healthandwelfare.idaho.gov>. (10-1-08)T

06. Substance Abuse Services Website. The Substance Abuse Services internet website is found at http://www.healthandwelfare.idaho.gov/portal/alias__Rainbow/lang__en-US/tabID__3460/DesktopDefault.aspx. (10-1-08)T

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUEST.

01. Confidential Records. The use and disclosure of any information about a Detox/Mental Health Diversion Unit covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (10-1-08)T

02. Licensure, Certification, or Approval. In compliance with Section 9-340C(9), Idaho Code and IDAPA 16.05.01, "Use and Disclosure of Department Records," records will be released if they are part of an inquiry into a Detox/Mental Health Diversion Unit facility's fitness to be granted or retain a license, certificate, permit, privilege, commission or position. These records will otherwise be provided in redacted form as required by law or rule. (10-1-08)T

007. -- 008. (RESERVED).

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. Each Detox/Mental Health Diversion Unit must complete a criminal history and background check on employees, applicants, transfers, reinstated former employees, student interns, contractors, volunteers, and others who provide care or services or have access to clients in the Detox/Mental Health Diversion Unit. The Department check conducted under IDAPA 16.05.06, "Criminal History and Background Checks," satisfies this requirement. Other criminal history and background checks may be acceptable provided they meet the criteria in Subsection 009.02 of this rule and the entity conducting the check issues written findings. The entity must provide a copy of these written findings to both the facility and the employee. (10-1-08)T

02. Scope of a Criminal History and Background Check. The criminal history and background check must, at a minimum, be fingerprint-based and include a search of the following record sources: (10-1-08)T

- a.** Federal Bureau of Investigation; (10-1-08)T
- b.** National Crime Information Center; (10-1-08)T
- c.** Idaho State Police Bureau of Criminal Identification; (10-1-08)T
- d.** Idaho Child Protection Central Registry; (10-1-08)T
- e.** Idaho Adult Protection Registry; (10-1-08)T
- f.** Sexual Offender Registry; (10-1-08)T
- g.** Office of Inspector General List of Excluded Individuals and Entities; (10-1-08)T
- h.** Idaho Department of Transportation Driving Records; (10-1-08)T
- i.** Nurse Aide Registry; (10-1-08)T
- j.** Other states and jurisdiction records and findings. (10-1-08)T

03. Availability to Work. Any direct patient access individual hired or contracted with must self-disclose all arrests and convictions before having access to residents. The individual is allowed to only work under supervision until the criminal history and background check is completed. If a disqualifying crime as described in IDAPA 16.05.06, "Criminal History and Background Checks," is disclosed, the individual cannot have access to any resident. (10-1-08)T

04. Submission of Fingerprints. The individual's fingerprints must be submitted to the entity conducting the criminal history and background check within twenty-one (21) days of his date of hire. (10-1-08)T

05. New Criminal History and Background Check. An individual must have a criminal history and background check when: (10-1-08)T

- a.** Accepting employment with a new employer; and (10-1-08)T
- b.** His last criminal history and background check was completed more than three (3) years prior to his date of hire. (10-1-08)T

06. Use of Previous Criminal History and Background Check. Any employer may use a previous criminal history and background check obtained under these rules if: (10-1-08)T

- a.** The individual has received a criminal history and background check within three (3) years of his date of hire; (10-1-08)T

- b.** The employer has documentation of the criminal history and background check findings; (10-1-08)T
- c.** The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification; and (10-1-08)T
- d.** No disqualifying crimes are found. (10-1-08)T
- 07. Employer Discretion.** The new employer, at its discretion, may require an individual to complete a criminal history and background check at any time, even if the individual has received a criminal history and background check within three (3) years of his date of hire. (10-1-08)T
- 08. Cost.** All costs associated with the criminal history and background check will be paid for by the applicant or the Detox/Mental Health Diversion Unit. (10-1-08)T

010. DEFINITIONS AND ABBREVIATIONS.

- 01. Client.** The recipient of services. The term “client” is synonymous with the terms: patient, participant, resident, consumer, or recipient of treatment. (10-1-08)T
- 02. Department.** The Idaho Department of Health and Welfare. (10-1-08)T
- 03. Non-Hospital, Medically-Monitored Detoxification/Mental Health Diversion Unit.** This facility, referred to in this rule as a “Detox/Mental Health Diversion Unit,” means a freestanding publicly owned residential treatment facility, approved by the Department of Health and Welfare. (10-1-08)T

011. -- 249. (RESERVED).

250. REQUIREMENTS FOR BUILDING CONSTRUCTION AND PHYSICAL STANDARDS.

- 01. Applicability.** These rules apply to: (10-1-08)T

 - a.** All new construction of any building or facility for use as a Detox/Mental Health Diversion Unit. (10-1-08)T
 - b.** Conversion of any existing building or facility for use as a Detox/Mental Health Diversion Unit. (10-1-08)T
 - c.** All modifications, additions, alterations, upgrades, deletions, conversions, modernization, remodels, or significant, major and material changes to any existing building(s) or facility(ies) that affect the structural integrity of the building or facility, that change functional operation, that affect fire safety, or that add beds, departments, or services over those for which the Detox/Mental Health Diversion Unit is currently approved. (10-1-08)T
- 02. Design Development Plans, Working Drawings, and Specifications.** (10-1-08)T

 - a.** Prior to breaking ground and commencing any construction, a complete set of actual construction drawings, plans, and specifications must be submitted to and approved by the Department to assure compliance with these rules and regulations. The Department has up to sixty (60) days, after receiving a complete set of actual construction drawings, plans, and specifications, to notify the applicant of its determination. (10-1-08)T
 - b.** Ground breaking and actual construction must not be commenced until actual construction drawings, plans, and specifications have been approved by the Department. Any deviations from the approved actual construction drawings, plans, and specifications must be authorized in writing by the Department prior to breaking ground or commencing any work. Ground breaking and any actual construction commenced prior to Department approval is at the applicant's sole risk. All construction is subject to final visual inspection and systems testing. The requirement of Department approval may be waived in writing by the Department in connection with minor

alterations provided the alterations comply with all applicable local standards, codes, rules and regulations. (10-1-08)T

c. The actual construction drawings, plans, and specifications must be prepared by, or executed under, the immediate supervision of a licensed architect or engineer in Idaho. The requirement of a licensed architect or engineer may be waived in writing by the Department, if the Department determines the size of the project does not necessitate involvement of an architect or engineer, provided the alterations comply with all applicable local standards, codes, rules and regulations. (10-1-08)T

d. The actual construction drawings, plans, and specifications must include, at a minimum, the following: (10-1-08)T

i. The size and shape of the entire site. (10-1-08)T

ii. The footprint showing orientation and location of all proposed buildings. (10-1-08)T

iii. The location and description of any existing structures, adjacent streets, highways, sidewalks, railroads, etc., properly designated. (10-1-08)T

iv. The size, characteristics, and location of all existing public utilities, including information concerning water supply available for fire protection, distance to nearest fire hydrant, parking, and any hazardous areas, e.g. cliffs, roads, hills, pools, etc. (10-1-08)T

v. Floor plans and the assignment of all spaces, size of areas and rooms, and indicated in outline, the fixed and movable equipment and furniture, including overall dimensions of buildings. (10-1-08)T

vi. The location and size of doors, windows, and other openings with swing of doors properly indicated. (10-1-08)T

vii. A Life Safety Plan showing all fire walls, exits, exit calculations, locations of smoke barriers if required, fire rated walls, locations of stairs, elevators, dumbwaiters, vertical shafts, and chimneys. (10-1-08)T

viii. The location and size of all fixed equipment. (10-1-08)T

ix. Outline specifications that include a general description of construction, including interior finishes and mechanical systems acoustical material, its extent and type of heating, electrical, and ventilation systems. (10-1-08)T

e. The actual construction drawings, plans, and specifications must be drawn at a scale sufficiently large to clearly present the proposed design, but not less than a scale of one-eighth (1/8") equals one foot (1'). (10-1-08)T

f. A plan for each floor, including the basement or ground floor, and approach or site plan, showing roads, parking areas, sidewalks, etc. (10-1-08)T

g. The total floor area and number of beds shall be computed and noted on the development drawings, plans, and specifications. (10-1-08)T

h. The actual construction drawings, plans, and specifications must be well prepared so that clear, distinct prints may be obtained, accurately dimensioned, and must include all necessary explanatory notes, schedules, legends, and be stamped with a licensed architect's or engineer's seal. (10-1-08)T

i. The actual construction drawings, plans, and specifications must be complete and adequate for contract purposes and should include separate drawings for each of the following branches of work: architectural, mechanical, and electrical. (10-1-08)T

j. Prior to commencing occupancy, the building or facility must be inspected and approved by the

Department. The Department will make reasonable efforts to schedule an inspection within two (2) weeks of receiving a certificate of occupancy issued by the local governing authority, a city or county in Idaho or other evidence submitted by the applicant that the building or facility is ready for final inspection. (10-1-08)T

03. Codes and Standards. Every Detox/Mental Health Diversion Unit must comply with all state and local building, fire, electrical, plumbing, zoning, heating, or other applicable codes in which the Detox/Mental Health Diversion Unit is located and which are in effect when construction is begun. Written evidence of compliance must be kept in the facility. (10-1-08)T

- a. In the event of a conflict between codes, the most restrictive requirements will apply. (10-1-08)T
- b. Compliance with the applicable provisions of the following codes and standards is required: (10-1-08)T
 - i. 2000 Edition of the Life Safety Code, including mandatory references. (10-1-08)T
 - ii. American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People (ANSI/ICC A117.1-2003). (10-1-08)T
 - iii. Idaho Department of Health and Welfare Rules, IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," also known as the Idaho Food Code. (10-1-08)T
 - iv. National Electric Code. (10-1-08)T
 - v. International Fire Code. (10-1-08)T
 - vi. Occupational Safety and Health Act of 1970 (OSHA). (10-1-08)T
 - vii. National Sanitation Federation. (10-1-08)T
 - viii. For facilities operating a sobering station (optional), at least one airborne infection isolation room must comply with (AII) 2006 AIA Guidelines for Design and Construction of Health Care Facilities. (10-1-08)T
- c. No facility will be approved unless the applicant provides evidence to the Department that responsible local officials (planning, zoning, and building) have approved the facility/building for code compliance. (10-1-08)T

251. -- 254. (RESERVED).

255. SITE LOCATION REQUIREMENTS.

The location of every Detox/Mental Health Diversion Unit is governed by the following rules: (10-1-08)T

- 01. All Weather Road.** The facility must be adjacent to an all-weather road, kept open to motor vehicles at all times of the year. (10-1-08)T
- 02. Physician and Medical Facilities.** The facility must be accessible to physician's services and medical facilities. (10-1-08)T
- 03. Public Utilities.** The facility must be accessible to public utilities. (10-1-08)T
- 04. Fire District.** The facility must be in a lawfully constituted fire district. (10-1-08)T
- 05. Parking Space.** The facility must have parking space to satisfy the minimum needs of clients, employees, staff, and visitors. In the absence of a local requirement, each facility will provide not less than one (1) space for each day shift staff member and employee, plus one (1) space for each five (5) client beds. This ratio may be reduced in areas convenient to a public transportation system or to public parking facilities provided that prior written approval of any reduction is obtained from the Department. Space must be provided for emergency and delivery

vehicles. (10-1-08)T

06. Natural or Man-made Hazards. If natural or man-made hazards are present on the facility property or border the property, reasonable precautions such as suitable fences, guards, railings or a combination thereof must be taken for the protection of clients. (10-1-08)T

07. Mitigation of Adverse Effects. If railroads, factories, airports or similar facilities, are located in close proximity to the facility, reasonable precautions must be taken to mitigate adverse effects of noise, odor, smoke, dust, and other nuisances. (10-1-08)T

256. - - 259. (RESERVED).

260. BEDS AND SLEEPING AREAS FOR MEDICALLY-MONITORED RESIDENTIAL DETOXIFICATION UNIT.

Each Detox/Mental Health Diversion Unit must be in compliance with the following rules: (10-1-08)T

01. Number of Approved Beds for Detoxification Unit. The number of approved beds for detoxification is limited to the number stated on the certificate of approval. Each approved bed for detoxification must have, at a minimum, a comfortable single bed mattress with moisture-proof cover, sheets, blankets, bedspread, pillow and pillow cases; roll-away type beds, cots, bunk-beds, and folding beds cannot be used and will not be approved. (10-1-08)T

02. Location of Beds. Client beds for medical detoxification may be located within an area suitable for multiple beds ("suite"), provided the suite is surrounded by solid walls, floor to ceiling, and is constructed and maintained in accordance with Chapter 18 of the 2000 Edition of the Life Safety Code. (10-1-08)T

03. Cubicle Curtains. Cubicle curtains of fire retardant material, capable of enclosing each approved bed must be provided in multiple-bed rooms or suites to ensure privacy for clients. (10-1-08)T

04. Unacceptable Location of Beds. Client beds for detoxification must not be located in hallways, closets, attics, corridors, trailer houses, or in any room other than one approved for clients. (10-1-08)T

05. Numbered Beds. Client beds for detoxification must be numbered. (10-1-08)T

06. Square Footage Requirements. Square footage requirements for client sleeping areas must provide for not less than sixty (60) square feet of floor space per client. (10-1-08)T

07. Visibility of Client Beds. Client beds for detoxification must be visible at all times to staff at the staff station. (10-1-08)T

08. Occupants of Sleeping Areas. Solid walls or moveable partitions, floor to ceiling, must be used to ensure that sleeping areas and suites for detoxification are occupied only by those of the same sex. (10-1-08)T

09. Safe and Secure Sleeping Areas. Sleeping areas for detoxification must be free of safety hazards, and appropriately lighted with no items or articles that a client might use to injure himself or others. (10-1-08)T

10. Separate and Distinct Client Areas. Solid walls, floor to ceiling, must be used to ensure that client areas for medically-monitored detoxification are separate and distinct from client areas for sobering and mental health. (10-1-08)T

11. Prior Approval Needed for Reallocated or Relocated Beds. Once the Department has approved the actual construction drawings, plans, and specifications, approved beds for detoxification cannot be reallocated or relocated unless prior written approval has been obtained from the Department. (10-1-08)T

261. BEDS AND BEDROOMS FOR MENTAL HEALTH DIVERSION UNIT.

Each Detox/Mental Health Diversion Unit must be in compliance with the following rules: (10-1-08)T

01. Number of Approved Beds for Mental Health Diversion Unit. The number of approved beds for mental health diversion is limited to the number stated on the certificate of approval. Each approved bed for mental health diversion treatment must have, at a minimum, a comfortable single bed mattress with moisture-proof cover, sheets, blankets, bedspread, pillow and pillowcases; roll away type beds, cots, bunk beds, and folding beds cannot be used and will not be approved. (10-1-08)T

02. Cubicle Curtains. Cubicle curtains of fire retardant material, capable of enclosing each approved bed must be provided in multiple-bed rooms to ensure privacy for clients. (10-1-08)T

03. Maximum Room Capacity. The maximum room capacity in bedrooms is two (2) clients. (10-1-08)T

04. Staff Calling System. A staff calling system for each client must be installed in each bedroom and in each toilet, bath, and shower room. A staff call must be considered as an emergency call. All staff calls will register at the staff station. The emergency call system must be designed so that a signal light activated by the client will remain lit until turned off by staff at the client's calling station - bed, bath, or shower room. The staff calling system is not a substitute for supervision. (10-1-08)T

05. Location of Client Beds. Client beds must not be located in hallways, closets, attics, corridors, trailer houses, or in any room other than one approved for clients. (10-1-08)T

06. Numbered Bedrooms and Beds. Client bedrooms and beds must be numbered. (10-1-08)T

07. Size of Client Sleeping Areas. Square footage requirements for client sleeping areas must provide for not less than sixty (60) square feet of floor space per client. (10-1-08)T

08. Entrances to Client Bedrooms. Entrances to all client bedrooms must be visible at all times to staff at the staff station. (10-1-08)T

09. Ceiling Height. Ceiling heights must be a minimum of seven (7) feet, six (6) inches. (10-1-08)T

10. Occupants of Bedrooms. In bedrooms used for mental health diversion, each bedroom must be occupied only by those of the same sex. (10-1-08)T

11. Bedroom Door Requirements. Client bedrooms must have a ninety-degree (90°) swinging door, at a minimum, that will not block any corridor or hallway, that is no less than thirty-two (32) inches in width, with a vision window, and that opens out directly into a corridor visible at all times to staff at the staff station. (10-1-08)T

12. Safe and Secure Client Bedrooms. Client bedrooms must be free of safety hazards, and appropriately lighted with no items or articles that a client might use to injure himself or others. (10-1-08)T

13. Separate and Distinct Client Areas. Solid walls, floor to ceiling, must be used to ensure that client areas for mental health diversion are separate and distinct from client areas for sobering and medically-monitored detoxification. (10-1-08)T

14. Prior Approval Needed for Reallocated or Relocated Beds. Once the Department has approved the actual construction drawings, plans, and specifications, approved beds for mental health diversion cannot be reallocated or relocated unless prior written approval has been obtained from the Department. (10-1-08)T

262. SOBERING STATION (OPTIONAL).

A sobering station is an optional service that may be provided in a Detox/Mental Health Diversion Unit. If a sobering station is provided it must be in compliance with the following rules: (10-1-08)T

01. Number of Clients in a Sobering Station. The number of clients that may be housed in the sobering station is limited to the number stated on the certificate of approval. (10-1-08)T

02. Visible Client Areas. Client areas for sobering must be visible at all times to staff at the staff

station. If vision windows are used they must provide for one-way vision into client areas for staff at the staff station and must be made of tempered, shatterproof glass. The Department will consider alternative design solutions to one-way vision which will accommodate the requirements for client area accessibility and monitoring. (10-1-08)T

03. Disease Protection of Clients. Client areas must provide for disease protection and be maintained in a clean sanitary condition at all times. (10-1-08)T

04. Furniture. Furniture located in client areas must be weighted or secured to the floor to ensure safety of staff and clients. (10-1-08)T

05. Location of Client Areas. Client areas in a sobering station must not be located in hallways, closets, attics, corridors, trailer houses, or in any room other than one approved for clients. (10-1-08)T

06. Numbered Rooms. Client rooms for a sobering station must be numbered. (10-1-08)T

07. Size of Client Rooms. Square footage requirements for client rooms in a sobering station must provide for not less than thirty (30) square feet of floor space per client. (10-1-08)T

08. Entrances to Client Rooms. Entrances to all sobering station client rooms must be visible at all times to staff at the staff station. (10-1-08)T

09. Ceiling Height of Client Rooms. Ceiling heights for client rooms must be a minimum of seven (7) feet, six (6) inches. (10-1-08)T

10. Floor Drain in Client Room. Client rooms in a sobering station must have at least one tamper resistant floor drain installed. (10-1-08)T

11. Doors on Client Rooms. Client rooms in a sobering station must have a ninety-degree (90°) swinging door, at a minimum, that will not block any corridor or hallway, that is no less than thirty-two (32) inches in width, with a vision window, and that opens out directly into a corridor visible at all times to staff at the staff station. The Department will consider alternative design solutions to one-way vision which will accommodate the requirements for client area accessibility and monitoring. (10-1-08)T

12. Utilities in Client Rooms. Client rooms in a sobering station must have a toilet and hand-washing sink with solid walls or partitions to separate the toilet from the sleeping area, and have mechanical ventilation to the outside. (10-1-08)T

13. Client Rooms Free of Hazards. Client rooms and areas in a sobering station must be free of safety hazards, and appropriately lighted with no items or articles that a client might use to injure himself or others. (10-1-08)T

14. Airborne Infection Isolation Room. Every sobering station must have at least one private airborne infection isolation room with a toilet, hand-washing sink, and other accessory facilities that complies with (AII) 2006 AIA Guidelines for Design and Construction of Health Care Facilities. Private airborne infection isolation rooms must have no hardware, equipment, or furnishings that obstruct observation of a client or that present a physical hazard or a suicide risk. Private airborne infection isolation rooms must have at least sixty (60) square feet of floor space and a ceiling height of seven (7) feet, six (6) inches. (10-1-08)T

15. Separate and Distinct Client Areas. Solid walls, floor to ceiling, must be used to ensure that client areas for sobering are separate and distinct from client areas for medically-monitored detoxification and mental health diversion. (10-1-08)T

16. Prior Approval Needed for Reallocated or Relocated Beds. Once the Department has approved the actual construction drawings, plans, and specifications, approved beds for a sobering station cannot be reallocated or relocated unless prior approval has been obtained from the Department. (10-1-08)T

263. -- 264. (RESERVED).

265. CLIENT TOILET AND BATHING FACILITIES.

- 01. Client Toilet Facilities.** Client toilet facilities, must be in compliance with the following rules: (10-1-08)T
- a.** Be conveniently located with solid walls or partitions to separate each toilet and bathroom from all adjoining rooms with at least one (1) flush toilet for every six (6) clients. (10-1-08)T
 - b.** Have mechanical ventilation to the outside from all inside toilets and bathrooms not provided with an operable exterior window. (10-1-08)T
 - c.** Have one (1) hand washing sink with a mirror convenient to every toilet. (10-1-08)T
 - d.** Have permanently wired light fixtures located and maintained so as to give adequate light to all parts of the room. (10-1-08)T
 - e.** Have arrangements for individual privacy for clients. (10-1-08)T
 - f.** Provide a privacy screen at each window. (10-1-08)T
 - g.** The minimum dimensions of a room containing only a toilet are three (3) feet by six (6) feet. Toilets must be accessible for use by persons with mobility and sensory impairments. (10-1-08)T
- 02. Client Bathing Facilities.** Client bathing facilities must comply with the following rules: (10-1-08)T
- a.** Each tub, shower, and lavatory must have hot and cold running water with at least one (1) tub or shower for every eight (8) clients, not otherwise served by bathing facilities located in a client's room. (10-1-08)T
 - b.** Each tub or shower room or enclosure must provide space for private use of the bathing fixture, for drying and dressing and for a wheelchair and attendant. (10-1-08)T

266. -- 269. (RESERVED).

270. ADMINISTRATIVE AREAS.

The following administrative areas must be located in the facility, or readily available to staff. The size and disposition of each administrative area will depend upon the number and types of approved beds to be served. Depending on the size of the facility and the number of clients served, there may be a need for more than one of the administrative areas listed below. Although identifiable spaces are required to be provided for each of the indicated functions, consideration will be given to design solutions which would accommodate some functions without specific designation of areas or rooms. Details of such proposals must be submitted to the Department for prior approval. Each administrative area must be in compliance with the following rules: (10-1-08)T

- 01. Staff Station.** One or more staff stations centrally located in each distinct service area, sobering, medically-monitored detoxification, and mental health diversion, with adequate space for charting and storage for administrative supplies. (10-1-08)T
- 02. Lounge and Toilets for Staff.** Lounge and toilet rooms for staff (toilet rooms may be unisex). (10-1-08)T
- 03. Closets and Compartments.** Individual closets or compartments for the safekeeping of coats and personal effects of personnel, must be located convenient to the staff station or in a central location close to personnel. (10-1-08)T
- 04. Clean Workroom or Clean Holding Room.** If the room is used for work, it must contain a counter and hand-washing facilities. When the room is used only for storage as part of a system for distributing clean and

sterile supplies, the work counter and hand-washing facilities can be omitted. (10-1-08)T

05. Soiled Workroom and Soiled Holding Room. The soiled workroom must contain a clinical sink or equivalent flushing rim fixture and a sink for hand-washing, towel dispenser, work counter, waste receptacle, and soiled linen receptacle. (10-1-08)T

06. Drug Distribution Station. The drug distribution station must be secure and convenient, with prompt twenty-four (24) hour availability of medicine. A secure medicine preparation area must be available and under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for controlled drugs, convenient to hand washing station and have a minimum area of fifty (50) square feet. A medicine dispensing unit can be located at the staff station, in the clean workroom, or in an alcove or other space convenient to staff and under staff control. (10-1-08)T

07. Nourishment Station. The nourishment station must contain a sink equipped for hand-washing, towel dispenser, equipment for serving nourishment between scheduled meals, refrigerator, and storage cabinets. Ice for clients' must be provided only by icemaker-dispenser units. (10-1-08)T

08. Equipment Storage Rooms. Rooms must be available for storage of equipment. (10-1-08)T

09. Janitor's Closet. Rooms must be available for storage of janitorial supplies and equipment. (10-1-08)T

10. Lockable Storage Area. A storage area of at least sixty-four (64) cubic feet (4x4x4), with segregated lockable storage compartments for client personal effects, must be maintained on-site. This storage area for client personal effects may be located in a separate area inside or outside of the facility's buildings. (10-1-08)T

271. ADDITIONAL ROOM AND AREA REQUIREMENTS.

01. Dining Room. The following minimum requirements apply to dining areas: (10-1-08)T

a. Ventilation. The facility must have an adequately ventilated separate dining room or area for the exclusive use of clients, employees, and invited guests. (10-1-08)T

b. Area Requirements. The total area set aside for dining purposes must be at least twenty (20) square feet per approved bed with a minimum total area of at least two hundred twenty-five (225) square feet. (10-1-08)T

02. Day Room. The following minimum requirements apply to day room areas: (10-1-08)T

a. Ventilation. The facility must have an adequately ventilated separate day room or area for the exclusive use of clients, employees, and invited guests. (10-1-08)T

b. Area Requirements. The total area set aside for day use purposes must be at least twenty (20) square feet per approved bed with a minimum total area of at least two hundred twenty-five (225) square feet. The same area can be used for dining and day room space. (10-1-08)T

03. Dietary Facilities. Food service, facilities, and equipment on-site and food service prepared by off-site contractors, must comply with Idaho Department of Health and Welfare Rules, IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," also know as the Idaho Food Code. (10-1-08)T

04. Public Areas. Every Detox/Mental Health Diversion Unit must provide: (10-1-08)T

a. Entrance at grade level, sheltered from the weather and able to accommodate persons with mobility and sensory impairments. (10-1-08)T

b. Lobby space, including: (10-1-08)T

i. Reception and information counter or desk; (10-1-08)T

- ii. Waiting area; (10-1-08)T
- iii. Public toilet facility; (10-1-08)T
- iv. Public telephone; and (10-1-08)T
- v. Drinking fountain. (10-1-08)T
- c. Outdoor areas that are secure and safe. (10-1-08)T

05. Program Areas. The following program areas must be located in the facility, or readily available to staff. Although identifiable spaces are required to be provided for each of the indicated functions, consideration will be given to design solutions which would accommodate some functions without specific designation of areas or rooms. Details of such proposals must be submitted to the Department for prior approval: (10-1-08)T

- a. Sufficient general or individual offices to assure privacy for interviews, client counseling and business transactions. (10-1-08)T
- b. One (1) or more multipurpose rooms for client social activities, meetings, group counseling, and health education purposes. (10-1-08)T
- c. One (1) or more medical examination rooms. (10-1-08)T
- d. Provision for secure and convenient on-site storage of medical records. (10-1-08)T
- e. Quiet social area for clients. (10-1-08)T

272. LINEN AND LAUNDRY FACILITIES AND SERVICES.

The following rules apply to linen and laundry facilities and services: (10-1-08)T

- 01. Available Linen.** Every Detox/Mental Health Diversion Unit must have available at all times a quantity of linen essential to the proper care and comfort of clients; (10-1-08)T
- 02. Clean Linen.** Linen must be of good quality, not thread-bare, torn or badly soiled or stained; (10-1-08)T
- 03. Laundry Processing Area.** If linen is processed onsite, the laundry processing area must have commercial type equipment with which a seven (7) days' supply can be processed within a regularly scheduled work week. (10-1-08)T
- 04. Separate and Distinct Linen Processing Area.** Separate and distinct soiled linen processing, receiving, holding, and sorting area with hand-washing facilities that maximize disease protection and clean sanitary conditions at all times. (10-1-08)T
- 05. Separate and Distinct Linen Inspection Area.** Separate and distinct clean linen inspection, mending, processing, receiving, storage, issuing, and holding area that maximize disease protection and clean sanitary conditions at all times. (10-1-08)T
- 06. Adequate Storage.** Adequate storage for laundry supplies. (10-1-08)T
- 07. Janitor's Closet.** Janitor's closet containing a floor receptor or service sink and storage space for housekeeping equipment and supplies. (10-1-08)T

273. DETAILS AND FINISHES FOR WALLS AND FLOOR SURFACES.

Walls and floors must be of such character to permit cleaning which meet the interior finish requirements of the 2000 Edition of the Life Safety Code. Walls and ceiling in kitchens, bathrooms, and utility rooms must have washable

surfaces. (10-1-08)T

274. WATER.

Every Detox/Mental Health Diversion Unit must have an adequate supply of running hot and cold water, installed and maintained in compliance with the local plumbing code. There must be a sufficient amount of water under adequate pressure to meet the sanitary requirements of the facility at all times. The water supply must meet the following minimum requirements: (10-1-08)T

01. Approved Water Supply. An approved public or municipal water supply must be used whenever available; (10-1-08)T

02. Private Water Supply. In areas where an approved public or municipal water supply is not available, a private water supply must be provided, and it must meet the standards approved by the Department; (10-1-08)T

03. Requirements for Public or Private Water Supplies. Public or private water supplies must meet the Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems;" (10-1-08)T

04. Water Samples from Private Supply. If water is from a private supply, water samples must be submitted to an approved laboratory for bacteriological examination at least quarterly. Copies of laboratory reports must be kept on file in the facility. (10-1-08)T

275. LIGHTING.

The facility must provide adequate and appropriate lighting in all client sleeping areas, dining rooms, living rooms, common and private areas, bathrooms and hallways. Adequate artificial light must be provided to include sufficient illumination for reading, observation, and activities. There must be a minimum of thirty-five (35) foot-candles in areas used for reading, study, or close work. Lighting in work areas must not be less than thirty (30) foot-candles. (10-1-08)T

276. VENTILATION.

The facility must be adequately ventilated and precautions must be taken to prevent offensive odors in compliance with the minimum requirements of the Uniform Mechanical Code. For facilities with a sobering station (optional), private airborne infection isolation rooms must be adequately ventilated and precautions must be taken to prevent offensive odors in compliance with the following minimum requirements of the 2006 AIA Guidelines for Design and Construction of Health Care Facilities:

TABLE 250.20 - MINIMUM REQUIREMENTS OF THE 2006 AIA GUIDELINES FOR DESIGN AND CONSTRUCTION OF HEALTH CARE FACILITIES - VENTILATION PRECAUTIONS				
Area	Air Movement/Relation	Minimum Outdoor Air Changes/Hr	Total Air Changes/ Hr	Exhausted
Isolation Room	In	2	12	Yes

(10-1-08)T

277. UTILITY REQUIREMENTS.

01. Plumbing. All plumbing in the facility must comply with state and local codes. All plumbing fixtures must be easily cleanable and maintained in good repair. The temperature of hot water at plumbing fixtures used by clients must be between one hundred five degrees (105°F) Fahrenheit and one hundred twenty degrees (120°F) Fahrenheit. Hot water capacity must be at least three (3) gallons per client bed per hour. (10-1-08)T

02. Heating and Cooling. A heating and cooling system must be provided for the facility that is capable of maintaining a minimum temperature of seventy degrees (70°F) Fahrenheit during the day and a minimum of sixty-two degrees (62°F) Fahrenheit during the night. Wood stoves are not permitted as the sole source of heat and

the thermostat for the primary source of heat must be remotely located away from any wood stove. (10-1-08)T

03. Sewage Disposal. All sewage and liquid wastes must be discharged into a municipal sewerage system where such a system is available. Where a municipal sewerage system is not available, sewage and liquid wastes must be collected, treated, and disposed of in a manner approved by the Department. (10-1-08)T

278. -- 279. (RESERVED).

280. ACCESSIBILITY FOR PERSONS WITH MOBILITY AND SENSORY IMPAIRMENTS.

For clients with mobility or sensory impairments, the facility must provide a physical environment which meets the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and must provide as required the necessary accommodations: (10-1-08)T

01. Ramps. Ramps for clients who require assistance with ambulation must comply with the requirements of the ADAAG 4.8; (10-1-08)T

02. Bathrooms and Doors. Bathrooms and doors large enough to allow the easy passage of a wheelchair as provided for in the ADAAG 4.13; (10-1-08)T

03. Grab Bars. Grab bars in client toilet and bathrooms in compliance with ADAAG 4.26; (10-1-08)T

04. Toilet Facilities. Toilet facilities in compliance with ADAAG 4.19; and (10-1-08)T

05. Hand Railing. Suitable hand railing must be provided on both sides of all stairs leading into and out of a building for clients who require the use of crutches, walkers, or braces. (10-1-08)T

281. -- 999. (RESERVED).

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.04 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW - BENEFITS

DOCKET NO. 17-0204-0801

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(s) 72-508, 72-720, 72-721, 72-722, 72-723, and 72-1104, 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, Volume 08-7, pages 49 and 50.

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 Beeson, Commission Secretary, 208-334-6017.

DATED this 12th Day of November, 2008.

Mindy Montgomery, Director
700 S. Clearwater Lane
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6059
Fax: 208-334-2321

DOCKET NO. 17-0204-0801 - 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 49 and 50.

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 17 - INDUSTRIAL COMMISSION

17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-0801

NOTICE OF RULEMAKING - VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 72-508, 72-720, 72-721, 72-722, and 72-723, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for vacating the proposed rulemaking: To merge this proposed rule, containing changes to the provider definition and the annual cost-of-living adjustment to the medical fee schedule, with a new proposed rule in the same section addressing medical fees for hospitals and ambulatory surgery centers.

The complete text of the proposed rule was published in the July 2, 2008 Idaho Administrative Bulletin, Volume 08-7, pages 51 and 54.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Nancy Beeson, 334-6017.

DATED this 19th day of August 2008.

Mindy Montgomery
Director
Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, ID 83712-7708
Phone: 334-6000
Fax: 334-5145

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-0802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are 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, except in Section 031.04, Hospital and ASC Services, where the following dates apply:

Effective date of October 1, 2009, for Subparagraphs 031.04.a.ii.; 031.04.a.v.; 031.04.a.v.(1) and 031.04.a.v.(3).

Effective date of January 1, 2010, for Subparagraphs 031.04.a.iii; 031.04.a.iii(1), 031.04.a.iii(2), 031.04.a.iii(3), and 031.04.a.iii(4), and 031.04.a.v.(2) and 031.04.a.v.(4).

These dates are being phased in to accommodate providers and payors by allowing them more time to adapt to the changes.

AUTHORITY: In Compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-508, 72-720, 72-721, 72-722, and 72-723, Idaho Code, and Section 72-803 of the 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 have been amended in response to public comment and to make clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

1. Definitions have been alphabetized and expanded for further clarification.
2. Separation of sections for physician reimbursement and hospital, ambulatory surgery center reimbursements.
3. Correction of an error in the Medicine Group Three fee schedule.
4. Effective dates for hospital inpatient October 1, 2009 and outpatient sections January 1, 2010 phased in to allow providers more time to adapt to the changes.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the October 1, 2008, Idaho Administrative Bulletin, Volume 08-10, pages 108 through 115.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Patti Jarossy at (208)334-6084.

DATED this 13th day of November, 2008.

Mindy Montgomery, Director
Idaho Industrial Commission
700 S. Clearwater Lane
P.O. Box 83720
Boise, ID 83720-0041
Phone: 208-334-6000; Fax: 208-334-5145

DOCKET NO. 17-0208-0802 - 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 108 through 115.**

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. 17-0208-0802

Section 031 (entire section)

031. ACCEPTABLE CHARGES FOR MEDICAL SERVICES UNDER THE IDAHO WORKERS' COMPENSATION LAW.

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission (hereinafter "the Commission") hereby adopts the following rule for determining acceptable charges for medical services provided under the Idaho Workers' Compensation Law: (3-12-07)

01. Definitions. Words and terms used in this rule are defined in the subsections which follow. (6-1-92)

a. "Acceptable Charge", *means For physicians: ~~The lower of the~~ charge for medical services calculated in accordance with this rule or as billed by the provider, whichever is lower, or the charge agreed to pursuant to written contract; For hospitals and ambulatory surgery centers: The charge for medical services calculated in accordance with this rule or the charge agreed to pursuant to written contract. (3-12-07)()*

b. Ambulatory Payment Classification (APC). A payment system adopted by the Centers for Medicare and Medicaid Services (CMS) for outpatient services. ()

~~bc.~~ "Ambulatory Surgery Center (ASC)", *means ~~a~~ A* facility providing surgical services on an outpatient basis only. (4-2-08)()

d. Critical Access Hospital. A hospital which meets all of the current designation criteria of the Centers for Medicare and Medicaid Services (CMS) for a critical access hospital, including, but not limited to, the maximum number of beds and minimum distance from other hospitals. ()

~~ig.~~ "Customary", *means ~~a~~ A* charge which shall have an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. (3-12-07)()

~~ef.~~ "Hospital", *is ~~a~~ Any* acute care facility providing medical or hospital services and which bills using

a ~~Medicare~~ universal hospital billing form. (4-2-08)()

i. ~~Large hospital is any hospital with more than one hundred (100) acute care beds.~~ (4-2-08)

ii. ~~Small Hospital is any hospital with one hundred (100) acute care beds or less.~~ (4-2-08)

g. Implantable Hardware. Objects or devices that are made to support, replace or act as a missing anatomical structure or to support or manage proper biological functions or disease processes and where surgical or medical procedures are needed to insert or apply such devices and surgical or medical procedures are required to remove such devices. The term also includes equipment necessary for the proper operation of the implantable hardware, even if not implanted in the body. ()

h. Medicare Severity -- Diagnosis Related Group (MS-DRG). A system adopted by the Centers for Medicare and Medicaid Services (CMS) that groups hospital admissions based on diagnosis codes, surgical procedures and patient demographics. ()

ei. "Payor", ~~means~~ The legal entity responsible for paying medical benefits under Idaho's Workers' Compensation Law. (6-1-92)()

dj. "Provider", ~~means~~ Any person, firm, corporation, partnership, association, agency, institution or other legal entity providing any kind of medical service related to the treatment of an industrially injured patient which ~~are~~ is compensable under the Idaho's Workers' Compensation Law. (3-12-07)()

fk. "Medical Service", ~~means~~ Medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicines, apparatus, appliances, prostheses, and related services, facilities, ~~equipment~~ and supplies. Related services includes acting for, or on behalf of, or in the place of a provider, or one that has acquired or succeeded to the interests of a provider with respect to the collection of charges payable under this rule. (3-12-07)()

gl. "Reasonable", ~~means~~ A charge that does not exceed the Provider's "usual" charge and does not exceed the "customary" charge, as defined ~~below~~ in these rules. (3-12-07)()

m. Rehabilitation Hospital. A facility operated for the primary purpose of assisting with the rehabilitation of disabled persons through an integrated program of medical, psychological, social, and vocational evaluation and services under competent professional supervision. ()

hn. "Usual", ~~means~~ The most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. (3-12-07)()

i. "Customary" ~~means~~ a charge which shall have an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. (3-12-07)

02. Acceptable Charge Payment. Payors shall pay providers the acceptable charge for medical services. Balance billing of any charges for medical services is prohibited. (3-12-07)()

03. Physician Services. ()

a. Adoption of Standard for Physician Services. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the acceptable charge for medical services provided under the Idaho Workers' Compensation Law by providers other than hospitals and ASCs. The standard for determining the acceptable charge for hospitals and ASCs shall be: (4-2-08)()

i. ~~For large hospitals: Eighty-five percent (85%) of the appropriate inpatient charge.~~ (4-2-08)

ii. ~~For small hospitals: Ninety percent (90%) of the appropriate inpatient charge.~~ (4-2-08)

iii. ~~For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of the appropriate charge. (4-2-08)~~

iv. ~~Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%). (4-2-08)~~

v. ~~Paragraph 031.02.e., shall not apply to hospitals or ASCs. The Commission shall determine the appropriate charge for hospital and ASC services that are disputed based on all relevant evidence in accordance with the procedures set out in Subsection 032.10. (4-2-08)~~

b. Conversion Factors. The following conversion factors shall be applied to the fully-implemented facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:

MEDICAL FEE SCHEDULE					
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR		
Anesthesia	00000 - 09999	Anesthesia	\$58.10 <u>\$ 60.05</u>		
Surgery - Group One	22000 - 22999	Spine	\$140 <u>\$144.48</u>		
	23000 - 24999	Shoulder, Upper Arm, & Elbow			
	25000 - 27299	Forearm, Wrist, Hand, Pelvis & Hip			
	27300 - 27999	Leg, Knee, & Ankle			
	29800 - 29999	Endoscopy & Arthroscopy			
	61000 - 61999	Skull, Meninges & Brain			
	62000 - 62259	Repair, Neuroendoscopy & Shunts			
Surgery - Group Two	28000 - 28999	Foot & Toes	\$125		
	64550 - 64999	Nerves & Nervous System	<u>\$129.00</u>		
Surgery - Group Three	13000 - 19999	Integumentary System	\$110		
	20650 - 21999	Musculoskeletal System	<u>\$113.52</u>		
Surgery - Group Four	20000 - 20615	Musculoskeletal System	\$85 <u>\$87.72</u>		
	30000 - 39999	Respiratory & Cardiovascular			
	40000 - 49999	Digestive System			
	50000 - 59999	Urinary System			
	60000 - 60999	Endocrine System			
	62260 - 62999	Spine & Spinal Cord			
	64000 - 64549	Nerves & Nervous System			
	65000 - 69999	Eye & Ear			
	Surgery - Group Five	10000 - 12999		Integumentary System	\$67
		29000 - 29799		Casts & Strapping	<u>\$69.14</u>
Radiology	70000 - 79999	Radiology	\$85 <u>\$87.72</u>		

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR
Pathology & Laboratory	80000 - 89999	Pathology & Laboratory	To Be Determined
Medicine - Group One	90000 - 90799	Immunization, Injections, & Infusions	\$45
	94000 - 94999	Pulmonary / Pulse Oximetry	<u>\$46.44</u>
	97000 - 97799	Physical Medicine & Rehabilitation	
	97800 - 98999	Acupuncture, Osteopathy, & Chiropractic	
Medicine - Group Two	90800 - 92999	Psychiatry & Medicine	\$64.50
	96040 - 96999	Assessments & Special Procedures	<u>\$66.56</u>
	99000 - 99607	E / M & Miscellaneous Services	
Medicine - Group Three	93000 - 93999	Cardiography, Catheterization, & Vascular Studies	\$70
	95000 - 96020	Allergy / Neuromuscular Procedures	<u>\$72.24</u>

(4-2-08)(____)

c. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. (4-2-08)

d. Adjustment of Conversion Factors. The conversion factors set out in this rule shall be adjusted each fiscal year (FY), starting with FY 2009, as determined by the director of the Department of Health and Welfare using the methodology set forth in section 56-136, Idaho Code, pursuant to Section 72-803, Idaho Code. (4-2-08)

e. Services Without CPT Code, RVU or Conversion Factor. The acceptable charge for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 031.023.b., determine the acceptable charge for that service, based on all relevant evidence in accordance with the procedures set out in Subsection 032.10. (4-2-08)(____)

f. Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers that affect payment will be reimbursed as follows: (3-12-07)(____)

- i. Modifier 50: Additional fifty percent (50%) for bilateral procedure. (3-12-07)
- ii. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (3-12-07)
- iii. Modifier 80: Twenty-five percent (25%) of coded procedure. (3-12-07)
- iv. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (3-12-07)

04. Hospital and ASC Services. (____)

a. Adoption of Standard for Hospitals. The Commission hereby adopts the following standards for determining the acceptable charge for hospital services. ()

i. Critical Access and Rehabilitation Hospitals. The standard for determining the acceptable charge for inpatient and outpatient services provided by a critical access or rehabilitation hospital is ninety percent (90%) of the reasonable charge. The acceptable charge for implantable hardware shall be the actual cost plus fifty percent (50%). ()

ii. Hospital Inpatient Services. The standard for determining the acceptable charge for inpatient services provided by hospitals, other than critical access and rehabilitation hospitals, is calculated by multiplying the base rate by the current MS-DRG weight for that service. The base rate is eleven thousand two hundred dollars (\$11,200). Inpatient services that do not have an MS-DRG code or relative weight shall be paid at eighty-five percent (85%) of the reasonable charge. ()

iii. Hospital Outpatient and Ambulatory Surgical Center (ASC) Services. The standard for determining the acceptable charge for outpatient services provided by hospitals (other than critical access and rehabilitation hospitals) and for services provided by ambulatory surgical centers is calculated by multiplying the base rate by the current APC weight. The base rate for a hospital is one hundred forty-three dollars (\$143). The base rate for an ASC is ninety-three dollars (\$93). ()

(1) If there is no weight listed for APC status codes A, B, C, D, E, F, G, H, K, L, M, O, S, T, V, X, or Y, then reimbursement shall be seventy-five percent (75%) of the reasonable charge. ()

(2) Status code N items (other than implantable hardware) or items with no CPT or Healthcare Common Procedure Coding System (HCPCS) code shall receive no payment. ()

(3) Two (2) or more medical procedures with a status code T on the same claim shall be reimbursed with the highest weighted code paid at one hundred percent (100%) of the APC calculated amount and all other status code T items paid at fifty percent (50%). ()

(4) Status code Q items will not be discounted. ()

iv. Hospitals Outside of Idaho. Reimbursement for services provided by hospitals outside the state of Idaho may be based upon the agreement of the parties. If there is no agreement, services shall be paid in accordance with the workers' compensation fee schedule in effect in the state in which services are rendered. If there is no fee schedule in effect in such state, or if the fee schedule in that state does not allow reimbursement for the services rendered, reimbursement shall be paid in accordance with these rules. ()

v. Additional Hospital Payments. When the charge for a medical service provided by a hospital (other than a critical access or rehabilitation hospital) meets the following standards, additional payment shall be made for that service as indicated. ()

(1) Inpatient Threshold Exceeded. When the charge for a hospital inpatient MS-DRG coded service exceeds thirty thousand dollars (\$30,000) plus the payment calculated under the provisions of Subparagraph 031.04.a.ii. of this rule, the total payment for that service shall be the sum of the MS-DRG payment and the amount charged above that threshold multiplied by seventy-five percent (75%). ()

(2) Outpatient Threshold Exceeded. When the charge for a hospital or ASC outpatient APC coded service exceeds one thousand dollars (\$1,000) plus the payment calculated under the provisions of Subparagraph 031.04.a.iii. of this rule, the total payment for that service shall be the sum of the APC payment and the amount charged for that service above that threshold multiplied by seventy-five percent (75%). ()

(3) Inpatient Implantable Hardware. Hospitals may seek additional reimbursement beyond the MS-DRG payment for invoiced implantable hardware. Additional reimbursement shall be the invoice cost plus ten percent (10%). Handling and freight charges shall be included in invoice cost. When a hospital seeks additional reimbursement pursuant to this rule, that additional implantable charge shall be excluded from the calculation for an

additional inpatient payment under Subparagraph 031.04.a.v.(1) of this rule. ()

(4) Outpatient Implantable Hardware. Hospitals and ASCs may seek additional reimbursement beyond the APC payment for invoiced implantable hardware. Additional reimbursement shall be the invoice cost plus ten percent (10%). Handling and freight charges shall be included in invoice cost. When a hospital seeks additional reimbursement pursuant to this rule, that additional implantable charge shall be excluded from the calculation for an additional outpatient payment under Subparagraph 031.04.a.v.(2) of this rule. ()

b. The Commission shall determine the acceptable charge for hospital and ASC services that are disputed based on all relevant evidence in accordance with the procedures set out in Subsection 032.10. ()

c. Adjustment of Hospital and ASC Base Rates. The Commission shall adjust the base rates set out in Subparagraphs 031.04.a.ii. and 031.04.a.iii. of this rule each fiscal year (FY), starting with FY 2012 to reflect changes in inflation or market conditions. ()

IDAPA 20 - DEPARTMENT OF LANDS

**20.01.01 - RULES OF PRACTICE AND PROCEDURE BEFORE THE
STATE BOARD OF LAND COMMISSIONERS**

DOCKET NO. 20-0101-0901

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 11, 2008.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 59-104(6), Idaho Code.

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

The rule change is necessary to provide accurate information to the public. This information will enable the public to access meetings of the State Board of Land Commissioners as well as conduct business with the Idaho Department of Lands. The rule change corrects outdated physical location information and provides current telephone, facsimile, mailing, and website information. The current office information will be reflected in other chapters of the rules of the Department of Lands.

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

The temporary adoption of this rule is necessary in order to provide the public with accurate information concerning the location and contact information for the Department of Lands and for the State Board of Land Commissioners. This confers a benefit to the public and protects the public welfare by assuring that the formation of public policy and the transaction of public business take place openly and not outside of the public view. Because the information currently provided is not accurate, and the business of the Department and the Board are on-going, it is necessary to make this correction in order to comply with the requirements of the state Administrative Procedure Act and the rules of the Office of the Administrative Rules Coordinator.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact George Bacon, Director, (208) 334-0242.

DATED this 3rd day of November, 2008.

George Bacon
Director
Department of Lands
300 North 6th Street, Suite 103
P.O. Box 83720
Boise, ID 83720-0500
Phone: (208) 334-0242
Fax: (208) 334-3698

THE FOLLOWING IS THE TEXT OF TEMPORARY RULE DOCKET 20-0101-0901

007. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 7).

01. Department and Board Office. The ~~central~~ office of the Board and the Department of Lands is the Director's Office of the Department of Lands, ~~4215 W. State~~ 300 North 6th Street, Suite 103, P.O. Box 83720, Boise, Idaho 83720-70050, ~~switchboard~~ telephone number (208) 334-0200, and fax number (208) 334-2339. The Board's website is <http://www.idl.idaho.gov/>. Office hours are from 8 a.m. to 5 p.m., Monday through Friday. Subsection 007.02 lists another ~~The~~ Department of Lands ~~has several other statewide offices~~ facility from which information on various Board matters may be obtained, or where comments on rulemaking may be filed in some instances; ~~these offices are located as follows:~~ ~~(7-1-93)(11-1-08)T~~

02. Coeur d'Alene Headquarters. ~~P.O. Box 670, 701 River~~ 3780 Industrial Avenue South, Coeur d'Alene, Idaho ~~83616-0670~~ 83815, telephone number (208) ~~664-2171~~ 769-1525, fax number (208) ~~664-3840~~ 769-1524. ~~(7-1-93)(11-1-08)T~~

02. Coeur d'Alene Headquarters, Navigable Waters, 1910 NW Boulevard, Suite 201, Coeur d'Alene, Idaho 83814-2615, Telephone number (208) 765-5235, Fax number (208) 765-5308. ~~(7-1-93)~~

03. Priest Lake Area Office, Cavanaugh Bay #132, Coolin, Idaho 83821, Telephone number 443-2516. ~~(7-1-93)~~

04. Pend Oreille Lake Area Office, P.O. Box 909, Hwy 200 at Westwood, Sandpoint, Idaho 83864, Telephone number (208) 263-5104, Fax number (208) 263-0724. ~~(7-1-93)~~

05. St. Joe Area Office, 1806 Main Avenue, St. Maries, Idaho 83861, Telephone number (208) 245-4551, Fax number (208) 245-4867. ~~(7-1-93)~~

06. Clearwater Area Office, 10230 Highway 12, Orofino, Idaho 83544, Telephone number (208) 476-4587, Fax number (208) 476-7175. ~~(7-1-93)~~

07. Payette Lakes Area Office, P.O. Box AS, McCall, Idaho 83638, Telephone number (208) 634-7125, Fax number (208) 634-4320. ~~(7-1-93)~~

08. Southwest Idaho Area Office, 8355 W. State Street, Boise, Idaho 83703, Telephone number (208) 334-3488, Fax number (208) 853-6372. ~~(7-1-93)~~

09. South Central Idaho Area Office, P.O. Box 149, 329 Washington Street, Gooding, Idaho 83330, Telephone number (208) 934-5606. ~~(7-1-93)~~

10. Eastern Idaho Area Office, 3563 Ririe Highway, Idaho Falls, Idaho 83401, Telephone number (208) 523-5398, Fax number (208) 528-2834. ~~(7-1-93)~~

IDAPA 20 - DEPARTMENT OF LANDS

20.02.01 - RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT

DOCKET NO. 20-0201-0801

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 Sections 58-104(6), 58-105 and 38-1304, 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 with changes in part as suggested by parties that commented on the rules, and as determined by the Idaho Forest Practices Advisory Committee. These changes include use of the term "stream" at all places in the rule instead of "natural watercourse" because "stream" is defined elsewhere in the Forest Practices Act Rules as a "natural watercourse." Added to the pending Rule is a portion of Section 42-201(5), Idaho Code, concerning notice to irrigation delivery entities. The latter addition is included so that forest operators have more direct notice of the requirements of Section 42-201(5), Idaho Code. The text was also reformatted for additional clarity.

The complete text of the proposed rule was published in the September 3, 2008 Idaho Administrative Bulletin, Vol. 08-9, pages 125 through 128.

FISCAL IMPACT: There will be no fiscal impact due to the adoption of this Rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact the undersigned.

DATED this 18th day of November, 2008.

Craig Foss
Chief, Bureau of Forestry Assistance
Idaho Department of Lands
3780 Industrial Avenue S
Coeur d'Alene, ID 83815
Phone 208-666-8632

DOCKET NO. 20-0201-0801 - 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 08-9, September 3, 2008, 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.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 20-0201-0801

Subsection 020.01

020. GENERAL RULES.

01. Compliance. Practices contained within a rule shall be complied with to accomplish the purpose to which the rule is related. (8-13-85)

a. If conditions of sites or activities require the application of practices which differ from those prescribed by the rules, the operator shall obtain a variance according to the following procedure: (8-13-85)

i. The operator shall submit a request for variance to the department in writing. The request shall include a description of the site and particular conditions which necessitate a variance, and a description of proposed practices which, if applied, will result in a violation of the rules. (8-13-85)

ii. Within fourteen (14) calendar days the department shall evaluate the request and notify the operator in writing of the determination to allow or disallow the variance request. (7-1-96)

iii. All practices authorized under this procedure shall provide for equivalent or better results over the long term than the rules which are superseded to insure site productivity, water quality and fish and wildlife habitat. A variance can be applied only at approved sites. (8-13-85)

b. Practices shall also be in compliance with the Stream Channel Alteration Act (Title 42, Chapter 38, Idaho Code), Idaho Water Quality Standards and Waste Water Treatment Requirements (Title 39, Chapter 1, Idaho Code), the Idaho Pesticide Law (Title 22, Chapter 34, Idaho Code), and the Hazardous Waste Management Act of 1983 (Title 39, Chapter 44, Idaho Code), and rules and regulations pursuant thereto. (8-13-85)

c. Water may be diverted from a stream and used at any time to carry out Idaho forest practices and for forest road dust abatement, provided that: 1) The total daily volume diverted is no greater than two-tenths (0.2) acre-feet (65,170 gallons) from a single stream; and 2) The rate of diversion shall never exceed twenty-five (25) percent of the rate of flow then available in the stream at the point of diversion for these purposes. ()

i. No person shall, under this Section 020, divert water from an irrigation canal, irrigation reservoir, or other irrigation facility while water is lawfully diverted, stored, captured, conveyed, used or otherwise physically controlled by an irrigator, irrigation district or canal company. ()

ii. If water is to be diverted from a stream within a water district, or from a stream from which an irrigation delivery entity diverts water, a person diverting water shall give notice to the watermaster of the intent to divert water for the purposes as authorized herein. ()

iii. Water diversion intakes used for diversions under Subsection 020.01 shall be screened with a maximum screen mesh size as follows: 1) fish-bearing Class I streams: 3/32 inch, and 2) all other streams: 1/4 inch. ()

IDAPA 20 - DEPARTMENT OF LANDS
20.02.09 - METHOD OF SELLING POLE-QUALITY WESTERN RED CEDAR
DOCKET NO. 20-0209-0801 (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 Section(s) 58-104(6) and 58-105, Idaho Code.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to repeal the Idaho Department of Lands' IDAPA 20.02.09, "Method of Selling Pole-Quality Western Red Cedar." Portions of the repealed rule have been consolidated with a new rule, IDAPA 20.02.14, "Rules for Selling Forest Products on State-Owned Endowment Lands," that is concurrently adopted as a pending rule.

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, page 129. No public comments were received during the public comment period which ended September 24, 2008.

FISCAL IMPACT: There will be no financial impact due to the repeal of this Rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact the undersigned.

DATED this 18th day of November, 2008.

Robert Helmer
Forest Management Bureau Chief
Idaho Department of Lands
3780 Industrial Avenue S
Coeur d'Alene, ID 83815
Phone (208) 769-1525

DOCKET NO. 20-0209-0801 - 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, page 129.](#)

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 20 - DEPARTMENT OF LANDS

20.02.10 - RULES FOR SELLING OF FOREST PRODUCTS ON STATE-OWNED ENDOWMENT LANDS

DOCKET NO. 20-0210-0801 (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 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 58-104(6) and 58-105, Idaho Code.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to repeal the Idaho Department of Lands' IDAPA 20.02.10, "Rules for Selling of Forest Products on State-Owned Endowment Lands." Portions of the repealed rule have been consolidated with a new rule, IDAPA 20.02.14, "Rules for Selling Forest Products on State-Owned Endowment Lands," that is concurrently adopted as a pending rule.

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, page 130. No public comments were received during the public comment period which ended September 24, 2008.

FISCAL IMPACT: There will be no fiscal impact due to the repeal of this rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact the undersigned.

DATED this 18th day of November, 2008.

Robert Helmer
Forest Management Bureau Chief
Idaho Department of Lands
3780 Industrial Avenue S
Coeur d'Alene, ID 83815
Phone (208) 769-1525

DOCKET NO. 20-0210-0801 - 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, page 130.

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 20 - DEPARTMENT OF LANDS

20.02.14 - RULES FOR SELLING FOREST PRODUCTS ON STATE-OWNED ENDOWMENT LANDS

DOCKET NO. 20-0214-0801 (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 58-104(6) and 58-105, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rule is being adopted with some changes as suggested by parties that commented on the proposed rules. These changes are to Rules 010, 019, 023 and 024 for the purpose of clarification with more descriptive wording, and to eliminate some subheadings. The complete text of the proposed rule was published in the September 3, 2008, Idaho Administrative Bulletin, Vol. 08-9, pages 131 through 137.

FISCAL IMPACT: There will be no fiscal impact due to the adoption of this Rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact the undersigned.

DATED this 18th day of November, 2008.

Robert Helmer
Forest Management Bureau Chief
Idaho Department of Lands
3780 Industrial Avenue S
Coeur d'Alene, ID 83815
Phone 208-769-1525

DOCKET NO. 20-0214-0801 - 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 08-9, September 3, 2008, pages 131 through 137.](#)

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. 20-0214-0801

Section 010 (entire section)

010. DEFINITIONS.

- 01. Board.** The Idaho State Board of Land Commissioners. ()
- 02. Cable Yarding.** Transportation of forest products from stump to road by means of a suspended, powered cable system. ()
- 03. Cedar.** Western Red Cedar (*Thuja plicata*). ()
- 04. Cedar Pole.** A segment or portion of a western red cedar tree that can be manufactured into a utility pole meeting current ANSI Specifications. ()
- 05. Contract.** Timber sale contract in a form prescribed by the Department. ()
- 06. Department.** The Idaho Department of Lands. ()
- 07. Development Credits.** A stumpage credit received by the purchaser for the construction or reconstruction of roads, bridges, or other permanent improvements. ()
- 08. Director.** The director of the Idaho Department of Lands or his authorized representative. ()
- 09. Extreme Circumstances.** Catastrophic circumstances including, but not limited to, fire, downed timber due to a wind event, flood, earthquake, destruction of a purchaser's milling facilities or equipment by fire, or milling operation shut down due to a court order related to compliance with state or federal environmental laws. ()
- 10. Forest Products.** *Marketable* forest materials. ()
- 11. Ground-Based Yarding.** Transportation of forest products from stump to road using tractors, forwarders, or rubber-tired skidders. ()
- 12. Length.** The length of a pole in five (5) foot increments. ()
- 13. Measurement.** Weight, length, board foot volume, cubic volume, or any other means or procedure for determining quantity of forest products. ()
- 14. Net Appraised Value.** The minimum estimated sale value of the forest products after deducting the development credit. ()
- 15. Net Sale Value.** The final sale bid value of the forest products after deducting the development credit. ()
- 16. Pulp.** Any portion of a *tree* that does not meet the sawlog merchantability specifications of thirty-three and one-third percent (33 1/3%) net scale. ()
- 17. Purchaser.** A successful bidder for forest products from a state sale who has executed a timber sale contract. ()
- 18. Roads.** Forest access roads used for the transportation of forest products. ()

19. **Scaling.** Quantitative measurement of logs or other forest products by a log rule. ()
20. **Scribner Decimal "C" Board Foot Measure.** The measurement of forest products in accordance with the log rule described in Title 38, Chapter 12, Idaho Code, and the rules promulgated thereunder. ()
21. **State.** The State of Idaho. ()

Section 019 (entire section)

019. FIREWOOD AND OTHER PERSONAL USE PRODUCT PERMITS.

Permits for the sale of dead and down forest products will be on a charge basis at a rate determined by the Board. Permits will not exceed a maximum value established by the Director. ()

Section 023 (entire section)

023. CEDAR POLE SALE SELECTION.

01. Requirements for Cedar Pole Sale. *Pole quality cedar* shall be reserved for a cedar *pole* sale if the *proposed sale* area contains at least one hundred fifty (150) cedar poles in a density of at least five (5) poles per acre on ground based yarding areas and at least ten (10) poles per acre on cable yarding areas. Areas with a lower density of poles may be offered as a pole sale if the Department determines that such sale is economically feasible. ()

02. Maximum Amount of Sawlogs. Sawlogs and other forest products shall not exceed fifty percent (50%) of the total sale volume, excluding materials generated through the construction of roads and development sites. ()

03. Poles within Sawlog Sale. If any area within a *proposed timber* sale contains two hundred fifty (250) cedar poles or more in a density of at least ten (10) poles per acre, the *poles* shall be reserved for a pole-quality cedar sale. ()

Subsection 024.04, 024.05, and 024.06 have been combined with Subsection 024.04

024. CEDAR POLE SALE PROCEDURES.

04. Purchaser's Option. The purchaser may opt to remove cedar as poles, sawlogs, and products or as sawlogs and products. Such choice shall be made at the completion of the auction. If the purchaser opts to manufacture the cedar as poles, the poles and sawlog material shall be removed at bid prices (lineal foot basis for poles and MBF basis for sawlogs). Pole-quality cedar trees containing thirty (30) foot cedar poles may be harvested as poles or sawlogs at the purchaser's discretion unless such trees are designated reserve. If the purchaser elects to manufacture cedar poles as sawlogs, the bid values of cedar poles and cedar sawlog material shall be weighted by volume to determine the selling value for all cedar sawlogs. ()

**IDAPA 20 - DEPARTMENT OF LANDS
IDAHO BOARD OF SCALING PRACTICES**

**20.06.02 - GENERAL RULES, LICENSING AND CHECK SCALES
OF THE IDAHO BOARD OF SCALING PRACTICES**

DOCKET NO. 20-0602-0801

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(s) 38-1208 and 38-1220(a), 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 138 through 144.

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 Ernie Bauer, phone 208-769-1445.

DATED this 7th day of November, 2008.

Ernest H. Bauer
Executive Director
Department of Lands/Idaho Board of Scaling Practices
3780 Industrial Avenue South
Coeur d'Alene, ID 83815

Phone: 208-769-1445, Fax: 208-769-1524
E-mail: ebauer@ibsp.idaho.gov
Web: www.ibsp.idaho.gov

DOCKET NO. 20-0602-0801 - 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 138 through 144.](#)

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 20 - DEPARTMENT OF LANDS
IDAHO BOARD OF SCALING PRACTICES**

**20.06.03 - MEASUREMENT RULES FOR FOREST PRODUCTS
OF THE IDAHO BOARD OF SCALING PRACTICES**

DOCKET NO. 20-0603-0801 (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 Section(s) 38-1208 and 38-1220(a), 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, page 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 Ernie Bauer, phone 208-769-1445.

DATED this 7th day of November, 2008.

Ernest H. Bauer
Executive Director
Department of Lands/Idaho Board of Scaling Practices
3780 Industrial Avenue South
Coeur d'Alene, ID 83815

Phone: 208-769-1445, Fax: 208-769-1524
E-mail: ebauer@ibsp.idaho.gov
Web: www.ibsp.idaho.gov

DOCKET NO. 20-0603-0801 - 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, page 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

21.01.04 - RULES GOVERNING THE IDAHO STATE VETERANS CEMETERY

DOCKET NO. 21-0104-0901

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 14, 2008.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 65-202 and 65-204, Idaho Code.

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

38 C.F.R. Section 39.5(d) mandates that states receiving a grant for a veterans cemetery must deny interment to individuals convicted of certain capital crimes or who have avoided conviction due to flight. The rule change is necessary to impose the requirements of 38 C.F.R. Section 39.5(d) on applicants for interment in the veterans cemetery.

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

The rule change is necessary to comply with deadlines in amendments to governing laws and federal programs.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Jim Adams, Administrative Support Manager, (208) 246-8770.

DATED this 12th day of November, 2008.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0104-0901

004. INCORPORATION BY REFERENCE.

- 01. Incorporated Documents.** IDAPA 21.01.04 incorporates by reference the following: (5-3-03)
- a. The full text of 38 CFR ~~4~~-620, dated July 1, 2001. ~~(5-3-03)~~(11-14-08)T
 - b. 38 U.S.C.A. Section 2402, (2004 and Supp. 2004). (3-30-06)

c. 38 CFR 39.5(d), dated July 1, 2008. (11-14-08)T

02. Document Availability. Copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402-0001. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

- 01. Administrator.** The Administrator of the Idaho Division of Veterans Services or his designee. (5-3-03)
- 02. Applicant.** The individual requesting interment, disinterment or reinterment of a qualified person. (5-3-03)
- 03. Armed Forces Member.** A member or former member of the armed forces of the United States, the reserve component of the armed forces of the United States, the reserve officers training corps of the United States, or the armed forces of an ally of the United States who is eligible for burial in national cemeteries pursuant to 38 CFR 1.620 and 38 U.S.C. Section 2402. (5-3-03)
- 04. Cemetery.** The Idaho State Veterans Cemetery authorized pursuant to Section 65-108, Idaho Code. (5-3-03)
- 05. Committal Service.** A gathering of one (1) or more individuals prior to interment or reinterment. (5-3-03)
- 06. Cremains.** Cremated human remains. (5-3-03)
- 07. Designated Interpretive Trail.** A public recreational trail designated by a sign or marker. (3-30-07)
- 08. Disinterment.** The removal of human remains from their place of interment. (5-3-03)
- 09. Division.** The Idaho Division of Veterans Services. (5-3-03)
- 10. Interment.** The disposition of human remains by burial or the placement of cremains in a grave plot or in any location designated by the Administrator for use as a permanent location of cremains. (5-3-03)
- 11. Qualified Person.** A person who satisfies the requirements for eligibility for interment in national cemeteries found at 38 CFR ~~1.620~~ and 38 U.S.C. Section 2402 and is not prohibited from being interred by 38 CFR 39.5(d). (~~5-3-03~~)(11-14-08)T
- 12. Reinterment.** The interment of previously interred human remains. (5-3-03)
- 13. Unremarried Spouse.** An individual who is the surviving spouse of a deceased armed forces member and who has not remarried. (5-3-03)
- 14. USDVA.** The United States Department of Veterans Affairs. (5-3-03)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.05.01 - RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS

DOCKET NO. 24-0501-0801

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(s) 54-2406, 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 Board is adding a section to allow for termination of applications that have lacked activity for one year. This will help reduce the number of files that need to be maintained. Changes are being made to the requirements section to clarify the examination for backflow assembly testers. The Board is establishing the very small water system exam requirement as an option for operator in training. Changes to the education and experience subsection for very small water system operators will establish the hours of experience and courses required. These changes clarify requirements and streamline the process. Due to comment at a public hearing held November 10th the Board determined that a change would be necessary to allow chlorination courses to be considered to qualify for very small water system operator.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 3, 2008 Idaho Administrative Bulletin, Vol. 08-9, pages 168 through 172.

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 Cherie Simpson at (208) 334-3233.

DATED this 13th day of November, 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. 24-0501-0801 - 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 08-9, September 3, 2008, pages 168 through 172.**

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. 24-0501-0801

Subsection 300.02.b.

300. REQUIREMENTS FOR LICENSE (RULE 300).

Applicants shall submit an application together with the required fees and such documentation as is required. (3-24-05)

02. Education and Experience Requirements. Only actual verified on-site operating experience at a treatment, distribution or collection system will be acceptable. (3-24-05)

300.02.b.

b. To qualify for a Very Small Water System license an operator must have a high school diploma or GED and ~~six (6) months~~ one hundred (100) hours of acceptable operator-in-training experience at a water ~~distribution~~ system and complete an approved six (6) hour water treatment *or chlorination* course and an approved six (6) hour water distribution course. (~~3-24-05~~)()

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-0802

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. A 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 a pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) (36-2107(b) and (d), 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.

These changes require that outfitters continue to verify that the guides in their employ are properly trained. However, they remove the requirement that outfitters submit all training documents to the Board for review and storage. The Board has not had the means to verify individual guide training and has always been dependent on the outfitter for this verification. As such, it is the outfitter who has been liable for verifying that guides are properly trained, not the state. This change removes any doubt that the outfitter is liable for providing this verification. Training verification and situations requiring Board investigation and enforcement can now be dealt with on a case-by-case basis. These changes will provide greater efficiency in the licensing process and will expedite the issuance of guide licenses. It will also allow the Board to more effectively deal with pressing issues.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the November 5, 2008, Idaho Administrative Bulletin, Vol. 08-11, pages 67 through 73.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact: Jake Howard, Executive Director (208) 327-7380 - FAX (208) 327-7382.

DATED this 8th day of December, 2006.

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

DOCKET NO. 25-0101-0802 - PENDING RULE

There are no substantive changes from the proposed rule text.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 06-11, November 5, 2008, pages 67 through 73.

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

IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-0801

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 rule. The action is authorized pursuant to Section 67-4249, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 205 through 208.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased, in compliance with Section 67-4210, Idaho Code: The intent of this fee proposal is to increase the current authorized fee ceiling for park campsites in IDAPA 26.01.20.250.01. By taking this action, the agency will have future flexibility to establish adjusted "shoulder" and "prime" season rates at an amount less than the IDAPA-approved ceiling.

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 Dean Sangrey, 208-514-2260.

DATED this 10th day of November, 2008.

Dean Sangrey
Division Administrator, Operations
Idaho Department of Parks and Recreation
5657 Warm Springs Ave., Boise, ID 83716
PO Box 73720, Boise, ID 83720-0065
Phone: 208-334-4199 Fax: 208-334-3741

DOCKET NO. 26-0120-0801 - 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 205 through 208.](#)

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 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-0802

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 Section 67-4249, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 209 through 212.

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 Dean Sangrey, 208-514-2260.

DATED this 10th day of November, 2008.

Dean Sangrey
Division Administrator, Operations
Idaho Department of Parks and Recreation
5657 Warm Springs Ave., Boise, ID 83716
PO Box 73720, Boise, ID 83720-0065
Phone: 208-334-4199 Fax: 208-334-3741

DOCKET NO. 26-0120-0802 - 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 209 through 212.](#)

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. 27-0101-0803

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 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 the September 3, 2008 Idaho Administrative Bulletin, Vol. 08-9, pages 193 through 196.

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 4th day of November, 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. 27-0101-0803 - 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 08-9, September 3, 2008, pages 193 through 196.](#)

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. 27-0101-0805

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 the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 213 through 221.

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 4th day of November, 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. 27-0101-0805 - 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 213 through 221.

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. 27-0101-0811

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.

After considering public comment regarding its proposed rule, the Board has taken the following actions to change the text of the rule:

As proposed, the rule provided in Paragraphs 251.01.b and 251.07.c for a pharmacy technician in training registration which would expire after one (1) year and which could not be renewed. Concerns that the proposed rule did not provide sufficient time for pharmacy technicians in training to complete a study and work experience process prior to being required to register with the Board as a certified pharmacy technician were felt by the Board to be well-taken. Consequently, Paragraphs 251.01.b and 251.07.c of the proposed rule have been changed to allow for a one (1)-year renewal of a pharmacy technician in training registration following the initial one (1)-year registration period. The renewal period is intended to be consecutive to the initial registration.

The proposed rule in Paragraph 251.07.f provided a grandfathering provision for persons registered with the Board as pharmacy technicians as of June 30, 2009. Those persons would not be required to become certified pharmacy technicians subsequent to June 30, 2009 as a condition for maintaining and renewing registration as a pharmacy technician so long as they continued to work for the pharmacy by which they were employed as of June 30, 2009. However, once that employment terminated, the proposed rule required that those persons become certified pharmacy technicians in order to be registered by the Board as a pharmacy technician. Comments were received to the effect that the proposed rule's transition period before certification would be required following the end of the grandfathered period was too abrupt, and that there should be a period in between during which a person could register as a pharmacy technician in training in order to capitalize on their prior pharmacy technician experience by being able to obtain pharmacy-related employment with other employers while undertaking study to become a certified pharmacy technician in training. Other comments were that the proposed rule should qualify the term "pharmacy" by addition of the word "employer" to make clear that a grandfathered pharmacy technician would not lose that status if the only change in their employment was a transfer of employment to another pharmacy owned by same employer by whom they were employed as of June 30, 2009. These comments were felt by the Board to have merit. Paragraph 251.07.f of the proposed rule has been changed by inclusion of the phrase "pharmacy employer." The paragraph has also been changed by including a provision which permits a person to register as a pharmacy technician in training once their grandfathered registration as a pharmacy technician has automatically terminated due to the termination of the person's employment with the pharmacy employer by whom the person was employed as a pharmacy technician as of June 30, 2009.

As a logical outgrowth of the above changes to Paragraphs 251.01.b, 251.07.c, and 251.07.f, Subparagraph 251.07.b.iii. has been deleted since that subparagraph is now superfluous.

Paragraph 251.01.a of the proposed rule provides that persons working in the secured area of the pharmacy where medications are prepared, compounded, distributed, dispensed, or stored must be a licensed pharmacist, registered student pharmacist, registered pharmacy technician, or registered pharmacy technician in training. Comments point out, and the Board recognizes, that there are instances in which there are legitimate

business purposes for persons not in the foregoing classes of person to be temporarily present in the secured area of the pharmacy. Paragraph 251.01.a has been changed to permit the pharmacy or the pharmacist-in-charge to authorize the temporary presence in the secured area of the pharmacy of an unlicensed or unregistered person for legitimate business purposes so long as that person is under the observation of the pharmacist-in-charge or another designated pharmacist during the person's temporary presence in the secured area of the pharmacy.

The opening phrase of Subsection 251.04 of the proposed rule has been changed from "The ratio of pharmacists to student pharmacists, pharmacy technicians and pharmacy technicians in training in total shall not exceed . . ." to "The ratio of pharmacists to the total of student pharmacists, pharmacy technicians, and pharmacy technicians in training shall not exceed . . ." The change has been made to make it clearer that student pharmacists, pharmacy technicians and pharmacy technicians in training count collectively in determining the permissible ratio.

The proposed rule provides in Subsection 251.04 that although the maximum permissible ratio in a pharmacy practice setting is one (1) pharmacist for the combined total of six (6) student pharmacists, pharmacy technicians, and pharmacy technicians in training, the ratio actually utilized in a given practice setting, whether 6 to 1 or some lesser ratio, must not result in, or reasonably be expected to result in, an unreasonable risk of harm to public health, safety, and welfare; and it imposes a duty on the pharmacy and the pharmacist-in-charge to ensure that the foregoing standard is not breached. The proposed rule also prohibits a pharmacy from requiring a pharmacist-in-charge to operate the pharmacy, or allow operation of the pharmacy, with a ratio which, under the circumstance of the particular practice setting, results in, or reasonably would be expected to result in, an unreasonable risk of harm to public health, safety, and welfare. Comments were received which advocated broadening the latter so that it also prohibited the pharmacy from requiring other pharmacists besides the pharmacist-in-charge to operate the pharmacy, or allow the operation of the pharmacy, with an impermissible ratio. The Board has chosen to change the proposed rule to provide that a pharmacy shall not require a pharmacist-in-charge or any other pharmacist to operate the pharmacy or allow operation of the pharmacy with a ratio which, under the circumstances of the particular practice setting, results in, or reasonably would be expected to result in, an unreasonable risk of harm to public health, safety, and welfare since the public health, safety, and welfare may be equally at risk regardless of whether it is a pharmacist-in-charge or another pharmacist who is being required to operate the pharmacy, or allow operation of the pharmacy, with an impermissible ratio.

The Board has chosen not to adopt the proposal suggested in a comment that the Board change Subsection 251.04 of the proposed rule to provide that a pharmacist has a right to refuse to work with a ratio which the pharmacist believes in good faith would be unsafe and that a pharmacy employer may not take adverse employment action against a pharmacist who so refuses. That proposal would have the Board attempt to intervene by rule into the employment relationship between a pharmacy employer and a pharmacist. The Board's proposed rule is linked to the promotion, preservation, and protection of the health, safety and welfare of the public. Consistent with that focus, consistent with the statement of purpose the Idaho Pharmacy Act as set out in Section 54-1703, Idaho Code, and as a logical outgrowth of the proposed rule, the Board has changed Subsection 251.04 of the proposed rule to strengthen the subsection's commitment to the public health, safety, and welfare by clearly providing that violation of Subsection 251.04 by a pharmacist-in-charge shall be grounds for suspension, revocation, or restriction of the license of the pharmacist-in-charge, and to also provide that violation of Subsection 251.04 by a pharmacy shall be grounds for suspension or revocation of the pharmacy's registration.

The Board has changed Subparagraph 251.07.b.ii.(5) of the proposed rule to add the letter "s" to the end of the word "maintain," which letter had been inadvertently omitted from the text of the proposed rule.

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 244 through 249.

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 5th day of November 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. 27-0101-0811 - 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 244 through 249.](#)

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. 27-0101-0811

Subsections 251.01.b., 251.02.a., 251.04, 251.07.b.ii.(5), 251.07.b.iii., and 251.07.f.

251. PHARMACY TECHNICIANS.

01. Definitions

251.01.b.

b. Pharmacy Technician in Training. Means an individual who registers with the Board subsequent to June 30, 2009, as a pharmacy technician in training and who may, under the supervision of a licensed pharmacist, assist in the pharmacy and perform any of the duties of a registered pharmacy technician during the one (1)-year period of registration. Registration as a pharmacy technician in training may be renewed once for a consecutive one (1) year period. ()

02. Responsibility of Pharmacy and Pharmacist-in-Charge -- Assignment of Functions.

(4-5-00)()

251.02.a.

a. The pharmacy and the pharmacist-in-charge are each responsible for all aspects of the sale at retail and the dispensing of medications, drugs, devices, and other materials at the pharmacy, including the preparing, compounding, distribution or dispensing of medications. No pharmacy or pharmacist-in-charge ~~may allow shall~~ assignment to, or permit performance by, any ~~individual person~~, other than a registered pharmacy technician, a registered pharmacy technician in training, registered student pharmacist ~~extern/intern~~, or a licensed pharmacist, of any functions connected to the preparing, compounding, distribution or dispensing of medications at the pharmacy. Except as otherwise provided by this rule, no pharmacy or pharmacist-in-charge shall permit any person other than a licensed pharmacist, registered student pharmacist, registered pharmacy technician, or registered pharmacy technician in training to work in the secured area of the pharmacy where medications are prepared, compounded, distributed, dispensed, or stored. The pharmacy or pharmacist-in-charge may authorize other persons to be present temporarily in the secured area of the pharmacy for legitimate business purposes, provided that such persons during their temporary presence in the secured area of the pharmacy are under the observation of the pharmacist-in-charge or another pharmacist designated by the pharmacist-in-charge or the pharmacy. (5-3-03)()

251.04

04. ~~Pharmacy Technician Ratio.~~ The ratio of pharmacists to the total of student pharmacists, pharmacy technicians and pharmacy technicians in training shall ~~be not less than~~ exceed one (1) pharmacist for every ~~three six (36)~~ student pharmacists, pharmacy technicians and pharmacy technicians in training in total in any practice setting; provided, however, that no pharmacy or pharmacist-in-charge shall operate the pharmacy or allow operation of the pharmacy with a ratio, nor shall any pharmacy require a pharmacist-in-charge or any other pharmacist to operate the pharmacy or allow operation of the pharmacy with a ratio, which, under the circumstances of the particular practice setting, results in, or reasonably would be expected to result in, an unreasonable risk of harm to public health, safety, and welfare. Violation of Subsection 251.04 of these rules by a pharmacist-in-charge shall be grounds for suspension, revocation or restriction of the pharmacist-in-charge's license. Violation of Subsection 251.04 of these rules by a pharmacy shall be grounds for suspension or revocation of the pharmacy's registration. (4-6-05)()

251.07.b.ii.(5)

07. Registration of Pharmacy Technician and Pharmacy Technician in Training, Certification, and Exceptions. (4-5-00)()

b. Initial Registration of Pharmacy Technician. Before No person shall commence duties at a pharmacy as a pharmacy technician ~~(including previously registered pharmacy technicians who are changing pharmacies), an individual must register with the Board, pay the registration fee, and have received a certificate of registration from the Board, provided however, an individual who has not previously had his registration as a pharmacy technician revoked or suspended may commence performing duties as a pharmacy technician immediately upon the completion and mailing of the registration form and applicable fee to the Board. The initial registration period shall be from the date of initial registration to the next annual registration date. unless registered by the Board~~ as a pharmacy technician. To be registered as a pharmacy technician, a person must satisfy all of the following: (5-3-03)()

i. For registration prior to July 1, 2009, a person must: ()

(1) Be at least eighteen (18) years of age, unless a waiver is granted by the Board's executive director: ()

(2) Be a high school graduate or the recipient of a high school equivalency diploma, unless a waiver is granted by the Board's executive director: ()

(3) Be of good moral character and temperate habits; ()

(4) Have submitted a written application in the form prescribed by the Board; and ()

(5) Have paid the registration fee specified by the Board. ()

ii. For registration subsequent to June 30, 2009, unless excepted by these rules, a person must: ()

(1) Be at least eighteen (18) years of age, unless a waiver is granted by the Board's executive director; ()

(2) Be a high school graduate or the recipient of a high school equivalency diploma, unless a waiver is granted by the Board's executive director; ()

(3) Be of good moral character and temperate habits; ()

(4) Have submitted a written application in the form prescribed by the Board; ()

251.07.b.ii.(5)

(5) Have obtained and maintains certification as a pharmacy technician by the Pharmacy Technician Certification Board (PTCB), the Institute for Certification of Pharmacy Technicians (ICPT), or such other certifying organization as may be approved by the Board; and ()

(6) Have paid the registration fee specified by the Board. ()

251.07.b.iii. (this amendment has been deleted)

251.07.f.

f. Exception to Certification Requirement. No person who has registered with the Board as a pharmacy technician as of June 30, 2009 shall be required to obtain and maintain certification as a pharmacy technician in order to maintain or renew their registration as a pharmacy technician subsequent to June 30, 2009, so long as the person remains continuously employed as a pharmacy technician by the pharmacy employer in whose employment the person was employed as a pharmacy technician as of June 30, 2009. However, if the person, subsequent to June 30, 2009, ceases to be employed as a pharmacy technician by the pharmacy employer by whom the person was employed as of June 30, 2009, then the person's registration as a pharmacy technician shall automatically terminate as of the date of the person's termination of employment as a pharmacy technician by that pharmacy employer. Such person may then register with the Board as a pharmacy technician in training pursuant to Paragraph 251.07.c. of these rules. Subsequent to expiration of such person's pharmacy technician in training registration, the person must then satisfy all the requirements of Subparagraph 251.07.b.ii. of these rules in order to be registered by the Board as a pharmacy technician. ()

IDAPA 30 - IDAHO COMMISSION FOR LIBRARIES
30.01.01 - RULES OF THE IDAHO COMMISSION FOR LIBRARIES
GOVERNING THE USE OF COMMISSION SERVICES
DOCKET NO. 30-0101-0901
NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 24, 2008.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 33-2503, Idaho Code.

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

These temporary rule changes are necessary to clarify grant application procedures and avoid applicant confusion in applying for available funding by eliminating unnecessary references to state documents, and provide a website address. The temporary rule changes clarify the Commission's grant application process procedure, and provide a website address to the Library Services and Technology Act legislation.

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 reasons:

By directing LSTA grant program applicants to utilize forms obtained from the Commission, the rule confers a benefit by assuring that applicants are providing the required information in a timely and accurate manner.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Ann Joslin, State Librarian, (208) 334-2150.

DATED this 12th day of November, 2008.

Ann Joslin
State Librarian
Idaho Commission for Libraries
325 W. State St.
P. O. Box 83720
Boise, ID 83702
Phone: (208) 334-2150
Fax: (208) 334-4016

THE FOLLOWING IS THE TEXT OF DOCKET NO. 30-0101-0901

004. INCORPORATION BY REFERENCE.

~~01-~~ **Federal Law:** The Library Services and Technology Act, 20 U.S.C.A. Section 9121, et. seq., as set forth in Title II of the Museum and Library Services Act, Public Law 108-81, effective September 25, 2003. Copies of the Library Services and Technology Act are available at the offices of the Commission and at <http://imls.gov/>

[about/services2003.shtm](#).

(4-2-08)(10-24-08)T

~~02. **Application Process Guides.** Grants may be made with monies pursuant to procedures set forth in the respective LSTA Guide. Copies of the Guides are available on the Commission's website or at the offices of the Commission.~~ (4-2-08)

~~a. The FY2006 LSTA Guide, effective May 2005. (4-2-08)~~

~~b. The FY2007 LSTA Guide, effective September 2006. (4-2-08)~~

~~c. The FY2008 LSTA Guide, effective August 2007. (4-2-08)~~

(BREAK IN CONTINUITY OF SECTIONS)

023. ~~PROCESS FOR GAINING ACCESS TO THE SERVICE~~ LSTA GRANT PROGRAM.

~~01. **Application Process.** The application process for funds (under the LSTA grant programs described in Sections 020, 021, and 022 of these rules) from each annual allotment is described in the Commission's LSTA Guide, available in print at the Commission offices and on the Commission's website. (4-2-08)~~

~~02. **Application Forms.** All applicants seeking to participate in any LSTA grant program must apply on forms provided by the Commission. (4-2-08)(10-24-08)T~~

IDAPA 35 - STATE TAX COMMISSION

35.01.01 - IDAHO INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

Rule 200 is being vacated because public comments evidence a need for further consideration.

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 rules was published in the October 1, 2008, Idaho Administrative Bulletin, Volume 08-10, Book 2, pages 267 through 327.

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 Janice Boyd at (208) 334-7530.

DATED this 14th day of November, 2008.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

DOCKET NO. 35-0101-0801 - 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 267 through 327.

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. 35-0101-0801

Rule 200 (amendments deleted - no change to the codified rule)

Section 771 (entire section)

771. GROCERY CREDIT -- TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2007 (RULE 771).

Section 63-3024A, Idaho Code. ()

01. Residents. ()

a. A resident individual may claim a credit for each personal exemption for which a deduction is permitted and claimed on his Idaho income tax return provided the personal exemption represents an individual who is a resident of Idaho. Such credit shall be allowed as follows:

<u>TAX YEAR</u>	<u>IDAHO TAXABLE INCOME \$1,000 OR LESS</u>	<u>IDAHO TAXABLE INCOME MORE THAN \$1,000</u>
2008	\$50	\$30

()

b. A resident individual claiming the credit who is age sixty-five (65) or older may claim an additional twenty dollars (\$20). An additional twenty dollar (\$20) credit may be claimed for a spouse who is age sixty-five (65) or older. The additional twenty dollar (\$20) credit may not be claimed for other dependents who are age sixty-five (65) or older. ()

02. Part-Year Residents. A part-year resident is entitled to a prorated credit based on the number of months he was domiciled in Idaho during the taxable year. For purposes of this rule, a fraction of a month exceeding fifteen (15) days is treated as a full month. If the credit exceeds his tax liability, the part-year resident is not entitled to a refund. ()

03. Circumstances Causing Ineligibility. A resident or part-year resident individual is not eligible for the credit for the month or part of the month for which the individual: ()

a. Received assistance under the federal food stamp program; or ()

b. Was incarcerated. ()

04. Nonresidents. A nonresident is not entitled to the credit even though the individual may have been employed in Idaho for the entire year. ()

05. Illegal Residents. An individual residing illegally in the United States is not entitled to the credit. ()

06. Members of the Armed Forces. A member of the United States Armed Forces who is: ()

a. Domiciled in Idaho is entitled to this credit; ()

b. Residing in Idaho but who is a nonresident pursuant to the Servicemembers Civil Relief Act is not entitled to this credit. ()

07. Spouse or Dependents of Members of the Armed Forces. A spouse or dependent of a

nonresident member of the Armed Forces stationed in Idaho may be an Idaho resident or part-year resident. The domicile of a dependent child is presumed to be that of the nonmilitary spouse. ()

08. Claiming the Credit. ()

a. An individual who is required to file an Idaho individual income tax return shall claim the credit on his return. If the credit exceeds his tax liability, the resident shall receive a refund. ()

b. An individual who is not required to file an Idaho income tax return shall file a claim for refund of the credit on a form approved by the Tax Commission on or before April 15 following the year for which the credit relates. ()

c. No credit shall be refunded three (3) years after the due date of the claim for refund, including extensions, if a return was required to be filed under Section 63-3030, Idaho Code. ()

09. Donating the Credit. Taxpayers may elect to donate the entire credit to the Cooperative Welfare Fund created pursuant to Section 56-401, Idaho Code. A taxpayer may not make a partial donation of the credit. The election shall be made as indicated on the form on which the credit was claimed. The election is irrevocable and may not be changed on an amended return. ()

Subsection 785.06 (amendment deleted - no change to the codified text)

785. CREDITS -- PASS-THROUGH ENTITIES (RULE 785).

Subsection 785.06

06. Pass-Through Entities That Pay Tax. (3-30-01)

a. A pass-through entity may apply and may recapture credits that generally pass through to the partner, shareholder, or beneficiary for whom the pass-through entity is paying the tax. For example, Idaho investment tax credit earned that would have passed through to the owner or beneficiary could be claimed by the pass-through entity subject to the applicable limitations. Limitations based on the tax liability apply to each owner's or beneficiary's tax liability being paid by the pass-through entity. (3-30-01)

b. The partner, shareholder or beneficiary is responsible for the recapture or recomputation of credits passed through to the partner, shareholder, or beneficiary. (3-30-01)

c. Carryovers that exist after a pass-through entity offsets the tax with credit available to that partner, shareholder or beneficiary, remain a carryover of the partner, shareholder or beneficiary. (3-30-01)

Subsection 872.02.b.

872. REPORTING AND PAYING STATE INCOME TAX WITHHOLDING (RULE 872). (3-20-97)
Sections 63-3035 and 63-3036, Idaho Code.

02. Filing of Annual Reconciliation Returns. (4-6-05)

872.02.b.

b. Due Date of Reconciliation Returns. The annual reconciliation return shall be filed ~~on or before the last day of January~~ with the Forms W-2 on or before such date as required for filing of the W-2. See Rule 874 of these rules. The Tax Commission may require a shorter filing period and due date. (4-6-05)()

IDAPA 35 - STATE TAX COMMISSION

35.01.02 - SALES TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2009 Idaho State Legislature for final approval. The pending rules become final and effective at the conclusion of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become 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 rules. The action is authorized pursuant to Section(s) 63-105, 63-3624, 63-3635 and 63-3039 Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules was published in the October 1, 2008, Idaho Administrative Bulletin, Volume 08-10, Book 2, pages 328 through 352.

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 rules, contact Jim Husted (208) 334-7530.

DATED this 14th day of November, 2008.

Jim Husted
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7530

DOCKET NO. 35-0102-0801 - 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 328 through 352.](#)

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

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2009 Idaho State Legislature for final approval. The pending rules become final and effective at the conclusion of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules 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 rules. The action is authorized pursuant to Section(s) 63-105 and 63-105A, Idaho Code.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rules was published in the July 2, 2008, Idaho Administrative Bulletin, Vol. 08-7, pages 76 through 80.

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 rules, contact Alan Dornfest (208) 334-7530.

DATED this 14th day of November, 2008.

Alan Dornfest
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7530

DOCKET NO. 35-0103-0801 - 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 08-7, July 2, 2008, pages 76 through 80.

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. 35-0103-0801

Section 205 (entire section)

205. PERSONAL AND REAL PROPERTY -- DEFINITIONS AND GUIDELINES (RULE 205).

~~Sections 63-201, 63-302, and 63-309, Idaho Code. Personal property can be moved without marring or defacing real property to which it may be attached. Personal property includes the following: Sections 39-4105, 39-4301, 63-201, 63-302, 63-309, 63-602KK, 63-1703, 63-2801, Idaho Code. (4-5-00)()~~

01. ~~Equities in State Land.~~ Land purchased from the state under contract is personal property. Tax can be paid in two (2) installments. **Real Property. Real property is defined in Section 63-201, Idaho Code. *Real property consists of land and improvements.* (7-1-93)()**

a. ~~Land.~~ Land is real property as well as all rights and privileges thereto belonging or any way appertaining to the land. ()

b. ~~Law and Courts.~~ Real property also consists of all other property which the law defines, or the courts may interpret, declare, and hold to be real property under the letter, spirit, intent, and meaning of the law. ()

c. ~~Improvements.~~ Improvements are buildings, structures, fences, and similar property that is built upon land. Improvements are real property regardless of whether or not such improvements are owned separately from the ownership of the land upon or to which the same may be erected, affixed, or attached. ()

02. ~~Reservations and Easements.~~ Reservations include reserved mineral rights and divided ownership of property rights. Easements convey use but not ownership. **Personal Property. Personal property is defined in Section 63-201, Idaho Code, as everything that is the subject of ownership that is not real property. (4-5-00)()**

03. ~~Machinery, Tools, and Equipment.~~ Mechanical apparatuses, instruments, or implements not permanently integrated with real property, held as tenant improvements, or held for rent or lease are personal property. **Fixtures. Fixtures are defined in Section 63-201, Idaho Code. (7-1-93)()**

a. ~~Three part test.~~ If an item of property satisfies all three tests, the item becomes a fixture and therefore real property. ()

i. ~~Annexation.~~ Although once moveable chattels, articles become accessory to and a part of improvements to real property by having been physically or constructively incorporated therein or annexed or affixed thereto in such a manner that removing them would cause material injury or damage to the real property; and ()

ii. ~~Adaptation.~~ The use or purpose of an item is integral to the use of the real property to which it is affixed; and ()

iii. Intent. Items should be considered personal property unless a person would reasonably be considered to intend to make the articles, during their useful life, permanent additions to the real property. The intent depends on an objective standard and what a reasonable person would consider permanent and not the subjective intention of the owner of the property. ()

b. Fixtures does not include machinery, equipment, or other articles that are affixed to real property to enable the proper utilization of such articles. ()

~~04. Furniture, Fixtures, Libraries, Art, and Coin Collections. Trade articles used commercially for convenience, decoration, service, or storage, including store counters, display racks, typewriters, office machines, surgical and scientific instruments, paintings, books, coin collections, and all such items held for rent or lease are personal property.~~ (7-1-93)

~~05. Recreational Vehicles. Unlicensed recreational vehicles are personal property.~~ **Operating Property.** Operating Property is defined in Section 63-201, Idaho Code. For any purpose for which the distinction between personal property and real property is relevant or necessary for operating property, operating property will be characterized as personal or real based upon the criteria stated in this guideline and the rules of the State Tax Commission. (7-1-93)()

~~06. Boats. Unlicensed watercraft are personal property.~~ (7-1-93)

~~07. Net Profit of Mines. That amount of money or its equivalent received from the sale or trade of minerals or metals extracted from the Earth after deduction of allowable expenses as defined in Section 63-2802, Idaho Code, or by State Tax Commission rule is personal property.~~ (4-5-00)

~~08. Signs and Signboards. Signs and signboards, their bases and supports are personal property.~~ (7-1-93)

~~09. Leased Personal Property. The listing of leased personal property shall also include the name and address of the other party to the lease and the terms of the lease.~~ (4-5-00)

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0802

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2009 Idaho State Legislature for final approval. The pending rules become final and effective at the conclusion of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules 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 rules. The action is authorized pursuant to Section(s) 63-105 and 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules was published in the October 1, 2008, Idaho Administrative Bulletin, Volume 08-10, Book 2, pages 349 through 352.

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 rules, contact Alan Dornfest (208) 334-7530.

DATED this 14th day of November, 2008.

Alan Dornfest
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7530

DOCKET NO. 35-0103-0802 - 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 349 through 352.](#)

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

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0804

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2009 Idaho State Legislature for final approval. The pending rules become final and effective at the conclusion of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules 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 rules. The action is authorized pursuant to Section(s) 63-105 and 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules was published in the October 1, 2008, Idaho Administrative Bulletin, Volume 08-10, Book 2, pages 358 through 397.

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 rules, contact Alan Dornfest (208) 334-7530.

DATED this 14th day of November, 2008.

Alan Dornfest
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7530

DOCKET NO. 35-0103-0804 - 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 358 through 397.](#)

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

35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rules. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules were published in the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, pages 398 through 401.

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 rules, contact Randy Nilson at (208) 334-7530.

DATED this 14th day of November, 2008.

Randy Nilson
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

DOCKET NO. 35-0105-0801 - 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 398 through 401.](#)

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 - IDAHO STATE TAX COMMISSION

35.01.10 - IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0110-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section(s) 63-105, 63-2501 and 63-2553, Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules were published in the October 1, 2008, Idaho Administrative Bulletin, Vol. 08-10, Vol. 2, pages 402 and 403.

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 rules, contact Jim Husted (208) 334-7530.

DATED this 14th day of November, 2008.

Jim Husted
Tax Policy Supervisor
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7530

DOCKET NO. 35-0110-0801 - 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 402 and 403.

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 - IDAHO STATE TAX COMMISSION

35.01.11 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES

DOCKET NO. 35-0111-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and are 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(s) 63-105 and 23-1323 Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2008, Idaho Administrative Bulletin, Volume 08-10, Vol. 2, pages 404 and 405.

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 Husted (208) 334-7530.

DATED this 14th day of November, 2008.

Jim Husted
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7530

DOCKET NO. 35-0111-0801 - 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 404 and 405.

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 - IDAHO TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

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

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rules and the text of the pending rules with an explanation of the reasons for the change. The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. Rule 200 is being vacated because public comments evidence a need for further consideration and possible negotiated rulemaking. The complete text of the proposed rule was published in the October 1, 2008, Idaho Administrative Bulletin, Volume 08-10, Vol. 2, page 406 through 408.

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 Janice Boyd at (208) 334-7530.

DATED this 14th day of November, 2008.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410
(208) 334-7530

DOCKET NO. 35-0201-0801 - ADOPTION OF PENDING RULE

Substantive changes have been made 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 complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 08-10, October 1, 2008, Book 2, pages 404 and 405.

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.

Section 200 (amendment deleted - there is no change to the codified text)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.07 - RULES GOVERNING TITLING OF SALVAGE, SPECIALLY CONSTRUCTED, AND RECONSTRUCTED MOTOR VEHICLES

DOCKET NO. 39-0207-0801

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-201, 49-507, and 49-525, 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 original text of the proposed rule was published in the August 6, 2008 Idaho Administrative Bulletin, Volume 08-8, pages 131 through 139.

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 applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Daryl Marler, Dealer Operations Supervisor, 334-8684.

DATED this 3rd day of November, 2008.

Linda L. Emry, Administrative Rules Coordinator
Office of Governmental Affairs
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-332-4107

DOCKET NO. 39-0207-0801 - 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 131 through 139.

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 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.22 - RULES GOVERNING REGISTRATION AND PERMIT FEE ADMINISTRATION

DOCKET NO. 39-0222-0801

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-201, 49-434, and 49-439, 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 original text of the proposed rule was published in the September 3, 2008 Idaho Administrative Bulletin, Volume 08-9, pages 246 through 248.

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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jerri Hunter, International Registration Plan (IRP) Supervisor, 334-8626.

DATED this 3rd day of November, 2008.

Linda L. Emry, Administrative Rules Coordinator
Office of Governmental Affairs
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-332-4107

DOCKET NO. 39-0222-0801 - 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 246 through 248.](#)

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 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.60 - RULES GOVERNING LICENSE PLATE PROVISIONS

DOCKET NO. 39-0260-0801

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 49-201, 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 original text of the proposed rule was published in the August 6, 2008 Idaho Administrative Bulletin, Volume 08-8, pages 140 through 143.

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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tom Fry, Registration Program Supervisor, 334-8679.

DATED this 3rd day of November, 2008.

Linda L. Emry, Administrative Rules Coordinator
Office of Governmental Affairs
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-332-4107

DOCKET NO. 39-0260-0801 - 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 140 through 143.](#)

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 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.06 - RULES GOVERNING ALLOWABLE VEHICLE SIZE

DOCKET NO. 39-0306-0801

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312(1) and 49-1011, 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 original text of the proposed rule was published in the September 3, 2008 Idaho Administrative Bulletin, Volume 08-9, pages 249 and 250.

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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 3rd day of November, 2008.

Linda L. Emry, Administrative Rules Coordinator
Office of Governmental Affairs
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-332-4107

DOCKET NO. 39-0306-0801 - 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 249 and 250.](#)

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 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.17 - RULES GOVERNING PERMITS FOR MANUFACTURED HOMES,
MODULAR BUILDINGS, AND OFFICE TRAILERS

DOCKET NO. 39-0317-0801

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312, 49-1004, and 49-1010, 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 original text of the proposed rule was published in the October 1, 2008 Idaho Administrative Bulletin, Volume 08-10, pages 426 through 428.

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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 3rd day of November, 2008.

Linda L. Emry, Administrative Rules Coordinator
Office of Governmental Affairs
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-332-4107

DOCKET NO. 39-0317-0801 - 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 426 through 428.](#)

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 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS

DOCKET NO. 39-0322-0801

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 40-312 and 49-1004, 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 original text of the proposed rule was published in the October 1, 2008 Idaho Administrative Bulletin, Volume 08-10, pages 429 through 431.

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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 3rd day of November, 2008.

Linda L. Emry, Administrative Rules Coordinator
Office of Governmental Affairs
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-332-4107

DOCKET NO. 39-0322-0801 - 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 429 through 431.](#)

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 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.45 - RULES GOVERNING SALE OF NO LONGER USEFUL OR USABLE REAL PROPERTY

DOCKET NO. 39-0345-0801

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 58-335A, 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 original text of the proposed rule was initially published in the September 3, 2008 Idaho Administrative Bulletin, Volume 08-9, page 252. Due to an error that occurred in the printing of this docket, it was reprinted in its entirety in the November 5, 2008 Idaho Administrative Bulletin, Volume 09-11, pages 89-90.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Marvin K. Brown, Sr. Right-of-Way Agent, 334-8515.

DATED this 28th day of November, 2008.

Linda L. Emry, Administrative Rules Coordinator
Office of Governmental Affairs
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-332-4107

DOCKET NO. 39-0345-0801 - 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 08-11, November 5, 2008, Pages 89 and 90.

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 39 - IDAHO TRANSPORTATION DEPARTMENT

39.04.04 - RULES GOVERNING IDAHO AIRPORT AID PROGRAM

DOCKET NO. 39-0404-0801

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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 21-105 and 21-111, 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 original text of the proposed rule was published in the October 1, 2008 Idaho Administrative Bulletin, Volume 08-10, pages 432 through 437.

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 applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Bill Statham, Aeronautics Program Manager, 334-8784.

DATED this 3rd day of November, 2008.

Linda L. Emry, Administrative Rules Coordinator
Office of Governmental Affairs
Idaho Transportation Department
P. O. Box 7129
Boise ID 83707-1129
Phone: 208-334-8810
FAX: 208-332-4107

DOCKET NO. 39-0404-0801 - 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 432 through 437.](#)

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 47 - DIVISION OF VOCATIONAL REHABILITATION

47.01.01 - RULES OF THE IDAHO DIVISION OF VOCATIONAL REHABILITATION

DOCKET NO. 47-0101-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: 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, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-2211 and 33-2303, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, page(s) 471 through 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 resulting from this rulemaking: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208)332-1582.

DATED this 20th day of August, 2008.

Tracie Bent
Planning, Policy and HR Officer
State Board of Education
650 West State Street
PO Box 83720
Boise, ID 83720-0037
(208) 332-1582 phone
(208) 334-2632 FAX

DOCKET NO. 47-0101-0801 - 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 1, pages 471 through 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 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0803

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 Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 3, 2008, Vol. 08-9, pages 282 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/air/58_0101_0803_pending.cfm or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule is broader in scope than federal law as the federal government has not yet indicated that these particular size and type of dairy farms must obtain air quality permits. The federal government is in the emissions information gathering stage of regulating emissions from dairy farms. This rule may be revised upon completion of additional state and federal scientific research. The BMP Review Team reached a consensus that the BMPs being added pursuant to this rule are based on the best available peer reviewed science and supporting studies conducted in accordance with sound and objective scientific practices.

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 12th day of November, 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. 58-0101-0803 - 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 08-9, September 3, 2008, pages 282 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

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0901

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 39-116B, 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. The meeting locations will be connected by telephone. Individuals may also participate by telephone if requests to do so are made by January 30, 2009. For information regarding participation by telephone or scheduling of additional meetings, contact the undersigned.

February 3, 2009 - 9:30 am to 12:30 pm (Mountain Time)

**Department of Environmental Quality
Conference Room D
1410 N. Hilton, Boise, Idaho**

**Department of Environmental Quality
2110 Ironwood Parkway
Coeur d'Alene, Idaho**

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to implement Section 39-116B, Idaho Code, which requires DEQ to enter into rulemaking to establish the minimum requirements for a vehicle emissions testing program when ambient air quality concentrations are at or above 85% of a national ambient air quality standard and motor vehicle emissions constitute one of the two top contributing sources to the concentrations. These minimum requirements will assist affected local entities in determining whether to (1) enter into a joint powers agreement to implement the vehicle emissions testing program or (2) establish an alternative program in lieu of vehicle emissions testing. If local entities do not choose either one of the two options, DEQ must implement the vehicle emissions program.

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, counties, and all citizens in areas required to implement vehicle emissions testing may be interested in participating in this rulemaking. 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 Leonard Herr at leonard.herr@deq.idaho.gov, (208)373-0457.

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

Dated this 18th day of November, 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

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0803

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, September 3, 2008, Vol. 08-9, pages 286 through 288. DEQ received no public comments; however, Section 350 has been revised to remove unnecessary, obsolete subsections (350.07.a. and 350.07.b.). 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_0803_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: The 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 annual direct cost to DEQ is anticipated to be between \$8,000 and \$11,000 according to an analysis from EPA (Table IV.9. – Summary of Annual Direct Costs To Systems And States From All Regulatory Changes, 72 Fed. Reg. 57,806). DEQ will incur costs for postage and supplies, preparing and mailing letters to systems, reviewing utility monitoring reports, reviewing system data, reviewing and tracking self-certification letters from systems, reviewing public notifications after action level exceedances, and consulting with systems.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Bryan Zibbell at (208) 373-0343, bryan.zibbell@deq.idaho.gov.

Dated this 12th day of November, 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. 58-0108-0803 - 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 08-9, September 3, 2008, pages 286 through 288.**

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. 58-0108-0803

Subsection 350.07

350. CONTROL OF LEAD AND COPPER.

07. Monitoring Requirements for Lead and Copper in Tap Water. 40 CFR 141.86, revised as of July 1, 2000~~8~~, is herein incorporated by reference. ~~(3-30-01)~~(____)

~~**a-** Systems with insufficient tier one (1), two (2), or three (3) sampling sites shall complete their sampling pools from "tier four (4) sampling sites" consisting of buildings or multiple family residences that contain copper pipes with lead solder installed before 1983, or if these are not available, any other sampling sites acceptable to the Department. Any community water system which includes tier four (4) sites in its sampling pool shall submit a letter to the Department indicating why it was unable to locate sufficient tier one (1), two (2), or three (3) sites.~~ ~~(10-1-93)~~

~~**b-** Nontransient noncommunity water systems with insufficient tier one (1) and pre-1983 lead solder containing copper pipe sampling sites shall complete its sampling pool with other sampling sites acceptable to the Department. A nontransient noncommunity water system which includes sampling sites other than tier one (1) in its sampling pool, shall submit a letter to the Department indicating why it was unable to locate sufficient tier one (1) sites.~~ ~~(12-10-92)~~

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.12 - RULES FOR ADMINISTRATION OF WATER POLLUTION CONTROL LOANS

DOCKET NO. 58-0112-0801

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 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, June 4, 2008, Vol. 08-6, pages 85 through 103. DEQ received no public comments; however, the rule has been revised at Sections 004 and 007. In Section 004, DEQ's web address has been added as a means of obtaining a copy of the Wastewater Facilities Loan Handbook of Procedures. In Section 007, the proposed definitions of "applicant" and "qualifying entity/individual" have been deleted so that DEQ can more fully explore the implications of expanding the pool of applicants for nonpoint source water pollution control loans. In addition, the definition of "eligible applicant," which was struck out in the proposed rule, has been revised by removing the word "eligible" for clarification purposes, the definition of "nonpoint source project sponsor" has been revised by replacing the term "qualifying/entity individual" with "applicant," and the definition of "facility plan" has been revised to correct a typographical error. 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/air/58_0112_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 Tim Wendland at tim.wendland@deq.idaho.gov, (208)373-0439.

Dated this 12th day of November, 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. 58-0112-0801 - 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 08-6, June 4, 2008, pages 85 through 103.

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. 58-0112-0801

Section 004 (entire section)

004. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIAL.

01. Incorporation by Reference. These rules do not contain documents incorporated by reference. (3-30-01)()

02. Availability of Referenced Material. The “Wastewater Facilities Loan Handbook of Procedures” (Handbook) is available at the Idaho Department of Environmental Quality, Water Quality Division Loan Program, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, <http://www.deq.idaho.gov>. ()

Subsections 007.01, 007.14, 007.24, and 007.30 through 007.41

0057. DEFINITIONS.

For the purpose of the rules contained in this chapter, the following definitions apply: (12-31-91)

007.01

091. Eligible Applicant. A municipality or nonpoint source project sponsor which has the ability to establish and maintain a loan repayment source. Individuals and for-profit corporations are not eligible. (3-30-01)()

007.14

134. Facility Plan. ~~Systematic evaluation by a professional engineer of feasible treatment alternatives considering demographic, topographic, hydrologic and institutional characteristics of a project area to demonstrate that the scheduled alternative is cost effective.~~ A plan that describes the overall system, including collection, treatment processes and facilities, and waste disposal. It is a comprehensive planning document for the existing infrastructure and includes the plan for the future of the system/facility, including upgrades and additions. The plan also includes a systematic evaluation of feasible alternatives considering demographic, topographic, hydrographic, and institutional characteristics of a project area to demonstrate that the selected alternative is cost effective and environmentally sound. A facility plan is sometimes referred to as a master plan or facilities planning study and is an overall system-wide plan as opposed to a project specific plan. A facility plan shall be prepared by or under the supervision of an Idaho licensed professional engineer and shall bear the imprint of the engineer’s seal. Guidance on how to prepare a facility plan may be found in the Handbook. (5-3-03)()

007.24

24. Nonpoint Source Project Sponsor. Any ~~county, city, special service district, nonprofit corporation, or other governmental entity, or a combination thereof~~ applicant for water pollution control loan funds for a nonpoint source pollution project. (3-30-01)()

Subsection 007.30 (new subsection has been deleted and subsections renumbered)

- 30. Rehabilitation.** The repair or replacement of limited segments of interceptor or collector sewers. (5-3-03)
- 31. Reserve Capacity.** That portion of the treatment works that is designed and incorporated in the constructed facilities to handle future sewage flows and loadings. (1-1-89)
- 32. Sewer Use Ordinance/Sewer Use Resolution.** An ordinance ~~adopted pursuant to Title 42, Chapter 32, Idaho Code, or other applicable law~~ or resolution which requires new sewers and connections to be properly designed and constructed, prohibits extraneous sources of inflow and prohibits introduction of wastes into the sewer in an amount that endangers the public safety or the physical or operational integrity of the wastewater treatment facility. (1-1-89)()
- 33. State.** The state of Idaho. (12-31-91)
- 34. Supplemental Grants.** A grant awarded ~~to a municipality~~ in conjunction with a loan from the water pollution control loan account. (3-30-01)()
- 35. Suspension.** An action by the Director to suspend a loan contract prior to project completion for a specified cause. Suspended contracts may be reinstated. (1-1-89)
- 36. Unified Watershed Assessment.** Federal watershed assessment that encompasses the State list of impaired waters. (3-30-01)
- 37. Termination.** An action by the Director to permanently terminate a loan contract prior to project completion for a specific cause. Terminated contracts will not be reinstated. (1-1-89)
- 38. User Charge System.** A system of rates and service charges applicable to specific types of users, including any legal enforcement mechanism as may be required and which provides sufficient reserves and/or revenues for debt retirement, operation and maintenance, and replacement of the installed equipment or structures. (3-30-01)
- 39. Wastewater.** A combination of the liquid and water-carried wastes from dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water and storm water that may be present; liquid and water that is physically, chemically, biologically, or rationally identifiable as containing excreta, urine, pollutants or domestic or commercial wastes; sewage. (1-1-89)
- 40. Wastewater Treatment Facility.** Any facility, including land, equipment, furnishings and appurtenances thereof, used for the purpose of collecting, treating, neutralizing or stabilizing wastewater and removing pollutants from wastewater including the treatment plant, collectors, interceptors, outfall and outlet sewers, pumping stations, sludge treatment and handling systems, land disposal systems; a sewage treatment plant. (1-1-89)
- 41. Water Pollution Control Project.** Any project that contributes to the removal, curtailment, or mitigation of pollution of the surface waters or groundwater of the state, or the restoration of the quality of said waters, and conforms to any applicable planning document which has been approved and/or adopted such as the State Water Quality Management Plan. This includes the planning, design, construction/implementation or any other distinct stage or phase of a project. (3-30-01)

LEGAL NOTICE

Summary of Proposed Rulemakings

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

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

The written comment deadline is January 28, 2009, unless otherwise listed.
(Temp & Prop) indicates the rule is both temporary and proposed.
(*PH) Indicates that a public hearing has been scheduled.

IDAPA 11 - IDAHO STATE POLICE - IDAHO STATE RACING COMMISSION **PO Box 700, Meridian, ID 83780-0700**

- *11-0401-0801, Rules Governing Horse Racing.* (*PH) (Temp & Prop) Chapter Repeal.
- *11-0404-0901, Rules Governing Rules Governing Disciplinary Hearings.* (*PH) (Temp & Prop) Chapter Repeal.
- *11-0404-0902, Rules Governing Disciplinary Hearings and Appeals.* (*PH) (Temp & Prop) Chapter rewrite provides for a hearing and appeals process before the Racing Commission.
- *11-0405-0901, Rules Governing Advanced Deposit Wagering.* (*PH) (Temp & Prop) New chapter addresses advanced deposit wagering in Idaho.
- *11-0406-0901, Rules Governing Racing Officials.* (*PH) (Temp & Prop) New chapter outlines duties and responsibilities of racing officials.
- *11-0407-0901, Rules Governing Racing Associations.* (*PH) (Temp & Prop) New chapter governs the conduct and licensing of racing associations.
- *11-0408-0901, Rules Governing Pari-Mutuel Wagering.* (*PH) (Temp & Prop) New chapter addresses pari-mutuel wagering in Idaho.
- *11-0409-0901, Rules Governing Claiming Races.* (*PH) (Temp & Prop) New chapter governs the procedures and requirements for the claiming of horses and conducting claiming races.
- *11-0410-0901, Rules Governing Live Horse Races.* (*PH) (Temp & Prop) New chapter governs the running of live horse races in Idaho.
- *11-0411-0901, Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses.* (*PH) (Temp & Prop) New chapter governs the practices of veterinarians licensed by the Commission, the permitted medication of horses and drug testing of horses by the Commission.
- *11-0414-0901, Rules Governing Owners, Trainers, Authorized Agents, Jockeys, Apprentice Jockeys, and Jockey Agents.* (*PH) (Temp & Prop) New chapter governs the conduct of owners, trainers, authorized agents, jockeys, apprentice jockeys, and jockey agents in Idaho.

***11-0415-0901, Rules Governing Controlled Substance and Alcohol Testing of Licensees, Employees, and Applicants.** (*PH) (Temp & Prop) New chapter governs controlled substance and alcohol testing of licensees, employees, and applicants by the Commission.

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
PO Box 83720, Boise, ID 83720-0036**

***16-0310-0902, Medicaid Enhanced Plan Benefits.** (*PH) (Temp & Prop) Reduces the maximum number of service hours for Developmental Disability Agencies therapy services.

16-0739-0901, Appointment of Designated Examiners and Dispositioners. (Temp & Prop) New chapter provides for qualifications, appointment requirements, and appointment process for designated examiners and designated dispositioners to ensure proper education, training, and experience to assess mentally ill individuals and their needs.

***16-0750-0901, Rules and Minimum Standards Governing Non-Hospital, Medically-Monitored Detoxification/Mental Health Diversion Units.** (*PH) (Temp & Prop) New chapter provides for minimum design and construction requirements for a medically-monitored detoxification/mental health diversion unit.

THE FOLLOWING TEMPORARY RULES HAVE BEEN ADOPTED:

IDAPA 08 - State Board of Education

08-0203-0901, Rules Governing Thoroughness

IDAPA 16 - Department of Health and Welfare

06-0310-0901, Medicaid Enhanced Plan Benefits

IDAPA 20 - Department of Lands

20-0101-0901, Rules of Practice and Procedure before the State Board of Land Commissioners

IDAPA 21 - Division of Veterans Services

21-0104-0901, Rules Governing the Idaho State Veterans Cemetery

IDAPA 30 - Idaho Commission for Libraries

30-0101-0901, Rules of the Idaho Commission for Libraries Governing the Use of Commission Services

NEGOTIATED RULEMAKING MEETINGS ARE SCHEDULED FOR THE FOLLOWING:

IDAPA 58 - Department of Environmental Quality

58-0101-0901, Rules for the Control of Air Pollution in Idaho

Please refer to the Idaho Administrative Bulletin, **January 7, 2009, Volume 09-1** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at the county law libraries or online.

To view the Bulletin or Code or for information on purchasing the Bulletin and other rules publications, visit our website at adm.idaho.gov/adminrules/ or call (208) 332-1820 or write the Dept. of Administration, Office of Administrative Rules, 650 W. State St., Room 100, Boise, ID 83720-0306.

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