

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 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

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2010

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
10-1	January 2010	*November 13, 2009	January 6, 2010	January 27, 2010
10-2	February 2010	January 8, 2010	February 3, 2010	February 24, 2010
10-3	March 2010	February 5, 2010	March 3, 2010	March 25, 2010
10-4	April 2010	March 5, 2010	April 7, 2010	April 28, 2010
10-5	May 2010	April 2, 2010	May 5, 2010	May 26, 2010
10-6	June 2010	April 30, 2010	June 2, 2010	June 23, 2010
10-7	July 2010	June 4, 2010	July 7, 2010	July 28, 2010
10-8	August 2010	July 2, 2010	August 4, 2010	August 25, 2010
10-9	September 2010	July 30, 2010	September 1, 2010	September 22, 2010
10-10	October 2010	**August 27, 2010	October 6, 2010	October 27, 2010
10-11	November 2010	October 1, 2010	November 3, 2010	November 24, 2010
10-12	December 2010	November 5, 2010	December 1, 2010	December 22, 2010

****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. 2009-14

CONCERNING THE BUREAU OF EDUCATIONAL SERVICES FOR THE DEAF AND BLIND

WHEREAS, by virtue of the Sixtieth Legislature's enactment of Senate Bill 1074, as amended, which was signed by the Governor on April 23, 2009, the Bureau of Educational Services for the Deaf and the Blind is created, effective July 1, 2009, as a governmental entity within the State of Idaho; and

WHEREAS, as of July 1, 2009, the Idaho School for the Deaf and Blind will no longer exist as an agency of the State of Idaho; and

WHEREAS, the services currently provided by the Idaho School for the Deaf and Blind (ISDB) will be provided by the Bureau of Educational Services for the Deaf and the Blind (Bureau); and

WHEREAS, Senate Bill 1233 clarified that, effective July 1, 2009 all references to the ISDB contained in any appropriation language would mean the Bureau, and located the Bureau's budget in the Educational Support Program/Division of Children's Programs, which is part of the Public Schools Budget; and

WHEREAS, as a part of its funding for continued operation of the physical plant, Senate Bill 1210 provided ISDB funding for 93.74 full time equivalent positions for FY 2010; and

WHEREAS, ISDB currently employs classified state employees who have been notified of the elimination of their classified status effective June 30, 2009;

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 do hereby order and proclaim:

1. The Bureau, as successor interest to the ISDB, will honor all written agreements, of whatever nature, which have been lawfully entered into by ISDB, for the coming year, subject to all terms and conditions set forth in those contracts; and
2. The Bureau will retain all previously classified employees of ISDB for a period until January 1, 2010, or upon the determination of the administrator of the Bureau, whichever comes first. Pursuant to Idaho Code 33-3406 (3) these employees shall be exempt from, among other things, chapter 53, title 67, Idaho Code and are subject to any terms or conditions of employment established by the Bureau. Such terms and conditions may include, but are not limited to, performance standards, available funding, position and job title availability, and any and all personnel policies and procedures adopted by the Bureau.



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 6th day of July in the year of our Lord two thousand and nine and of the Independence of the United States of America the two hundred thirty-fourth and of the Statehood of Idaho the one hundred twentieth.

C.L. "BUTCH" OTTER
GOVERNOR

BEN YSURSA
SECRETARY OF STATE

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.01.05 - RULES GOVERNING CERTIFICATES OF FREE SALE

DOCKET NO. 02-0105-0901

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking is authorized pursuant to Section 22-112, Idaho Code.

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

No public meetings are currently scheduled.

METHOD OF PARTICIPATION: Persons wishing to participate in the informal negotiated rulemaking can do so by the following:

Notification to the Idaho State Department of Agriculture, Market Development Division, in writing, of the desire to participate in the negotiated rulemaking. Written notification should include all contact information and an electronic mail or mailing address. Those providing written notification will be contacted regarding any scheduled negotiated rulemaking meetings.

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

The purpose of the negotiated rulemaking is to promulgate fee rules for certificates of free sale for products grown or processed in Idaho. Such certificates are commonly requested by processed food companies exporting products internationally. The certificates state that the products are manufactured and distributed generally throughout the state of Idaho and United States and are in accordance with health laws and sanitary regulations of said state. Idaho is one of only a few states in the country that does not charge a fee for the service.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft of the text of the proposed rule (when it becomes available), contact Laura M. Johnson at (208) 332-8533.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 30, 2009.

DATED this 16th day of July, 2009.

Brian Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, ID 83701-0709
Telephone: (208) 332-8500
Facsimile: (208) 334-4062

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.03.03 - IDAHO DEPARTMENT OF AGRICULTURE RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-3421, 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Representatives of the Idaho seed industry have requested the addition of seven (7) seed crops to the section of the rules that exempt crops from the need for a pesticide tolerance. This will allow the added crops to have additional pesticide products registered for use to control pests, but will also have additional restrictions on the disposal of seed screenings and the feeding of treated plant parts.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, formal negotiated rulemaking was not conducted because informal meetings were held with the Idaho Seed Advisory Council on April 10, 2009 and June 5, 2009 to discuss and revise the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact George Robinson at (208) 332-8593.

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 September 23, 2009.

DATED this 17th day of July, 2009.

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

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 02-0303-0901

800. PESTICIDE USE ON ~~ALFALFA SEED, CARROT SEED, ONION SEED, RADISH SEED, AND CLOVER SEED CROP FIELDS.~~

01. Nonfood and Nonfeed Site Conditions. For purposes of pesticide registration, all alfalfa seed, carrot seed, ~~chicory seed, clover seed, coriander/cilantro seed, kale seed, leek seed, onion seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, and clover turnip~~ seed crop fields are considered nonfood and nonfeed sites for pesticide use and the following conditions shall be met: (4-5-00)(____)

a. No portion of the seed alfalfa, carrot seed, ~~chicory seed, clover seed, coriander/cilantro seed, kale seed, leek seed, onion seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, or turnip~~ seed ~~clover~~ plant, including but not limited to seed screenings, green chop, hay, chaff, combine tailings, pellets, meal, whole seed and cracked seed, may be grazed, used, or distributed for food or feed purposes. (4-5-00)(____)

b. The seed conditioner shall keep records of individual growers' alfalfa seed, carrot seed, ~~chicory seed, clover seed, coriander/cilantro seed, onion seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, and clover turnip~~ seed dirt weight and clean weight for three (3) years and shall furnish the records to the Director forthwith upon request. (4-5-00)(____)

c. All seed screenings shall be disposed of at a sanitary landfill, incinerator, or other equivalent disposal site or by a procedure approved by the Director. (3-23-98)

d. The seed conditioner shall keep seed screening disposal records for three (3) years from the date of disposal and shall furnish the records to the Director forthwith, upon request. Disposal records shall consist of documentation from the disposal site and shall show the total weight of disposed screenings and the date of disposal. (3-20-97)

e. All alfalfa seed, carrot seed, ~~chicory seed, clover seed, coriander/cilantro seed, kale seed, leek seed, onion seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, or clover turnip~~ seed grown or conditioned in this state shall bear a tag or container label which forbids the use of the seed for human consumption or animal feed. (4-5-00)(____)

f. No alfalfa seed, carrot seed, ~~chicory seed, clover seed, coriander/cilantro seed, onion seed, pollinator rows of hybrid canola seed, radish seed, rutabaga seed, or clover turnip~~ seed grown or conditioned in this state shall be distributed for human consumption or animal feed. (4-5-00)(____)

g. All portions of the seed alfalfa, seed carrot, ~~seed chicory, seed clover, seed coriander/cilantro, seed onion, pollinator rows of hybrid canola seed, seed radish, seed rutabaga, or seed clover turnip~~ plant, including but not limited to seed screenings, pellets, meal, whole seed and cracked seed may be composted. All composted material may be applied to agricultural crop land as approved by the Director. (4-5-00)(____)

02. Exemption. Alfalfa seed, ~~kale seed and radish seed crops~~ grown for human consumption shall be exempt from the requirements of Subsection 800.01 provided: (3-20-97)(____)

a. All pesticides used are labeled for use on alfalfa seed, ~~kale seed, and radish seed crops~~ and have established residue tolerances which allow food or feed use; and (3-20-97)(____)

b. All producers maintain for three (3) years complete records of all pesticides applied as specified in Pesticide Use and Application Rules Subsection 150.02. These records shall be ready to be inspected, duplicated, or submitted when requested by the Director. (3-20-97)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.03 - RULES OF ELECTRICAL LICENSING AND REGISTRATION - GENERAL

DOCKET NO. 07-0103-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1005, 54-1006, and 54-1008, Idaho Code.

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

There are no changes in the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009 Idaho Administrative Bulletin, Vol. 09-7, pages 22 and 23.

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

There will be a temporary negative fiscal impact to the agency as current contractor licenses will be extended until the month of their original issuance date; but the impact will disappear after the first transitional year and will not represent a continuing adverse fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 30th day of July, 2009.

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

DOCKET NO. 07-0103-0901 - 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 09-7, July 1, 2009, pages 22 and 23.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2010 Idaho State Legislature for final adoption.

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING
DOCKET NO. 07-0104-0901
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1005, 54-1006, and 54-1008, Idaho Code.

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

There are no changes in the pending rule, therefore it is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009 Idaho Administrative Bulletin, Vol. 09-7, pages 24 and 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:

There will be a temporary negative fiscal impact to the agency as current specialty contractor licenses will be extended until the month of their original issuance date; but the impact will disappear after the first transitional year and will not represent a continuing adverse fiscal impact.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 30th day of July, 2009.

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

DOCKET NO. 07-0104-0901 - 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 09-7, July 1, 2009, pages 24 and 25.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2010 Idaho State Legislature for final adoption.

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.12 - RULES GOVERNING MANUFACTURED OR MOBILE HOME INSTALLATIONS

DOCKET NO. 07-0312-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 44-2201, Idaho Code.

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

There are no changes in the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009 Idaho Administrative Bulletin, Vol. 09-7, 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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 30th day of July, 2009.

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

DOCKET NO. 07-0312-0901 - 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 09-7, July 1, 2009, 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 2010 Idaho State Legislature for final adoption.

IDAPA 09 - DEPARTMENT OF LABOR

09.01.30 - UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES

DOCKET NO. 09-0130-0902

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2010.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 72-1333, 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 September 16, 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:

IDAPA 09.01.30, Subsection 175.12 is being changed to provide that under certain circumstances a claimant may seek only part-time work to reflect the statutory language found in the newly enacted subsection (c) of I.C. 72-1366(4). This subsection (c) provides that a claimant who establishes that a majority of the weeks worked in their base period were for less than full-time work may be eligible for unemployment insurance benefits.

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:

Compliance with deadlines in amendments to governing law.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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:

There is no impact on the state general fund resulting from this rulemaking. The infusion of Federal Reed Act money into the state unemployment insurance trust fund will minimize the amount of money the state will have to borrow when the fund is depleted. This will also impact employers by lessening the amount of employment taxes imposed for years 2010 and 2011. It is estimated that this law change will have a cost to the unemployment insurance trust fund of \$500,000 per year.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because IDAPA 09.01.30.175.12 is being changed to accurately reflect statutory language and conform with the new subsection (c) of I.C.72-1366(4) passed during 2009 Legislative Session.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Roger Holmes 332-3570 ext. 3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2009.

DATED this 14th of July, 2009.

Roger Holmes
UI Benefits Bureau Chief
Department of Labor
317 W. Main St.
Boise, ID 83735
Phone 332-3570 ext. 3233 Fax 334-6301

THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT FOR DOCKET NO. 09-0130-0902

175. AVAILABLE FOR WORK.

The phrase "available for work" is defined as a state of mind which involves a readiness and willingness to work, and a desire to find a job, including the possibility of marketing one's services in the claimant's area of availability. There must remain a reasonable possibility of a claimant finding and obtaining, or being referred and hired for, suitable work. Ref. Sec. 72-1366(4), Idaho Code. (3-19-99)

01. Alternate Permanent Work. A claimant laid off from regular employment for a short period and who expects to be called back at any moment does not need to be available for alternate permanent work to be eligible for benefits. (3-19-99)

02. Availability Requirements. The type of work for which the claimant is available must exist in the claimant's area to the extent that a normal unemployed person would generally find work within a reasonable period of time. (3-19-99)

03. Child Care. Child care must be arranged so as not to restrict a claimant's availability for work or for seeking work. (3-19-99)

04. Compelling Personal Circumstances. A claimant must be available for the whole of the workweek for which he claims benefits except if he is unavailable due to compelling personal circumstances, his unavailability does not exceed a minor portion of his workweek, and during which time he does not refuse or miss suitable work that would have provided wages greater than one-half (1/2) of his weekly benefit amount. For the purposes of this rule, compelling personal circumstances are defined as: (4-11-06)

- a.** A situation in which the claimant required the assistance of emergency response personnel; (4-11-06)
- b.** The serious illness or death or funeral of an immediate family member; or (4-11-06)
- c.** The wedding of the claimant or an immediate family member. (4-11-06)
- d.** For the purposes of this rule, "immediate family member" is defined as a claimant's spouse, child, foster child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage. (4-11-06)

05. Conscientious Objection. No person shall be held to be unavailable for work solely because of religious convictions not permitting work on a certain day. (3-19-99)

06. Contract Obligation. A person who is bound by a contract which prevents him from accepting other employment shall not be eligible for benefits. (3-19-99)

07. Distance to Work. A claimant seeking work must be willing to travel the distance normally traveled by other workers in his area and occupation. (3-19-99)

08. Domestic Circumstances. A claimant is not eligible for benefits if domestic circumstances take precedence over the claimant's availability for work or for seeking work. (3-19-99)

09. Equipment. Claimants will be required to provide necessary tools or equipment in certain occupations. The lack of these tools or equipment will directly affect a claimant's availability for work, unless he will accept other work. (3-19-99)

10. Evidence. A claimant is responsible for providing proof of his availability for work and for seeking work if his availability is questioned or proof is required by these rules. (3-19-99)

11. Experience or Training. A claimant is expected to be available for work consistent with his past experience or training, provided there is no change in his ability to perform that work. (3-19-99)

12. Full-Time/Part-Time Work. ~~A To be eligible for benefits, a claimant must be available for a full workweek and a full, normal workday to be eligible for benefits. A claimant restricting his availability to only part-time work shall be ineligible for benefits. This rule does not apply to claimants who establish~~ unless the claimant establishes that a majority of the weeks worked in his base period were for less than full-time work or the claimant establishes eligibility under the Americans with Disabilities Act. *Ref. Sec. 72-1366(6), Idaho Code.* An individual who restricts his availability to part-time work pursuant to section 72-1366(4)(c), Idaho Code, will be considered fully employed and ineligible to receive benefits if the individual works hours comparable to his part-time work experience in his base period. ~~(3-19-99)~~(1-1-10)T

13. Incarceration/Work Release. A claimant who is incarcerated for any part of the claimant's normal workweek is not eligible for benefits for that week, unless the claimant can establish he has work release privileges which would provide him a reasonable opportunity to meet his work search requirements and obtain full-time employment. (3-19-99)

14. Jury Duty/Subpoenas. A claimant serving on jury duty or subpoenaed is excused from the availability and work-seeking requirements of the law for that time period. A claimant is not ineligible if he must refuse work because of the jury duty or subpoena. (3-19-99)

15. Licensing or Government Restrictions. A claimant prohibited by law from engaging in certain work must be available for other employment to be eligible for benefits. (3-19-99)

16. Moving to Remote Area. A claimant who moves to a remote locality where there is very little possibility of obtaining work will be ineligible for benefits. (3-19-99)

17. Prospects for Work. A claimant who is unemployed for a long period of time is expected to lower his expectations for employment and become available for work which may not have been previously considered suitable. (3-19-99)

18. Public Official. A public official who receives pay and performs "full-time" service is not unemployed or eligible for benefits. Part-time officials, even though receiving pay, may be considered available for work the same as any other individual employed on a part-time basis. *Ref. Sec. 72-1312(1).* (3-19-99)

19. Public Service. Performing public service, including voluntary non-remunerated service, does not disqualify an individual for benefits as long as he is meeting the availability and work-seeking requirements. (3-19-99)

20. Questionable Availability. A claimant must be notified of his questionable availability status and given an opportunity to provide proof of his availability before a determination is made on the issue. (3-19-99)

21. Restricting Work to Within the Home. A claimant who restricts his availability to only work done within the home which severely limits the work available to him is ineligible for benefits. (3-19-99)

22. School Attendance or a Training Course. A person who is attending school or a training course

may be eligible for benefits if the attendance does not conflict in any way with that person's availability for work or for seeking work and if he will discontinue attendance upon receipt of an offer of employment if there is a conflict between employment and the schooling or training. (3-19-99)

23. Temporary Absence from Local Labor Market to Seek Work. All claimants, regardless of their attachment to an industry or employer, must meet the same standard of remaining within their local labor market area during the workweek in order to be considered available for work, unless the primary purpose of a temporary absence is to seek work in another labor market. (3-19-99)

24. Time. (3-19-99)

a. Time Restrictions. A claimant shall not impose restrictions on his time, including either hours of the day or days of the week, which will limit his availability to seek or accept suitable work. (3-19-99)

b. Shift Restrictions. A claimant who restricts his availability to a single shift may not be fully available for work if the restriction significantly reduces his chances of becoming employed. (3-19-99)

25. Transportation Difficulties. Lack of transportation is not a bona fide reason for a claimant to fail to be available for or to seek work. Transportation is the responsibility of the claimant. (3-19-99)

26. Unreasonable Restrictions on Working Conditions. A claimant who places unreasonable restrictions on working conditions so as to seriously hinder his availability and search for work is ineligible for benefits. (3-19-99)

27. Vacation. A person on a vacation approved by his employer during time when work is available is not considered available for work nor eligible for benefits. (3-19-99)

28. Wages. A claimant shall not be ineligible for benefits if the wages or other conditions of available work are substantially less favorable to the claimant than those prevailing for similar work in the local area. Ref. Sec. 72-1366(7)(b), Idaho Code. (3-19-99)

a. Demanding Higher Wages. A claimant shall be ineligible for benefits if he unduly restricts his availability for work by insisting on a wage rate that is higher than the prevailing wage for similar work in that area. (3-19-99)

b. Prior Earnings. The claimant's prior earnings and past experience shall be considered in determining whether he is available for suitable work. (3-19-99)

29. Waiver of One-Year Training Limitation. For purposes of approving a waiver of the one (1) year limitation on school or training courses, specified by Idaho Code Section 72-1366(8)(c)(ii), for claimants who lack skills to compete in the labor market, the following criteria must be met: (3-19-99)

a. Financial Plan. The claimant must demonstrate a workable financial plan for completing the school or training course after his benefits have been exhausted. (3-19-99)

b. Demand for Occupation. The claimant must establish there is a demand for the occupation in which the claimant will be trained. A "demand occupation" is one in which work opportunities are available and there is not a surplus of qualified applicants. (3-19-99)

c. Duration of Training. At the time that the claimant applies for the waiver, the duration of the school or training course is no longer than two (2) years to completion. (3-19-99)

d. Denial. No claimant shall be denied a waiver of the one (1) year limitation on school or training because the claimant is already enrolled or participating in the school or training at the time he requests the waiver. (3-19-99)

IDAPA 11 - IDAHO STATE POLICE

11.07.01 - RULES GOVERNING MOTOR VEHICLES - GENERAL RULES

DOCKET NO. 11-0701-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-2901 and 49-901, 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking updates the standards and specifications applicable to Title 49 - Motor Vehicles, Chapter 9 - Vehicle Equipment, Idaho Code, which are incorporated by reference into this rule, to current standards and specifications in federal guidelines.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee or charge is imposed or increased.

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:

No negative fiscal impact on the general fund will result from this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rulemaking only updates references.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lt. Bill Reese, (208) 884-7220 or william.reese@isp.idaho.gov.

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 September 23, 2009.

DATED this 14th day of July, 2009.

Colonel G. Jerry Russell
Director
Idaho State Police
700 S. Stratford Drive
Meridian, ID 83643
(208) 884-7003
(208) 884-7090

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 11-0701-0901

006. DEFINITIONS (RULE 6).

- 01. Department.** The “Department,” as used herein, means the Idaho State Police. (7-1-93)
- 02. Director.** The “Director,” as used herein, means the Director of the Idaho State Police. (7-1-93)
- 03. Motor Vehicle.** Will be the same as the definition found in Idaho Code 49-123~~(2)(g)~~.
(4-2-08)(____)
- 04. Highway.** Will be the same as the definition found in Section 49-109~~(4)~~, Idaho Code.
(4-2-08)(____)

(BREAK IN CONTINUITY OF SECTIONS)

020. SOCIETY OF AUTOMOTIVE ENGINEERS (SAE) (RULE 20).

The Director incorporates by reference the SAE Ground Vehicle Lighting Standards Manual, 2006~~9~~ edition, and SAE standards J586, J588, and J639. All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable provisions of the SAE Ground Vehicle Lighting Standards Manual, 2006 edition, and SAE standards J586, J588, and J639. (4-2-08)(____)

01. Standards and Specifications for Lighting Devices. Pursuant to Section 49-901(1), Idaho Code, the Director hereby incorporates by reference the standards and specifications set forth by the Society of American Engineers in the SAE Ground Vehicle Lighting Standards Manual, 2006~~9~~ edition, as if set forth herein in full. (4-2-08)(____)

02. Standards for Rear Mounted Acceleration and Deceleration Lighting Systems (Use Optional). The current standards found in “Supplemental High Mounted Stop and Rear Turn Signal Lamps for Use on Vehicles Less Than 2032 MM Overall Width -- SAE J586 and J588,” is found in Section 49-921, Idaho Code, as if set forth herein in full. (4-2-08)

03. Safety Practices and Standards for Automotive Air Conditioning Devices, Standards and Specifications. Pursuant to Section 49-901(7), Idaho Code, the Director hereby incorporates by reference the current standards set forth in “Safety Practices For Mechanical Vapor Compression Refrigeration Equipment of Systems Used to Cool Passenger Compartment of Motor Vehicles -- SAE J639,” as if set forth herein in full. (4-2-08)

021. -- 029. (RESERVED).

030. IDAHO STATE DEPARTMENT OF EDUCATION, STANDARDS FOR IDAHO SCHOOL BUSES AND OPERATIONS MANUAL (RULE 30).

The Director incorporates by reference the standards found in the November ~~17~~, 2006~~8~~ “Standards for Idaho School Buses and Operations” manual approved by the Idaho State Board of Education. All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable standards found in the “Standards for Idaho School Buses and Operations” manual. (4-2-08)(____)

01. General Rules. Pursuant to Section 49-901(8), Idaho Code, the Director hereby incorporates by reference the standards found in the November ~~17~~, 2006~~8~~ “Standards for Idaho School Buses and Operations” manual approved by the Idaho State Department of Education as if set forth herein in full. (4-2-08)(____)

02. Lighting Equipment. Pursuant to Section 49-901(2), Idaho Code, the Director hereby incorporates by reference the standards found in the November ~~17~~, 2006~~8~~ “Standards for Idaho School Buses and Operations” manual approved by the Idaho State Department of Education as if set forth herein in full. (4-2-08)(____)

031. -- 039. (RESERVED).

040. FEDERAL REGULATIONS - 49 C.F.R. PARTS 392, 393, AND 571 (RULE 40).

The Director incorporates by reference Title 49 of the Code of Federal Regulations, October 1, 2007~~8~~ edition, Parts 392, 393, and 571. All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable Parts found in Title 49 of the Code of Federal Regulations. (4-2-08)(____)

01. Certain Vehicles Required to Stop at All Railroad Crossings. Pursuant to Section 49-648, Idaho Code, the Director hereby incorporates by reference the requirements found in Title 49 (49 C.F.R.) of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations) Part 392, Subpart B, Section 392.10, as if set forth herein in full. (4-2-08)

02. Devices With Self Contained Energy Sources. Pursuant to Section 49-952, Idaho Code, the Director hereby incorporates by reference the standards and specifications with regard to Requirements for fuses and liquid burning flares found in 49 C.F.R., Part 393, Subpart H, Section 393.95. Warning devices with self-contained energy sources permissible, under this chapter are limited to liquid burning emergency flares, and fuses. (4-2-08)

03. Modulating Headlights for Motorcycles. Pursuant to Section 49-925, 49-901(3), 49-901(4), Idaho Code, the Director hereby approves modulating headlights for use on motorcycles. Such headlights shall conform to the standards and specifications with regard to modulating headlights found in 49 C.F.R. Section 571.108, Standard 108, S7.9.4, which is hereby adopted by reference as if set forth herein in full. (4-2-08)

04. Standards for Safety Helmets. Pursuant to Section 49-666, Idaho Code, the Director hereby incorporates by reference the standards found in 49 C.F.R. Section 571.218, Standard No. 218, as if set forth herein in full. (4-2-08)

05. Standards for Devices Without Self Contained Energy Sources. Pursuant to Section 49-952, Idaho Code, the Director hereby incorporates by reference the standards and specifications with regard to ~~flares and reflex reflective and fluorescent material~~ warning devices found in 49 C.F.R. Section 571.125, Standard 125, as if set forth herein in full. (4-2-08)(____)

IDAPA 11 - IDAHO STATE POLICE
11.13.01 - RULES GOVERNING MOTOR CARRIERS
DOCKET NO. 11-1301-0901
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-2901 and 49-901 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking makes technical changes; creates a new Rule 10 to define "commercial motor vehicle" as required in the federal regulations; updates Rule 18 to define "hazardous material" to be consistent with 49 CFR; and updates the CFR reference in Rule 19.

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

No fee or charge is imposed or increased as a result of this rulemaking.

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:

No negative fiscal impact on the general fund will result from this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rulemaking makes only technical corrections and those required by the federal regulations guiding the Commercial Vehicle Safety program.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lt. Bill Reese, (208) 884-7220 or william.reese@isp.idaho.gov.

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 September 23, 2009.

DATED this 14th day of July, 2009.

Colonel G. Jerry Russell
Director
Idaho State Police
700 S. Stratford Drive
Meridian, ID 83643
(208) 884-7003
(208) 884-7090

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 11-1301-0901

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

The Idaho State Police Commercial Vehicle Safety Program Manager is authorized to make and give informal interpretations of the terms and definitions found in the Idaho Code, this Department's rules applicable to motor carriers and other filings relating to motor carriers maintained by the Department pursuant to law. In addition, written interpretations to these rules are available and maintained in the files of the Commercial Vehicle Safety Program Manager. The Commercial Vehicle Safety Program Manager may be contacted in writing at the Idaho State Police, PO Box 700, Meridian, Idaho 83680-0700, or may be reached by telephone at (208) 884-7220. For future rulemakings written interpretations in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking decision adopting these rules are published in the issues of the Idaho Administrative Bulletin proposing or adopting the rules. *The Department reserves to itself the authority to issue formal declaratory orders construing these items.* (4-5-00)(____)

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE (RULE 4).

The Code of Federal Regulations (CFR) is referred to in Sections 012, 018 and 019. Federal Regulations are adopted by reference in Sections 018 and 019. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent recom compilations are also adopted by reference, but subsequent amendments are not. (____)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 5).

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

02. Mailing Address. The mailing address for the headquarters office is Idaho State Police, P.O. Box 700, Meridian, Idaho 83680. (____)

03. Street Address. The headquarters office of the Idaho State Police is located at 700 S. Stratford Drive, Meridian, Idaho 83642. (____)

0046. PUBLIC RECORD ACT COMPLIANCE (RULE 6).

All materials in motor carrier files, except those that are investigatory records under Section 9-340(22), Idaho Code, are public records available for inspection, examination and copying. Investigatory records are not public records, but may be examined or disclosed by the object of the investigation pursuant to Section 9-335, Idaho Code. (4-5-00)

0067. CITATION (RULE 7).

The official citation of these rules is IDAPA 11.13.01.000 et seq. For example, this rule is cited as IDAPA 11.13.01.0067. (4-5-00)(____)

0078. FORMS (RULE 8).

The Idaho State Police Commercial Vehicle Safety Program Manager is authorized to produce and distribute forms and reports to carry out these rules. (4-5-00)(____)

008. (RESERVED).

~~009. CODE OF FEDERAL REGULATIONS, FEDERAL REGISTER (RULE 9).~~

~~The Code of Federal Regulations (CFR) is referred to in Sections 012, 018 and 019. Federal Regulations are adopted by reference in Sections 018 and 019. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent recompilations are also adopted by reference, but subsequent amendments are not.~~ (4-5-00)

~~0409. RELIEF FROM REGULATIONS (RULE 409).~~

~~The Department may issue a declaration of emergency relieving intrastate carriers from the requirements of 49 CFR Parts 390 through 399 adopted by reference in Section 019 following the declaration of an emergency. The maximum duration of the declaration of emergency, the particular rules in 49 CFR Parts 390 through 399 from which the carrier is relieved from complying, and all other aspects ~~relief~~ relieved from regulation shall be the same as provided in those Federal regulations.~~ (4-5-00)()

~~0105. DEFINITIONS (RULE 10).~~

~~Whenever any term used in these rules is defined or referred to in the Idaho Code, that term takes its statutory definition in these rules.~~ (4-5-00)

~~01. Commercial Motor Vehicle (CMV). Means a motor vehicle that has any of the following three (3) characteristics Any self-propelled or towed motor vehicle used on a highway in interstate or intrastate commerce to transport passengers or property when the vehicle:~~ (4-5-00)()

~~a. A gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW), or gross combination weight rating (GCWR) Has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR), or gross vehicle weight (GVW) or gross combination weight (GCW), of four thousand, five hundred thirty-seven six kilograms (4,5376 kg.), which is equal to (ten thousand, one pounds (10,001 lbs.)) or more, whichever is greater; or~~ (4-5-00)()

~~b. Is designed or used to transport more than eight (8) passengers, including the driver, for compensation; or~~ ()

~~bc. Regardless of weight, Is designed or used to transport more than sixteen fifteen (165) or more passengers, including ~~a~~ the driver, and is not used to transport passengers for compensation; or~~ (4-5-00)()

~~ed. Regardless of weight, Is used in transportation transporting material found by the Secretary of Transportation to be of hazardous materials and is required to be placarded under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under ~~the HMRs~~ (49 CFR, Part 172, Subpart F) Subtitle B, Chapter I, Subchapter C.~~ (4-5-00)()

~~02. Department. Means the Idaho State Police.~~ (4-5-00)

~~03. Highway. Means the public roads, highways, and streets of the State.~~ (4-5-00)

~~04. Interstate Carrier. Means any person who or which owns or operates any motor vehicle in the state of Idaho or on the highways of the state of Idaho, in commerce between the States, or between the States and a foreign Nation, used or maintained for the transportation of persons or property.~~ (4-5-00)

~~05. Motor Carrier. Means an individual, partnership, corporation or other legal entity engaged in the transportation by motor vehicle of persons or property in the furtherance of a business or for hire.~~ (4-5-00)

~~06. Motor Vehicle. Means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highway in the transportation of passengers and/or property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails.~~ (4-5-00)

~~07. Person. Means any individual, firm, copartnership, corporation, company, association, or joint~~

stock association, and includes any trustee, receiver, assignee, or personal representative thereof. (4-5-00)

08. Transportation. Includes all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or contract, express or implied, together with all services, facilities and property furnished, operated or controlled by any such carrier or carriers and used in the transportation of passengers and/or property in commerce in the state of Idaho. (~~4-5-00~~)()

011. (RESERVED).

012. SAFETY FITNESS PROCEDURES (RULE 12).

01. Purpose And Scope. (4-5-00)

a. The purpose of Section 012 is to establish procedures to determine the safety fitness of motor carriers, assign safety ratings, take remedial action when required and prohibit motor carriers receiving a safety rating of “unsatisfactory” from operating a commercial motor vehicle: (4-5-00)

i. To provide transportation of hazardous materials for which vehicle placarding is required in accordance with 49 CFR Part 172, subpart F; or (4-5-00)

ii. To transport more than fifteen (15) passengers, including the driver. (4-5-00)

b. All provisions of Section 012 apply to all motor carriers subject to the requirement of this subchapter. (4-5-00)

02. Definitions. The following definitions apply to Section 012. (4-5-00)

a. Applicable safety regulations or requirements. Means 49 CFR subtitle, chapter III. subchapter B- Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I. subchapter C- Hazardous Materials Regulations. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent recom compilations are also adopted by reference, but subsequent amendments are not. (4-5-00)

b. Preventable accident on the part of a motor carrier. Means an accident that: (4-5-00)

i. Involved a commercial motor vehicle, and (4-5-00)

ii. Could have been averted but for an act, or failure to act, by the motor carrier or the driver. (4-5-00)

c. Reviews. For the purposes of Section 012: (4-5-00)

i. Compliance review. Means an onsite examination of motor carrier operations, which may be at the carrier’s place of business, including driver’s hours of service, vehicle maintenance and inspection, driver qualifications, commercial driver’s license requirements, financial responsibility, accidents, hazardous materials, and such other related safety and transportation records to determine safety fitness. (4-5-00)

(1) A compliance review may be conducted in response to a request to change a safety rating, to investigate potential violations of safety regulations by motor carriers, or to investigate complaints or other evidence of safety violations. (4-5-00)

(2) A compliance review may result in the initiation of an enforcement action. (4-5-00)

ii. Safety management controls. Means the systems, policies programs, practices, and procedures used by a motor carrier to ensure compliance with applicable safety and hazardous materials regulations which ensure the

safe movement of products and passengers through the transportation system, and to reduce the risk of highway accidents and hazardous materials incidents resulting in fatalities, injuries, and property damage. (4-5-00)

d. Safety ratings. Means, for the purposes of this Section 012: (4-5-00)

i. Satisfactory safety rating. Means that a motor carrier has in place and functioning adequate safety management controls to meet the safety fitness standard prescribed in Subsection 012.03 of this rule. Safety management controls are adequate if they are appropriate for the size and type of operation of the particular motor carrier. (4-5-00)

ii. Conditional safety rating. Means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that could result in occurrences listed in Subsection 012.03 of this rule. (4-5-00)

iii. Unsatisfactory safety rating. Means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard which has resulted in occurrences listed in Subsection 012.03 of this rule. (4-5-00)

iv. Unrated carrier. Means that a safety rating has not been assigned to the motor carrier. (4-5-00)

03. Safety Fitness Standard. The satisfactory safety rating is based on the degree of compliance with the safety fitness standard for motor carriers. To meet the safety fitness standard, the motor carrier shall demonstrate that it has adequate safety management controls in place, which function effectively to ensure acceptable compliance with applicable safety requirements to reduce the risk associated with: (4-5-00)

a. Commercial driver's license standards violations. (4-5-00)

b. Inadequate levels of financial responsibility. (4-5-00)

c. The use of unqualified drivers. (4-5-00)

d. Improper use and driving of motor vehicles. (4-5-00)

e. Unsafe vehicles operating on the highways. (4-5-00)

f. Failure to maintain accident register and copies of accident reports. (4-5-00)

g. The use of fatigued drivers. (4-5-00)

h. Inadequate inspection, repair, and maintenance of vehicles. (4-5-00)

i. Transportation of hazardous materials, driving and parking rule violations. (4-5-00)

j. Violation of hazardous materials regulations. (4-5-00)

k. Motor vehicle accidents and hazardous materials incidents. (4-5-00)

04. Factors to Be Considered in Determining a Safety Rating. The factors to be considered in determining the safety fitness and assigning a safety rating include information from safety reviews, compliance reviews and any other data. The factors may include all or some of the following: (4-5-00)

a. Adequacy of safety management controls. The adequacy of controls may be questioned if their degree of formalization or automation is found to be substantially below the norm for similar carriers. Violations, accidents or incidents substantially above the norm for similar carriers will be strong evidence that management controls are either inadequate or not functioning properly. (4-5-00)

b. Frequency and severity of regulatory violations. (4-5-00)

- c. Frequency and severity of driver/vehicle regulatory violations identified in roadside inspections. (4-5-00)
- d. Number and frequency of out-of-service driver/vehicle violations. (4-5-00)
- e. Increase or decrease in similar types of regulatory violations discovered during safety or compliance reviews. (4-5-00)
- f. Frequency of accidents; hazardous materials incidents; accident rate per million miles; preventable accident rate per million miles; and other accident indicators; and whether these accident and incident indicators have improved or deteriorated over time. (4-5-00)
- g. The number and severity of violations of state safety rules, regulations, standards, and orders applicable to commercial motor vehicles and motor carrier safety that are compatible with Federal rules, regulations, standards and orders. (4-5-00)

05. Determination of Safety Fitness. Following a compliance review of a motor carrier operation, the Idaho State Police Commercial Vehicle Safety Program Manager, using the factors prescribed in Subsection 012.04 of this rule, shall determine whether the present operations of the motor carrier are consistent with the safety fitness standards set forth in Subsection 012.03 of this rule. ~~(4-5-00)~~(____)

06. Notification of a Safety Fitness Rating. Following a compliance review, the Idaho State Police Commercial Vehicle Safety Program Manager will determine the safety fitness of a motor carrier and notify the motor carrier and the Department in writing. Notification will include a list of those items for which immediate corrective actions must be taken. ~~(4-5-00)~~(____)

07. Motor Carrier Certification. Upon notification of violations cited in the compliance review and recommendations made to correct violations a motor carrier shall certify to the Idaho State Police Commercial Vehicle Safety Program Manager, within thirty (30) days, whether all corrective actions identified by the safety review have been taken. Certification required by this subsection must be made to the Idaho State Police Commercial Vehicle Safety Program Manager. Failure to certify or falsely certifying under Section 012 of this Chapter will be considered a reporting violation under Section 67-2901B(3), Idaho Code. (4-5-00)

013. -- 017. (RESERVED).

018. TRANSPORTATION OF HAZARDOUS MATERIALS, SUBSTANCES, AND WASTES (RULE 18).

01. Adoption of Federal Regulations. Adoption of Federal Regulations 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 are hereby adopted by reference. All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Idaho State Police while operating in Idaho that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must comply with 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 applicable to motor carriers and their shippers, and the laws and rules of the state of Idaho. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Whenever any of these federal regulations exempt intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, removes that exemption and subjects intrastate carriers to the same requirements. The Department asserts its authority under this Rule, IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-670 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. (4-5-00)

02. Obligation of Familiarity with Rules. All interstate and foreign carriers and all intrastate carriers subject to this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must obtain copies of these federal regulations and make them available to their drivers and other personnel handling

hazardous materials, substances or wastes and must familiarize their drivers and other personnel handling hazardous materials, substances or wastes with any regulation pertaining to the particular material, substance or waste that is transported. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Failure to be familiar with these federal regulations adopted by reference is a violation of Section 018 of this Chapter for any carrier transporting such cargoes. The federal regulations adopted by reference in this Section 018 have the following subject matter: (4-5-00)

- a. Part 107. Hazardous Materials Program Procedures. (4-5-00)
- b. Part 171. General Information, Regulations and Definitions. (4-5-00)
- c. Part 172. Hazardous Materials Tables, ~~and special provisions, Hazardous Materials~~ ~~Communications Regulations, emergency response information, and training requirements.~~ (4-5-00)()
- d. Part 173. Shippers-General Requirements for Shipments and Packaging. (4-5-00)
- e. Parts 174-176. (Not adopted regulations for railroads, aircraft and vessels). (4-5-00)
- f. Part 177. Carriage by Public Highway. (4-5-00)
- g. Part 178. ~~Shipping Container~~ Specifications for packagings. (4-5-00)()
- h. Part 179. (Not adopted regulations for rail tanker cars). (4-5-00)
- i. Part 180. Continuing Qualification and Maintenance of Packagings. (4-5-00)()

03. Recognition of Federal Waivers. Whenever a carrier has applied to a federal agency and been granted a waiver of the packaging requirements of the federal regulations adopted in Subsection 018.01, the federal waiver will also be recognized under these rules. The Department will not administer a program to duplicate consideration or approval of federal waivers on the state level. (4-5-00)

04. Hazardous Materials. As used here in Section 018, means a substance or material, ~~including a that~~ the Secretary of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce and has designated as hazardous under section 5103 of the Federal hazardous materials transportation law (49 U.S.C. 5103). The term includes hazardous substances, ~~listed by the U.S. Department of Transportation~~ hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the "Hazardous Materials Table" (see 49 CFR 172.101), ~~which has been determined to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce. Hazardous materials listed include:~~ and materials that meet the defining criteria for hazard classes and divisions in Part 173 of Subchapter C of Title 49 of the Code of Federal Regulations. (4-5-00)()

- ~~a. Radioactive materials;~~ (4-5-00)
- ~~b. Explosives, poisons;~~ (4-5-00)
- ~~c. Flammable liquids;~~ (4-5-00)
- ~~d. Flammable solids or flammable gases;~~ (4-5-00)
- ~~e. Combustible liquids;~~ (4-5-00)
- ~~f. Compressed gases;~~ (4-5-00)
- ~~g. Blasting agents;~~ (4-5-00)

h.	Oxidizers;	(4-5-00)
i.	Corrosives;	(4-5-00)
j.	Severely irritating materials; or	(4-5-00)
k.	Materials with combinations of these properties.	(4-5-00)

05. Hazardous Substances. As used in this Section 018, means a material, its mixtures or solutions, that is listed in the Appendix A to 49 CFR 172.101 and that is in a quantity in one (1) package that equals or exceeds the reportable quantity (RQ) listed in the Appendix A to 49 CFR 172.101. ~~(4-5-00)~~(____)

06. Hazardous Waste. As used in this Section 018, means any material that is subject to the Hazardous Waste Manifest requirements of the U.S. Environmental Protection Agency. See 40 CFR Part 262. (4-5-00)

07. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Section 018 are those contained in the compilations of 40 CFR Part 262 published in the Code of Federal Regulations volume dated July 1, 1998, and as subsequently recompiled, and those contained in the compilations of 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 published in the Code of Federal Regulations volume dated October 1, 1998, and as subsequently recompiled, and all amendments to these rules appearing in the Federal Registers. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. (4-5-00)

019. CARRIER SAFETY REQUIREMENTS (RULE 19).

01. Adoption of Federal Regulations. Adoption of Federal Regulations 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399 are hereby adopted by reference. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019, removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. (3-30-07)

a. All interstate and foreign carriers and intrastate carriers, except those carriers listed in Subsection 019.01.b., subject to the safety authority of the Idaho State Police while operating in Idaho that transport passengers or property, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). (3-30-07)

b. Intrastate carriers operating commercial motor vehicles transporting property with a GVW, GVWR, GCW or GCWR greater than ten thousand (10,000) pounds and up to twenty-six thousand (26,000) pounds, subject to the authority of the Idaho State Police, must comply with 49 CFR Part 390 Subpart A, Part 391.15, Parts 392, 393, and Part 396.1, 396.3(a), (a)(1), and (a)(2), and 396.5 through 396.9 and the law and rules of the state of Idaho. All intrastate carriers transporting placardable quantities of hazardous material under 49 CFR Part 172, Subpart F and passengers, meeting the definition of a commercial motor vehicle, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). (3-30-07)

c. The subject matter of 49 CFR 391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. (3-30-07)

02. Obligation of Familiarity with Rules. All interstate and foreign carriers and all intrastate carriers subject to these Rules at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 must obtain copies of the federal regulations adopted by reference in Subsection 019.01 and make them available to their drivers and other personnel

affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Subsection 019.02 for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter: (4-5-00)

- a.** Part 356. ~~Authority to Serve a Particular Section — Construction~~ Motor Carrier Routing Regulations. (~~3-20-04~~)(____)
- b.** Part 365. ~~How to Apply~~ Rules Governing Application for Operating Authority. (~~3-20-04~~)(____)
- c.** Part 382. Controlled Substance and Alcohol Use and Testing. (4-5-00)
- d.** Part 383. Commercial Driver’s License Standards; Requirements and Penalties. (4-5-00)
- e.** Part 385. Safety Fitness ~~Standards~~ Procedures. (~~4-5-00~~)(____)
- f.** Part 387. Minimum Levels of Financial Responsibility. (~~3-20-04~~)(____)
- g.** Part 388. Cooperative Agreements with States. (4-5-00)
- h.** Part 390. Federal Motor Carrier Safety Regulations: General. (4-5-00)
- i.** Part 391. Qualifications of Drivers. (4-5-00)
- j.** Part 392. Driving of Commercial Motor Vehicles. (~~4-5-00~~)(____)
- k.** Part 393. Parts and Accessories Necessary for Safe Operation. (4-5-00)
- l.** Part 395. Hours of Service of Drivers. (4-5-00)
- m.** Part 396. Inspection, Repair and Maintenance. (4-5-00)
- n.** Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (4-5-00)
- o.** Part 398. Transportation of Migrant Workers. (4-5-00)
- p.** Part 399. Employee Safety and Health Standards. (4-5-00)

03. Recognition of Federal Waivers. Whenever a driver or carrier has applied to a federal agency and been granted a waiver from any of the requirements of the federal regulations adopted in Subsection 019.01, the federal waiver will also be recognized under these rules. The Department reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers. (4-5-00)

04. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Subsection 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 387, 388, 390 through ~~394, and 396 through~~ 399 published in the Code of Federal Regulations volumes dated October 1, 2002~~8~~; ~~and Part 393 published in the Code of Federal Regulations volumes dated January 4, 2004, and Part 395 published in the Code of Federal Regulations volume dated August 25, 2005.~~ (~~3-30-07~~)(____)

05. Availability of Incorporated Documents. The 49 CFR’s can be found at www.fmcsa.dot.gov or copies may be viewed at the ~~central~~ office of the Idaho State Police. (~~3-20-04~~)(____)

IDAPA 12 - DEPARTMENT OF FINANCE

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-0901

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rules is July 29, 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 26-31-103, 26-31-204(5), 26-31-302(1)(a), and 26-31-302(2), 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, by no later than September 16, 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 2009 Idaho Legislature repealed the former Idaho Residential Mortgage Practices Act, Section 26-3101, Idaho Code, and replaced it with a new version of the Idaho Residential Mortgage Practices Act, Section 26-31-101, Idaho Code, (the new Act). The new Act incorporates the standards of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the S.A.F.E. Act), as required by federal law, and includes changes to prior law. Among the changes to Idaho law included in the new Act are:

1. New requirements for providers of residential mortgage loan and for loan modification services;
2. Specific requirements concerning continuing education for licensees under the new Act; and
3. Authorization for the Director of the Idaho Department of Finance to limit fees and charges imposed by providers of residential mortgage loan modification services.

The Director found it necessary to adopt temporary rules to establish consistency with the requirements of the new Act, and to interpret some of such requirements, to include:

1. Corrections to citation references to the Act;
2. Deletion of all continuing education definitions and provisions to reflect statutory changes and the role of the Nationwide Mortgage Licensing System and Registry in testing and education;
3. A definition of "application" for a residential mortgage loan and a loan modification;
4. A requirement that an "application fee" must be based on actual costs incurred by a licensee, or person required to be licensed under the new Act, in taking the application; and
5. A requirement that a "cancellation fee" may only be charged at the time of, or subsequent to, a request by a borrower to cancel services authorized under the Act and must bear a reasonable relationship to the actual costs incurred for services provided to a borrower up to the point of cancellation.

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 reason:

The Department of Finance was required to update the Rules Pursuant to the Idaho Residential Mortgage Practices Act to establish consistency with the new version of the Idaho Residential Mortgage Practices Act that was adopted by the 2009 Idaho Legislature (the new Act). A portion of the new Act was mandated by the federal government to be in place by July 1, 2009. These changes will ensure that the Department maintains consistency with the requirements of the new Act, which became effective on July 1, 2009.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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 the timing of the effective date of the new Idaho Residential Mortgage Practices Act, July 1, 2009, did not provide adequate time to conduct negotiated rulemaking by the effective date of the new Act or within a reasonably short time thereafter, requiring that temporary rules be adopted to establish consistency between the rules and the new Act and interpret some of the new requirements included in the new Act.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact: Michael Larsen, Consumer Finance Bureau Chief, (208) 332-8000.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned at the address set forth above, and must be delivered on or before September 23, 2009.

DATED this 29th day of July, 2009.

Michael Larsen
Consumer Finance Bureau Chief
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031
Telephone: (208) 332-8000
Facsimile: (208) 332-8096

THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT FOR DOCKET NO. 12-0110-0901

000. LEGAL AUTHORITY (RULE 0).

This chapter is promulgated pursuant to Sections ~~26-3105(5)~~ 26-31-103, 26-31-204(5), 26-31-302(1)(a), and 26-31-302(2), Idaho Code. ~~(11-1-98)(7-29-09)T~~

001. TITLE AND SCOPE (RULE 1).

The title of this chapter is "Rules Pursuant to the Idaho Residential Mortgage Practices Act," ~~of which rules are administered by~~ the Idaho Department of Finance, and may be cited as IDAPA 12.01.10. These rules ~~implement~~ interpret the Idaho Residential Mortgage Practices Act, Title 26, Chapter 31, Idaho Code. ~~(11-1-98)(7-29-09)T~~

002. WRITTEN INTERPRETATIONS -- AGENCY ACCESS -- FILINGS (RULE 2).

Written interpretations of these rules are available by mail from the Idaho Department of Finance, P.O. Box 83720, Boise, Idaho 83720-0031. The street address of the agency is Idaho Department of Finance, 800 Park Boulevard, Suite 200, Boise, Idaho 83712. The telephone numbers of the ~~agency include~~ Idaho Department of Finance are: (208) 332-8000 - Administration; and (208) 332-8002 - Consumer Finance Bureau. The ~~telephone~~ number ~~of~~ for the facsimile machine ~~in the Consumer Finance Bureau~~ is (208) 332-8096. All filings with the ~~agency~~ Idaho Department of Finance in connection with rulemaking or contested cases shall be made with the Director of the Idaho Department of Finance, and shall include an original and one (1) copy. ~~(3-30-07)(7-29-09)T~~

(BREAK IN CONTINUITY OF SECTIONS)

005. INCORPORATION BY REFERENCE (RULE 5).

~~IDAPA 12-01-10.~~ The “Rules Pursuant to the Idaho Residential Mortgage Practices Act,” incorporates by reference the full text of the following federal laws and regulations as defined in these rules: the Real Estate Settlement Procedures Act, *12-USCA 2601, et seq., as amended to and including January 1, 2007*; Regulation X, *24-CFR 3500, et seq., as amended to and including January 1, 2007*; the Truth in Lending Act, *15-USCA 1601, et seq., as amended to and including January 1, 2007*; and Regulation Z, *12-CFR 226, et seq., as amended to and including January 1, 2007*. Documents incorporated by reference may be viewed at the central office of the Idaho Department of Finance, as noted in Section 002 of these rules. (3-30-07)(7-29-09)T

006. DEFINITIONS (RULE 6).

~~Except where otherwise stated, terms used in these rules which are defined in the Idaho Residential Mortgage Practices Act shall have the same meaning as set forth in that Act.~~ As used in the Idaho Residential Mortgage Practices Act and these rules, the following definitions apply: (3-30-06)(7-29-09)T

~~**01. Accredited Instruction.** Means a course, video, motion picture, sound recording, or dissemination through electronic means of instructional material, which has been approved by the director for continuing professional education credit. (3-30-06)~~

021. Act. Means the Idaho Residential Mortgage Practices Act, Title 26, Chapter 31, Idaho Code. (3-30-06)

02. Application. In relation to a “residential mortgage loan” or “loan modification” as defined in the Act, an “application” means a request for a residential mortgage loan or loan modification and any form or document representing such request. The term “application” does not include the processing of such request. (7-29-09)T

~~**03. Certificate of Completion.** Means written documentation issued by an education provider to a participant, in a manner approved by the director, evidencing the completion of a specific amount of credit hours of accredited instruction. (3-30-06)~~

043. Closing. Means the process of executing legally binding documents regarding a lien on property that is subject to a residential mortgage loan and includes the day agreed upon by a borrower and a licensee or person required to be licensed under the Act to complete such process. (3-30-06)(7-29-09)T

~~**05. Credit Hour.** Means fifty (50) minutes of accredited instruction attained through actual course attendance or an allotted increment of time of accredited instruction through independent study, as predetermined by the director. (5-8-09)~~

064. Director. Means the director of the Idaho Department of Finance. (3-30-06)

~~**07. Education Provider.** Means a provider of accredited instruction. (3-30-06)~~

~~**08. Participant.** Means a person who attends accredited instruction for the purpose of accruing credit hours. (3-30-06)~~

095. Real Estate Settlement Procedures Act. Means the act set forth in 12 USCA 2601, et seq., as amended to and including January 1, 2009. (5-8-09)

~~**106. Regulation X.** Means Regulation X as promulgated by the Department of Housing and Urban Development and codified in 24 CFR 3500 et seq., as amended to and including January 1, 2009. (5-8-09)~~

~~**107. Regulation Z.** Means Regulation Z as promulgated by the Board of Governors of the Federal Reserve System and codified in 12 CFR 226 et seq., as amended to and including January 1, 2009. (5-8-09)~~

~~**12. Reporting Period.** Means a two (2) year period of time commencing on November 1st and ending on October 31st unless otherwise specified by order of the director. (3-30-06)~~

~~1308.~~ **Truth in Lending Act.** Means the act set forth in 15 USCA 1601 et seq., as amended to and including January 1, 2009. (3-8-09)

007. -- ~~0039.~~ (RESERVED).

~~010. REQUIREMENTS FOR CONTINUING PROFESSIONAL EDUCATION (RULE 10).~~

~~01. Licensee.~~ For purposes of the "Requirements for Continuing Professional Education" provisions of this rule, the term "licensee" means a person: (3-30-06)

~~a. Who is a loan originator licensed under the Act; or (3-30-06)~~

~~b. Who is designated pursuant to Section 26-3108, Idaho Code, as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act. (3-30-06)~~

~~02. Minimum Requirements. (3-30-06)~~

~~a. A loan originator licensed under the Act shall attain sixteen (16) credit hours within each reporting period. (3-30-06)~~

~~b. Persons designated in the director's files, as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act shall attain sixteen (16) credit hours within each reporting period. (3-30-06)~~

~~c. Credit hours accrued in excess of the required sixteen (16) credit hours in any reporting period shall not carry over nor be credited to any subsequent reporting period. (3-30-06)~~

~~03. Accrual of Credit Hours. (3-30-06)~~

~~a. For the purpose of accruing credit hours within any reporting period, a licensee shall attain no less than two (2) credit hours directly related to the Act and these rules. (3-30-06)~~

~~b. For the purpose of accruing credit hours within any reporting period, a licensee shall attain no less than two (2) credit hours directly related to ethics. (5-8-09)~~

~~c. For the purpose of accruing credit hours within any reporting period, a licensee shall attain no less than twelve (12) credit hours related to the following: (5-8-09)~~

~~i. Basics of home purchase and ownership; (3-30-06)~~

~~ii. The mortgage industry generally; (3-30-06)~~

~~iii. Loan evaluation and documentation; (3-30-06)~~

~~iv. Features of various loan products; (3-30-06)~~

~~v. State and federally required disclosures; (3-30-06)~~

~~vi. Ethical considerations; (3-30-06)~~

~~vii. The Idaho Credit Code; (3-30-06)~~

~~viii. The Idaho Mortgage Company Act; (3-30-06)~~

~~ix. The Idaho Escrow Act; (3-30-06)~~

~~x. The Idaho Residential Mortgage Practices Act; (5-8-09)~~

- ~~xi. Law related to mortgages, deeds of trust, liens, and pledges; (3-30-06)~~
- ~~xii. Real estate and appraisal law; (3-30-06)~~
- ~~xiii. Principal and agency law; (3-30-06)~~
- ~~xiv. Contract law; (3-30-06)~~
- ~~xv. The Real Estate Settlement Procedures Act; or (3-30-06)~~
- ~~xvi. Truth in Lending and the federal Consumer Credit Protection Act. (3-30-06)~~
- ~~e. Accredited instruction shall be of a minimum duration of one (1) credit hour and shall contribute to the goal of maintaining or increasing the knowledge, skill and competence of licensees. The principal focus of accredited instruction shall not be sales, marketing, commercial lending or commercial loan brokering, motivational, or skills pertaining to running a business. (3-30-06)~~
- ~~d. A participant who successfully completes a course of accredited instruction may not repeat that course for credit hours with the same education provider within the same reporting period. (3-30-06)~~
- ~~e. A participant may accrue credit hours within ninety (90) days prior to initial submission of an application for a loan originator license under the Act. Such credit hours shall not accrue to the participant unless the initial license application is subsequently approved by the director and a license is issued. Credit hours shall not be granted to a participant under this provision unless the participant provides the director with a copy of the certificate of completion for such accredited instruction within sixty (60) days of initial licensure. (3-30-06)~~
- ~~f. Persons designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act may accrue credit hours for accredited instruction attended within ninety (90) days prior to the date of approval by the director of such designation. (3-30-06)~~
- ~~g. Persons who, as of January 1, 2006, are designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act may accrue credit hours for accredited instruction completed on or after October 1, 2005. (3-30-06)~~
- ~~**04. Recordkeeping and Reporting of Accrued Credit Hours. (3-30-06)**~~
- ~~a. Every licensee shall maintain copies of certificates of completion for a period of no less than three (3) years following completion of the accredited instruction. (3-30-06)~~
- ~~b. The initial reporting period for a loan originator licensed under the Act shall commence on November 1st immediately succeeding his initial licensure. (3-30-06)~~
- ~~e. The initial reporting period for persons who are not loan originators, but who have been designated in the director's files as being in charge of a licensed location of a mortgage broker or mortgage lender licensed under the Act shall commence: (3-30-06)~~
- ~~i. On November 1, 2006, if the person has been so designated prior to November 1, 2006; or (3-30-06)~~
- ~~ii. On November 1st immediately following the director's approval of the person's designation, if the person is so designated on or after November 1, 2006. (3-30-06)~~
- ~~d. Within thirty (30) days following the expiration of each reporting period a licensee shall deliver copies of certificates of completion to the director demonstrating the licensee's completion of the credit hours required under these rules. (3-30-06)~~

~~e. A licensee who fails to attain the credit hours required by these rules, or fails to maintain records as required in Section 010 of these rules, or fails to timely report compliance with the credit hour requirements of these rules shall be subject to license revocation or suspension as prescribed in Section 26-3109, Idaho Code. (3-30-06)~~

~~f. Upon revocation or suspension of a license issued under the Act for failure to complete or report credit hour requirements, no person shall obtain a new license or a reinstated license in the case of a license suspension, as a loan originator, mortgage broker or mortgage lender without first satisfying the credit hour requirements, which, having been previously incomplete or not reported, were the cause of the license revocation or suspension. (3-30-06)~~

~~**011. EDUCATION PROVIDERS AND CONTENT OF CONTINUING PROFESSIONAL EDUCATION (RULE 11).**~~

~~**01. Submission of Continuing Professional Education Courses for Accreditation by the Director.** Education provider applicants shall submit an application, in a form provided by the director, for accreditation of continuing professional education for each instructional course proposed to be offered by the education provider applicant. The application shall be accompanied by a non refundable application fee of two hundred fifty dollars (\$250) and shall include, but not be limited to, the following information: (3-30-06)~~

~~a. The name and address of the education provider and date(s) on and locations at which the program is to be offered; (3-30-06)~~

~~b. The qualifications and experience of the education provider's principal officers, staff, and instructor(s); (3-30-06)~~

~~c. The costs of all programs for which approval is sought; (3-30-06)~~

~~d. A copy of the proposed course materials together with a description of each course for which approval is sought; and (3-30-06)~~

~~e. A sample of what is provided to participants to verify course completion. (3-30-06)~~

~~**02. Granting of Accreditation of Professional Education Courses.** The director shall grant accreditation to continuing professional education courses if he finds: (3-30-06)~~

~~a. That the course constitutes an organized program of learning which provides instruction on subject matter as described in Subsection 010.03 of these rules; (3-30-06)~~

~~b. That course materials are prepared, and instruction conducted, by an individual or group qualified by practical or academic experience in the subject or subjects to be presented; (3-30-06)~~

~~c. That the course shall be presented in a setting physically suited to the educational activity or in a manner which allows for participant interaction and comprehension of course materials. Training facilities for live class settings shall be easily accessible and comply with all applicable state and federal laws, including, but not limited to, the Americans With Disabilities Act of 1990; (3-30-06)~~

~~d. That course outlines, syllabi, workbooks, examinations, study guides, or other instructional material are of a high quality, readable, and carefully prepared and relevant to the course of study offered; and (3-30-06)~~

~~e. That the prospective education provider's application is complete and truthful. (3-30-06)~~

~~**03. Review of Accredited Instruction.** (3-30-06)~~

~~a. An education provider shall designate one (1) person as its contact person who shall be available to the director, or to his designated representative, during ordinary business hours and shall be knowledgeable and have authority to act with regard to all administrative matters concerning instructors, scheduling, advertising,~~

~~recordkeeping, and supervising all programs offered by the education provider. (3-30-06)~~

~~**b.** The director may periodically review the content and facilitation of accredited instruction for the purposes of verifying that such accredited instruction continues to meet the requirements of these rules. (3-30-06)~~

~~**c.** The education provider shall be required to permit the director, or the director's representative, to audit the accredited instruction and course material at no cost to the director or to the director's representative. The audit shall evaluate whether the accredited instruction meets the requirements of these rules. The education provider shall permit the director or the director's representative to review records appropriate to selected course offerings. Upon a finding that accredited instruction no longer meets the requirements of these rules, the director may suspend or revoke the approval of the accredited instruction. The education provider shall be responsible for payment of audits conducted under Section 011 of these rules. (3-30-06)~~

~~**d.** Education providers shall notify the director of any material changes which have been made to accredited instruction within thirty (30) days of such changes. Material changes include changes materially affecting the content or facilitation of accredited instruction as it applies to the requirements of Subsection 011.02 of these rules. (3-30-06)~~

~~**e.** Within thirty (30) days of conclusion of a course of accredited instruction, an education provider shall submit to the director an attendance roster in a form prescribed by the director. Education providers shall maintain records related to participant attendance and completion of accredited instruction for a period of no less than three (3) years. (3-30-06)~~

~~**04. Suspension of Accreditation.** The accreditation of a continued professional education course may be suspended if the director determines that: (3-30-06)~~

~~**a.** The accredited instruction teaching method or program content no longer meets the standards of these rules, or have been materially changed without notice to the director as required; or (3-30-06)~~

~~**b.** The education provider granted a certificate of completion when in fact the participant had not satisfactorily completed the accredited instruction; or (3-30-06)~~

~~**c.** The education provider failed to grant a certificate of completion to a participant when in fact the participant had satisfactorily completed the accredited instruction; or (3-30-06)~~

~~**d.** The education provider or any of its instructors have had a mortgage license revoked or suspended in any jurisdiction; or (3-30-06)~~

~~**e.** There is other good cause why accreditation should be suspended. (3-30-06)~~

~~**05. Reinstatement of Accreditation.** Reinstatement of a suspended accreditation will be made upon the furnishing of proof satisfactory to the director that the conditions responsible for the suspension have been corrected. (3-30-06)~~

~~**06. Renewal of Approval of Accredited Instruction.** The director's accreditation of a continuing professional education course shall expire two (2) years from the date of issuance and thereafter on each subsequent two (2) year anniversary of the renewal date. Application for renewal of accreditation shall be filed by not later than sixty (60) days prior to each such expiration date and shall be accompanied by a non-refundable renewal fee of one hundred fifty dollars (\$150). Applications for renewal of accreditation shall be in a form prescribed by the director and shall include documentation demonstrating that the accredited instruction continues to meet the requirements of Subsection 011.02 of these rules. (3-30-06)~~

~~**07. Prohibited Practices.** (3-30-06)~~

~~**a.** No person shall represent, in any manner that an instructional course has received approval or accreditation from the director or that participants will receive credit hours for attendance and completion of an instructional course, unless such course has been approved by the director. (3-30-06)~~

~~b. No person shall misrepresent, circumvent or conceal, through whatever subterfuge or device, any of the material particulars of the status, content, or facilitation of an instructional course offered to participants for the purposes of meeting the continuing professional education requirements of these rules. (3-30-06)~~

~~012. PRESUMPTIVE ACCREDITATION (RULE 12).~~

~~01. Instructional Courses Presumptively Accredited. Instructional courses that cover subject matter set forth in Subsection 010.03 of these rules, that are provided by the following listed organizations, or by such other organizations as may be determined by the director, are presumptively accredited and no request for accreditation of an instructional course offered by these organizations is required, unless the director determines otherwise. (3-30-06)~~

- ~~a. The Idaho Department of Finance. (3-30-06)~~
- ~~b. The National Association of Mortgage Brokers. (3-30-06)~~
- ~~c. The Mortgage Bankers Association. (3-30-06)~~
- ~~d. The National Association of Professional Mortgage Women. (3-30-06)~~
- ~~e. The Idaho Housing and Finance Association. (3-30-06)~~
- ~~f. Federal National Mortgage Association. (3-30-06)~~
- ~~g. Federal Home Loan Mortgage Corporation. (3-30-06)~~
- ~~h. The American Bankers Association. (3-30-06)~~
- ~~i. Regulatory agencies of any state or of the United States that have regulatory authority over mortgage related activity. (3-30-06)~~
- ~~j. Institutions of higher education accredited by the Idaho State Board of Education or by similar accrediting agencies of any other state. (3-30-06)~~
- ~~k. The Conference of State Bank Supervisors. (3-30-06)~~
- ~~l. The American Association of Residential Mortgage Regulators. (3-30-06)~~

~~02. Acceptance of Credit Hours for Presumptively Accredited Instruction. Credit hours for presumptively accredited instruction may be credited to participants in the following manner: (3-30-06)~~

- ~~a. Upon timely submission of a copy of a certificate of completion as set forth in Subsection 010.04 of these rules; or (3-30-06)~~
- ~~b. By written application by the participant, in a form prescribed by the director, within ninety (90) days of successful course completion. The application shall be accompanied by a non-refundable fee of twenty five dollars (\$25). (5-8-09)~~

~~013.—039. (RESERVED).~~

040. DECEPTIVE ADVERTISING (RULE 40).

01. Advertising. Advertising means making or permitting to be made any oral, written, graphic or pictorial statements, in any manner, in the course of the solicitation of business authorized under the Act. Deceptive advertising is defined to include the following practices by a licensee, or a person required to be licensed under the Act: (3-30-06)(7-29-09)T

a. Making a representation or statement of fact in an advertisement if the representation or statement is false or misleading, or if the licensee or person required to be licensed under the Act does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based.

~~(11-1-98)~~(7-29-09)T

b. Advertising without clearly and conspicuously disclosing the ~~licensee's~~ business name and unique identifier assigned by the Nationwide Mortgage Licensing System and Registry (NMLSR) to the licensee or person required to be licensed under the Act.

~~(11-1-98)~~(7-29-09)T

c. Engaging in bait and switch advertising or misrepresenting, directly or indirectly, the terms, conditions or charges incident to ~~the mortgage loan being advertised~~ services authorized under the Act. Bait and switch advertising, for these purposes of these rules, means ~~an alluring, but insincere offer to procure, arrange, or otherwise assist a borrower in obtaining a mortgage loan on terms which the licensee cannot, does not intend, or want to provide, or which the licensee knows cannot be reasonably provided. Its purpose is to switch borrowers from obtaining the advertised mortgage loan product to obtaining a different mortgage loan product, usually at a higher rate or on a basis more advantageous to the licensee~~ advertising services without the intent to provide them but, rather, to lure a person into making an application for services and then switch the person from obtaining the advertised services to other or different services on a basis more advantageous to the licensee or person required to be licensed under the Act.

~~(3-30-06)~~(7-29-09)T

d. ~~Advertising~~ Using an address in advertising at which the licensee or person required to be licensed under the Act conducts no mortgage brokering, ~~or mortgage~~ lending, or mortgage loan origination activities or for which the licensee or person required to be licensed does not hold a license.

~~(3-30-06)~~(7-29-09)T

e. Advertising or soliciting in a manner that has the effect of misleading a person to believe that the advertisement or solicitation is from a person's current mortgage holder, a government agency, or that an offer is a limited opportunity, when such is not the case.

~~(3-30-06)~~(7-29-09)T

041. -- 049. (RESERVED).

050. WRITTEN DISCLOSURES (RULE 50).

01. ~~Upon Receipt of an Residential Mortgage Loan Application.~~ Upon receipt of an residential mortgage loan application as defined in Subsection 006.02 of these rules, and before receipt of any moneys from a borrower, a licensee or person required to be licensed under the Act shall disclose to each borrower information about the licensee or person required to be licensed under the Act, in a form acceptable to the Director, information about the licensee, the services that a licensee may provide and the services that the licensee will provide including the services that may be provided and the services that will be provided, in a form acceptable to the Director.

~~(3-30-06)~~(7-29-09)T

02. **Information Provided Within Three Days.** Within three (3) business days after receipt of a residential mortgage loan application, a licensee or person required to be licensed under the Act shall provide to the borrower the following disclosures specific to the residential mortgage loan application:

~~(3-30-06)~~(7-29-09)T

a. Disclosures in compliance with the requirements of the ~~federal~~ Truth-in-Lending Act and Regulation Z. These include the annual percentage rate, finance charge, amount to be financed, total of all payments, number of payments, amount of each payment, and amount of points or prepaid interest. ~~and if~~ If the loan is a variable rate loan, such disclosures shall include the circumstances under which the rate may increase, any limitation on the increase, the effect of an increase on the monthly payment amount, and the total interest to be paid, and an example of the payment terms resulting from an increase for a loan in the approximate amount of the loan that is being requested in the amount of the loan and fees associated with the loan.

~~(11-1-98)~~(7-29-09)T

b. Disclosures through good faith estimates of settlement services in compliance with the requirements of the ~~federal~~ Real Estate Settlement Procedures Act and Regulation X. ~~These~~ Such disclosures include the itemized costs of any credit report, appraisal, title report, title insurance policy, mortgage insurance, premium pricing, escrow fee, loan closing fee, property tax, insurance premium, structural or pest inspection, and any

mortgage broker or mortgage ~~banker~~ lender fees associated with the residential mortgage loan. ~~(11-1-98)~~(7-29-09)T

03. Interest Rate Lock-In Agreement Not Entered. If, at the time of a residential mortgage loan application, an interest rate lock-in agreement has not been entered, disclosure shall be made to the borrower, in a form approved by the director, that the disclosed interest rate and terms are subject to change. A licensee or person required to be licensed under the Act shall provide such disclosure to the borrower within three (3) business days of ~~the licensee's~~ receipt by the licensee or person required to be licensed under the Act of an application for a residential mortgage loan. ~~(3-30-06)~~(7-29-09)T

04. ~~Licensee Enters into a~~ Lock-In Agreement Entered. If a licensee or person required to be licensed under the Act enters into an interest rate lock-in agreement with a lender or represents to the borrower that ~~the licensee has entered into~~ a lock-in agreement has been entered into, then within no more than three (3) business days thereafter, including Saturdays, the licensee or person required to be licensed under the Act shall deliver or send by first-class mail to the borrower a written confirmation of the term of the lock-in agreement. ~~(3-30-06)~~(7-29-09)T

05. Loan Modification Confirmation. Within three (3) business days, including Saturdays, of receipt of a notice from a creditor or its agent of a loan modification offer, a licensee or person required to be licensed under the Act shall deliver or send by first-class mail to the borrower a written confirmation of the terms of the loan modification offer. Such confirmation shall include information regarding proposed rates, payments, and loan balance. (7-29-09)T

056. ~~It~~ Additional ~~to~~ Disclosures Required. In addition to the disclosures required under Subsection 050.02 of these rules, if a prepayment penalty ~~may be~~ is a condition of a residential mortgage loan offered by a licensee or person required to be licensed under the Act, that fact shall be separately disclosed in writing to the borrower by the licensee or person required to be licensed under the Act. ~~The~~ Such disclosure shall state that a prepayment penalty provision imposes a charge if the borrower refinances or pays off the residential mortgage loan before the date for repayment stated in the loan agreement. This written disclosure shall be in a form approved by the ~~Director~~, and shall be delivered to the borrower within three (3) business days of ~~the licensee's~~ receipt by the licensee or person required to be licensed under the Act of an application for a residential mortgage loan. ~~(3-30-06)~~(7-29-09)T

051. RESTRICTIONS ON FEES (RULE 51).

If a licensee or person required to be licensed under the Act imposes fees authorized by Section 26-31-210 of the Act, the following restrictions apply, subject to the Director's authority to set limits on fees and charges pursuant to Section 26-31-204(6) of the Act: (7-29-09)T

01. Application Fee. An application fee shall include only the actual costs incurred by a licensee or person required to be licensed under the Act in connection with the taking of an application and transcribing application information. (7-29-09)T

02. Cancellation Fee. A cancellation fee may only be charged at the time of, or subsequent to, a request or instruction by a borrower to a licensee or person required to be licensed under the Act to cancel a request for services authorized under the Act. Such fee must bear a reasonable relationship to the actual costs incurred by the licensee or person required to be licensed under the Act for services provided to a borrower up to the borrower's request or instruction to cancel the request for services. A cancellation fee must comply with the requirements of Regulation Z, when applicable. (7-29-09)T

~~0542.~~ -- 059. (RESERVED).

060. PROHIBITED PRACTICES (RULE 60).

~~01. Prohibited Practices.~~ It shall be a prohibited practice for any licensee, or person required to be licensed under the Act, in connection with offering or providing services authorized under the Act, to: ~~(3-30-06)~~(7-29-09)T

~~01.~~ **Make False or Misleading Statements.** Make any representation or statement of fact, or omit to state a material fact, if the representation, statement or omission is false or misleading or has the tendency or capacity

to be misleading, or if the licensee or ~~lender~~ person required to be licensed under the Act does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based. Such claims or omissions include, but are not limited to, the availability of funds, terms, conditions, ~~or~~ changes incident to the mortgage transaction, prepayment penalties, ~~and~~ the possibility of refinancing, and the likelihood of successfully obtaining specific mortgage loan modification terms. ~~(11-1-98)(7-29-09)T~~

~~b02.~~ **Fail to Disburse Funds Timely.** Fail to disburse funds in a timely manner, in accordance with any commitment or agreement with the borrower, either directly or through a mortgage broker: ~~(11-1-98)(7-29-09)T~~

~~ia.~~ Either immediately upon closing of the loan in the case of a purchase/sale transaction; or (11-1-98)

~~ib.~~ Immediately upon expiration of the three (3) day rescission period in the case of a refinancing, or taking of a junior mortgage on the existing residence of the borrower. (3-30-06)

~~ic.~~ For the purposes of this ~~paragraph~~ Subsection, the term “immediately” represents a period of time no greater than seventy-two (72) hours. ~~(3-30-06)(7-29-09)T~~

~~e03.~~ **Fail to Provide Reasonable Opportunity for Document Review.** Fail to give the borrower, upon the borrower’s verbal or written request, a reasonable opportunity of at least twenty-four (24) hours prior to closing to review every document to be signed or acknowledged by the borrower for the purpose of obtaining a residential mortgage loan, and every document ~~which~~ that is required pursuant to these rules, and other applicable laws, rules or regulations. ~~(3-30-06)(7-29-09)T~~

~~e04.~~ **Require Excessive Insurance.** Require a borrower to obtain or maintain fire insurance or other hazard insurance in an amount that exceeds the replacement value of the improvements to the real estate. (3-30-06)

~~e05.~~ **Engage in Deceptive Advertising.** Engage in any deceptive advertising as set forth in Section 040 of these rules. ~~(11-1-98)(7-29-09)T~~

~~e06.~~ **Provide or Offer Services Without a License or Approval.** Provide or offer to provide any services, for compensation or gain, or in the expectation of compensation or gain, incident to services authorized under the Act, such as ~~credit repair, credit or debt counseling~~, investment advising, real estate brokerage services, tax or legal advice, unless the person offering such services has first obtained a license or the approval required by the appropriate licensing authority to engage in the offering of such services. ~~(3-30-06)(7-29-09)T~~

061. -- 089. (RESERVED).

090. BORROWERS UNABLE TO OBTAIN LOANS (RULE 90).

If, for any reason, a licensee ~~does not~~ or person required to be licensed under the Act fails to obtain a residential mortgage loan for a borrower that is satisfactory to the borrower, and the borrower has paid for an appraisal, the licensee or person required to be licensed under the Act shall ~~give~~ provide a copy of the appraisal to the borrower and transmit and assign original appraisal reports, along with any other documents provided by the borrower, to any other ~~licensee or person exempt from licensure~~ person to whom the borrower directs that the documents be transmitted. The licensee or person required to be licensed under the Act shall provide ~~the~~ such copies or transmit ~~the~~ such documents within three (3) business days after the borrower makes the request in writing. ~~(3-30-06)(7-29-09)T~~

091. -- 099. (RESERVED).

100. ~~LEGAL AUTHORITY~~ IDAHO LEGISLATURE’S DETERMINATION AND THE DIRECTOR’S AUTHORITY (RULE 100).

In Section ~~26-3105(2), Idaho Code~~ 26-31-103(1) of the Act, the Idaho Legislature determined that a uniform multistate administration of an automated license system for mortgage brokers, mortgage lenders and mortgage loan originators is consistent with both the public interest and the purposes of the Idaho Residential Mortgage Practices Act, Chapter 31, Title 26, Idaho Code (the Act). In Section ~~26-3105(2)(b), Idaho Code~~ 26-31-103(2)(b) of the Act, the Idaho Legislature authorized the Director of the Idaho Department of Finance to establish by rule such new requirements as are necessary for the state of Idaho to participate in a uniform multistate automated licensing system upon the Director’s finding that such new requirements are consistent with both the public interest and the purposes

of the Act. The Director finds that the requirements set forth in Sections 100 and 101 of these rules are consistent with the public interest and the purposes of the Act, and therefore promulgates such rules pursuant to Section ~~26-3105(2)(b)~~, ~~Idaho Code~~ 26-31-103(2)(b) of the Act. ~~(5-8-09)(7-29-09)T~~

101. NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY (RULE 101).

01. The Nationwide Mortgage Licensing System and Registry (NMLSR). The NMLSR is an Internet-based filing depository operated by the State Regulatory Registry, LLC (SRR), a wholly-owned operating subsidiary of the Conference of State Bank Supervisors (CSBS). The NMLSR is designed to accept license applications and license renewal applications electronically from mortgage brokers, mortgage lenders, and mortgage loan originators; collect associated statutory filing fees on behalf of participating jurisdictions, as well as the expenses associated with an applicant's or licensee's participation in the NMLSR; and provide the public with Internet-based access to information concerning ~~state-regulated~~ mortgage brokers, mortgage lenders, and mortgage loan originators. The NMLSR began accepting electronic filings of applications from ~~state-regulated~~ mortgage brokers, mortgage lenders, and mortgage loan originators from Idaho on January 21, 2008. ~~(5-8-09)(7-29-09)T~~

02. Reasonable Access to the NMLSR. All mortgage brokers, mortgage lenders, and mortgage loan originators with reasonable access to the NMLSR via the Internet who seek a license under the Act, or who wish to retain a license previously issued under the Act, must do so through the NMLSR. Applicants for a license or licensees who wish to retain a license under the Act who lack reasonable access to the NMLSR via the Internet may, upon prior approval of the Director and good cause shown, be excused from participation in the NMLSR and may apply for a license or for license renewal through an alternative method designated by the Director. ~~(5-8-09)(7-29-09)T~~

03. Licensing. Mortgage brokers, mortgage lenders, and mortgage loan originators who seek to obtain or retain a license under the Act through the NMLSR must pay the charge imposed and retained by the NMLSR to fund the costs of the NMLSR associated with an applicant's or licensee's participation in the system. ~~(5-8-09)(7-29-09)T~~

04. Statutory Fees. The NMLSR shall collect any statutory fees on the Department's behalf any statutory fees of the Idaho Department of Finance that are required to be paid to the Idaho Department of Finance by license applicants and licensees pursuant to the Idaho Residential Mortgage Practices Act. The NMLSR is required to forward to the Idaho Department of Finance all statutory fees it collects on the Department's behalf of the Idaho Department of Finance, pursuant to the terms of a written agreement between the Idaho Department of Finance and the SRR. ~~(5-8-09)(7-29-09)T~~

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.01 - RULES OF PRACTICE AND PROCEDURE OF THE IDAHO FISH AND GAME COMMISSION

DOCKET NO. 13-0101-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 36-104(b), 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Defines the duties of the Commission Chairman and Vice-Chairman, and deletes obsolete rules.

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

There are no fees or charges being imposed through this rulemaking.

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

There is no impact on the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it unfeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact W. Dallas Burkhalter (208) 334-3715.

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 September 23, 2009.

DATED this 28th day of July, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 13-0101-0901

011. COMMISSION OFFICERS.

The officers of the Commission shall be chairman, vice-chairman, and secretary. The Commission shall annually elect the chair and vice-chair for the ensuing year. The newly elected chairman and vice-chairman shall assume the duties of their respective offices at the conclusion of the meeting at which they were elected. ()

012. DUTIES OF CHAIRMAN.

The Chairman shall preside at all meetings, set the agenda for all meetings, and shall perform such other duties as the Commission may direct. ()

013. DUTIES OF VICE-CHAIRMAN.

The Vice-Chairman shall perform the duties of the Chairman in the absence of the Chairman. In the event of the absence of both the Chairman and Vice-Chairman, the Commission may appoint an Acting Chairman to preside during such absence. ()

014. DIRECTOR -- COMMISSION SECRETARY -- COMMUNICATIONS.

The Director of the Department is the Commission Secretary and the custodian of all public files of the Commission. The Secretary or his designee is responsible for service of all orders and notices and other documents issued by the Commission. (10-26-94)

01. Written Communications and Documents. All written communications and documents concerning any matter covered by these rules should be mailed to the headquarters office of the Commission and not to individual members of the Commission or Department. Unless otherwise provided by statutes, these rules, order or notice, documents are considered to be officially received as evidenced by the date stamp placed on all such communications and documents when received, not when mailed. (10-26-94)

02. Proceedings Information. Information concerning proceedings before the Commission or Department or the status of any matter before the Commission is available from the Commission Secretary. (10-26-94)

0125. DELEGATION OF POWERS TO DIRECTOR.

The Commission may, by order, delegate such powers to the Director as the law will permit. (10-26-94)

0136. INVESTIGATIONS.

The Commission may authorize any of its members, the Director, or other persons to make investigations for fact-finding purposes. The investigator or person conducting the hearing shall report the results of such investigation or hearing to the Director or if directed, to the Commission as a body. Such proceedings may be formal or informal as directed by the Commission. (10-26-94)

0147. -- 049. (RESERVED).

050. COMMISSION MEETINGS.

01. Discrimination. Commission meetings shall not knowingly be held at any place where discrimination on the basis of race, creed, color, sex, age, or national origin is practiced. (10-26-94)

02. Commission Meetings Required. The Commission shall hold its annual meeting in Boise in January and hold other regular quarterly meetings in April, July, and October at places within the state of Idaho as the Commission may select. All meetings of the Commission are open to the public, except as provided under Idaho Code, Section 67-2345. (10-26-94)

03. Special Meetings. Special meetings may be called at any time and place by the Chairman and/or a majority of the members of the Commission. Special meetings are open to the public and are subject to the same requirements as regular meetings, except as provided under Section 67-2345, Idaho Code. (10-26-94)

~~**04. Telephone Conference Call Meetings.** In emergency situations or because of budget considerations, it may be necessary to hold special meetings by telephone conference call. Such meetings are open to~~

~~the public and are subject to the same requirements as regular meetings, except as provided under Section 67-2345, Idaho Code.~~ (10-26-94)

054. Attendance of Director. The Director may attend all meetings and hearings of the Commission, except when ordered otherwise by the Commission, and will have the same right to speak at such meetings as the members of the Commission. However, the Director will not be permitted to vote upon any question being decided by the Commission. (10-26-94)

065. Request to Appear Before the Commission. Any person wishing to appear before the Commission on any matter may make a written or oral request to appear. Requests must be received by the Commission at the headquarters office at least ten (10) days prior to the regularly scheduled Commission meeting at which the appearance is requested. Written requests shall contain a general statement of the purpose of the requested appearance. (10-26-94)

051. CONDUCT OF COMMISSION MEETINGS.

01. Quorum. Four (4) members of the Commission shall constitute a quorum for the transaction of any business or in the performance of any duty or for the exercise of any power. Provided, that whenever the number of Commissioners present is less than a quorum at a regular or special meeting, they may recess from day-to-day until a quorum is present. (10-26-94)

02. Call to Order. The Chairman of the Commission or, in his absence, any member of the Commission chosen by members present to act as the Acting Chairman of the Commission, shall call the meeting to order. (10-26-94)

~~**03. Order of Business.** When the Commission has been called to order and a quorum present, the order of business shall be as follows, or such other order of business as may be determined by the Chairman or a majority of Commission members:~~ (10-26-94)

- ~~a. Director's report.~~ (10-26-94)
- ~~b. Commission discussion.~~ (10-26-94)
- ~~c. Minutes.~~ (10-26-94)
- ~~d. Fiscal.~~ (10-26-94)
- ~~e. Rules.~~ (10-26-94)
- ~~f. Lands.~~ (10-26-94)
- ~~g. Management plans and policies.~~ (10-26-94)
- ~~h. Legislation.~~ (10-26-94)
- ~~i. Reports.~~ (10-26-94)
- ~~j. Miscellaneous.~~ (10-26-94)

043. Business Before the Commission. All business before the Commission shall be by motion and shall not be debated before the Chairman has properly stated or introduced the motion. After the motion has been introduced by the Chairman, each member of the Commission, or the Director, when properly recognized, may speak on the motion. (10-26-94)

054. Obtaining the Floor. To obtain recognition from the Chairman, a member will raise his hand and address the Chairman and, when duly recognized, the member may proceed, provided that such request for recognition may not be made when another has the floor. (10-26-94)

065. Voting. (10-26-94)

a. All members shall vote upon all motions placed before the commission unless excused by the Chairman and the reason for such excuse shall be stated in the record. (10-26-94)

b. A Commissioner may change his vote on any motion up to the time the vote is finally announced by the Chairman. (10-26-94)

~~**e.** Any absentee Commissioner wishing to vote on any motion, after being fully informed of the facts in the motion at hand, may cast his vote by proxy. The proxy shall be in the form of a letter designating power of attorney for a Commission member present at the meeting to cast a vote in behalf of the absent member. Such letter shall indicate the vote which is desired and shall become a part of the record of the meeting. (10-26-94)~~

076. Motion to Reconsider. A motion having been decided by the Commission, any Commissioner, having voted on the prevailing side, may on any day of the meeting at which such question was decided, move to reconsider the vote by which the same was lost or carried. If such motion to reconsider carries, the Chairman shall again put the original motion before the Commission. It will have the same status as if it had not been voted on by the Commission. (10-26-94)

087. Parliamentary Rules. The rules contained in Robert's Rules of Order shall govern the Commission in all cases to which they are applicable, and in which they are not inconsistent with the rules of order of the Commission. (10-26-94)

~~**09.** *Suspension or Amendment of Rules.* These rules of the Commission may be amended or suspended by a vote of three (3) members of the Commission. (10-26-94)~~

052. RECORDS OF MEETINGS.

The Director or his designee shall keep complete record of all proceedings of the Commission. Proceedings shall be kept in a permanent record book to be designated as Official Minutes of the Idaho Fish and Game Commission. ~~Summary minutes shall be taken of all meetings, except as provided in Subsection 052.04 below. Neither a full transcript nor an electronic recording of the meeting is required. All minutes shall be available for public inspection within one (1) month after the meeting. Summary minutes shall include a minimum of: (10-26-94)(_____)~~

~~**01.** *Orders Issued or Authorized.* All members of the Commission present; (10-26-94)~~

~~**02.** *Director Signature.* All motions, resolutions, orders, or rules proposed and their disposition; (10-26-94)~~

~~**03.** *Numbering of Orders.* The results of all votes and upon the request of any member, the vote of each member, by name; (10-26-94)~~

~~**04.** *Filing of Orders.* Minutes of executive sessions may be limited to material, the disclosure of which is not inconsistent with the provisions of Section 67-2345, Idaho Code, but shall contain sufficient detail to convey the general tenor of the session. (10-26-94)~~

IDAPA 13 - FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 36-104(b) and 36-408, 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Sets the Nonresident Deer tag quotas per Commission adoption; sets outfitter deer set-aside tags; reduces certain elk zone tags per Commission adoption; deletes obsolete elk zone tags; and sets elk zone tags per Commission adoption.

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

There are no fees or charges being imposed through this rulemaking.

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

There is no impact on the general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brad Compton (208) 287-2756.

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 September 23, 2009.

DATED this 29th day of July, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut, P.O. Box 25, Boise, Idaho 83707
(208) 334-3715, Fax (208) 334-2148

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 13-0104-0901

500. NONRESIDENT DEER AND ELK TAG OUTFITTER SET-ASIDE.

01. Tags. The following number of nonresident deer tags and nonresident elk tags shall annually be set aside and reserved for sale to persons who have entered into an agreement to utilize the services of an outfitter who is licensed under Chapter 21, Title 36, Idaho Code. For ~~the~~ each Hunting Season: ~~(3-20-04)~~(____)

a. One thousand nine hundred eighty-five (1,~~900~~85) deer tags (regular or White-tailed); ~~(4-2-08)~~(____)

~~**b.** Eighty five (85) S.E. Idaho Area deer tags;~~ ~~(3-20-04)~~

~~**b.** Two thousand four hundred (2,400) elk tags (A or B tags for all zones);~~ (3-20-04)

02. Restrictions. These tags shall be sold on a first-come, first-serve basis through June 30 of each year. Application for purchase of these tags shall be made by the outfitter for the nonresident on a form prescribed by the Department. The application shall be accompanied by the appropriate license fees and a certification by the outfitter that the nonresident hunter has a contract to hunt with the outfitter making application. (7-1-93)

03. Unsold Tags. Any tags not sold by July 1 of each year shall be sold by the Department to nonresidents on a first-come, first serve basis. If there is a waiting list of individuals desiring a tag for the species available, those individuals will be first served. Application shall be made only to the Headquarters office of the Department of Fish and Game in Boise, Idaho. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

600. NONRESIDENT DEER AND ELK TAG QUOTAS.

01. Tag Quotas. The following number of deer tags and elk tags shall be set aside annually and reserved for sale to nonresidents: (3-20-97)

a. ~~Twelve~~ Fourteen thousand ~~eight hundred~~ (~~12,800~~ 14,000) regular or White-tailed deer tags; ~~(4-2-08)~~(____)

b. Twelve thousand eight hundred fifteen (12,815) A or B elk tags for all zones; (3-20-04)

c. One thousand ~~two~~ five hundred (1,~~250~~500) ~~S.E. Idaho area~~ White-tailed ~~D~~deer tags available only upon sell out of deer tags referenced in Subsection 600.01.a. of these rules. ~~(7-1-98)~~(____)

02. Exceptions. Sales of nonresident deer and elk tags to the following persons shall not be counted in the quota: (7-1-93)

a. Unqualified Residents: Persons who have moved into Idaho and by notarized affidavit show proof of their intent to become bona fide Idaho residents but are not yet qualified to purchase a resident license. (7-1-93)

b. Designated Buyers: Nonresident tag buyers who return their unused nonresident deer or elk tag and a notarized affidavit stating that the tag buyer has not hunted may designate another nonresident to purchase an additional tag. If the original buyer does not make a designation and has retained an outfitter or guide, the outfitter or guide may make the designation. The designated buyer must pay the regular fee for the replacement tag. If no designation is made by either the original buyer or the outfitter or guide, the Department may sell the replacement tag on a first-come, first-serve basis. (7-1-93)

c. Successful nonresident controlled hunt applicants who have not purchased a tag as of the date of the controlled hunt drawing. (7-1-93)

d. Junior mentored tag holders. (3-20-04)

03. Refunds. The fee for any nonresident license (as defined in Section 36-202(z), Idaho Code) shall not be refunded for any reason except as follows. (7-1-98)

a. Hunting license and general season deer and elk tag refunds due to death, illness/injury or military deployment of licensee. Non-resident general season deer or elk tag fees and prerequisite hunting license fee and controlled hunt deer and elk tag fees may be refunded for death of licensee; illness or injury of licensee which totally disabled the licensee for the entire length of any applicable hunting season; or military deployment of licensee due to an armed conflict. Refund must be substantiated by death certificate, published obituary, written justification by a licensed medical doctor, copy of military orders, or other similar substantiating documents. The hunting license fee will not be refunded if it was used to apply for any controlled hunt or to purchase a turkey, mountain lion, or bear tag. The amount refunded will be the amount of the applicable deer or elk tag and hunting license less all issuance fees and a fifty dollar (\$50) processing fee. The refund request must be postmarked on or before December 31 of the calendar year in which the license and tags were valid. (4-6-05)

b. General season and controlled hunt deer and elk tag refunds for other than death, illness/injury, or military deployment of licensee. Non-resident general season and controlled hunt deer or elk tag fees may be refunded for any reason other than death of the licensee; illness or injury of licensee which totally disables the licensee for the entire length of all applicable seasons; or military deployment of licensee due to an armed conflict. The request for the refund must be postmarked in the year in which the tag is valid. The hunting license fee will not be refunded. The refund will be based on the following sliding scale as a percent of the deer or elk tag fee.

Postmarked	Percent of Fee Refunded	
Before April 1	-	75%
in April through June	-	50%
in July and August	-	25%
September through December	-	0%

(4-6-05)

c. Department Error. The Department determines that a Department employee made an error in the issuance of the license. (7-1-98)

d. Submission Requirements. All refund requests must be in writing and be accompanied with the original copy of the license or tag. (7-1-98)

e. Effective. These changes will be effective with the 1997 licenses and tags. (7-1-98)

04. Sale of Unsold Nonresident Deer and Elk Tags to Residents. Any unsold nonresident deer or elk tags may be sold to residents and to nonresidents as a second tag, at the nonresident deer or elk tag price, beginning September 1. All privileges and restrictions associated with the use of the nonresident deer or elk tag will apply equally to residents who purchase a nonresident deer or elk tag. (3-15-02)

601. ELK ZONE TAG QUOTAS.

Zone	Units	Total Tags	General Resident Tags	General Nonresident Tags	Outfitter Allocation
Lolo B Tags	10,12	1600	1008	356	236
Selway A Tags	16A, 17, 19, 20	647	179	254	214

Selway B Tags	16A, 17, 19, 20	4255 <u>1067</u>	565 <u>480</u>	334 <u>284</u>	356 <u>303</u>
Middle Fork A Tags	20A, 26, 27	1551	1168	174	209
Middle Fork B Tags	20A, 26, 27	1636	925	267	444
<i>Boise River B Tags</i>	<i>39</i>	3,300	3,013	269	48
Elk City B Tags	14, 15, 16	<u>1790</u>	<u>1414</u>	<u>326</u>	<u>50</u>
Dworshak B Tags	10A	<u>2380</u>	<u>2118</u>	<u>215</u>	<u>47</u>

(3-15-02)()

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0902

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 27, 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 36-104(b), 36-401 and 36-408, 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 September 16, 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/proposed rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Implements Senate Bill 1008 creating a Disabled Veterans Special Big Game Tag.

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

The temporary rule confers a benefit to certain disabled veterans, and complies with amendments to Idaho Code Section 36-401 and 36-408.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the need to comply with the statutory amendment.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sharon Kiefer (208) 287-2780.

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 September 23, 2009.

DATED this 29th day of July, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707
(208) 334-3715, Fax (208) 334-2148

THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT FOR DOCKET NO. 13-0104-0902

900. CHILDREN WITH SPECIAL NEEDS BIG GAME PERMIT/TAG.

01. Availability. The Department shall make ~~available no more than ten (10)~~ up to five (5) big game ~~permit~~ tags available for children with life threatening medical conditions ~~each year.~~ ~~(3-8-07)(7-27-09)T~~

a. Any of the five (5) big game tags described in Section 901 that have not been issued by July 15 each year may also be available for children with life threatening conditions. ~~(7-27-09)T~~

02. Issuance. The Commission delegates discretionary authority to issue a special needs ~~permit~~ tag to the Director. ~~(3-8-07)(7-27-09)T~~

03. Eligibility. In order to receive a special needs big game ~~permit~~ tag, a resident or nonresident minor (seventeen (17) years of age or younger) must have a life threatening medical condition as certified by a qualified and licensed physician. ~~(3-8-07)(7-27-09)T~~

a. A qualified applicant must be sponsored by a nonprofit organization that is qualified under section 501(c) (3) of the Internal Revenue code. (3-8-07)

b. The primary mission of the sponsoring organization must be to offer opportunities and experiences to minor children with life threatening medical conditions. (3-8-07)

c. Minimum age requirements and hunter education requirements are waived for individuals applying for or receiving a special needs big game ~~permit~~ tag. ~~(3-8-07)(7-27-09)T~~

04. Validity of Permit/Tag. The special needs ~~permit~~ tag shall be valid for one (1) deer, one (1) elk, one (1) pronghorn, one (1) moose, one (1) black bear, or one (1) mountain lion as allowed by Commission regulation. ~~(3-8-07)(7-27-09)T~~

a. A license is not required to apply for or receive a special needs big game ~~permit~~ tag. ~~(3-8-07)(7-27-09)T~~

b. The special needs ~~permit~~ tag is valid in any open hunt, controlled or general, as provided by Commission regulation. ~~(3-8-07)(7-27-09)T~~

c. Applicants may only receive one (1) special needs ~~permit~~ tag in a lifetime. ~~(3-8-07)(7-27-09)T~~

d. In exercising hunting privileges, the holder of a special needs ~~permit~~ tag must be accompanied by an adult in possession of a valid Idaho big game hunting license. ~~(3-8-07)(7-27-09)T~~

05. Application. Applications shall be on a form as prescribed by the Director. (3-8-07)

a. Applications shall be submitted on behalf of applicants by an eligible nonprofit organization. (3-8-07)

b. A copy of the nonprofit organization's IRS determination letter must accompany the application. (3-8-07)

~~**e.** The application shall include the signature of a qualified and licensed physician stating the applicant has a life threatening medical condition.~~ ~~(3-8-07)~~

06. Fees. All fees associated with applying for and receiving a special needs ~~permit~~ tag shall be waived. ~~(3-8-07)(7-27-09)T~~

07. Hunters with Disabilities Permit Fees. All fees associated with applying for or receiving a *Handicapped* Disabled Persons Motor Vehicle Hunting Permit or a *Handicapped* Disabled Archery Permit by the recipient of a special needs ~~permit~~/tag are waived. ~~(3-8-07)~~(7-27-09)T

08. Application of Big Game Rules. All rules governing the taking of Big Game Animals, IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho," shall apply to holders of a special needs big game tag. (3-8-07)

901. DISABLED VETERANS SPECIAL BIG GAME TAG.

01. Availability. The Department shall make up to five (5) big game tags available for disabled veterans. (7-27-09)T

a. Any of the five (5) big game tags described in Section 900 that have not been issued by July 15 each year may also be available for disabled veterans. (7-27-09)T

02. Issuance. The Commission delegates discretionary authority to issue a disabled veterans special big game tag to the Director. (7-27-09)T

03. Eligibility. In order to receive a disabled veterans special big game tag, a resident or nonresident must be a disabled veteran, as certified by the Department of Veterans Affairs. (7-27-09)T

a. A qualified applicant must be sponsored by a nonprofit organization that is qualified under section 501(c) (3) of the Internal Revenue Code or sponsored by a governmental agency. (7-27-09)T

b. A mission of the sponsoring organization or governmental agency must be to afford opportunities, experiences, and assistance to disabled veterans. (7-27-09)T

c. Hunter education requirements are waived for individuals applying for or receiving a disabled veterans special big game tag. (7-27-09)T

04. Validity of Tag. The disabled veterans special big game tag shall be valid for one (1) deer, one (1) elk, one (1) pronghorn, one (1) moose, one (1) black bear, or one (1) mountain lion as allowed by Commission regulation. (7-27-09)T

a. A license is not required to apply for or receive a disabled veterans special big game tag. (7-27-09)T

b. The disabled veterans special big game tag is valid in any open hunt, controlled or general, as provided by Commission regulation. (7-27-09)T

c. Applicants may only receive one (1) disabled veterans special big game tag in a lifetime. (7-27-09)T

05. Application. Applications shall be on a form as prescribed by the Director. (7-27-09)T

a. Applications shall be submitted on behalf of applicants by an eligible nonprofit organization or governmental agency. (7-27-09)T

b. A copy of the nonprofit organization's IRS determination letter must accompany the application. (7-27-09)T

06. Fees. All fees associated with applying for and receiving disabled veterans special big game tag shall be waived. (7-27-09)T

07. Hunters with Disabilities Permit Fees. All fees associated with applying for or receiving a

Disabled Persons Motor Vehicle Hunting Permit or a Disabled Archery Permit by the recipient of a disabled veterans special big game tag are waived. (7-27-09)T

08. Application of Big Game Rules. All rules governing the taking of Big Game Animals, IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho," shall apply to holders of a disabled veterans special big game tag. (7-27-09)T

~~9042.~~ -- 999. (RESERVED).

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.06 - RULES GOVERNING CLASSIFICATION AND PROTECTION OF WILDLIFE

DOCKET NO. 13-0106-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 36-104(b) and 36-201, 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 September 16, 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 proposed rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Reclassifies Yellowstone grizzly bears as a big game animal, and the bald eagle and peregrine falcon as protected nongame species.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Brad Compton (208) 287-2756.

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 September 23, 2009.

DATED this 29th day of July, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 13-0106-0901

100. CLASSIFICATION OF WILDLIFE - BIG GAME ANIMALS.

- 01. Big Game Animals.** (7-1-93)
- a.** Black bear -- *Ursus americanus*. (7-1-93)
- b.** California bighorn sheep -- *Ovis canadensis californiana*. (7-1-93)
- c.** Elk -- *Cervus elaphus*. (7-1-93)
- d.** Gray wolf -- *Canis lupus*. (4-6-05)
- e.** Grizzly bear -- *Ursus arctos*. ()
- ef.** Moose -- *Alces alces*. (7-1-93)
- fg.** Mountain goat -- *Oreamnos americanus*. (7-1-93)
- gh.** Mountain lion -- *Puma concolor*. (4-6-05)
- hi.** Mule deer -- *Odocoileus hemionus*. (7-1-93)
- ij.** Pronghorn antelope -- *Antilocapra americana*. (7-1-93)
- jk.** Rocky Mountain bighorn sheep -- *Ovis canadensis canadensis*. (7-1-93)
- kl.** White-tailed deer -- *Odocoileus virginianus*. (7-1-93)

101. CLASSIFICATION OF WILDLIFE - UPLAND GAME ANIMALS.

- 021. Upland Game Animals.** (7-1-93)
- a.** Mountain cottontail -- *Sylvilagus nuttallii*. (4-6-05)
- b.** Pygmy rabbit -- *Brachylagus idahoensis*. (7-1-93)
- c.** Snowshoe hare -- *Lepus americanus*. (7-1-93)

~~03~~102. CLASSIFICATION OF WILDLIFE - GAME BIRDS.

Game birds includes both upland game birds and migratory game birds. (7-1-93)

- ~~0~~01. Upland Game Birds.** (7-1-93)
- ia.** Pheasants: Chinese or ring-necked pheasant, *Phasianus colchicus*; Mongolian pheasant; mutant pheasant; Japanese green pheasant; or any hybrids thereof-*Phasianus spp.* (4-6-05)
- ib.** Partridge: gray (Hungarian) partridge, *Perdix perdix*; chukar, *Alectoris chukar*; and Red-legged partridge, *Alectoris rufa*. (4-6-05)
- ic.** Quail: northern bobwhite, *Colinus virginianus*; California quail, *Callipepla californica*; mountain quail, *Oreortyx pictus*; and Gambel's quail, *Callipepla gambelii*. (7-1-93)
- id.** Grouse: Blue grouse, *Dendragapus obscurus*; ruffed grouse, *Bonasa umbellus*; spruce grouse, *Falcipennis canadensis*; Greater sage grouse, *Centrocercus urophasianus*; and Columbian sharp-tailed grouse, *Tympanuchus phasianellus columbianus*. (4-6-05)

- v**e. Wild turkey: Rio Grande, *Meleagris gallopavo intermedia*; Merriam's, *M. g. merriam*; and Eastern, *M. g. silvestris*. (4-6-05)
- b02. Migratory Game Birds.** (7-1-93)
- i**a. American coot, *Fulica americana*. (4-6-05)
- ii**b. Mourning dove, *Zenaida macroura*. (4-6-05)
- iii**c. Ducks: American black duck, *Anas rubripes*; bufflehead, *Bucephala albeola*; canvasback, *Aythya valisineria*; gadwall, *Anas strepera*; Barrow's goldeneye, *Bucephala islandica*; common goldeneye, *Bucephala clangula*; harlequin duck, *Histrionicus histrionicus*; mallard, *Anas platyrhynchos*; common merganser, *Mergus merganser*; hooded merganser, *Lophodytes cucullatus*; red-breasted merganser, *Mergus serrator*; long-tailed duck, *Clangula hyemalis*; northern pintail, *Anas acuta*; redhead, *Aythya americana*; ring-necked duck, *Aythya collaris*; ruddy duck, *Oxyura jamaicensis*; greater scaup, *Aythya marila*; lesser scaup, *Aythya affinis*; surf scoter, *Melanitta perspicillata*; white-winged scoter, *Melanitta fusca*; northern shoveler, *Anas clypeata*; blue-winged teal, *Anas discors*; cinnamon teal, *Anas cyanoptera*; green-winged teal, *Anas crecca*; American wigeon, *Anas americana*; Eurasian wigeon, *Anas penelope*; and wood duck, *Aix sponsa*. (4-6-05)
- iv**d. Geese: Brant, *Branta bernicla*; Canada goose, *Branta canadensis*; emperor goose, *Chen canagica*; Ross's goose, *Chen rossii*; snow goose, *Chen caerulescens*; and greater white-fronted goose, *Anser albifrons*. (4-6-05)
- v**e. Swans: Trumpeter swan, *Cygnus buccinator*; and Tundra swan, *Cygnus columbianus*. (4-6-05)
- vi**f. Wilson's snipe, *Gallinago delicata*. (4-6-05)
- vii**g. Greater Sandhill Crane, *Grus canadensis*. (4-6-05)
- e03. American Crow.** American crow, *Corvus brachyrhynchos*. (4-6-05)
- 103. CLASSIFICATION OF WILDLIFE - GAME FISH.**
- 041. Game Fish.** Game fish includes the following fish, bullfrog and crayfish: (2-23-94)
- a.** American shad -- *Alosa sapidissim*. (7-1-93)
- b.** Arctic grayling -- *Thymallus arcticus*. (7-1-93)
- c.** Atlantic salmon -- *Salmo salar*. (7-1-93)
- d.** Bear Lake cutthroat trout -- *Oncorhynchus clarki sp*. (4-6-05)
- e.** Bear Lake whitefish -- *Prosopium abyssicola*. (7-1-93)
- f.** Black bullhead -- *Ameirus melas*. (4-6-05)
- g.** Black crappie -- *Pomoxis nigromaculatus*. (7-1-93)
- h.** Blue catfish -- *Ictalurus furcatus*. (4-6-05)
- i.** Blueback trout -- *Salvelinus alpinus oquassa*. (4-6-05)
- j.** Bluegill -- *Lepomis macrochirus*. (7-1-93)
- k.** Bluegill/Pumpkinseed -- *L. macrochirus x L. gibbosus* hybrid. (4-6-05)

l.	Bonneville cisco -- <i>Prosopium gemmiferum</i> .	(7-1-93)
m.	Bonneville cutthroat trout -- <i>Oncorhynchus clarki utah</i> .	(4-6-05)
n.	Bonneville whitefish -- <i>Prosopium spilonotus</i> .	(7-1-93)
o.	Brook trout -- <i>Salvelinus fontinalis</i> .	(7-1-93)
p.	Brown bullhead -- <i>Ameirus nebulosus</i> .	(4-6-05)
q.	Brown trout -- <i>Salmo trutta</i> .	(7-1-93)
r.	Bull trout -- <i>Salvelinus confluentus</i> .	(7-1-93)
s.	Bullfrog -- <i>Rana catesbeiana</i> .	(7-1-93)
t.	Burbot, Ling -- <i>Lota lota</i> .	(7-1-93)
u.	California golden trout -- <i>Oncorhynchus mykiss aguabonita</i> .	(4-6-05)
v.	Channel catfish -- <i>Ictalurus punctatus</i> .	(7-1-93)
w.	Chinook salmon -- <i>Oncorhynchus tshawytscha</i> .	(7-1-93)
x.	Coho salmon -- <i>Oncorhynchus kisutch</i> .	(7-1-93)
y.	Crayfish -- <i>Pacifastacus sp.</i> (3 species).	(2-23-94)
z.	Cutthroat trout -- <i>Oncorhynchus clarki</i> .	(7-1-93)
aa.	Finespotted cutthroat trout (Snake River) -- <i>Oncorhynchus clarki sp.</i>	(4-6-05)
bb.	Flathead catfish -- <i>Pylodictis olivaris</i> .	(7-1-93)
cc.	Green sunfish -- <i>Lepomis cyanellus</i> .	(7-1-93)
dd.	Kokanee -- <i>Oncorhynchus nerka kennerlyi</i> .	(4-6-05)
ee.	Lahotan cutthroat trout -- <i>Oncorhynchus clarki henschawi</i> .	(4-6-05)
ff.	Lake trout, Mackinaw -- <i>Salvelinus namaycush</i> .	(7-1-93)
gg.	Lake whitefish -- <i>Coregonus clupeaformis</i> .	(7-1-93)
hh.	Largemouth bass -- <i>Micropterus salmoides</i> .	(7-1-93)
ii.	Mountain whitefish -- <i>Prosopium williamsoni</i> .	(7-1-93)
jj.	Northern pike -- <i>Esox lucius</i> .	(7-1-93)
kk.	Pumpkinseed -- <i>Lepomis gibbosus</i> .	(7-1-93)
ll.	Pygmy whitefish -- <i>Prosopium coulteri</i> .	(7-1-93)
mm.	Rainbow trout -- <i>Oncorhynchus mykiss</i> .	(7-1-93)
nn.	Redband trout -- <i>Oncorhynchus mykiss gairdneri</i> .	(4-6-05)

- oo. Rainbow/cutthroat trout -- *O. mykiss* x *O. clarki* hybrid. (2-23-94)
- pp. Sauger -- *Stizostedion canadense*. (7-1-93)
- qq. Smallmouth bass -- *Micropterus dolomieu*. (4-6-05)
- rr. Splake -- *S. namaycush* x *S. fontinalis* hybrid. (2-23-94)
- ss. Sockeye salmon -- *Oncorhynchus nerka*. (4-6-05)
- tt. Steelhead trout -- *Oncorhynchus mykiss gairdneri*. (4-6-05)
- uu. Tiger muskie -- *Esox lucius* x *Esox masquinongy* hybrid. (7-1-93)
- vv. Walleye -- *Stizostedion vitreum*. (7-1-93)
- ww. Warmouth -- *Lepomis gulosus*. (7-1-93)
- xx. Westslope cutthroat trout -- *Oncorhynchus clarki lewisi*. (4-6-05)
- yy. White crappie -- *Pomoxis annularis*. (7-1-93)
- zz. White sturgeon -- *Acipenser transmontanus*. (7-1-93)
- aaa. Yellow bullhead -- *Ameiurus natalis*. (4-6-05)
- bbb. Yellow perch -- *Perca flavescens*. (7-1-93)
- ccc. Yellowstone cutthroat trout -- *Oncorhynchus clarki bouvieri*. (4-6-05)

104. CLASSIFICATION OF WILDLIFE - FURBEARING ANIMALS.

- 051. Furbearing Animals.** (7-1-93)
- a. American badger -- *Taxidea taxus*. (4-6-05)
- b. American marten -- *Martes americana*. (4-6-05)
- c. American mink -- *Mustela vison*. (4-6-05)
- d. Beaver -- *Castor canadensis*. (7-1-93)
- e. Bobcat -- *Lynx rufus*. (4-6-05)
- f. Canada lynx -- *Lynx canadensis*. (4-6-05)
- g. Common muskrat -- *Ondatra zibethicus*. (4-6-05)
- h. Common raccoon -- *Procyon lotor*. (4-6-05)
- i. Fisher -- *Martes pennanti*. (7-1-93)
- j. Northern river otter -- *Lontra canadensis*. (4-6-05)
- k. Red fox -- *Vulpes vulpes*-includes all color phases found in Idaho. (7-1-93)

~~1045~~ -- 149. (RESERVED).

150. THREATENED OR ENDANGERED SPECIES.

- 01. Definitions.** (7-1-93)
- a.** Endangered: Any native species in danger of extinction throughout all or a significant portion of its Idaho range. (4-6-05)
- b.** Threatened Species: Any native species likely to be classified as Endangered within the foreseeable future throughout all or a significant portion of its Idaho range. (4-6-05)
- 02. Endangered Species.** (7-1-93)
- a.** Burbot, Ling -- *Lota lota*. (4-6-05)
- b.** Pacific lamprey -- *Lampetra tridentata*. (7-1-93)
- c.** Sockeye salmon -- *Oncorhynchus nerka*. (7-1-93)
- d.** White sturgeon (Kootenai River population) -- *Acipenser transmontanus*. (7-1-93)
- e.** Woodland caribou -- *Rangifer tarandus caribou*. (4-6-05)
- 03. Threatened Species.** (7-1-93)
- ~~a.~~ ~~Bald eagle -- *Haliaeetus leucocephalus*.~~ (~~4-6-05~~)
- ~~ba.~~ Bull trout -- *Salvelinus confluentus*. (7-1-93)
- ~~cb.~~ Canada lynx -- *Lynx canadensis*. (4-6-05)
- ~~dc.~~ Chinook salmon, spring, summer, and fall -- *Oncorhynchus tshawytscha*. (4-6-05)
- ~~e.~~ ~~Grizzly bear -- *Ursus arctos horribilis*.~~ (~~4-6-05~~)
- ~~fd.~~ Northern Idaho ground squirrel -- *Spermophilus brunneus brunneus*. (4-6-05)
- ~~g.~~ ~~Peregrine falcon -- *Falco peregrinus*.~~ (~~4-6-05~~)
- ~~he.~~ Steelhead trout (Snake River) -- *Oncorhynchus mykiss gairdneri*. (4-6-05)

151. -- 199. (RESERVED).

200. PROTECTED NONGAME SPECIES.

- 01. Mammals.** (7-1-93)
- a.** American pika -- *Ochotona princeps*. (4-6-05)
- b.** Bats -- all species. (4-6-05)
- c.** Chipmunks -- *Neotamias spp.* (4-6-05)
- d.** Columbia Plateau (Merriam's) ground squirrel -- *Spermophilus canus vigilis*. (4-6-05)
- e.** Golden-mantled ground squirrel -- *Spermophilus lateralis*. (7-1-93)

- f. Great Basin (piute) ground squirrel -- *Spermophilus canus vigilis*. (4-6-05)
- g. Kit fox -- *Vulpes macrotis*. (7-1-93)
- h. North American wolverine -- *Gulo gulo luscus*. (4-6-05)
- i. Northern flying squirrel -- *Glaucomys sabrinus*. (7-1-93)
- j. Red squirrel -- *Tamiasciurus hudsonicus*. (7-1-93)
- k. Rock squirrel -- *Spermophilus variegatus*. (4-6-05)
- l. Southern Idaho ground squirrel -- *Spermophilus brunneus endemicus*. (4-6-05)
- m. Wyoming ground squirrel -- *Spermophilus elegans nevadensis*. (4-6-05)
- 02. Birds. ~~All native species. Except:~~** (~~4-6-05~~)()
- a.** Bald eagle -- *Haliaeetus leucocephalus*. ()
- b.** Peregrine falcon -- *Falco peregrinus*. ()
- ~~**c.** All native species, except game birds; and~~ (~~7-1-93~~)
- ~~**b.** Threatened ~~or~~ and endangered wildlife.~~ (~~7-1-93~~)()
- 03. Amphibians.** All native species (4-6-05)
- 04. Reptiles.** All native species. (4-6-05)
- 05. Fish.** (4-6-05)
- a. Bear Lake sculpin -- *Cottus extensus*. (4-6-05)
- b. Leatherside chub -- *Gila copei*. (4-6-05)
- c. Sand roller -- *Percopsis transmontana*. (4-6-05)
- d. Shoshone sculpin -- *Cottus greenei*. (4-6-05)
- e. Wood River sculpin -- *Cottus leiopomus*. (4-6-05)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN IDAHO

DOCKET NO. 13-0108-0902

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 36-104(b) and 36-1101, 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Adds gray wolves to the big game rules in preparation for Commission season setting when wolves are delisted; authorizes the over-the-counter sale of certain leftover controlled hunt tags based on the dates of the hunt; allows certain handguns to be used in Short-Range Weapon hunts; corrects terminology for landowner permission controlled hunt applications and mandatory check and report requirements; deletes obsolete references.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Sharon Kiefer (208) 287-2780.

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 September 23, 2009.

DATED this 29th day of July, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707
(208) 334-3715, Fax (208) 334-2148

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 13-0108-0901

200. BAG AND POSSESSION LIMITS.

No person may take more than one (1) deer, elk, antelope, moose, bighorn sheep, mountain goat, ~~or~~ black bear, or gray wolf during a calendar year EXCEPT: (7-1-93)()

01. Depredation Hunts. In depredation hunts, one (1) additional deer, elk or antelope may be taken by persons holding permit/tags for those hunts, EXCEPT those depredation hunt permittees who were selected for depredation hunts prior to the controlled season for the unit(s) in which they hold a controlled hunt permit must include any animal they harvest within the restrictions imposed by the controlled hunt permit (no person may take more than one (1) animal per year by using depredation and controlled hunt permit). (7-1-93)

02. Extra Tag Hunts. In extra tag hunts, one (1) additional deer, elk or antelope may be taken by persons holding tags for those hunts. (7-1-93)

03. Limits on Take -- Deer, Elk, Antelope. In no event shall any person take more deer, elk or antelope in a calendar year than the number of tags the person legally possesses for each species. (3-30-01)

04. Limits on Take -- Mountain Lion. No person may take more mountain lions during a calendar year than the number of tags the person legally possesses for mountain lions. (3-30-01)

05. Limits on Take - Black Bear. No person may take more black bears during a calendar year than the number of tags the person legally possesses for black bears. (3-30-01)

06. Limits on Take -- Gray Wolf. No person may take more gray wolves during a calendar year than the number of tags they legally possess for gray wolves. ()

201. -- 249. (RESERVED).

250. TAGS AND PERMITS.

No person shall hunt big game animals without having in possession the appropriate hunting license, tags, stamps and permits. (7-1-93)

01. Use of Tags. (7-1-93)

a. Permit/Tags issued for moose, bighorn sheep, mountain goat and antelope may be used only in the controlled hunt for which the permittee was drawn. (7-1-93)

b. Tags issued for antelope archery hunts may be used only in general archery hunts. (7-1-93)

c. Extra tags issued for deer, elk or antelope may be used only in the hunt area for which the tags are issued. (7-1-93)

d. Any person who purchases a tag to hunt black bear, or archery antelope, who is unsuccessful in killing an animal, and who is subsequently drawn for a controlled hunt permit, including an antelope landowner preference permit, must return the unused tag to a Department office not later than August 10 to exchange the tag for the appropriate controlled hunt tag. The fee for the exchanged tag is the fee for a duplicate tag. (3-20-97)

e. Tags issued for black bear and mountain lion may be used statewide. Extra tags issued for black bear and mountain lion may be used only in the hunt area for which the tags are issued. (4-5-00)

f. Regular tags issued for deer and elk may be used ONLY as follows: (7-1-93)

i. Regular Deer:

TYPE OF TAG	SEASONS
Resident (Type 311)	Any archery, muzzleloader or general deer season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20.

TYPE OF TAG	SEASONS
Resident (Type 330)	Extra Any antlerless deer tag season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20.
Senior Resident (Type 330)	Any archery, muzzleloader or general deer season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20.
S.E. Idaho Area Units 75, 76, 77, and 78 Nonresident	To Hunt Deer in Units 75, 76, 77, and 78 you must have your deer tag validated for use in these units. These tags are limited to one thousand two-hundred (1200) nonresident tags and will be issued by lottery. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20
Nonresident (Type 411)	Any archery, muzzleloader or general deer season or controlled hunt for which the permittee was drawn, or may be used to tag a black bear or mountain lion during the Regular deer season when the black bear or mountain lion season is open.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the permittee was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Extra Tag	Only the designated controlled extra tag hunt for which the permittee was drawn.

(4-6-05)

ii. Clearwater Deer:

TYPE OF TAG	SEASONS
<i>Resident Clearwater</i>	<i>To hunt deer in any archery, muzzleloader or general deer season in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.</i>
<i>Resident Extra Clearwater</i>	<i>To hunt an extra any antlerless deer tag season in Units 8, 8A, 10A, 11A, 14, and 15. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.</i>
<i>Senior Resident Clearwater</i>	<i>To hunt deer in any archery, muzzleloader or general deer season in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.</i>
<i>Nonresident Clearwater</i>	<i>To hunt deer in any archery, muzzleloader or general deer season or controlled hunt for which the permittee was drawn in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region and may be used to tag a black bear or mountain lion during the Clearwater deer season when the black bear or mountain lion season is open. Regular Deer tags are not valid in these units.</i>

(4-6-05)

iii. Elk A Tag: Valid only for A Tag elk seasons in specific elk zones.

TYPE OF TAG	SEASONS
Resident	Any elk archery, muzzleloader or general season in A Tag elk seasons in specific zones.
Senior Resident	Any elk archery, muzzleloader, or general season in A Tag seasons in specific zones.
Nonresident	Any elk archery, muzzleloader, or general season in A Tag elk seasons in specific zones, or controlled hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the and Tag permittee was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Extra Tag	Only the designated controlled extra tag hunt for which the permittee was drawn.

(4-6-05)()

ii. Elk B Tag: Valid only for B Tag elk seasons in specific elk zones.

TYPE OF TAG	SEASONS
Resident	Any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Senior Resident	Any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Nonresident	Any elk controlled hunt for which the permittee was drawn or any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the permittee was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Permit and Extra Tag	Only the designated controlled and extra tag hunt for which the permittee was drawn.

(4-6-05)

iv. Super Tag.

TYPE OF TAG	SEASONS
Combination Controlled Hunt Permit and "Super" Tag	Valid for either antelope, deer or elk and allows the hunter to hunt in any open and/or controlled hunt for the selected species.

(3-15-02)

g. Nonresident Junior Mentored Deer tags are not valid for bear, ~~or~~ mountain lion, or gray wolf.

(4-6-05)()

h. Any person hunting with a Nonresident Junior Mentored License or tag must be accompanied in

the field by an adult license holder close enough to be within normal conversation or hearing range without shouting or the aid of electronic devices. (4-6-05)

i. Any adult accompanying the holder of a Nonresident Junior Mentored Tag must have a tag for the same species, valid in the same area. (4-6-05)

j. Regular tags issued for gray wolf may be used ONLY as allowed by the gray wolf seasons and quotas set by Commission proclamation under Section 36-105(3), Idaho Code. The proclamation is published in a brochure available at Department offices and license vendors. ()

02. Return of Tags by Unsuccessful Permittees. Permittees who are not successful in killing a bighorn sheep, mountain goat or moose shall present or mail their unused tags to a Department office within ten (10) days after the close of the season for which the tag was valid. Canceled tags will be returned to the hunter upon request. (5-15-95)

03. Archery and Muzzleloader Permits. Any person hunting in an archery only or muzzleloader only season must have the appropriate permit (archery or muzzleloader) for the relevant season validated on their license. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

260. PERMITS FOR CONTROLLED HUNTS.

01. Use of Controlled Hunt Permits. No person may hunt in any controlled hunt without having a valid controlled hunt permit in possession. (7-1-93)

a. A controlled hunt area with an "X" suffix is an extra tag hunt. (10-26-94)

b. In the event a permit is issued based on erroneous information, the permit will be invalidated by the Department and may NOT be used. The Department will notify the permittee of the invalidation of the permit. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (7-1-93)

c. Any person who receives a controlled hunt permit and tag for deer is prohibited from hunting in any other deer hunt--archery, muzzleloader, or general; EXCEPT the holder of a deer controlled hunt permit and tag may purchase a tag for and hunt in an extra tag hunt, or controlled hunt permit/extra tag hunt for deer. (3-20-97)

d. Any person who receives a combination controlled hunt permit/extra tag for deer may hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt. (7-1-93)

e. Any person who receives a controlled hunt permit for elk is prohibited from hunting in any other elk hunt--archery, muzzleloader, or general; EXCEPT a controlled hunt permit holder may purchase a tag for and hunt in an extra tag hunt for elk. (7-1-93)

f. Any person who receives a combination controlled hunt permit/tag for antelope is prohibited from hunting in any archery antelope hunt. The holder of an antelope combination controlled hunt permit/extra tag may apply for a combination controlled hunt permit/tag for antelope or may purchase a tag for an archery antelope hunt. (7-1-93)

g. Any person who receives a spring controlled hunt permit for black bear is prohibited from hunting in any other spring bear hunt - April 15 to June 30. (7-1-99)

h. Any person who receives a fall controlled hunt permit for black bear is prohibited from hunting in any other fall bear hunts -- September 15 to October 31. (10-26-94)

02. Nonresident Permit Limitations. (3-20-04)

a. In controlled hunts with ten (10) or fewer permits, not more than one (1) nonresident permit will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) permits, not more than ten percent (10%) of the permits will be issued to nonresidents. This rule shall be applied to each uniquely numbered controlled hunt and to the controlled hunts for each species. (4-6-05)

b. Outfitter allocated hunts are exempt from the limitation of Subsection 260.02.a. (3-20-04)

c. For each species, the total number of outfitter allocated controlled hunt permits shall be subtracted from the result of ten percent (10%) of the sum of all controlled hunt permits; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of Subsection 260.02.a., the resulting net number shall be the maximum number of controlled hunt permits that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. (3-20-04)

03. Eligibility. Any person possessing a valid Idaho hunting license is eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

a. Holders of a Nongame Hunting License (Type 208) may not apply for any controlled hunt. (4-6-05)

b. Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn permit for two (2) years. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat permit for two (2) years. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of permits nor Landowner Preference Permits. EXCEPT all successful and unsuccessful antelope, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled antelope/deer/elk tags to hunt in any open general and/or controlled antelope, deer or elk hunt in the following hunting season. (3-15-02)

c. Any person applying for a bighorn sheep, mountain goat, or moose controlled hunt may NOT apply for any other controlled hunt in the same year EXCEPT Unlimited Controlled Hunts, a controlled black bear hunt, a controlled gray wolf hunt, or a designated depredation or extra tag hunt for deer, elk or antelope. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in first-come, first-served deer, elk and antelope controlled hunt permit sales. (~~10-26-94~~)(____)

d. Any person who has killed a California bighorn ram, Rocky Mountain bighorn ram or a moose on any controlled hunt may not apply for a permit for the same subspecies, EXCEPT any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram permit for any hunt north of Interstate Highway 84. Any person who has killed a Rocky Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram permit for any hunt south of Interstate Highway 84. Auction tag and lottery tag winners are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep of either subspecies. (4-5-00)

e. No person applying for a Rocky Mountain bighorn sheep controlled hunt as a first choice shall apply for a California bighorn sheep controlled hunt as a second choice. No person applying for a California bighorn sheep controlled hunt as a first choice shall apply for a Rocky Mountain bighorn sheep controlled hunt as a second choice. No person shall apply for both a Rocky Mountain and a California bighorn the same year. (7-1-93)

f. Any person who kills a bighorn ewe may not apply for another bighorn ewe controlled hunt permit for five (5) years. The harvest of a bighorn ewe does not make the permittee ineligible to apply for a permit to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe may not apply for any bighorn ram the same year. (7-1-93)

- g.** Any person who has killed a mountain goat since 1977 may not apply for a mountain goat permit. (7-1-93)
- h.** Any person who has killed an antlered moose in Idaho may not apply for a moose permit for antlered moose, and any person who has killed an antlerless moose in Idaho may not apply for a permit for antlerless moose EXCEPT that any person may apply for permits remaining unfilled after the controlled hunt draw. (4-11-06)
- i.** Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature. (7-1-98)
- j.** Any person may apply for both a controlled hunt permit/tag and a controlled hunt permit/extra tag. (7-1-93)
- k.** Nonresident hound hunters applying for controlled black bear hunts must first obtain a Hound Hunter Permit pursuant to IDAPA 13.01.15.200.04, "Rules Governing the Use of Dogs." (7-1-99)
- l.** Any person applying for an outfitter allocated controlled hunt must have a written agreement with the outfitter before submitting the controlled hunt application. (4-11-06)
- 04. Applications.** Individual applications or group applications for controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than the annual dates shown below. Any individual application or group application which is unreadable, has incomplete or incorrect hunt or license numbers, or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; they may not be resubmitted after correction. (10-26-94)
- a.** Spring black bear - Application period - January 15 - February 15. (4-6-05)
- b.** Moose, bighorn sheep, and mountain goat - Application period for first drawing - April 1 - 30. (4-6-05)
- c.** Deer, elk, antelope, ~~and~~ fall black bear, and gray wolves - Application period for first drawing - May 1 - June 5. (~~3-30-07~~)()
- d.** Moose, bighorn sheep, and mountain goat - Application period for second drawing, if applicable - June 15 - 25. (4-6-05)
- e.** Deer, elk, antelope, ~~and~~ fall black bear, and gray wolves - Application period for second drawing - August 5 - 15. (~~4-6-05~~)()
- 05. Applicant Requirements.** Applicants must comply with the following requirements: (7-1-93)
- a.** Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt permit/extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. (10-26-94)
- b.** Only one (1) controlled hunt permit/extra tag will be issued for each person on any application submitted. (10-26-94)
- c.** Several applications may be submitted in a single envelope so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt permit/tag hunts or controlled hunt permit/extra tag hunts. (10-26-94)
- d.** Fees must be submitted with each application. A single payment (either cashier's check, money order, certified check, or a personal check) may be submitted to cover fees for all applications in the same envelope.

If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is set by Section 36-416, Idaho Code, per person per hunt, for deer, elk, antelope, moose, bighorn sheep, mountain goat, black bear, ~~and~~ lion, and gray wolf, applied for and is NOT refundable. The tag fees are not to be submitted with either the telephone or mail-in-application for deer, elk, antelope, black bear, ~~or~~ mountain lion, or gray wolf. Persons applying for moose, bighorn sheep, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a permit tag in the mail. (4-6-05)(____)

e. Any controlled hunt permits, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold forty five (45) days following the close of each respective controlled hunt drawing by any Point-of-Sale vendor on a first-come, first-served basis UNLESS such day is a Sunday, in which case the permits will go on sale the next legal business day. A controlled hunt permit and tag will be issued to successful applicants. The ten percent (10%) nonresident limitation shall not apply. Applicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag. The fee for the exchanged tag is the fee for a duplicate tag. (3-15-02)

f. A "group application" for deer, elk, and antelope is defined as two, three, or four (2, 3, or 4) hunters applying for the same controlled hunt on the same application. All hunters must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. (10-26-94)

g. A "group application" for moose, bighorn sheep, mountain goat, ~~and~~ black bear, and gray wolf, is defined as two (2) hunters applying for the same controlled hunt on the same application. Both hunters must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. (10-26-94)(____)

h. If a group application exceeds the number of permits available in a hunt that group application will not be selected for that hunt. (7-1-98)

i. Landowner permission hunt permits will be sold first-come, first-served basis at the ~~Nampa, McCall and Headquarters~~ regional offices of the Idaho Department of Fish and Game after July 15. (7-1-98)(____)

06. Refunds of Controlled Hunt Fees. (7-1-93)

a. Controlled hunt tag fees will be refunded to the unsuccessful or ineligible applicants for moose, sheep, and mountain goat. Unsuccessful applicants may donate all or a portion of their tag fee for moose, bighorn sheep, and mountain goat to Citizens Against Poaching by checking the appropriate box on the application. One dollar (\$1) of the non-refundable application fee will go to Citizens Against Poaching unless the applicant instructs otherwise. (3-20-97)

b. Fees for hunting licenses will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

c. Fees for deer or elk tags purchased prior to the drawing will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

d. Overpayment of fees of more than five dollars (\$5) will be refunded. Overpayment of five dollars (\$5) or less will NOT be refunded and will be retained by the Department. (7-1-93)

07. Controlled Hunt Drawing. Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing, provided the second choice hunt applied for has not been filled. (7-1-93)

08. Unclaimed Permits. Successful applicants for the first deer, elk, black bear, gray wolf, or antelope controlled hunt drawing must purchase and pick up their controlled hunt permit and tag by August 1. All controlled hunt tags and permits not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags and permits left over or unclaimed after the second controlled hunt drawing will be sold on a first-come, first-served basis. (4-6-05)(____)

09. Second Drawing Exclusion. The Director may designate certain leftover controlled hunt tags to become immediately available on a first-come, first-served over-the-counter basis due to the dates of the hunt. ()

(BREAK IN CONTINUITY OF SECTIONS)

300. IDENTIFICATION OF ANIMALS THAT LEGALLY MAY BE TAKEN.

- 01. Big Game Animals of Either Sex.** Big game animals of either sex may be taken as noted below: (7-1-93)
- a.** Mountain Goat. Either sex may be taken EXCEPT nannies accompanied by kids. (7-1-93)
 - b.** Black Bear. Either sex may be taken EXCEPT female black bears accompanied by young. (7-1-93)
 - c.** Mountain Lion. Either sex may be taken EXCEPT spotted young or females accompanied by young. (7-1-93)
 - d.** Gray Wolf. Either sex may be taken. ()
- 02. Seasons Restricted to Antlered or Male Animals Only.** (7-1-93)
- a.** Deer. Only deer with at least one (1) antler longer than three (3) inches may be taken in any season which is open for antlered deer only. (7-1-93)
 - b.** Two-point deer. Only deer with not more than two (2) points on one (1) antler, not including brow point, and at least one (1) antler longer than three (3) inches may be taken in any season which is open for two-point deer only. A point is an antler projection that is at least one (1) inch long and longer than the width of the projection. (7-1-99)
 - c.** Three-point deer. Only deer having at least one (1) antler with three (3) or more points not counting the brow point or tine may be taken in any season which is open for three-point or larger deer only. A point is an antler projection that is at least one (1) inch long and longer than the width of the projection. (3-15-02)
 - d.** Four-point deer. Only deer having at least one (1) antler with four (4) or more points, not including the brow point or tine, may be taken in any season that is open for four-point or larger deer only. (4-6-05)
 - e.** Elk. Only elk with at least one (1) antler longer than six (6) inches may be taken in any season which is open for antlered elk only. (7-1-99)
 - f.** Spike elk. Only elk with no branching on either antler and at least one (1) antler longer than six (6) inches may be taken in any season which is open for spike elk only. A branch is an antler projection that is at least one (1) inch long and longer than the width of the projection. (7-1-99)
 - g.** Brow-tined elk. Any elk having an antler or antlers with a visible point on the lower half of either main beam that is greater than or equal to four (4) inches long. (3-15-02)
 - h.** Moose. Only moose with at least one (1) antler longer than six (6) inches may be taken in any season open for antlered moose only. (7-1-93)
 - i.** Bighorn Sheep. Only bighorn sheep rams having three-fourths (3/4) curl or greater horns or exceeding four (4) years of age may be taken in any hunt open for rams only. Determination of a three-fourths (3/4) curl shall be made from a broad side view of the head. A ram shall be considered three-fourths (3/4) curl if an imaginary straight line extending downward from the front of the base of the horn through the center of the eye socket intersects any portion of the horn. (7-1-93)

03. Seasons Restricted to Antlerless or Female Animals Only. (7-1-93)

a. Deer. Only deer without antlers or with antlers shorter than three (3) inches may be taken in any season which is open for antlerless deer only. (7-1-93)

b. Elk. Only elk without antlers or with antlers shorter than six (6) inches may be taken in any season which is open for antlerless elk only. (7-1-93)

c. Antelope. Only antelope without a black "cheek patch" or horns less than three (3) inches long may be taken during doe and fawn only antelope seasons. (7-1-93)

d. Bighorn Sheep. Only bighorn sheep with horns between six (6) inches and twelve (12) inches in length may be taken in any season which is open for bighorn ewes only. (7-1-93)

e. Moose. Only moose without antlers or with antlers less than six (6) inches long may be taken in any season which is open for antlerless moose only. (7-1-93)

301. -- 319. (RESERVED).

320. TAG VALIDATION AND ATTACHMENT AND PROXY STATEMENT.

01. Tag. Immediately after any deer, elk, antelope, moose, bighorn sheep, mountain goat, mountain lion, ~~or~~ black bear, or gray wolf is killed, the appropriate big game animal tag must be validated and securely attached to the animal. (7-1-93)()

a. Validation. Cut out and completely remove only the two (2) triangles indicating the date and month of kill. (7-1-93)

b. Attachment of Tag. (7-1-93)

i. Deer, elk, antelope, moose, mountain goat, black bear, and bighorn sheep: to the largest portion of the carcass to be retained by the hunter or any person transporting for the hunter. The tag must remain attached during transit to a place of processing and must remain attached until the meat is processed. The validated tag must accompany the processed meat to the place of final storage or final consumption. (10-26-94)

ii. Mountain lion and gray wolf: To the hide. (7-1-93)()

02. Proxy Statement. Any person transporting or possessing any portion of a carcass of a big game animal or processed big game animal meat taken by another must have in possession a written statement signed by the taker showing the number and kinds of animals, the date taken, the taker's name and address, the taker's hunting license number, and the taker's tag and/or permit number. (7-1-93)

321. -- 349. (RESERVED).

350. IDENTIFICATION OF SEX, SIZE, AND/OR SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.

01. Evidence of Sex. Evidence of sex must be left naturally attached to the carcass of any big game animal. (4-6-05)

a. In antlered or male only seasons, the evidence of sex requirement is met when the head, horns, or antlers are left naturally attached to the whole carcass or to a front quarter. If the head, horns, or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption; AND the horns or antlers must accompany the carcass while in transit. (7-1-93)

b. In spike elk or two-point (2) deer only seasons, the evidence of sex requirement is met when the head with both complete unaltered antlers are left naturally attached to the whole carcass or to a front quarter. If the head or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption; AND both complete unaltered antlers naturally attached to each other must accompany the carcass while in transit. (7-1-93)

c. In antlerless, doe/fawn or female only seasons, if the head is removed from female elk, moose, deer, antelope or bighorn sheep, some other external evidence of sex (either udder or the vulva) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption. (7-1-93)

d. The entire head of antlerless male elk, moose, deer, or antelope or a male lamb bighorn sheep killed during an antlerless, female, doe/fawn or ewe only season, may be left naturally attached to the carcass or to a front quarter until the carcass reaches the final place of storage or consumption. If the head is removed, some other external evidence of sex (either scrotum, penis, or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption, AND the lower jaw must accompany the carcass while in transit. (7-1-93)

e. For black bear, ~~and~~ mountain lion, and gray wolf external evidence of sex (either scrotum, penis or testicles for males, or vulva for females) must be left naturally attached to the hide until the mandatory check has been complied with. (~~7-1-98~~)()

02. Evidence of Species. In seasons restricted to mule deer only or white-tailed deer only, if the head is removed, the fully-haired tail must be left naturally attached to the carcass. (7-1-93)

03. Evidence of Size. Any hunter taking a bighorn ram must leave that portion of the skull plate containing the upper one-half (1/2) of the eye socket naturally attached to both of the horns until after the horns have been pinned by the Department. (7-1-93)

04. Other. The Department may designate seasons and areas in which the head or lower jaw must accompany the carcass in transit. (7-1-93)

351. WASTE OF GAME MEAT.

Hunters are required to remove and care for the edible meat of big game animals, except mountain lions and gray wolves. This includes the meat of the front quarters as far down as the knees, hindquarters as far down as the hock, neck meat, meat along the backbone and meat covering the ribs. It does not include meat of the head, internal organs and meat on the bones after close trimming. (~~4-5-00~~)()

(BREAK IN CONTINUITY OF SECTIONS)

410. UNLAWFUL METHODS OF TAKE.

No person shall take big game animals as outlined in this section. (7-1-93)

01. Firearms. (7-1-93)

a. With any firearm that, in combination with a scope, sling, and/or any other attachments, weighs more than sixteen (16) pounds. (7-1-93)

b. With any shotgun using any shot smaller than double-aught (#00) buck. (7-1-93)

c. With any rimfire rifle, rimfire handgun or any muzzleloading handgun, EXCEPT for mountain lion. (7-1-93)

- d.** With a fully automatic firearm. (10-26-94)
- e.** With any electronic device attached to, or incorporated in, the firearm (including handguns and shotguns) or scope; except scopes containing battery powered or tritium lighted reticles are allowed. (4-2-08)
- 02. Bows, Crossbows, Arrows, Bolts, Chemicals or Explosives.** (3-20-97)
- a.** With arrows or bolts having broadheads measuring less than seven-eighths (7/8) inch in width and having a primary cutting edge less than fifteen-thousandths (0.015) inch thick. (7-1-93)
- b.** With any bow having a peak draw weight of less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of less than one hundred-fifty (150) pounds. (3-20-97)
- c.** With any chemicals or explosives attached to the arrow or bolt. (7-1-93)
- d.** With arrows or bolts having expanding broadheads. (7-1-93)
- e.** With arrows or bolts having barbed broadheads. A barbed broadhead is a broadhead which has any portion of the rear edge of the broadhead forming an angle less than ninety (90) degrees with the shaft or ferrule. (7-1-93)
- f.** With any electronic or tritium-powered device attached to, or incorporated into, an arrow, bolt, crossbow, or bow. (3-30-01)
- g.** With any bow capable of shooting more than one (1) arrow at a time. (7-1-93)
- h.** With any compound bow with more than eighty-five percent (85%) let-off. (4-2-08)
- i.** With an arrow and broadhead, or bolt and broadhead, with a combined total weight of less than three hundred (300) grains. (4-2-08)
- j.** With an arrow less than twenty-four (24) inches or a crossbow bolt less than twelve (12) inches in length from the broadhead to the nock inclusive. (4-2-08)
- k.** With an arrow wherein the broadhead does not proceed the shaft and nock. (3-30-01)
- l.** During an "Archery Only" season, with any firearm, crossbow (except holders of handicapped archery permits), or other implement other than a longbow, compound bow, or recurve bow, or: (3-30-07)
- i.** With any device attached that holds a bow at partial or full draw (except holders of handicapped archery permits). (3-30-07)
- ii.** With any bow or crossbow equipped with magnifying sights. (3-20-97)
- m.** During a "Traditional Archery Only" season, with any firearm, crossbow, or other implement other than a longbow or recurve bow, or: (3-15-02)
- i.** With an arrow not constructed of wood or fletched with non-natural material. (3-15-02)
- ii.** With any bow equipped with sights. (3-15-02)
- n.** With any crossbow pistol. (3-20-97)
- 03. Muzzleloaders.** (7-1-93)
- a.** With a muzzleloading rifle or musket which is less than forty-five (.45) caliber for deer, antelope,

~~or~~ mountain lion, or gray wolf, or which is less than fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (7-1-93)()

b. With any electronic device attached to, or incorporated in, the muzzleloader. (3-30-01)

c. During a “Muzzleloader Only” season, with any firearm, muzzleloading pistol or other implement other than a muzzleloading rifle or musket that: (7-1-93)

i. Is at least forty-five (.45) caliber for deer, antelope, ~~or~~ mountain lion, or gray wolf, or at least fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat or black bear. (7-1-93)()

ii. Is capable of being loaded only from the muzzle. (7-1-93)

iii. Is equipped only with open or peep sights. (7-1-93)

iv. Is loaded only with loose black powder or, loose Pyrodex or other loose synthetic black powder. Pelletized powders are prohibited. (4-2-08)

v. Is equipped with no more than two (2) barrels. (7-1-93)

vi. Is loaded only with a projectile with a diameter within one hundredth (.01) of an inch of the bore diameter. Sabots are prohibited. (4-2-08)

vii. Is equipped only with flint, musket cap, or percussion cap. 209 primers are prohibited. (4-2-08)

viii. Is equipped with an exposed pivoting hammer and has an exposed ignition system. (4-2-08)

ix. Is loaded only with a patched round ball or conical non-jacketed projectile comprised wholly of lead or lead alloy. Sabots are not allowed. (4-11-06)

04. Short-Range Weapon. During Short-Range Weapon ONLY seasons ONLY the following weapons may be used: (7-1-99)

a. With any shotgun using any slug or double-aught (#00) or larger buckshot. (7-1-99)

b. With any muzzleloader that is at least forty-five (0.45) caliber for deer, antelope, ~~or~~ mountain lion, or gray wolf, or at least fifty (0.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (7-1-99)()

c. With any bow having a peak draw weight of not less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of not less than one hundred fifty (150) pounds. (7-1-99)

d. With any handgun using straight wall centerfire cartridges not originally developed for rifles. ()

05. Other. (7-1-93)

a. With electronic calls EXCEPT for the hunting of mountain lions in Units 41, 42 and that portion of Unit 12 north of State Highway 12 southwest of the Doe Creek Road (Forest Service Road 566) and northeast of Cabin Creek and Forest Service Road 486. (3-15-02)

b. With any bait including grain, salt in any form (liquid or solid), or any other substance (not to include liquid scent) to constitute an attraction or enticement, with the exception of applicable rules for the black bear baiting permit. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.17, “Rules Governing the Use of Bait for Taking Big Game Animals.” (3-30-01)

c. With dogs, EXCEPT for mountain lion or black bear. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.15, "Rules Governing the Use of Dogs." (7-1-93)

d. With any net, snare, trap, chemical, deadfall or device other than legal firearm, archery or muzzleloader equipment. (7-1-93)

e. Within an enclosure designed to prevent ingress or egress of big game animals, including fenced facilities defined as Domestic Cervidae Farms under Section 25-3501, Idaho Code, unless authorized by the director. This rule shall not apply to domestic cervidae which are lawfully privately owned elk, fallow deer, or reindeer. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

412. MOTORIZED VEHICLE USE RESTRICTION UNITS.

The motorized vehicle use restriction applies to areas and hunts in units 29, 30, 30A, 32, 32A, 36A, 37, 37A, 39, 45, 47, 48, 49, 50, 51, 52, 53, 56, 57, 58, 59, 59A, 66, 66A, 69, 70, 72 (late season), 73, 75, 76, 77, and 78. The specific hunts and areas with a motorized vehicle use restriction are identified in the Commission's Big Game Season Proclamation, which is published in a brochure available at department offices and license vendors. (~~4-2-08~~)()

413. -- 419. (RESERVED).

420. MANDATORY CHECK AND REPORT REQUIREMENTS.

Any hunter killing black bear, ~~Panhandle elk~~, moose, bighorn sheep or mountain goat, or mountain lion in a unit with no female lion quota must, WITHIN TEN (10) DAYS OF THE DATE OF KILL, or any hunter killing mountain lion in a unit with a female quota must, WITHIN FIVE (5) DAYS OF THE DATE OF KILL, or any hunter killing a gray wolf must, WITHIN FIVE (5) DAYS OF THE DATE OF KILL, comply with the mandatory check and report requirements by: (~~4-5-00~~)()

01. Harvest Report. Completing the relevant harvest report (big game mortality report or other report form as required) for the species taken. (4-6-05)

02. Presentation of Animal Parts. Presenting the following animal parts so that Department personnel may collect biological data and mark the animal parts: (7-1-93)

a. Bear: Skull and hide to be presented to a conservation officer, regional office or official check point for removal and retention of premolar tooth and to have the hide marked. No person, who does not possess a fur buyer or taxidermist license and/or appropriate import documentation, shall have in possession, except during the open season and for ten (10) days after the close of the season, any raw black bear pelt which does not have an official state export tag attached (either Idaho's or another state's official export ~~tag~~ documentation). (~~7-1-93~~)()

b. Mountain Lion: Skull and hide to be presented to a conservation officer or regional office to have the hide marked. No person, who does not possess a fur buyer or taxidermist license and/or appropriate import documentation, shall have in possession, except during the open season and for five (5) days after the close of the season, any raw mountain lion pelt which does not have an official state export tag attached (either Idaho's or another state's official export ~~tag~~ documentation). (~~7-1-93~~)()

c. Gray Wolf: Skull and hide to be presented to a conservation officer or regional office for removal and retention of a premolar tooth, and to have the hide marked. No person who does not possess a fur buyer or taxidermist license and/or appropriate import documentation shall have in possession, except during the open season and for five (5) days after the close of the season, any raw gray wolf pelt that does not have an official state export tag attached (either Idaho's or another state's official export documentation). ()

ed. Moose: Antlers from antlered animals to be presented to a conservation officer or regional office. (7-1-93)

de. Bighorn Sheep: Ram horns to be presented to a regional office for marking, ewe horns to be presented to a regional office. (7-1-93)

ef. Mountain Goat: Horns to be presented to a conservation officer or regional office. (7-1-93)

03. Authorized Representative. A hunter may authorize another person to comply with the above requirements if that person complies with reporting requirements and possesses enough information to accurately complete the necessary form. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

422. MANDATORY WOLF TELEPHONE REPORT.

In addition to other check and reporting requirements, any hunter killing a gray wolf must report the harvest within twenty-four (24) hours by calling the Wolf Reporting Number, a toll-free telephone number published in the gray wolf season brochure available at Department offices and license vendors. ()

(BREAK IN CONTINUITY OF SECTIONS)

500. AREAS CLOSED TO HUNTING OF BIG GAME ANIMALS.

01. Restricted Areas for Big Game. Hunting, killing, or molesting of any big game animal is prohibited in the following areas: (7-1-93)

a. Craters of the Moon National Monument and Preserve in Blaine and Butte Counties; the boundary of the Craters of the Moon National Monument was recently greatly enlarged by Presidential Proclamation. All of the lands added to the Monument and Preserve remain open to hunting, while lands within the former National Monument remain closed to hunting. It is the hunter's responsibility to check the current status of open/closed area boundaries prior to hunting. (4-6-05)

b. All state parks, EXCEPT Farragut State Park that has a November/December deer archery season, Billingsley Creek at Malad Gorge State Park, Castle Rock State Park and state land within the City of Rocks National Reserve are all open to hunting; (4-6-05)

c. Harriman State Park Wildlife Refuge. (4-6-05)

d. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; (7-1-93)

e. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21 to Warm Springs Avenue and the Boise City limits; (4-6-05)

f. Yellowstone National Park in Fremont County; (7-1-93)

g. On any of those portions of State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which hunting closures have been declared by legislative or Commission action; (7-1-93)

h. All or portions of national wildlife refuges, EXCEPT as specified in federal regulations for individual refuges; and, (7-1-93)

i. All Snake River islands between the Glens Ferry bridge and the Sailor Creek bridge in Elmore County. (7-1-93)

j. Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area of fifty (50) feet in elevation above the high water level of the Snake River. The upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river. (3-20-97)

02. Mountain Lions and Gray Wolves. Mountain lion or gray wolf may not be hunted or pursued within one-half (1/2) mile of any active Department of Fish and Game big game feeding site. (~~7-1-93~~)()

03. Black Bear and Gray Wolves. Black bear or gray wolf may not be hunted or pursued within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. (~~7-1-93~~)()

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0109-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 36-104(b), 36-408 and 36-1101, 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Allows Senior and Disabled hunters to apply for leftover first come, first served youth-only controlled hunt turkey tags.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brad Compton (208) 287-2756.

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 September 23, 2009.

DATED this 30th day of July, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 13-0109-0901

100. TAGS, STAMPS, PERMITS, AND VALIDATIONS.

01. Sage Grouse or Sharp-Tailed Grouse. No person shall hunt sage or sharp-tailed grouse anywhere within the state, except licensed shooting preserves, without having in his or her possession the appropriate hunting license that has been validated for sage grouse and sharp-tailed grouse. The validation shall be valid from January 1 through December 31 of each year. (5-8-09)

02. Migratory Game Birds. No person shall hunt ducks, geese, brant, coots, common snipe, sandhill cranes, or mourning doves anywhere within the state, without having in his or her possession the appropriate hunting license that has been validated for the Federal Migratory Game Bird Harvest Information Program. The validation shall be valid from January 1 through December 31 of each year. (7-1-98)

03. Wild Turkey. No person shall hunt wild turkey without having in his or her possession the appropriate hunting license, tag, and controlled hunt permit. Persons obtaining and using tags, stamps, and permits must comply with the following requirements: (7-1-98)

a. There are three (3) turkey tags available each calendar year. These are the general tag, extra tag, and special unit tag. Only three (3) turkey tags of the following may be purchased each year; general and extra. In addition to the previously mentioned three (3) turkey tags, three (3) special unit tags may also be purchased. A hunter may not obtain both a spring general and a spring controlled turkey tag during the spring. (5-8-09)

b. Permits for Controlled Hunts: Any person who receives a controlled hunt permit for wild turkey is prohibited from using that permit/tag to hunt in any other wild turkey hunt. (4-5-00)

c. Nonresident permit limitations: On controlled hunts with ten (10) or fewer permits, not more than one (1) permit will be issued to nonresidents. On controlled hunts with more than ten (10) permits, not more than ten percent (10%) of the permits may be issued to nonresidents. (7-1-98)

d. Eligibility: The holders of valid hunting licenses are eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

i. Holders of a Type 208 Nongame Hunting License may not apply for any controlled hunt. (7-1-93)

ii. In the event a permit is issued based on erroneous information, the permit will be invalidated and the person will remain on the drawn list. (7-1-93)

e. Applications: Applications for spring and fall controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than February 15 for spring hunts and July 15 for fall hunts, annually. Applications must comply with the following requirements: (5-8-09)

i. Holders of a Duplicate License (Type 501) must use their original license number to apply for a controlled hunt. Duplicate license numbers will not be accepted. (7-1-93)

ii. Only one (1) application card per person or group will be accepted. Additional application cards will result in all applicants being declared ineligible. (7-1-93)

iii. Fees: All applicants for controlled hunts must submit a non-refundable application fee with their application; one dollar (\$1) of this fee may be donated to the Citizens Against Poaching Program. (5-8-09)

iv. A single payment (either cashier's check, money order, certified check, or personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. (2-7-95)

v. A "group application" is defined as two (2) hunters applying for the same controlled hunt on the same application. (2-7-95)

- vi. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. (7-1-93)
- vii. All spring wild turkey hunters may apply for a Fall turkey controlled hunt permit during the same calendar year. (3-30-01)
- f.** Drawing information: Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing provided the second choice hunt applied for has not been filled. (7-1-93)
- g.** Tag validation and attachment: Immediately after any wild turkey is killed, the turkey tag must be validated and securely attached to the wild turkey. (7-1-93)
- h.** To validate the tag, the hunter must cut out and completely remove two (2) triangles on the border of the tag, one (1) for the month and one (1) for the day of the kill. (7-1-93)
- i.** The tag must remain attached so long as the turkey is in transit or storage. (7-1-93)
- j.** The Commission establishes youth-only controlled hunts by proclamation. Only hunters twelve (12) to seventeen (17) years of age with a valid license may apply for youth-only controlled hunts, EXCEPT hunters sixty-five (65) years of age or older or hunters with a senior combination hunting license or a disabled combination hunting license may apply for first-come, first-served leftover youth-only controlled hunt permits. ()
- 04. Early September Canada Goose Hunts.** (7-1-98)
- a.** Controlled Hunts: No person shall hunt Canada geese during controlled, early September seasons (September 1-15) without having in his or her possession the appropriate hunting license and controlled hunt permit. Persons obtaining and using controlled hunt permits must comply with the following requirements: (7-1-98)
- i. Applications: Applications for controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than July 15, annually. Applications must comply with the following requirements: (4-5-00)
- ii. Fees: All applicants for controlled hunts must submit a nonrefundable application fee with their application; one dollar (\$1) of this fee may be donated to the Citizens Against Poaching Program. Successful applicants will be issued a permit that entitles them to hunt. The Federal Migratory Bird Stamp is required by any person seventeen (17) years of age and older, respectively (Title 50 Code of Federal Regulations, Part 20). (3-30-01)
- iii. The following rules previously established for wild turkey also apply to early September Canada goose hunts: Subsections 100.03.b., 100.03.c., 100.03.d., 100.03.e.ii., 100.03.e.iv. through 100.03.e.vi., and 100.03.f. (3-30-01)
- iv. Any controlled hunt permits for Canada geese that remain unsold after the controlled hunt drawing may be sold by the Department on a first-come, first-served basis. (7-1-98)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.10 - RULES GOVERNING THE IMPORTATION, POSSESSION, RELEASE, SALE, OR SALVAGE OF WILDLIFE

DOCKET NO. 13-0110-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 36-104(b), 36-501 and 36-504, 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Allows for the possession and sale of bones from lawfully-harvested or naturally-dying big game animals. Deletes an obsolete reference to an antler pick-up season in Eastern Idaho.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brad Compton (208) 287-2756.

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 September 23, 2009.

DATED this 29th day of July, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 13-0110-0901

300. RECOVERY, POSSESSION AND SALE OF WILDLIFE PARTS.

01. Wildlife Legally Killed. (3-23-94)

a. The possession, sale and purchase of wildlife or parts of wildlife that have been legally killed is lawful except as provided below and as provided in Chapter 5, Title 36, Idaho Code. (3-23-94)

i. The edible flesh of wildlife classified as big game animals, upland game animals, game birds or migratory birds taken from the wild may not be purchased, bartered or sold. (3-23-94)

ii. The edible flesh of wildlife classified as game fish or crustacea that are taken from the wild may not be purchased, bartered or sold except as provided in Idaho Code Sections 36-501 and 36-801 through 36-805 and rules promulgated pursuant thereto. (3-23-94)

b. A written statement showing the taker's name, address, license and tag numbers, date and location of kill, signed by the taker, must be provided to the buyer of any black bear or mountain lion head, hide or parts (except tanned hides finished into rugs or mounts). A copy of the sales statement must be forwarded by the buyer to the Idaho Department of Fish and Game within ten (10) days after such sale. (3-23-94)

02. Animals Found Dead. Protected species of wildlife that have died naturally or accidentally remain in public trust to be disposed of by the Department of Fish and Game. However, a person may recover, possess, sell or purchase the wildlife parts as specified below, but ONLY under the conditions specified and ONLY if the wildlife has NOT been unlawfully killed. Natural causes shall not include any man-caused mortality. (7-1-98)

a. Horns of Bighorn Sheep. (7-1-93)

i. Bighorn sheep horns of animals that have died of natural causes may be recovered and possessed but may not be sold, bartered or purchased and may not be transferred to another person without a permit issued by the Director. All such pickup horns must be presented to an Idaho Department of Fish and Game regional or subregional office for marking by placement of a permanent metal pin in the horn within thirty (30) days of recovery. The insertion of a pin does not in itself certify that the animal was legally taken or possessed. The pin only identifies the horn(s) and indicates that mandatory check and report requirements were complied with. (3-23-94)

ii. No person shall alter, deface or remove a pin placed in a bighorn sheep horn by the Idaho Department of Fish and Game. No person shall possess the horn(s) of a bighorn sheep that bears an altered, defaced or counterfeit Idaho pin or from which the Idaho pin has been removed. (3-23-94)

b. Antlers, bones, and horns of deer, elk, moose, pronghorn ~~antelope~~ and mountain goat, and parts of bear and mountain lion and elk teeth of animals that have died of natural causes may be recovered, possessed, purchased, bartered or sold. (~~3-23-94~~)(____)

~~**e.** Antlers of deer, elk and moose that have been naturally shed in Idaho may be recovered, possessed, purchased or sold year around, EXCEPT in units 60, 60A, 66, 66A, 67, 68, 68A, 69, 70, 71, 72, 73, 73A, 74, 75, 76, 77 and 78 antlers may be picked up in the field only from May 1 through December 31. (7-1-99)~~

03. Wildlife Taken in Other States. Wildlife or parts thereof that have been legally taken outside of Idaho, may be possessed or sold in Idaho if such sale is not prohibited in Idaho or the state, province or country where taken, or by federal law or regulation; (3-23-94)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.15 - RULES GOVERNING THE USE OF DOGS

DOCKET NO. 13-0115-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 36-104(b) and 36-1101, 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Allows for the use of one (1) blood-trailing dog controlled by leash during lawful hunting hours and within 72 hours of hitting a big game animal to track wounded animals and aid in recovery. Corrects non-resident quota rule to reflect Commission action.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brad Compton (208) 287-2756.

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 September 23, 2009.

DATED this 30th day of July, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 13-0115-0901

100. USE OF HUNTING DOGS.

Dogs may be used to hunt or pursue ONLY the following wildlife, ONLY under the conditions listed, and ONLY if not prohibited by current rules: (7-1-93)

01. Upland Game Animals, Upland Game Birds, and Migratory Game Birds. To train on or hunt upland game animals, game birds, and migratory game birds. (4-5-00)

02. Taking with Conditions. To take black bear, mountain lion, bobcat, fox and raccoon, provided that the following conditions are met: (3-30-01)

- a. There is an open take season in the area to be hunted. (7-1-93)
- b. Use of dogs is allowed during the take season in the area to be hunted. (7-1-93)
- c. Raccoons may be taken or pursued during firearm seasons for deer or elk. (3-30-01)
- d. Once an individual has harvested an animal, he may continue to pursue. (3-30-01)
- e. The following persons must have a valid Hound Hunters Permit in possession when dogs are being used to hunt. (3-30-01)
 - i. Anyone who owns pursuit dogs. (3-30-01)
 - ii. Anyone having control of dogs owned by another person; or (3-30-01)
 - iii. Anyone that harvests an animal over dogs, except clients of licensed outfitters. (3-30-01)

03. To Pursue with Conditions. To pursue black bear, mountain lion, bobcat, and raccoon provided that the following conditions are met: (3-30-01)

- a. There is an open dog training season in the area to be hunted. (7-1-93)
- b. Anyone who owns or controls pursuit dogs must have purchased a black bear or a mountain lion tag to pursue the respective species. A tag which has been filled is valid for pursuit. (3-30-01)
- c. The following persons must have a valid Hound Hunter's Permit in possession when dogs are being used to hunt or pursue black bear, mountain lion, bobcat, fox, or raccoon: (3-30-01)
 - i. Anyone who owns pursuit dogs. (3-30-01)
 - ii. Anyone having control of dogs owned by another. (3-30-01)

04. Unprotected and Predatory Wildlife. A Hound Hunter Permit is not required to take and/or pursue unprotected and predatory wildlife. (3-30-01)

05. Blood Trailing Dogs. The use of one (1) blood-trailing dog controlled by leash during lawful hunting hours and within seventy-two (72) hours of hitting a big game animal is allowed to track animals and aid in recovery. A Hound Hunting Permit is not required. ()

101. -- 199. (RESERVED).

200. HOUND HUNTER PERMIT.

- 01. Use of Hound Hunter Permits.** (4-5-00)
 - a. The following persons must have a valid Hound Hunter Permit in possession when dogs are being

used to hunt or pursue black bear, mountain lion, bobcat, fox, and raccoon: (3-30-01)

i. Anyone who owns pursuit dogs. (3-30-01)

ii. Anyone having control of dogs owned by another person. (3-30-01)

b. Permits are not transferable EXCEPT, an outfitter licensed pursuant to the authority vested in the Outfitters and Guides Board, Sections 36-2101, et seq., Idaho Code, may convey the authority of his Hound Hunter Permit to a nonresident licensed guide operating for him. A nonresident guide will be deemed to be in compliance with this requirement if the guide has a copy of the above-referenced Hound Hunter Permit in his possession. (4-5-00)

c. Hound Hunter Permits are valid from January 1 through December 31 of each year. (4-5-00)

02. Limitation on Hound Hunter Permits for Nonresidents. No more than seventy (70) nonresident hound hunter permits will be issued to nonresident hunters who are not licensed outfitters pursuant to the authority vested in the Outfitters and Guides Board, Sections 36-2101, et seq., Idaho Code. A licensed outfitter, who is a nonresident, is exempt from the limitation. Nonresident licensed outfitters and guides who have obtained a hound hunter permit under this exemption shall not use this for personal hunting. Sales of nonresident Hound Hunter Permits to the following persons shall not be counted in the quota for nonresidents: (3-30-01)

a. Unqualified Residents. Persons who have moved into Idaho and by notarized affidavit show proof of their intent to become bona fide Idaho residents but are not yet qualified to purchase a resident license. (7-1-93)

b. Middle Fork Zone. Persons who hound hunt solely in big game units within the Middle Fork elk zone (Units 20A, 26, and 27) shall not be counted in the quota for nonresidents. (3-30-01)

c. Selway Zone. Persons who hound hunt solely within the Selway Zone (Units 16A, 17, 19, and 20) shall not be counted in the quota for nonresidents. A total of forty (40) permits will be issued for Units 16A, 19, 20, and all of Unit 17, excluding Hunt Area 17-1 which will have six (6) permits. Hunt Area 17-1 is defined as that portion of Unit 17 south of the following boundary: Beginning at the junction of the Unit 17 boundary and Forest Service Trail 24, then west along Forest Service Trail 24 to the Selway River, then north along the Selway River to Forest Service Trail 40, then southwest along Forest Service Trail 40 to Forest Service Trail 3, then along Forest Service Trail 3 to the Unit 17 boundary. (3-30-01)

d. Lolo Zone. Persons who hound hunt solely in the Lolo Zone (Units 10 and 12) shall not be counted in the quota for nonresidents. ~~Six (6) permits will be issued for each of the following four (4) hunt areas:~~ (3-30-01)()

~~i. Hunt Area 10-1 is that portion of Unit 10 on the north side of the North Fork of the Clearwater River drainage downstream from its junction with Kelly Creek. (3-30-01)~~

~~ii. Hunt Area 10-2 is that portion of Unit 10 within the North Fork of the Clearwater River drainage upstream from its junction with Kelly Creek, and the Kelly Creek drainage excluding the Cayuse Creek drainage upstream from its junction with Forest Service Road 581. (3-30-01)~~

~~iii. Hunt Area 12-1 is that portion of Unit 12 north of U.S. Highway 12, and west of Doe Creek Road (Forest Service Road 566). (3-30-01)~~

~~iv. Hunt Area 12-2 is that portion of Unit 12 south of U.S. Highway 12 and west of Elk Summit Road (Forest Service Road 360). (3-30-01)~~

03. Eligibility -- Residents. A resident Hound Hunter Permit may be obtained by a holder of a resident hunting license by paying the appropriate fee at a license vendor. (3-30-01)

04. Eligibility -- Nonresidents. (7-1-93)

a. Applications for Hound Hunter Permits shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than December 1 of the year preceding the year in which the permit is to be valid. (4-5-00)

b. Any application which is unreadable or which lacks the required information will be declared void and will not be entered in the drawing. All applications will be considered final. They may not be resubmitted after correction. (4-5-00)

c. Applicants must comply with the following requirements: (7-1-93)

i. No person may submit more than one (1) application for a Hound Hunter Permit. (4-5-00)

ii. Group applications will be accepted. A group application for a Hound Hunter Permit is defined as two (2) hunters applying for two (2) permits on the same application form. (3-30-01)

d. Hound Hunter Permits that remain unissued after the drawing may be issued by the Department on a first-come, first-served basis at the Regional offices during normal business hours on or after December 10. (4-5-00)

05. Invalidity of Permit. In the event a permit is issued based on erroneous or fraudulent information, the permit is invalid and CANNOT be used. Any permit issued on the basis of fraudulent information is subject to the provisions of Title 36, Idaho Code, and IDAPA 13.01.01, "Rules Governing Licensing." (4-5-00)

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.16 - THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS

DOCKET NO. 13-0116-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 36-104(b) and 36-1101, 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Allows other forms of official import documentation to suffice as an export tag for possession of lawfully obtained pelts in Idaho. Corrects an obsolete reference to the vendor fee.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brad Compton (208) 287-2756.

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 September 23, 2009.

DATED this 29th day of July, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 13-0116-0901

500. MANDATORY CHECK AND REPORT - PELT TAG REQUIREMENTS.

01. Mandatory Check and Report. Any person trapping river otter or taking bobcat, whether by hunting or trapping, must comply with the mandatory check and report and pelt tag requirements by: (5-3-03)

a. Presenting the pelts of all bobcat taken to a regional office, the McCall office or official check point to obtain the appropriate pelt tag and complete a harvest report. To have a pelt tagged, the pelt must be legally taken in Idaho and must be presented to a regional office, the McCall office, or designated checkpoint of IDFG during normal working hours -- 8 a.m. to 5 p.m. (3-30-01)

b. Additional River Otter Requirements: (3-30-01)

i. Pelts must be tagged by IDFG personnel at the regional office in the region in which the animal was taken within seventy-two (72) hours of taking. Trappers unable to comply with the tagging requirements due to special or unique circumstances must report their harvest to the appropriate regional office or field personnel within seventy-two (72) hours and make arrangements for tagging at the proper regional office. Pelts not registered or presented to Department personnel within seventy-two (72) hours are subject to confiscation. (3-30-01)

ii. Otters harvested after the season has closed, or otters harvested in excess of a trapper's personal quota of two (2), must be turned into IDFG personnel. Check with the IDFG regional office for further information when reporting a harvest. (4-6-05)

iii. No person shall have in possession, except during the open season and for seventy-two (72) hours after the close of the season, any raw otter pelt legally harvested in Idaho that does not have an official state export tag attached. (3-30-01)

02. Pelt Tags. A fee of two dollars (\$2) will be charged for each pelt tag. An additional ~~one dollar and fifty cent (\$1.50)~~ vendor fee as set forth in Section 36-306, Idaho Code, will be charged to each license holder when pelts are brought in for tagging. (~~3-30-01~~)()

a. No person, who does not possess a furbearer or taxidermist license or appropriate import documentation, or both, shall have in possession, except during the open season and for ten (10) days after the close of the season, any raw bobcat pelt that does not have an official state export tag attached (either Idaho's or another state's official export tag). (~~7-1-98~~)()

b. No person, who does not possess a furbearer or taxidermist license or appropriate import documentation, or both, shall sell, offer for sale, purchase, or offer to purchase any raw bobcat or otter pelt that does not have an official state export tag attached. (~~5-3-03~~)()

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.17 - RULES GOVERNING THE USE OF BAIT FOR TAKING BIG GAME ANIMALS

DOCKET NO. 13-0117-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 36-104(b) and 36-1101, 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Prohibits the use of salt for bear baiting and amends language for removal of bait sites for consistency.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the lack of an identified group to represent interested persons makes it infeasible.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brad Compton (208) 287-2756.

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 September 23, 2009.

DATED this 30th day of July, 2009.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 13-0117-0901

100. USE OF BAIT.

Bait is defined as any substance placed to attract big game animals, except liquid scent for deer and elk. Bait may be used to hunt ONLY black bear and ONLY under the following conditions. (7-9-93)

01. Time. (7-1-93)

a. No bait or bait container may be placed for the purpose of attracting or taking black bear prior to the opening of black bear take season EXCEPT in that portion of Unit 12 north of State Highway 12 southwest of the Doe Creek Road (Forest Service Road 566) and northeast of Cabin Creek and Forest Service Road 486, and bait may be placed one (1) week prior to the opening of bear season in Units 17, 19, 20, 20A, 26 and 27. (5-8-09)

b. All bait, bait containers and materials must be removed and all excavations refilled no later than seven (7) days after the close of each season; spring, fall, or black bear dog training. (5-8-09)

02. Location. (7-1-93)

a. No bait site may be located within two hundred (200) feet of any water (lake, pond, reservoir, year round free flowing spring and year round free flowing stream), or within two hundred (200) yards from any maintained trail or any road. (3-30-01)

b. No bait site may be located within one-half (1/2) mile of any designated campground or picnic area, administrative site, or dwelling. (7-1-93)

03. Types. (7-1-93)

a. No person shall use any part of a domestic or wild origin game bird, game animal, game fish, or protected nongame wildlife for bait or scent. (4-2-08)

b. The skin must be removed from any mammal parts or carcasses used as bait. (7-1-93)

c. No person shall use salt in any form (liquid or solid) for bait. ()

04. Containers. (7-1-93)

a. No bait may be contained within paper, plastic, glass, metal, wood or other nonbiodegradable materials, except that a single, metal container with a maximum size of fifty-five (55) gallons may be used if securely attached at the bait site. (7-1-93)

b. No bait may be contained in any excavated hole greater than four (4) feet in diameter. (7-1-93)

05. Establishment of Bait Sites. (7-1-93)

a. Any structures constructed at bait sites using nails, spikes, ropes, screws, or other materials must be removed by the permit holder within seven (7) days ~~of~~ after the close of ~~the~~ each season; spring, ~~and~~ fall, or black bear ~~seasons~~ dog training. (~~3-20-97~~)()

b. All bait sites must be visibly marked at the nearest tree or on the bait container using a tag supplied by the Department. (7-1-93)

OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR

IDAPA 15 - OFFICE OF THE GOVERNOR

IDAPA 15.10.01- IDAHO STATE LIQUOR DIVISION

DOCKET NO. 15-1000-0901

**NOTICE OF LEGISLATIVE ACTION RELATING TO THE IDAHO STATE LIQUOR DIVISION
HOUSE BILL 28 - SESSION LAW CHAPTER 23**

EFFECTIVE DATE: The effective date of this action is July 1, 2009.

AUTHORITY: In compliance with Sections 67-5203, Idaho Code, notice is hereby given by the Office of the Administrative Rules Coordinator that the Sixtieth Legislature in the First Regular Session - 2009, passed House Bill 28, affecting the Idaho State Liquor Dispensary, and that said bill was signed into law by Governor C.L. "Butch" Otter, Session Law Chapter 23, thereby amending existing law relating to the State Liquor Dispensary to revise terminology as described below.

DESCRIPTIVE SUMMARY: The following is a statement of the substance of the legislative action:

Since 1939, the chief executive officer of the Idaho State Liquor Dispensary (ISLD) has had the title of Superintendent of the Idaho State Liquor Dispensary. This is an antiquated title and no other equivalent position has this title in any of the eighteen control states in the nation. This legislation changes the title of the chief executive officer for the Idaho State Liquor Dispensary from "Superintendent" to "Director."

Further, the use of the word "Dispensary" in the name of the agency is also antiquated. This legislation changes the title of the agency from the "Idaho State Liquor Dispensary" to the "Idaho State Liquor Division" to be more consistent with other divisions within the Executive Office of the Governor.

Notwithstanding the provisions of Title 67, Chapter 52, Idaho Code, and further complying with the legislative intent of House Bill 28, non-substantive changes have been made to update these terms used in the rule. Previous references to "Superintendent" now say "Director" and previous references to "Dispensary" now say "Division."

Pursuant to Section 67-5204, Idaho Code, these changes will be codified into the electronic edition of the 2009 Idaho Administrative Code and made available on line. These changes were not incorporated into the print edition of the 2009 Administrative Code.

ASSISTANCE ON QUESTIONS: For assistance on questions concerning this notice, contact Dennis Stevenson, Administrative Rules Coordinator, (208) 322-1820.

DATED this 28th day of July, 2009.

Dennis Stevenson
Administrative Rules Coordinator
Office of the Administrative Rules Coordinator
Department of Administration
PO Box 83720
Boise, ID 83720-0306
Phone: (208) 332-1820
Fax: (208) 332-1896

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.10 - IDAHO REPORTABLE DISEASES

DOCKET NO. 16-0210-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-605, 39-906, 39-1003, 39-1603, 54-1119, 56-1003, and 56-1005 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 September 16, 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 a nontechnical explanation of the substance and purpose of this proposed rulemaking:

Idaho Code requires the Department to provide rules that govern the reporting, control, and prevention of reportable diseases and conditions and requirements to prevent transmission of health hazards from dead human bodies. These rules are being amended to protect the health and safety of the public by:

1. Adding requirements for disposition of dead human bodies that may pose a health hazard from communicable diseases or hazardous substances;
2. Providing clarification of the reporting requirements and restrictions for the following diseases: cryptosporidiosis, hemolytic-uremic syndrome (HUS), mumps, rabies, prion diseases, and West Nile virus;
3. Adding reporting requirements for cases of novel influenza A virus; and
4. Updating the authority, scope, definitions, and incorporation by reference sections of rules.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any 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 due to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because these rule changes are being made to protect the health of Idaho citizens.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathryn Turner at (208) 334-5939.

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 September 23, 2009.

DATED this 27th day of July, 2009.

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 PROPOSED TEXT FOR DOCKET NO. 16-0210-0901

000. LEGAL AUTHORITY.

Sections 39-605, 39-1003, 39-1603, and 56-1005, Idaho Code, grant authority to the Board of Health and Welfare to adopt rules protecting the health of the people of Idaho. Section 39-906, Idaho Code, provides for the Director to administer rules adopted by the Board of Health and Welfare. Section 39-4505(2), Idaho Code, gives the Director authority to promulgate rules regarding the identification of blood- or body fluid-transmitted viruses or diseases. Section 56-1003, Idaho Code, gives the Director the authority to adopt rules protecting the health of the people of Idaho and to recommend rules to the Board of Health and Welfare. Section 54-1119, Idaho Code, authorizes the Director to promulgate rules regarding the handling of dead human bodies as needed to preserve and protect the public health. (4-2-08)(____)

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.02.10, "Idaho Reportable Diseases." (4-2-08)

02. Scope. These rules contain the official requirements governing the reporting, control, and prevention of reportable diseases and conditions and requirements to prevent transmission of health hazards from dead human bodies. The purpose of these rules is to identify, control, and prevent the transmission of reportable diseases and conditions within Idaho. (4-2-08)(____)

(BREAK IN CONTINUITY OF SECTIONS)

004. DOCUMENTS INCORPORATED BY REFERENCE.

The documents referenced in Subsections 004.01 through 004.06 of this rule are used as a means of further clarifying these rules. These documents are incorporated by reference and are available at the Idaho State Law Library or at the Department's main office listed in Section 005 of these rules. (4-2-08)

01. Guideline for Isolation Precautions in Hospitals. Siegel, J.D., et al., "Guideline for Isolation Precautions in Hospitals." Health Care Infection Control Practices Advisory Committee, Atlanta, GA: Centers for Disease Control and Prevention, 2007. (4-2-08)

02. Case Definitions for Infectious Conditions Under Public Health Surveillance, 2010. Morbidity and Mortality Weekly Report, May 2, 1997, Vol. 46, No. RR-10 2010 Edition. Centers for Disease Control and Prevention. Division of Integrated Surveillance Systems and Services at <http://www.cdc.gov/ncphi/diss/nndss/phs/infdis.htm>. (4-2-08)(____)

03. Human Rabies Prevention -- United States, 1999. Morbidity and Mortality Weekly Report, January 8, 1999, Vol. 48, RR-1. Centers for Disease Control and Prevention. (4-2-08)

04. Updated U.S. Public Health Service Guidelines for the Management of ~~Health Care Worker Occupational~~ Exposures to HIV and Recommendations for Postexposure Prophylaxis. Morbidity and Mortality Weekly Report, May 15, 1998, Vol. 47, RR-7 September 30, 2005, Vol. 54, RR09. Centers for Disease Control and Prevention. These guidelines are found at <http://aidsinfo.nih.gov/contentfiles/HealthCareOccupExpoGL.pdf>. (4-2-08)(____)

05. Compendium of Animal Rabies Control, 20078. National Association of State Public Health Veterinarians, Inc., Morbidity and Mortality Weekly Report, April 6, 2007, Vol. 58, RR-3. Centers for Disease Control and Prevention. This document is found at <http://www.nasphv.org/>. (4-2-08)(____)

06. Standards for Cancer Registries, Volume II, Data Standards and Data Dictionary. North

American Association of Central Cancer Registries, Twelfth Edition, Record Layout Version 11.2, April 2007.
(4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

011. DEFINITIONS L THROUGH Z.

For the purposes of this chapter, the following definitions apply. (4-2-08)

01. Laboratory Director. A person who is directly responsible for the operation of a licensed laboratory or his designee. (4-2-08)

02. Laboratory. A medical diagnostic laboratory which is inspected, licensed, or approved by the Department or licensed according to the provisions of the Clinical Laboratory Improvement Act by the United States Health Care and Financing Administration. Laboratory may also refer to the Idaho State Public Health Laboratory, and to the United States Centers for Disease Control and Prevention. (4-2-08)

03. Livestock. Livestock includes cattle, swine, horses, mules, asses, native and non-native ungulates, and other animals determined by the Department. (4-2-08)

04. Medical Record. Hospital or medical records are all those records compiled for the purpose of recording a medical history, diagnostic studies, laboratory tests, treatments, or rehabilitation. Access will be limited to those parts of the record which will provide a diagnosis, or will assist in identifying contacts to a reportable disease or condition. Records specifically exempted by statute are not reviewable. (4-2-08)

05. Outbreak. An outbreak is an unusual rise in the incidence of a disease. An outbreak may consist of a single case. (4-2-08)

06. Personal Care. The service provided by one (1) person to another for the purpose of feeding, bathing, dressing, assisting with personal hygiene, changing diapers, changing bedding, and other services involving direct physical contact. (4-2-08)

07. Physician. A person legally authorized to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine in Idaho as defined in Section 54-1803, Idaho Code. (4-2-08)

08. Quarantine. The restriction placed on the entrance to and exit from the place or premises where an infectious agent or hazardous material exists. The place of quarantine will be designated by the Director or Health District Board. (4-2-08)

09. Rabies Post-Exposure Prophylaxis (rPEP). The administration of a rabies vaccine series with or without the antirabies immune globulin, depending on pre-exposure vaccination status, following a documented or suspected rabies exposure, as described in "Human Rabies Prevention--United States, 1999," incorporated in Section 004 of these rules. (4-2-08)

10. Rabies-Susceptible Animal. Any animal capable of being infected with the rabies virus. (4-2-08)

11. Residential Care Facility. A commercial or non-profit establishment organized and operated to provide a place of residence for three (3) or more individuals who are not members of the same family, but live within the same household. Any restriction for this type of facility is included under restrictions for a health care facility. (4-2-08)

12. Restriction. (4-2-08)

a. To limit the activities of a person to reduce the risk of transmitting a communicable disease. Activities of individuals are restricted or limited to reduce the risk of disease transmission until such time that they

are no longer considered a health risk to others. (4-2-08)

b. A food employee who is restricted must not work with exposed food, clean equipment, utensils, linens, and unwrapped single-service or single-use articles. A restricted employee may still work at a food establishment as outlined in the IDAPA 16.02.19, "The Idaho Food Code." (4-2-08)

13. Restrictable Disease. A restrictable disease is a communicable disease, which if left unrestricted, may have serious consequences to the public's health. The determination of whether a disease is restrictable is based upon the specific environmental setting and the likelihood of transmission to susceptible persons. (4-2-08)

14. Severe Reaction to Any Immunization. Any serious or life-threatening condition which results directly from the administration of any immunization against a communicable disease. (4-2-08)

15. Significant Exposure to Blood or Body Fluids. Significant exposure is defined as a percutaneous injury, contact of mucous membrane or non-intact skin, or contact with intact skin when the duration of contact is prolonged or involves an extensive area, with blood, tissue, or other body fluids as defined in "Updated U.S. Public Health Service Guidelines for the Management of ~~Health-Care Worker~~ Occupational Exposures to HIV and Recommendations for Postexposure Prophylaxis," incorporated in Section 004 of these rules. (~~4-2-08~~)(____)

16. Standard Precautions. Methods used to prevent transmission of all infectious agents, as described in the "Guideline for Isolation Precautions in Hospitals," incorporated in Section 004 of these rules. (4-2-08)

17. State Epidemiologist. A person employed by the Department to serve as a statewide epidemiologist or his designee. (4-2-08)

18. Suspected Case. A person diagnosed with or thought to have a particular disease or condition by a licensed physician or other health care provider. The suspected diagnosis may be based on signs and symptoms, or on laboratory evidence, or both criteria. Suspected cases of some diseases are reportable as described in Section 050 of these rules. (4-2-08)

19. Vaccination of an Animal Against Rabies. Vaccination of an animal by a licensed veterinarian with a rabies vaccine licensed or approved for the animal species and administered according to the specifications on the product label or package insert as described in the "Compendium of Animal Rabies Control, 2007~~8~~," incorporated in Section 004 of these rules. (~~4-2-08~~)(____)

20. Veterinarian. Any licensed veterinarian as defined in Section 54-2103, Idaho Code. (4-2-08)

21. Waterborne Outbreak. An outbreak is when two (2) or more persons experience a similar illness after ingesting water from a common supply and an epidemiological analysis implicates the water as the source of the illness. (4-2-08)

22. Working Day. A working day is from 8 a.m. to 5 p.m., Monday through Friday, excluding state holidays. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

050. REPORTABLE OR RESTRICTABLE DISEASES, CONDITIONS AND REPORTING REQUIREMENTS.

Reportable diseases and conditions must be reported to the Department or Health District by those required under Section 020 of these rules. The table below identifies the reportable and restrictable diseases and conditions, the timeframe for reporting, and the person or facility required to report.

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Day Care FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Acquired Immune Deficiency Syndrome (AIDS), (including CD-4 lymphocyte counts <200 cells/mm ³ blood or < 14%)	100	Within 3 working days	None	
Amebiasis	110	Within 3 working days	DC, FS, HC	Day Care Facility Food Service Facility
Anthrax (<i>Bacillus anthracis</i>)	120	Immediately	None	
Biotinidase Deficiency	130	Within 1 working day (in newborn screening)	None	
Botulism	140	Immediately	None	
Brucellosis (<i>Brucella</i> species)	150	Within 1 working day	None	
Campylobacteriosis (<i>Campylobacter</i> species)	160	Within 3 working days	DC, FS, HC	Day Care Facility Food Service Facility
Cancer	170	Report to Cancer Data Registry of Idaho within 180 days of diagnosis or recurrence (including suspected cases)	None	
Chancroid	180	Within 3 working days	None	
<i>Chlamydia trachomatis</i> Infections	190	Within 3 working days	HC - <u>ophthalmica</u> <u>neonatorum only</u>	
Cholera (<i>Vibrio cholerae</i>)	200	Within 1 working day	FS, HC, DC	Food Service Facility
Congenital Hypothyroidism	210	Within 1 working day (in newborn screening)	None	
Conjunctivitis	080, 090	No reporting required	DC, S	
Cryptosporidiosis (<i>Cryptosporidium</i> species)	220	Within 3 working days	FS, HC, DC	
Cutaneous Fungal Infections	080, 090	No reporting required	DC, S	
Diarrhea (until common communicable diseases have been ruled out)	085	No reporting required	FS	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Day Care FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Diphtheria (<i>Corynebacterium diphtheriae</i>)	230	Immediately	DC, FS, HC, S	Day Care Facility School
Encephalitis, Viral or Aseptic	240	Within 3 working days	None	
<i>Escherichia coli</i> O157:H7 and other Shiga-Toxin Producing <i>E. coli</i> (STEC)	250	Within 1 working day	DC, FS, HC	Day Care Facility Food Service Facility School
Extraordinary Occurrence of Illness, including Clusters	260	Within 1 working day	None	
Fever	085	No reporting required	FS	
Food Poisoning, Foodborne Illness, and Waterborne Illnesses	270	Within 1 working day	None	
Galactosemia	280	Within 1 working day (in newborn screening)	None	
Giardiasis (<i>Giardia lamblia</i>)	290	Within 3 working days	DC, FS, HC	Day Care Facility Food Service Facility
<i>Haemophilus influenzae</i> Invasive Disease	300	Within 1 working day	DC, S	Day Care Facility School
Hantavirus Pulmonary Syndrome	310	Within 1 working day	None	
Hemolytic-Uremic Syndrome (HUS) or Thrombotic thrombocytopenic purpura-HUS (TTP-HUS)	320	Within 1 working day	None	
Hepatitis A	330	Within 1 working day	DC, FS, HC	Day Care Facility Food Service Facility
Hepatitis B	340	Within 1 working day	None	
Hepatitis C	350	Within 3 working days	None	
Human Immunodeficiency Virus (HIV)	360	Within 3 working days	None	
Human T-Lymphotropic Virus	370	Within 3 working days	None	
Jaundice	085	No reporting required	FS	

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Lead Levels of Ten Micrograms or more per Deciliter of Whole Blood (ug/dL)	380	Within 3 working days	None	
Legionellosis	390	Within 3 working days	None	
Leprosy (Hansen's Disease)	400	Within 3 working days	None	
Leptospirosis	410	Within 3 working days	None	
Listeriosis (<i>Listeria</i> species)	420	Within 3 working days	None	
Lyme Disease	430	Within 3 working days	None	
Malaria (<i>Plasmodium</i> species)	440	Within 3 working days	None	
Maple Syrup Urine Disease	450	Within 1 working day (in newborn screening)	None	
Measles (Rubeola)	460	Within 1 working day	DC, HC, S	Day Care Facility School
Meningitis, Viral or Aseptic	470	Within 3 working days	None	
Methicillin-resistant <i>Staphylococcus aureus</i> (MRSA) Invasive Disease	475	Within 3 working days	None	Note: Only Laboratory Directors need to report.
Methicillin-resistant <i>Staphylococcus aureus</i> (MRSA) Non-Invasive Disease	475, 080, 090	No reporting required	DC, FS, HC, S	
Mumps	480	Within 3 working days	DC, S, HC	Day Care Facility School
Myocarditis, Viral	490	Within 3 working days	None	
<i>Neisseria gonorrhoeae</i> Infections	500	Within 3 working days	None	
<i>Neisseria meningitidis</i> Invasive Disease	510	Within 1 working day	DC, HC, S	Day Care Facility School
Norovirus	520	Within 1 working day	DC, FS, HC, S	
<u>Novel Influenza A Virus</u>	<u>522</u>	<u>Within 1 working day</u>	<u>DC, FS, HC, S</u>	
Pediculosis	080, 090	No reporting required	DC, S	
Pertussis (<i>Bordetella pertussis</i>)	530	Within 1 working day	DC, HC, S	Day Care Facility School

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Day Care FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Phenylketonuria (PKU)	540	Within 1 working day (in newborn screening)	None	
Plague (<i>Yersinia pestis</i>)	550	Immediately	HC, S	Day Care Facility School
Pneumococcal Invasive Disease in Children less than Eighteen (18) Years of Age (<i>Streptococcus pneumoniae</i>)	560	Within 3 working days	DC, S	Day Care Facility School
<i>Pneumocystis</i> Pneumonia (PCP)	570	Within 3 working days	None	
Poliomyelitis	580	Within 1 working day	DC	Day Care Facility School
Psittacosis	590	Within 3 working days	None	
Q Fever	600	Within 1 working day	None	
Rabies - Human, and Animal, and Post-Exposure Prophylaxis (rPEP)	610	Immediately (human), Within 1 working day (animal or rPEP)	None	
Relapsing Fever, Tick-borne and Louse-borne	620	Within 3 working days	None	
Respiratory Syncytial Virus (RSV)	630	Within 1 working day	None	Note: Only Laboratory Directors need to report.
Reye Syndrome	640	Within 3 working days	None	
Rocky Mountain Spotted Fever	650	Within 3 working days	None	
Rubella (including Congenital Rubella Syndrome)	660	Within 1 working day	DC, HC, S	Day Care Facility School
Salmonellosis (including Typhoid Fever) (<i>Salmonella</i> species)	670	Within 1 working day	DC, FS, HC	Day Care Facility Food Service Facility
Scabies	080, 090	No reporting required	DC, S	
Severe Acute Respiratory Syndrome (SARS)	680	Within 1 working day	DC, S	Day Care Facility School
Severe Reaction to Any Immunization	690	Within 1 working day	None	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Day Care FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Shigellosis (<i>Shigella</i> species)	700	Within 1 working day	DC, FS, HC, S	Day Care Facility Food Service Facility School
Smallpox	710	Immediately	DC, HC, S	Day Care Facility School
Sore Throat with Fever	085	No reporting required	FS	
Staphylococcal Infections other than MRSA	080, 085, 090	No reporting required	DC, FS, S	
Streptococcal Pharyngeal Infections	080, 090	No reporting required	DC, S	
<i>Streptococcus pyogenes</i> (Group A Strep), Invasive or Resulting in Rheumatic Fever	720	Within 3 working days	DC, HC, S	Day Care Facility School
Syphilis	730	Within 3 working days	None	
Taeniasis	085	No reporting required	FS	
Tetanus	740	Within 3 working days	None	
Toxic Shock Syndrome	750	Within 3 working days	None	
Transmissible Spongiform Encephalopathies (TSE), including Creutzfeldt-Jakob Disease (CJD) and Variant CJD (vCJD)	760	Within 3 working days	None	
Trichinosis	770	Within 3 working days	None	
Tuberculosis (<i>Mycobacterium tuberculosis</i>)	780	Within 3 working days	DC, FS, HC, S	Day Care Facility School Food Service Facility
Tularemia (<i>Francisella tularensis</i>)	790	Immediately; Identification of <i>Francisella tularensis</i> - within 1 working day	None	
Uncovered and Open or Draining Skin Lesions with Pus, such as a Boil or Open Wound	085	No reporting required	FS	
Varicella (chickenpox)	080, 090	No reporting required	DC, S	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
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Vomiting (until noninfectious cause is identified)	085	No reporting required	FS	
West Nile Virus (WNV)	800	Within 3 working days	None	
Yersiniosis (<i>Yersinia enterocolitica</i> and <i>Yersinia pseudotuberculosis</i>)	810	Within 3 working days; Identification of <i>Yersinia pestis</i> - immediately	FS	

(4-2-08)()

(BREAK IN CONTINUITY OF SECTIONS)

066. -- 0697. (RESERVED).

068. PREVENTING SPREAD OF HEALTH HAZARDS FROM DEAD HUMAN BODIES.

01. Embalming. ()

a. The Division of Public Health Administrator or Health District Director may order a dead human body to be embalmed or prohibit embalming to prevent the spread of infectious or communicable diseases or exposure to hazardous substances. ()

b. The dead human body of a person suspected of or confirmed as having a viral hemorrhagic fever at the time of death must not be embalmed, but wrapped in sealed leak-proof material and cremated or buried. ()

02. Burial. The Division of Public Health Administrator or Health District Director may order a dead human body to be buried or cremated, or prohibit burial or cremation, and may specify a time frame for final disposition to prevent the spread of infectious or communicable diseases or exposure to hazardous substances. ()

03. Notification of Health Hazard. Any person authorized to release a dead human body of a person suspected of or confirmed as having a prion disease, a viral hemorrhagic fever, other infectious health hazard, or contaminated with a hazardous substance, must notify the person taking possession of the body of that risk and indicate necessary precautions on a written notice to accompany the body. ()

069. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

220. CRYPTOSPORIDIOSIS.

01. Reporting Requirements. Each case of cryptosporidiosis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case must be investigated to determine the extent of the outbreak and identify the source of the infection. (4-2-08)

03. Restrictions - Day Care Facility. A fecally incontinent person excreting *Cryptosporidium parvum* must not attend a day care facility. A person excreting *Cryptosporidium parvum* must not provide personal care in a day care facility, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn when: (~~4-2-08~~)(____)

a. At least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Cryptosporidium* upon testing by a licensed laboratory; or (4-2-08)

b. Diarrhea has ceased for twenty-four (24) hours. (4-2-08)

04. Restrictions - Food Service Facility. A symptomatic person excreting *Cryptosporidium parvum* is restricted from working as a food employee. (~~4-2-08~~)(____)

05. Restrictions - Health Care Facility. A person excreting *Cryptosporidium parvum* must not provide personal care in a custodial institution, or health care facility while fecally incontinent, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn when: (~~4-2-08~~)(____)

a. At least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Cryptosporidium* upon testing by a licensed laboratory; or (4-2-08)

b. Diarrhea has ceased for twenty-four (24) hours. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

320. HEMOLYTIC-UREMIC SYNDROME (HUS).

01. Reporting Requirements. Each case of hemolytic-uremic syndrome (HUS) or thrombotic thrombocytopenic purpura-HUS (TTP-HUS) must be reported to the Department or Health District within one (1) working day. (~~4-2-08~~)(____)

02. Investigation. Each case of HUS or TTP-HUS must be investigated to confirm the diagnosis, determine the etiologic agent including *E. coli* O157:H7, non-O157 Shiga-toxin producing *E. coli*, or other enteric pathogens, and determine the source of infection. (~~4-2-08~~)(____)

(BREAK IN CONTINUITY OF SECTIONS)

480. MUMPS.

01. Reporting Requirements. Each case of mumps must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of mumps must be investigated to determine the immunization history or if the cause for an outbreak is unusual. (4-2-08)

03. Restrictions. A person with mumps must be restricted from day care, school, or work for ~~nine~~ five

(95) days after the onset of parotid swelling.

(4-2-08)()

(BREAK IN CONTINUITY OF SECTIONS)

521. RESERVED.

522. NOVEL INFLUENZA A VIRUS.

01. Reporting Requirements. ()

a. Each detection of a novel influenza A virus must be reported to the Department or Health District within one (1) working day of identification by the laboratory director. ()

b. Each probable or confirmed case of a novel influenza A infection resulting in hospitalization must be reported to the Department or Health District within one (1) working day of the event. ()

02. Investigation. Any case of a novel influenza A infection may be investigated to determine severity and recommend measures to prevent spread. ()

03. Restrictions. A person diagnosed with novel influenza A virus infection must be restricted from day care, school, or work for twenty-four (24) hours after the fever is resolved. Fever must be absent without the aid of fever-reducing medicine. ()

523. -- 529. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

610. RABIES - HUMAN, ~~AND~~ ANIMAL, AND POST-EXPOSURE PROPHYLAXIS (rPEP).

01. Reporting Requirements. (4-2-08)

a. Each case or suspected case of rabies in humans must be reported to the Department or Health District immediately, at the time of identification, day or night. (4-2-08)

b. Each case or suspected case of rabies in animals must be reported to the Department or Health District ~~and the Idaho Department of Agriculture~~ within one (1) working day of identification. Each case or suspected case of rabies in animals must also be reported to the Department of Agriculture as required in IDAPA 02.04.03, "Rules Governing Animal Industries." (4-2-08)()

c. Each instance of rabies post-exposure prophylaxis (rPEP) series initiation must be reported to the Department or Health District within one (1) working day. (4-2-08)

02. Investigation. (4-2-08)

a. Each reported case or suspected case of rabies in humans must be investigated to confirm the diagnosis, identify the source and other persons or animals that may have been exposed to the source, and identify persons who may need to undergo ~~prophylaxis with rabies immune globulin and rabies vaccine~~ rPEP. (4-2-08)()

b. Each suspected or confirmed case of rabies in animals will be investigated to determine if potential human or animal exposure has occurred and identify persons who may need to under go rPEP. ()

b.c. Each reported rPEP series initiation must be investigated to determine if additional individuals

require rPEP and identify the source of possible exposure. (4-2-08)

03. Handling of Report. The Health District must notify the Department and the Idaho Department of Agriculture within one (1) working day of each reported case of this disease. (4-2-08)

04. Management of Exposure to Rabies. All confirmed or suspected exposures to a suspected or confirmed rabid animal must be managed under the guidelines in the "Compendium of Animal Rabies Control, 2008," incorporated by reference in Section 004 of these rules. In the event that a human or animal case of rabies occurs, any designated representative of the Department, Health District, or Idaho Department of Agriculture, will establish such isolation and quarantine of animals as deemed necessary to protect the public health. ~~(4-2-08)~~(____)

a. The handling of a rabies-susceptible animal that has bitten a person must be as follows: (4-2-08)

i. Any livestock which has bitten a person must be managed by the Idaho Department of Agriculture, under the provision of IDAPA 02.04.03, "Rules Governing Animal Industries." ~~(4-2-08)~~(____)

ii. Any healthy domestic dog, cat, or ferret that has bitten a person must be observed for ten (10) days following the bite under the supervision of a licensed veterinarian or other person designated by the Idaho Department of Agriculture, Health District, or the Department. Such observation must be within an enclosure or with restraints deemed adequate to prevent contact with any member of the public or other animals. (4-2-08)

iii. It is the animal owner's responsibility to carry out the quarantine of the biting animal and to follow instructions provided for the quarantine of the animal. (4-2-08)

iv. Any domestic dog, cat, or ferret that has not been vaccinated against rabies by a licensed veterinarian and can not be quarantined, must be destroyed by a means other than shooting in the head. The head must be submitted to an approved laboratory for rabies analysis. (4-2-08)

v. Rabies Ssusceptible animals other than domestic dogs, cats, ferrets, or livestock must be destroyed and the head submitted to an approved laboratory for rabies analysis, unless an exemption is given by the Department or Health District. ~~(4-2-08)~~(____)

vi. No person will destroy, or allow to be destroyed, the head of a rabies-susceptible animal that has bitten a person without authorization from the Department or Health District. (4-2-08)

b. The handling of a rabies-susceptible animal that has not bitten a person, but has within the past one hundred eighty (180) days been bitten, mouthed, mauled by, or closely confined in the same premises with a known rabid animal must be as follows: (4-2-08)

i. Any domestic dog, cat, ferret, or livestock which has not been vaccinated as recommended by the American Veterinary Medical Association, must be placed in quarantine for a period of six (6) months under the observation of a licensed veterinarian or a person designated by the Idaho Department of Agriculture, Health District, or the Department and vaccinated according to the Rabies Compendium. An animal with current vaccinations, including livestock, should be revaccinated immediately with an appropriate rabies vaccine and quarantined for forty-five (45) days. These provisions apply only to animals for which an approved rabies vaccine is available. (4-2-08)

ii. The quarantine of such animal must be within an enclosure deemed adequate by a person designated by the Idaho Department of Agriculture, the Department, or Health District to prevent contact with any person or rabies-susceptible animal. (4-2-08)

iii. The owner of the animal is financially responsible for the cost of isolating and quarantining the animal and for specimen collection and testing. (4-2-08)

iv. Destruction of such animal is permitted as an alternative to quarantine. (4-2-08)

c. Any rabies-susceptible animal other than domestic dogs, cats, ferrets, or livestock that are suspected of having rabies, or which have been in close contact with an animal known to be rabid, must be destroyed.

The animal must be tested by an approved laboratory for rabies if a person has been bitten or has had direct contact with the animal which might result in the person becoming infected unless an exemption is granted by the Department or Health District. (4-2-08)(____)

05. City or County Authority. Nothing in these rules is intended or will be construed to limit the power of any city or county in its authority to enact more stringent requirements to prevent the transmission of rabies. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

760. TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES (TSE), INCLUDING CREUTZFELDT-JAKOB DISEASE (CJD) AND VARIANT CJD (VCJD).

01. Reporting Requirements. Each case or suspected case of transmissible spongiform encephalopathy (TSE), including Creutzfeldt-Jakob disease (CJD) and variant CJD (vCJD) must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)(____)

02. Investigation. Each reported case of transmissible spongiform encephalopathy (TSE) must be investigated to determine the cause and confirm the diagnosis. (4-2-08)

03. Autopsy. The state epidemiologist may order an autopsy for suspected CJD or vCJD ~~cases~~ deaths as per Section 39-277, Idaho Code. (4-2-08)(____)

(BREAK IN CONTINUITY OF SECTIONS)

800. WEST NILE VIRUS (WNV).

01. Reporting Requirements. Each case ~~or suspected case~~ of West Nile virus (WNV) infection must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)(____)

02. Investigation. Each reported case of WNV infection must be investigated to confirm the diagnosis, review any travel history, review any blood donations, and identify the most likely source of infection including exposure to vectors, blood transfusion, or organ receipt. (4-2-08)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.02.12 - RULES GOVERNING PROCEDURES AND TESTING TO BE
PERFORMED ON NEWBORN INFANTS

DOCKET NO. 16-0212-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-906, 39-909, and 39-910, 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule change is necessary to update this chapter of rule to reflect the latest reference materials incorporated, and to update some sections to reflect currently accepted medical practices for newborn screening.

The reference to the latest edition of the Clinical and Laboratory Standards Institute's newborn screening manual and the newborn screening specimen collection requirements for current medical practices are both being updated. A new section of rule is being added to clearly outline the acceptable uses and storage of newborn screening specimens.

Additionally, this chapter is being updated to conform to the formatting and plain language standards required by the Department.

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.

The Idaho Newborn Screening Program is funded through provider payments. There will be no fiscal impact, positive or negative, to the state general fund due to the approval of these rule changes.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because these changes are not of a controversial nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dieuwke Spencer at (208) 334-0670.

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 September 23, 2009.

DATED this 23rd day of July, 2009.

Tamara Prisock
DHW - Administrative Procedures Section
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THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0212-0901

IDAPA 16,
TITLE 02
CHAPTER 12

16.02.12 - ~~RULES GOVERNING~~ PROCEDURES AND TESTING
TO BE PERFORMED ON NEWBORN INFANTS

000. LEGAL AUTHORITY.

The Idaho Legislature has given the Board of Health and Welfare legislative power to promulgate rules governing the testing of newborn infants for phenylketonuria and other ~~preventable diseases~~ congenital birth defects and governing the instillation of an ophthalmic preparation in the eyes of the newborn to prevent Ophthalmia Neonatorum, pursuant to Sections 39-906, 39-909, and 39-910 ~~and 39-911~~, Idaho Code. (5-3-03)(____)

001. TITLE AND SCOPE.

01. Title. These rules are to be cited in full as Idaho Department of Health and Welfare Rules, IDAPA 16.02.12, "~~Rules Governing~~ Procedures and Testing to ~~Be~~ Performed on Newborn Infants." (5-3-03)(____)

02. Scope. These rules specify the tests and procedures that must be performed on newborn infants for early detection of ~~mental retardation, developmental disabilities, blood amino acid levels~~ metabolic disorders, endocrine disorders, hemoglobin disorders, cystic fibrosis, and prevention of infant blindness. (5-3-03)(____)

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.

~~All contested cases shall be~~ Administrative appeals are governed by the provision of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (5-3-03)(____)

004. INCORPORATION BY REFERENCE.

~~Pursuant to~~ Under Section 67-5229, Idaho Code, this chapter incorporates by reference the following document. (5-3-03)(____)

01. Document. "Blood Collection on Filter Paper for ~~Neonatal~~ Newborn Screening Programs; Approved Standard," ~~Third~~ Fifth Edition. ~~National Committee for Clinical Laboratory Standards~~ Clinical and Laboratory Standards Institute, 1997 2007. ISBN 1-56238-~~334-5644-1~~. (5-3-03)(____)

02. Availability. This document is available through the ~~National Committee for Clinical Laboratory Standards~~ Clinical and Laboratory Standards Institute, 940 West Valley Road, Suite 1400, Wayne, PA 19087-1898, telephone 610-688-0100. (5-3-03)(____)

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

~~The state office of the Department of Health and Welfare is located at 450 W. State St., Boise, ID 83720-0036, telephone number 208-334-5930. The office hours are 8 a.m. to 5 p.m. Monday through Friday.~~ (5-3-03)

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except

holidays designated by the state of Idaho. ()

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ()

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State St., Boise, Idaho 83702. ()

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ()

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

006. ~~PUBLIC RECORDS ACT COMPLIANCE~~ CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records," and Section 9-338 et seq., Idaho Code. (5-3-03)

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." ()

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ()

007. -- 009. (RESERVED).

010. DEFINITIONS.

The following definitions will apply in the interpretation and enforcement of this chapter: (5-3-03)

01. Department. The Idaho Department of Health and Welfare. (5-3-03)

02. Dried Blood Specimen. A blood specimen obtained from an infant by means of skin puncture, not by means of venipuncture or any other method, that is placed on special filter paper ~~kits~~ and allowed to dry. (5-3-03)()

03. Hyperalimentionation. The administration of an amount of nutrients beyond minimum normal requirements of the appetite, in an attempt to replace nutritional deficiencies. ()

034. Laboratory. A medical or diagnostic laboratory certified according to the provisions of the Clinical Laboratory Improvement Amendments of 1988 by the United States Department of Health and Human Services. (5-3-03)

045. Newborn Screening. Newborn screening means a laboratory procedure performed on dried blood specimens from newborns to detect those at risk for the diseases specified in Subsection 100.01 of these rules. (5-3-03)

056. Person Responsible for Registering Birth of Child. The person responsible for preparing and filing the certificate of birth is defined in Section 39-255, Idaho Code. (5-3-03)

067. Test Kit. The materials provided by the laboratory for the purposes of dried blood specimen collection and submission of specimens for newborn screening laboratory procedures. (5-3-03)

011. -- 049. (RESERVED).

050. USE AND STORAGE OF DRIED BLOOD SPECIMENS.

01. Use of Dried Blood Specimens. Dried blood specimens will be used for the purpose of testing the infant from whom the specimen was taken, for congenital birth defects. Limited use of specimens for routine calibration of newborn screening laboratory equipment and quality assurance is permissible. ()

02. Prohibited Use of Dried Blood Specimens. Dried blood specimens may not be used for any purpose other than those described in Section 050.01 of this rule without the express written consent of the parent(s) or guardian(s) of the infant from whom the specimen was collected. ()

03. Storage of Dried Blood Specimens. Dried blood specimens may be stored at the testing facility for a period not to exceed eighteen (18) months. Acceptable use of stored specimens will be for re-testing the specimen in the event of a symptomatic diagnosis or death of the infant during the storage period. ()

051. -- 099. (RESERVED).

100. DUTIES OF THE ADMINISTRATOR OF THE RESPONSIBLE INSTITUTION AND THE PERSON REQUIRED TO REGISTER THE BIRTH OF A CHILD.

01. Conditions for Which Infants Will Be Tested. All infants born in Idaho ~~shall~~ must be tested for at least the following conditions: (5-3-03)()

- a. Biotinidase deficiency; (5-3-03)
- b. Congenital hypothyroidism; (5-3-03)
- c. Galactosemia; (5-3-03)
- d. Maple syrup urine disease; and (5-3-03)
- e. Phenylketonuria. (5-3-03)

02. Blood Specimen Collection. (5-3-03)

a. The dried blood specimen collection procedures ~~shall~~ must follow the *National Committee for Clinical Laboratory Standards, "Blood Collection on Filter Paper for Neonatal Screening Programs; Approved Standard-Third Edition," 1997* document listed in Subsection 004.01 of these rules. (5-3-03)()

b. For ~~premature~~ infants, ~~in hospital~~ admitted to the neonatal intensive care unit (NICU), the initial dried blood specimen for newborn screening ~~shall~~ must be obtained ~~between forty-eight (48) hours of age and ten (10) days of age~~ upon admission to the NICU. (5-3-03)()

c. For non-premature infants, in-hospital, the initial dried blood specimen for newborn screening ~~shall~~ must be obtained between ~~forty-eight~~ twenty-four (24) and forty-eight (48) hours of age ~~and five (5) days of age.~~ (5-3-03)()

d. For newborns transferred from one hospital to another, the originating hospital ~~shall~~ must assure that the dried blood specimen is drawn. If the newborn is too premature or too sick to have a dried blood specimen drawn for screening prior to transfer and a dried blood specimen is not obtained, the originating hospital ~~shall be responsible for clearly~~ must documenting this, and notifying the hospital to which the newborn is being transferred that a dried blood specimen for newborn screening has not been obtained. (5-3-03)()

e. Prior to the discharge of an infant from the institution where initial newborn care or specialized medical care was rendered, the Administrator ~~shall~~ of the institution must assure that an adequate dried blood specimen has been collected regardless of the time the infant is discharged from the institution. (5-3-03)()

f. For births occurring outside of a hospital, the birth attendant ~~shall be~~ is responsible for assuring that an acceptable dried blood specimen is properly collected for newborn screening as stipulated in Section 100 of these rules. (5-3-03)()

g. Newborns who require a blood transfusion, hyperalimentation, or dialysis ~~shall~~ must have a dried blood specimen collected for screening prior to ~~transfusion or dialysis~~ these procedures. (5-3-03)()

h. If a dried blood specimen cannot be obtained for newborn screening before transfusion, hyperalimentation, or dialysis, the ~~physician shall~~ hospital must ensure that a repeat dried blood specimen is obtained at the appropriate time when the specimen will reflect the infant's own metabolic processes and phenotype. (5-3-03)()

i. ~~Infants from whom the dried blood specimen has been collected for newborn screening less than forty-eight (48) hours after birth shall~~ All infants must be retested. A test kit ~~shall~~ must be given to the parents or responsible party at the time of discharge from the institution where initial newborn care was rendered, with instructions to have a second dried blood specimen collected. ~~In such cases~~ The preferred time for sample collection is after five (5) but before between ten (10) and fifteen (15) days of age. (5-3-03)()

03. Specimen Data Card. The person obtaining the newborn screening specimen must complete the demographic information card attached to the sample kit. The First Specimen Card must include the infant's mother's date of birth, address, and phone number. Both the First and Second Specimen's Card must include the items listed in 100.03.a. through 100.03.k. of this rule, optional fields may be completed as needed. ()

- a. Name of the infant; ()
- b. Whether the birth was a single or multiple-infant birth; ()
- c. Name of the infant's mother; ()
- d. Gender of the infant; ()
- e. Method of feeding the infant; ()
- f. Name of the birthing facility; ()
- g. Date and time of the birth; ()
- h. Date and time the specimen was obtained; ()
- i. Name of the attending physician or other attendant; ()
- j. Date specimen was collected; and ()
- k. Name of person collecting the specimen. ()

034. Specimen Mailing. Within twenty-four (24) hours after collection, the dried blood specimen ~~shall~~ must be mailed to the laboratory by first class mail or its equivalent, except when mailing service is not available. When mailing service is not available on weekends and holidays, dried blood specimens ~~shall~~ must be mailed to the laboratory on the first available mail pick-up day. The preferred method of mailing, following a weekend or holiday, is by expedited mail service. (5-3-03)()

045. Record Keeping. Maintain a record of all dried blood specimens collected for newborn screening. This record ~~shall~~ must indicate ~~the~~; ()

- a. ~~#~~Name of the infant; ()

b. ~~#~~Name of the attending physician or other attendant; ()

c. ~~#~~Date specimen was collected; and ()

d. ~~#~~Name of person collecting specimen. (5-3-03)()

056. Collection Protocol. Ensure that a protocol for collection and submission for newborn screening of adequate dried blood specimens has been developed, documented, and implemented. Individual responsibilities *shall* must be clearly defined and documented. The attending physician *shall* must request that the test be done. The hospital may make an appropriate charge for this service. (5-3-03)()

067. Responsibility for Recording Specimen Collection. (5-3-03)

a. The administrator of the responsible institution, or his designee, *shall be responsible for recording* must record on the birth certificate whether the dried blood specimen for newborn screening has been collected. (5-3-03)()

b. When a birth occurs outside a hospital, the person responsible for registering the birth of the child *shall also be responsible for recording* must record on the birth certificate whether the dried blood specimen for newborn screening has been collected and submitted within twenty-four (24) hours following collection. (5-3-03)()

078. Fees. The Department *shall will* provide access to newborn screening laboratory services. If the administration of the responsible institution or the person required to register the birth of a child chooses to utilize this service, the Department *shall will* collect a fee equal to the cost of the test kit, analytical, and diagnostic services provided by the laboratory. The fees *shall must* be remitted to the Department before the laboratory provides the test kit to those responsible for ensuring the infant is tested according to these rules. (5-3-03)()

101. -- 199. (RESERVED).

200. LABORATORY DUTIES.

01. Participation in Centers for Disease Control and Prevention (CDC) Newborn Screening Quality Assurance Program. All laboratories receiving dried blood specimens for newborn screening on infants born in Idaho *shall must* participate in the Newborn Screening Quality Assurance Program operated by the CDC. (5-3-03)()

02. Specimen Processing. Dried blood specimens for newborn screening must be processed within twenty-four (24) hours of receipt by the laboratory or before the close of the next business day. (5-3-03)

03. Result Notification. Normal test results may be reported by mail to the submitter. Other results must be reported in accordance with Section 300 of these rules. (5-3-03)

201. -- 299. (RESERVED).

300. FOLLOW-UP FOR UNSATISFACTORY SPECIMENS, PRESUMPTIVE POSITIVE RESULTS AND POSITIVE CASES.

01. Follow-Up for Unsatisfactory Specimens. (5-3-03)

a. The laboratory will immediately report any unsatisfactory dried blood specimens to the submitting institution which originated the dried blood specimen or to the healthcare provider responsible for the newborn's care, with an explanation of the results. The laboratory will request a repeat dried blood specimen for newborn screening from the institution or individual submitting the original sample, or from the responsible provider. (5-3-03)()

b. Upon notification from the laboratory, the health care provider responsible for the newborn's care

at the time of the report will cause another dried blood specimen to be appropriately forwarded to the laboratory for screening. (5-3-03)

02. Follow-Up of Presumptive Positive Results. The laboratory will report positive or suspicious results on an infant's dried blood specimen to the attending physician or midwife, or, if there is none or the physician or midwife is unknown, to the person who registered the infant's birth, and make recommendations on the necessity of follow-up testing. (5-3-03)

03. Positive Case Notification. Confirmed positive cases of biotinidase deficiency, congenital hypothyroidism, galactosemia, maple syrup urine disease, and phenylketonuria must be reported as described in IDAPA 16.02.10, "Idaho Reportable Diseases." (5-3-03)

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

DOCKET NO. 16-0304-0901

NOTICE OF RESCISSION OF TEMPORARY RULE

EFFECTIVE DATE FOR RESCISSION OF TEMPORARY RULE: The effective date of the rescission of the temporary rule is October 1, 2009.

AUTHORITY: In compliance with Section 67-5221 and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized under Section 56-203, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for rescinding the temporary rule:

The temporary rule adopted by the Department under Docket No. 16-0304-0901 and published in the March 4, 2009, Idaho Administrative Bulletin, Volume 09-03, pages 50 through 54, is hereby rescinded, effective October 1, 2009. The Department is implementing different policies based on federal code and these rules are no longer valid.

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the rescission of this temporary rule, contact Darlene Rydalch at (208) 528-5811.

DATED this 17th day of August, 2009.

Tamara Prisock
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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO
DOCKET NO. 16-0304-0903
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective dates of the temporary rule are March 11, 2009, and October 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 Section 56-203, Idaho Code; also Public Law 111-8, Subsection 602(b)(8), "Afghan Allies Protection Act of 2009"; 2008 Federal Farm Bill, P.L. 110-234, Section 4105 "State Option to Expand Simplified Reporting"; 7 CFR 273.9(d)(3)(x) re: attendant meals deduction; and 7 CFR 273.9(d)(6)(ii)(C) re: Telephone Utility Allowance.

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 September 16, 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:

A reference to Public Law 111-8, "Afghan Allies Protection Act of 2009," is being added to this chapter to align it with recent changes in federal statute. The effect of this addition will be to extend Afghani immigrant benefits from six months to eight months.

In addition, the following changes are being made to the chapter:

1. Reporting requirements for households that have all elderly or disabled members are being simplified. This will make reporting easier for participants, improve program compliance, reduce errors, and save Department staff time.
2. The meals deduction for attendants of elderly or disabled Food Stamp participants is no longer correct and is being updated. Making this correction will help elderly and disabled participants get the correct deduction counted against their income and help the Department avoid quality control errors.
3. The Department's new eligibility system makes provision for a 4th utility allowance category - the Telephone Utility Allowance (TUA). The TUA is being added to these rules since many households have phone services as their only utility expense. Currently, they receive no utility deduction, so adding the TUA will allow them to receive some credit for this type of expense.
4. The definition of the Farm Bill mentions the year 2002, but as the Farm Bill is reauthorized approximately every 5 years this is outdated; therefore, a more generic definition is being added to replace it.
5. The citation from CFR for the formula used in the new eligibility system for prorating Food Stamps benefits is being added.
6. Also, other minor corrections and changes are being made to clarify existing text.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b and c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate since some of the changes are being made to comply with deadlines in amendments to governing law or federal programs; some changes also confer benefits to food stamp participants.

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 impact to the state general fund as a result of this rulemaking. Food stamp benefits are 100% federally-funded. The necessary programming changes to the new eligibility system (IBES) have already been made and were funded as part of the EPICS Replacement Project.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the rule changes are being made to align with changes in federal statute and the Code of Federal Regulations (CFR) and to confer benefits to food stamp participants.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Darlene Rydalch at (208) 528-5811.

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, September 23, 2009.

DATED this 20th day of July, 2009.

Tamara Prisock
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THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT FOR DOCKET NO. 16-0304-0903

010. DEFINITIONS A THROUGH D.

For the Food Stamp Program, the following definitions apply: (4-11-06)

01. Adequate Notice. Notice a household must receive on or before the first day of the month an action by the Department is effective. (4-6-05)

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

03. Aid to the Aged, Blind and Disabled (AABD). Cash, excluding in-kind assistance, financed by federal, state or local government and provided to cover living expenses or other basic needs. (4-11-06)

04. Applicant. A person applying for Food Stamps. (6-1-94)

05. Application for Participation. The application form filed by the head of the household or

authorized representative. (6-1-94)

06. Application for Recertification. When a household applies for recertification within thirty (30) days of the end of the certification period, it is considered an application for recertification even if a partial month of benefits is received. (4-11-06)

07. Authorized Representative. A person designated by the household to act on behalf of the household to apply for or receive and use Food Stamps. Authorized representatives include private nonprofit organizations or institutions conducting a drug addiction or alcoholic treatment and rehabilitation center acting for center residents. Authorized representatives include group living arrangement centers acting for center residents. Authorized representatives include battered women's and children's shelters acting for the shelters' residents. Homeless meal providers may not be authorized representatives for homeless Food Stamp recipients. (4-11-06)

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

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

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

11. Categorical Eligibility. There are two (2) types of categorically eligible households: (6-1-09)T

a. Categorically Eligible Household. If all household members receive or are authorized to receive a monthly cash payment through TAFI, AABD, or SSI, the household is categorically eligible. A categorically eligible household is exempt from resource, gross, and net income eligibility standards. (6-1-09)T

b. Expanded Categorically Eligible Household. If a household receives a TANF-funded non-cash or in-kind service, it is categorically eligible. An expanded categorically eligible household must meet the gross and net income standards for its household size. An expanded categorically eligible household is exempt from resource standards. (6-1-09)T

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

13. Certification Period. The period of time a household is certified to receive Food Stamp benefits. The month of application counts as the first month of certification. (4-11-06)

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

~~**15. Change Reporting Household (CR).** A household in which all members are elderly or disabled. (4-11-06)~~

~~**16. Client.** A person entitled to or receiving Food Stamps. (6-1-94)~~

~~**17. Department.** The Idaho Department of Health and Welfare. (6-1-94)~~

~~**18. Desk Review.** A desk review is a recertification that may or may not include talking to the participant. (4-11-06)~~

~~**19. Disqualified Household Members.** Individuals required to be excluded from participation in the Food Stamp Program are Disqualified Household Members. These include: (6-1-94)~~

- a. Ineligible legal non-citizen who do not meet the citizenship or eligible legal non-citizen requirements. (7-1-98)
- b. Individuals awaiting proof of citizenship when citizenship is questionable. (6-1-94)
- c. Individuals disqualified for failure or refusal to provide a Social Security Number (SSN). (6-1-94)
- d. Individuals disqualified for Intentional Program Violation (IPV). (6-1-94)
- e. Individuals disqualified for receiving three (3) months of Food Stamps in a three (3) year period in which they did not meet the work requirement for able-bodied adults without dependent children. (7-1-98)
- f. Individuals disqualified as a fugitive felon or probation or parole violator. (7-1-98)
- g. Individuals disqualified for a voluntary quit or reduction of hours of work to less than thirty (30) hours per week. (7-1-98)
- h. Individuals disqualified for failure to cooperate in establishing paternity and obtaining support for a child under eighteen (18). (7-1-98)
- i. Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use, or distribution of a controlled substance when they do not comply with the terms of a withheld judgment, probation, or parole. The felony must have occurred after August 22, 1996. (3-30-01)

2019. Documentation. The method used to record information establishing eligibility. The information must sufficiently explain the action taken and the proof and how it was used. (6-1-94)

240. Drug Addiction or Alcoholic Treatment Program. Any drug addiction or alcoholic treatment rehabilitation program conducted by a private nonprofit organization or institution or a publicly operated community mental health center under Part B of Title XIX of the Public Health Service Act (42 USC 300x, et seq.). Indian reservation based centers may qualify if FCS requirements are met and the program is funded by the National Institute on Alcohol Abuse under Public Law 91-616 or was transferred to Indian Health Service funding. (4-6-05)

011. DEFINITIONS E THROUGH L.

For the Food Stamp Program, the following definitions apply: (4-11-06)

01. EBT Handbook. Idaho Department of Health and Welfare Rules, IDAPA 16.03.20, "Rules Governing Electronic Benefit Transfer (EBT) of Public Assistance, Food Stamps, and Child Support." (7-1-98)

02. Electronic Benefit Transfer. A method of issuing Food Stamps to an eligible household. (7-1-98)

03. Eligible Foods. Any food or food product for human consumption excluding alcohol, tobacco, and hot foods and hot food products ready for immediate consumption. Eligible foods include: (6-1-94)

- a. Garden seeds and plants to grow food for human consumption. (6-1-94)
- b. Meals prepared for the elderly at a communal dining facility. (6-1-94)
- c. Meals prepared and delivered by an authorized meal delivery service. (6-1-94)
- d. Meals served to a narcotics addict or alcoholic who participate and reside in a rehabilitation center program. (6-1-94)
- e. Meals prepared and served by an authorized group living center to blind or disabled residents who receive benefits under Titles I, II or X, XIV, XVI of the Social Security Act. (6-1-94)

- f. Meals prepared and served at a shelter for battered women and children to eligible residents. (6-1-94)
- g. Meals prepared and served by an authorized public or private nonprofit establishment to homeless Food Stamp participants. (6-1-94)
04. **Eligible Household.** A household living in a Idaho and meeting the eligibility criteria in these rules. (4-11-06)
05. **Emancipated Minor.** A person, age fourteen (14) but under age eighteen (18), who has been married or whose circumstances show the parent and child relationship has been renounced such as a child in the military service. (6-1-94)
06. **Enumeration.** The requirement that each household member provide the Department either their Social Security Number (SSN) or proof that they have applied. (6-1-94)
07. **Exempt.** A household member who is not required to register for or participate in the JSAP program is exempt. A household member who is not required to register for work is exempt. (6-1-94)
- ~~08. **Farm Bill.** Public Law 107-171, "Farm Security and Rural Investment Act of 2002."~~ (4-6-05)
08. **Extended Certification Household (EC).** A household in which all members are elderly or disabled, and no one has earned income. (10-1-09)T
09. **Fair Hearing.** A fair hearing in an appeal of a Department decision. See Section 003 of these rules for appeals. (4-11-06)
10. **Federal Fiscal Year.** The federal fiscal year (FFY) is from October 1 to September 30. (6-1-94)
11. **Field Office.** A Department of Health and Welfare service delivery site. (4-6-05)
12. **Food Assistance.** The Department's Food Stamp Program or Food Distribution Program. (6-1-94)
13. **Food and Nutrition Service (FNS).** The Food and Nutrition Service of the U.S. Department of Agriculture. This is the federal entity that administers the Food Stamp program. (4-11-06)
14. **Group Living Arrangement.** A public or private nonprofit residential setting serving no more than sixteen (16) residents. The residents are blind or disabled and receiving benefits under Title II or XVI of the Social Security Act, certified by the Department under regulations issued under Section 1616(e) of the Social Security Act, or under standards determined by the Secretary of USDA to be comparable to Section 1616(e) of the Social Security Act. (6-1-94)
15. **Homeless Person.** A person: (6-1-94)
- a. Who has no fixed or regular nighttime residence. (6-1-94)
- b. Whose primary nighttime residence is a temporary accommodation for not more than ninety (90) days in the home of another individual or household. (7-1-98)
- c. Whose primary nighttime residence is a temporary residence in a supervised public or private shelter providing temporary residence for homeless persons. (6-1-94)
- d. Whose primary nighttime residence is a temporary residence in an institution which provides temporary residence for people who are being transferred to another institution. (6-1-94)
- e. Whose primary nighttime residence is a temporary residence in a public or private place which is not designed or customarily used as sleeping quarters for people. (6-1-94)

- 16. Homeless Meal Provider.** A public or private nonprofit establishment or a profit making restaurant which provides meals to homeless people. The establishment or restaurant must be approved by the Department and authorized as a retail food store by FCS. (7-1-98)
- 17. Identification Card.** The card identifying the bearer as eligible to receive and use Food Stamps. (4-11-06)
- 18. Inadvertent Household Error Claim (IHE).** A claim resulting from an overissuance, caused by the household's misunderstanding or unintended error. A household error claim pending an intentional program violation decision. (6-1-94)
- 19. Income and Eligibility Verification System (IEVS).** A system of information acquisition and exchange for income and eligibility verification which meets Section 1137 of the Social Security Act requirements. (6-1-94)
- 20. Indian General Assistance.** The general assistance program administered by the Bureau of Indian Affairs. (6-1-94)
- 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)
- 012. DEFINITIONS M THROUGH Z.**
For the Food Stamp Program, the following definitions apply: (4-11-06)
- 01. Migrant Farmworker Household.** A migrant farmworker household has a member who travels from community to community to do agricultural work. (4-6-05)
- 02. Minimum Utility Allowance (MUA).** Utility deduction given to a food stamp household that has a cost for one (1) utility that is not heating, cooling, or telephone. ~~(4-11-06)~~(10-1-09)T
- 03. Nonexempt.** A household member who must register for and participate in the JSAP program. A household member who must register for work. (6-1-94)
- 04. Nonprofit Meal Delivery Service.** A political subdivision or a private nonprofit organization, which prepares and delivers meals, authorized to accept Food Stamps. (6-1-94)
- 05. Overissuance.** The amount Food Stamps issued exceeds the Food Stamps a household was eligible to receive. (6-1-94)
- 06. Parental Control.** Parental control means that an adult household member has a minor in the household who is dependent financially or otherwise on the adult. Minors, emancipated through marriage, are not under parental control. Minors living with children of their own are not under parental control. (4-6-05)
- 07. Participant.** A person who receives Food Stamp benefits. (4-6-05)

- 08. Program.** The Food Stamp Program created under the Food Stamp Act and administered in Idaho by the Department. (6-1-94)
- 09. Public Assistance.** Public assistance means Temporary Assistance for Families in Idaho (TAFI), and Aid to the Aged, Blind, and Disabled (AABD). (4-6-05)
- 10. Recertification.** A recertification is a process for determining ongoing eligibility for Food Stamps. (4-11-06)
- 11. Retail Food Store.** A retail food store, for Food Stamp purposes means: (6-1-94)
- a.** An establishment, or recognized department of an establishment, or a house-to-house food trade route, whose food sales volume is more than fifty percent (50%) staple food items for home preparation and consumption. (6-1-94)
- b.** Public or private communal dining facilities and meal delivery services. (6-1-94)
- c.** Private nonprofit drug addict or alcohol treatment and rehabilitation programs. (6-1-94)
- d.** Public or private nonprofit group living arrangements. (6-1-94)
- e.** Public or private nonprofit shelters for battered women and children. (6-1-94)
- f.** Private nonprofit cooperative food purchasing ventures, including those whose members pay for food prior to the receipt of the food. (6-1-94)
- g.** A farmers' market. (6-1-94)
- h.** An approved public or private nonprofit establishment which feeds homeless persons. The establishment must be approved by FCS. (7-1-98)
- 12. Sanction.** A penalty period when an individual is ineligible for Food Stamps. (3-30-07)
- 13. Seasonal Farmworker Household.** A seasonal farmworker household has a member who does agricultural work of a seasonal or other temporary nature. (4-6-05)
- ~~**14. Simplified Reporting Household (SR).** All households except those in which all members are elderly or disabled. (4-11-06)~~
- 154. Spouse.** Persons who are living together, married or free to marry, and are holding themselves out as man and wife. (4-6-05)
- 165. Standard Utility Allowance (SUA).** Utility deduction given to a food stamp household that has a cost for heating or cooling. (4-11-06)
- 176. State.** Any of the fifty (50) States, the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands and the Virgin Islands of the United States. (6-1-94)
- 187. State Agency.** The Idaho Department of Health and Welfare. (6-1-94)
- 198. Student.** An individual between the ages of eighteen (18) and fifty (50), physically and mentally fit, and enrolled at least half-time in an institution of higher education. (6-1-94)
- ~~**2019. Supplemental Security Income (SSI).** Monthly cash payments under Title XVI of the Social Security Act. Payments include state or federally administered supplements. (4-11-06)~~

~~20.~~ **Systematic Alien Verification for Entitlements (SAVE).** The federal automated system that provides immigration status needed to determine an applicant's eligibility for many public benefits, including Food Stamps. (4-11-06)

21. Telephone Utility Allowance (TUA). Utility deduction given to a Food Stamp household that has a cost for telephone services and no other utilities. (10-1-09)T

22. Timely Notice. Notice that is mailed at least ten (10) days before the effective date of an action taken by the Department. (4-6-05)

23. Twelve Month Contact. For households that have a twenty-four (24) month certification period, Department staff contact the household during the twelfth month of the certification period for the purpose of determining continued eligibility. (4-6-05)

24. Tribal General Assistance. Cash, excluding in-kind assistance, financed by federal, state or local government and provided to cover living expenses or other basic needs. This cash is intended to promote the health and well-being of recipients. (4-11-06)

25. Verification. The proof obtained to establish the accuracy of information and the household's eligibility. (6-1-94)

26. Verified Upon Receipt. Food stamp benefits are adjusted on open food stamp cases when information is received from "verified upon receipt" sources. Information "verified upon receipt" is received from a manual query or automated system match with the Social Security Administration or Homeland Security query for citizenship status. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

014. ABBREVIATIONS I THROUGH Z.

For the purposes of the Food Stamp Program, the following abbreviations are used. (4-11-06)

- 01. ICCP.** Idaho Child Care Program. (4-11-06)
- 02. ICSES.** Idaho Child Support Enforcement System. (4-11-06)
- 03. IEVS.** Income and Eligibility Verification Systems. (6-1-94)
- 04. IHE.** Inadvertent household error. (6-1-94)
- 05. INS.** Immigration and Naturalization Service, in 2003, became the United States Citizenship and Immigration Service (USCIS), a Division of Homeland Security. (4-11-06)
- 06. INA.** Immigration and Nationality Act. (4-6-05)
- 07. IPV.** Intentional program violation. (6-1-94)
- 08. IRS.** Internal Revenue Service. (6-1-94)
- 09. JSAP.** Job Search Assistance Program. (6-1-94)
- 10. LUA.** Limited utility allowance. (4-11-06)
- 11. MUA.** Minimum utility allowance. (4-11-06)

12.	NADA. National Automobile Dealer's Association.	(4-11-06)
13.	PA. Public Assistance.	(6-1-94)
14.	RSDI. Retirement, Survivors, Disability Insurance received from SSA.	(6-1-94)
15.	SAVE. Systematic Alien Verification for Entitlements.	(4-11-06)
16.	SAW. Special Agricultural Worker.	(6-1-94)
17.	SDX. State Data Exchange.	(6-1-94)
18.	SQC. State Quality Control.	(6-1-94)
19.	SRS. Self Reliance Specialist.	(7-1-98)
20.	SUA. Standard utility allowance.	(4-11-06)
21.	SSA. Social Security Administration.	(6-1-94)
22.	SSI. The Federal Supplemental Security Income Program for the aged, blind or disabled.	(6-1-94)
23.	SSN. Social Security number.	(6-1-94)
24.	SWICA. State Wage Information Collection Agency.	(6-1-94)
25.	TAFI. Temporary Assistance for Families in Idaho.	(7-1-98)
26.	TOP. Treasury Offset Program.	(3-15-02)
27.	TPQUA. Third Party Query Telephone Utility Allowance.	(6-1-94) (10-1-09)T
28.	UI. Unemployment Insurance.	(6-1-94)
29.	USDA. United States Department of Agriculture.	(6-1-94)
30.	VA. The Veterans Administration.	(6-1-94)
31.	WIA. The Workforce Investment Act.	(3-15-02)
32.	WIC. The special supplemental Food Program for Women, Infants, and Children.	(6-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

204. CITIZENSHIP AND QUALIFIED NON-CITIZEN REQUIREMENTS.

To be eligible for Food Stamps, an individual must meet the requirements specified in 7 CFR 273.4, "Citizenship and alien status;" in accordance with Public Law 107-171 "Farm Security and Rural Investment Act of 2002," Title IV—Nutrition Programs, Subtitle D—Miscellaneous, Section 4401, regarding the partial restoration of benefits to legal immigrants; and regarding special immigrants, Public Law 110-161, effective December 26, 2007, and Public Law 110-181, effective January 28, 2008. In addition, special immigrants from Iraq and Afghanistan have limited eligibility per Public Laws 110-161, 110-181, and 111-8, Subsection 602(b)(8). ~~(5-8-09)~~(3-11-09)T

(BREAK IN CONTINUITY OF SECTIONS)

~~221. DETERMINATION OF HOUSEHOLD COMPOSITION FOR CHANGE REPORTING HOUSEHOLDS.~~

~~Household composition must be determined at application, recertification, and when changes are reported. (4-6-05)~~

221. DETERMINATION OF HOUSEHOLD COMPOSITION FOR SIMPLIFIED REPORTING HOUSEHOLDS.

Household composition must be determined at application, twelve-month (12) contact, recertification, and when a reported change in household members would result in an increase in the food stamp benefits. ~~(4-11-06)~~(10-1-09)T

~~223~~. -- 225. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

323. LUMP SUM RESOURCES.

Nonrecurring lump sum payments are counted as considered a resource in the month received, unless excluded under these rules. A household ~~using simplified reporting~~ is not required to report changes in resources during a certification period. ~~A household using change reporting must report the lump sum payment to the Department within ten (10) days of receiving the payment, if their resource limit is exceeded because of the lump sum. If the lump sum along with other resources exceeds the resource limit, that change reporting household is not eligible for Food Stamps. The Food Stamp case must be closed after timely notice. The household may spend resources down under the limit in the month the lump sum was received. If resources are spent down below the resource limit, the household continues to be eligible for Food Stamps. The household must still report receipt of the lump sum payment within ten (10) days.~~ Some lump sum payments are listed below: ~~(3-30-07)~~(10-1-09)T

- 01. Retroactive Payments.** Retroactive payments from: (6-1-94)
 - a. Social Security. (6-1-94)
 - b. SSI. (6-1-94)
 - c. Public Assistance. (6-1-94)
 - d. Railroad Retirement Benefits. (6-1-94)
 - e. Unemployment Compensation Benefits. (6-1-94)
 - f. Child Support. (3-30-07)
- 02. Insurance.** Insurance settlements. (6-1-94)
- 03. Refunds.** Income tax refunds, rebates, or credits. (6-1-94)
- 04. Property Payments.** Lump sum payment from sale of property. Contract payments from the sale of property are counted as income. (6-1-94)
- 05. Security Deposits.** Refunds of security deposits on rental property or utilities. (6-1-94)
- 06. Disability Pension.** Annual adjustment payments in VA disability pensions. (6-1-94)
- 07. Vacation Pay.** Vacation pay, withdrawn in one lump sum by a terminated employee. (6-1-94)
- 08. Military Bonus.** Military re-enlistment bonuses. (6-1-94)

- 09. Readjustment Pay.** Job Corps readjustment pay. (6-1-94)
- 10. Severance Pay.** Severance pay, paid in one (1) lump sum to a former employee. (6-1-94)
- 11. TAFI One-Time Cash Payment.** The one-time TAFI cash diversion payment. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

389. REPORTING RESOURCES.

Households receiving food stamps must report resource changes at each recertification or twelve (12) month contact. ~~Change reporting households must also report when cash on hand, stocks, bonds, or money in a financial institution reaches or exceeds the resource limit. A household must report if it obtains a vehicle.~~ (4-2-08)(10-1-09)T

(BREAK IN CONTINUITY OF SECTIONS)

535. MEDICAL EXPENSES.

Medical expenses over thirty-five dollars (\$35), for elderly or disabled household members, are deducted from the household income. Allowable medical expense deductions are listed in Subsection 535.01 through 535.14 of these rules. The household must provide proof of the incurred or anticipated cost before a deduction is allowed. (3-30-07)

01. Medical and Dental Services. Services must be performed by licensed practitioners, physicians, dentists, podiatrists, or other qualified health professionals. Other qualified health professionals include registered nurses, nurse practitioners, licensed physical therapists and licensed chiropractors. (6-1-94)

02. Psychotherapy and Rehabilitation Services. Services must be performed by licensed psychiatrists, licensed clinical psychologists, licensed practitioners, physicians or other qualified health professionals. (6-1-94)

03. Hospital or Outpatient Treatment. Hospital or outpatient treatment includes expenses for hospital, nursing care, State licensed nursing home care, and care to a person immediately before entering a hospital or nursing home. (4-6-05)

04. Prescription Drugs. Prescription drugs and prescribed over-the-counter medication including insulin. (6-1-94)

05. Medical Supplies and Sickroom Equipment. Medical supplies and sickroom equipment including rental or other equipment. (6-1-94)

06. Health Insurance. Health and hospitalization insurance premiums. These do not include health and accident policies payable in a lump sum for death or dismemberment. These do not include income maintenance policies to make mortgage or loan payments while a beneficiary is disabled. (6-1-94)

07. Medicare Premiums. Medicare premiums related to coverage under Title XVIII of the Social Security Act. (6-1-94)

08. Cost-Sharing or Spend-Down Expenses. Cost-sharing or spend-down expenses incurred by Medicaid recipients. (6-1-94)

09. Artificial Devices. Dentures, hearing aids, and prostheses. (6-1-94)

10. Guide Dog. Expenses incurred buying and caring for any animal trained and routinely used to help a disabled person. Expenses include costs for dog food, training, and veterinarian services. (4-6-05)

- 11. Eyeglasses.** Expenses for eye examinations and prescribed eyeglasses. (4-6-05)
- 12. Transportation and Lodging.** Reasonable transportation and lodging expenses incurred to get medical services. (4-6-05)
- 13. Attendant Care.** Attendant care costs necessary due to age, disability, or illness. If attendant care costs qualify for both the excess medical and dependent care expense deductions, the cost is treated as a medical expense. (4-6-05)
- 14. Attendant Meals.** ~~One hundred nineteen dollars (\$119)~~ An amount equal to the maximum Food Stamp allotment for a one (1) person household per month ~~are~~ is deducted if the household provides most of the attendant's meals. ~~(4-6-05)~~(10-1-09)T

(BREAK IN CONTINUITY OF SECTIONS)

542. COSTS ALLOWED FOR SHELTER DEDUCTION.

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

- 01. House Payments.** Mortgages, second mortgages, mortgage fees, home equity loans, and land payments. (4-6-05)
- 02. Rent.** Rent and space rent. (6-1-94)
- 03. Homeless Shelter Deduction.** The homeless shelter deduction is allowed for homeless households with some shelter expenses. It is established by FNS and may be found under <http://www.fns.usda.gov/fsp/government/cola.htm>. This deduction must not be used in combination with other costs allowed for shelter deduction. (4-11-06)
- 04. Condominium Fees.** The entire condominium fee, including fees for maintenance of the structure and the grounds. (3-30-01)
- 05. Loan Payments.** Loan repayments for the purchase of a mobile or motor home, including interest. (6-1-94)
- 06. Taxes And Insurance.** Property taxes, state and local assessments, and insurance on the property. This also includes insurance on a vehicle used as a residence. (3-30-07)
- 07. Utilities.** Only one (1) utility allowance (SUA, LUA, ~~or~~ MUA, or TUA) may be used for a household. The costs used to determine the utility allowance are: heating, cooling, cooking fuel, electricity, the basic service fee for one (1) telephone (including wire maintenance fees, subscriber line charges, relay center surcharges, 911 fees, and basic service for a cellular phone), water, sewer, garbage and trash collection, well installation and maintenance, septic tank system installation and maintenance, and fees for initial utility installation. One-time deposits cannot be included. ~~(4-6-05)~~(10-1-09)T
- 08. Vehicle Payments.** Payments for vehicles used as the primary residence for the household. (6-1-94)
- 09. Costs for Home Repairs.** Nonreimbursable costs to repair a home damaged or destroyed by a natural disaster such as a fire or flood or earthquake. (6-1-94)
- 10. Home Temporarily Not Occupied.** Shelter costs for the home temporarily not occupied because

of employment, training away from home, illness, or abandonment caused by a natural disaster or casualty loss. This shelter cost may be in addition to the shelter cost for the home the household currently occupies. To receive the shelter deduction for a vacated home: (4-6-05)

- a. The household must intend to return; (4-6-05)
- b. Current occupants must not be claiming Food Stamp shelter costs; and (4-6-05)
- c. The home must not be leased or rented. (6-1-94)

543. UTILITY ALLOWANCES.

The shelter deduction is computed using one (1) of ~~three~~ four (~~3~~4) utility allowances: Standard Utility Allowance (SUA), Limited Utility Allowance (LUA), ~~or~~ the Minimum Utility Allowance (MUA), or the Telephone Utility Allowance (TUA). Utility allowances are not prorated. (~~4-6-05~~)(10-1-09)T

01. Standard Utility Allowance (SUA). (4-6-05)

a. Primary heating or cooling system. The household must have a primary heating or cooling cost to qualify for the SUA. The heating or cooling costs must be separate from rent or mortgage payments. This includes households in private rental housing, billed by their landlords for individual usage or charged a flat rate, separately from rent. If not billed regularly for heating or cooling costs, the household must be otherwise Food Stamp eligible between billing periods. (4-6-05)

b. Cooling costs. If the household claims cooling costs, the household must have either an air conditioning system or a room air conditioner to qualify for the SUA. (3-15-02)

c. Heating costs. If the household claims heating costs, the household must have expenses for heat. Households buying wood for their primary source of heat may get the SUA. Cutting their own wood for the primary source of heat does not qualify a household for the SUA. Supplemental heat sources such as space heaters, electric blankets, cook stoves and a secondary heat source such as a fireplace do not qualify households for the SUA. (4-6-05)

d. LIHEAP. If the household receives LIHEAP assistance, it is automatically eligible for the SUA. (4-11-06)

e. Energy Assistance Excluded From Income. If the household gets direct or indirect energy assistance that is excluded from income, the household gets the SUA if the amount of the expense exceeds the amount of the assistance. (3-15-02)

f. Energy Assistance Not Excluded From Income. If a household gets energy assistance that is not excluded from income, the household must also have out-of-pocket heating or cooling costs to get the SUA. (3-15-02)

g. Occupied and Unoccupied Home. A household with both an occupied home and an unoccupied home, is limited to one (1) SUA. (3-15-02)

02. Limited Utility Allowance (LUA). The household must be billed for more than one (1) utility that is not for heating or cooling. Water, sewer, and trash are considered one (1) utility cost regardless of how they are billed. If the household is billed for rural trash pickup, this can be counted as a separate utility. (4-6-05)

03. Minimum Utility Allowance (MUA). The household must be billed for one (1) utility that is not for heating, ~~or~~ cooling, or telephone service. (~~4-6-05~~)(10-1-09)T

04. Telephone Utility Allowance (TUA). The household must be billed for telephone service and have no other verified utility expenses. (10-1-09)T

(BREAK IN CONTINUITY OF SECTIONS)

563. FOOD STAMP PRORATING FORMULA.

~~Determine~~ The prorated Food Stamp amount ~~using the steps listed in Subsections 563.01 through 563.05 is determined per 7 CFR 273.10(a)(1)(iii)(B).~~ (7-1-97)

~~01. Step 1. Subtract the application date (1 through 30) from 31. If the application date is the thirty-first day of the month, use thirty (30).~~ (7-1-97)

~~02. Step 2. Divide the amount in Step 1 by thirty (30).~~ (7-1-97)

~~03. Step 3. Multiply the monthly Food Stamp benefit by the amount in Step 2.~~ (7-1-97)

~~04. Step 4. If the difference in Step 3 ends in one (1) through ninety nine (\$.99) cents, round down to the lower dollar.~~ (7-1-97)

~~05. Step 5. If the amount in Step 4 is for the initial month, and is less than ten dollars (\$10), benefits must not be issued.~~ (7-1-97)(10-1-09)T

(BREAK IN CONTINUITY OF SECTIONS)

565. FOOD STAMP BENEFITS FOR CATEGORICALLY ELIGIBLE HOUSEHOLD.

Categorically eligible households with one (1) or two (2) household members are eligible to get ~~at least ten dollars (\$10)~~ an allotment amount of Food Stamps that is equal to at least eight percent (8%) of the maximum monthly one (1) person allotment, regardless of net income. Categorically eligible households with three (3) or more household members are eligible for Food Stamps, but do not get Food Stamps if the net income is too high. ~~(10-1-94)(10-1-09)T~~

566. -- 572. (RESERVED).

~~**572. HOUSEHOLD COMPOSITION CHANGES FOR CHANGE REPORTING HOUSEHOLDS.**~~

~~Change reporting food stamp households must report changes in household composition. Any change reported is effective for the month after it is reported, allowing for timely notice.~~ (4-2-08)

~~**573. ACTING ON HOUSEHOLD COMPOSITION CHANGES FOR SIMPLIFIED REPORTING HOUSEHOLDS.**~~

Changes in household composition are not required to be reported ~~for simplified reporting households~~. If a ~~simplified reporting~~ household does report a change in household composition, and the change would increase the Food Stamp benefit, proof is needed to act on the change. If proof is provided within ten (10) days, increase the Food Stamp benefits beginning the month immediately following when the change was reported. If proof is not provided within ten (10) days, increase the Food Stamp benefit beginning the month after the proof is provided. If the reported change decreases the Food Stamp benefit, the change is effective at the next recertification ~~or twelve-month (12) contact.~~

~~(4-11-06)(10-1-09)T~~

(BREAK IN CONTINUITY OF SECTIONS)

575. HOUSEHOLD COMPOSITION CHANGES FOR STUDENT.

Ineligible students are defined as non-household members. When a student's status changes, the change is treated as a new person entering or leaving the Food Stamp household. If a household reports a change in student status, and the change would increase the Food Stamp benefit, increase the Food Stamp benefit beginning the month after the proof is provided. If the reported change decreases the Food Stamp benefit, the change is effective at the next recertification or twelve-month (12) contact. ~~(4-11-06)(10-1-09)T~~

~~01. **Student Residing in a Change Reporting Household.** Changes in household composition are required to be reported for change reporting households. Changes must be reported within ten (10) days of the date the change occurs. The change is effective the month after it is reported, allowing for timely notice. (4-11-06)~~

~~02. **Student Residing in a Simplified Reporting Household.** Changes in household composition are not required to be reported for simplified reporting households. If a simplified reporting household does report a change in household composition, and the change would increase the Food Stamp benefit, increase the Food Stamp benefit beginning the month after the proof is provided. If the reported change decreases the Food Stamp benefit, the change is effective at the next recertification. (4-11-06)~~

576. CERTIFICATION PERIODS.

A certification period must be assigned for each household. Households must be assigned a certification period based on household circumstances at the time of application approval, ~~or~~ recertification, ~~or twelve-month contact~~ in accordance with 7 CFR 273.10(f) and 273.12, ~~and the Farm Bill under Title IV, Subtitle A – Food Stamp Programs, Section 4109, regarding the state option to reduce reporting requirements.~~ Households are assigned a six (6) month certification period unless they meet the criteria for extended certification, in which case they are assigned a twenty-four (24) month certification period. At the end of each certification period, entitlement to Food Stamps ends. Further eligibility starts only upon recertification based upon a newly completed application, an interview, and verification. The certification period cannot be lengthened nor can benefits be continued beyond the end of a certification period without a new determination of eligibility. ~~(3-30-07)~~(10-1-09)T

577. LENGTHENING CHANGING THE CERTIFICATION PERIOD.

~~The certification period cannot be lengthened.~~ If a household has an extended certification period, and at the twelve-month contact it is determined that they remain eligible but they no longer meet the criteria for extended certification, the current certification will be ended and a six-month certification period will be assigned for ongoing benefits. ~~(4-6-05)~~(10-1-09)T

(BREAK IN CONTINUITY OF SECTIONS)

601. REPORTING REQUIREMENTS AND RESPONSIBILITIES.

~~The household must report and verify changes in circumstances based on the requirements for the reporting group to which the household is assigned.~~ Changes may be reported by phone, ~~by~~ mail, or e-mail, or directly to the Department. Households must report as follows: ~~(4-6-05)~~(10-1-09)T

- ~~01. **Change Reporting (CR) Households.** Change reporting households must report the following: (4-11-06)~~
- ~~a. Unearned income changes of more than fifty dollars (\$50); (4-6-05)~~
 - ~~b. Earned income changes of more than one hundred dollars (\$100); (4-6-05)~~
 - ~~c. Address changes; (4-11-06)~~
 - ~~d. Changes in household composition; and (4-6-05)~~
 - ~~e. When resources exceed the resource limit unless the household is categorically eligible under Sections 178 or 181 of these rules. (6-1-09)T~~

- ~~02. **Simplified Reporting (SR) Households.** Simplified reporting households must report the following: (4-6-05)~~

~~01. **Income Exceeds One Hundred Thirty Percent (130%) of FPG.** When the household's total gross income exceeds one hundred thirty percent (130%) of the Federal Poverty Guideline (FPG) for the household~~

size; ~~(4-6-05)~~(10-1-09)T

~~b.~~ Any change of address; and ~~(4-11-06)~~

~~e02.~~ **Decrease in ABAWD Hours to Less Than Eighty (80) Hours Per Month.** When there is a decrease in the household's ABAWD hours to less than eighty (80) hours per month. ~~(4-6-05)~~(10-1-09)T

(BREAK IN CONTINUITY OF SECTIONS)

611. TIME FRAMES FOR REPORTING CHANGES IN HOUSEHOLD CIRCUMSTANCES.

Households must report changes in circumstances as required ~~by the household's reporting group~~ in Section 601 of these rules. Households ~~must~~ reporting required changes to the Department must do so by the tenth day of the month following the month in which the change occurred. ~~(4-2-08)~~(10-1-09)T

~~01.~~ **Change After the Certification Interview.** ~~If changes in circumstances occur after the certification interview but before the Notice of Decision is sent, the household must report changes to the Department by the tenth day of the month following the month in which they receive the Notice of Decision.~~ ~~(4-2-08)~~

~~02.~~ **Simplified Reporting Households.** ~~When the actual gross income received in a month by a simplified reporting household is greater than one hundred thirty percent (130%) of the poverty limit for the household size, the household must report this change by the tenth day of the month following the month in which the income exceeded the limit.~~ ~~(4-2-08)~~

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

042. Report Form. The Department must give households a Change Report Form at certification, at the twelve (12) month contact, at recertification, when the household reports a change, and when the household requests the form. ~~(4-6-05)~~(10-1-09)T

053. Reporting Methods. Changes can be reported by telephone, personal contact, ~~or~~ mail, or e-mail. Changes can be reported by a household member or authorized representative. ~~(6-1-94)~~(10-1-09)T

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

612. (RESERVED).

613. CHANGES ON WHICH THE DEPARTMENT MUST ACT.

01. General Changes on Which Department Must Act. Regardless of whether the Food Stamp Benefit will increase or decrease, the Department must act as described in Sections 617 and 618 of these rules when: (4-11-06)

- a. The household requests closure; (4-6-05)
- b. The TAFI or AABD grant amount changes; (4-6-05)
- c. An individual is sanctioned or disqualified; (4-6-05)
- d. The change would cause prohibited participation, see Section 219 of these rules; (4-11-06)
- e. Information is received from a source the Department has defined as verified upon receipt in

Section 012 of these rules; (4-11-06)

f. The change is required to be reported and the change is expected to continue into the next month; (4-6-05)

g. The Food Stamp benefit will increase and the change is not a change in expenses; (4-11-06)

~~h.~~ *There is a change of address; or* (~~4-11-06~~)

~~ih.~~ The household reports that ~~All~~ members of the household moved out of the state of Idaho. (~~4-6-05~~)(10-1-09)T

02. Changes Resulting in an Increase in the Food Stamp Benefit. The Department must also act on changes that have been reported that would increase the household's Food Stamp amount as described in Section 617 of these rules. (4-11-06)

03. Documentation. Changes must be documented in the case record, even if there is no change in the Food Stamp amount. (6-1-94)

04. Change Report Form. A new Change Report Form (HW 0594 or HW 0586) must be given or sent to the household when a change is reported. (6-1-94)

05. Receipt of Report Notice. The Department must notify the household when the report is received. A Notice of Decision meets this requirement, when notifying the household of a benefit determination. (6-1-94)

06. Proof. Give the household a written request for proof. The household must be told failure to provide the proof will result in decreased or stopped benefits. The Department must document how the request for proof was made. (3-15-02)

07. Unclear Information. If the Department is unable to readily determine the effect of a change on the household's benefit amount, the Department will issue a written request advising the household of proof it must provide or actions it must take, to clarify its circumstances. The household has ten (10) days in which to respond to the Department's request, either by telephone or correspondence. (4-6-05)

614. (RESERVED).

615. CHANGES IN SHELTER, DEPENDENT CARE, CHILD SUPPORT, OR MEDICAL EXPENSES. *Regardless of the reporting group to which it belongs, a* household reporting a change in shelter, utility, dependent care, child support, or medical expenses will be not required to provide proof of the change until recertification or the twelve (12) month contact. The Department will not adjust the Food Stamp benefit during the certification period regardless of whether the change in expenses would cause the Food Stamp benefit to increase or decrease. (~~4-11-06~~)(10-1-09)T

616. (RESERVED).

617. INCREASES IN FOOD STAMP BENEFITS.

01. Household Reports a Change. If a household reports a change, other than a change to expenses, that results in an increase in Food Stamps and the proof cannot be obtained through interfaces or data brokers, the Department must allow the household ten (10) days to provide proof. *The increase must be handled as follows regardless of the reporting requirement.* (10-1-09)T

02. Failure to Provide Proof of Change. If the household fails to provide proof of a change that would increase the benefit level, the Food Stamp benefit remains at the amount already established. (~~4-11-06~~)(10-1-09)T

043. Proof Provided Within Ten Days. If the household provides proof within ten (10) days of

reporting the change, the Department will increase the Food Stamp benefits beginning the month immediately following the month in which the change was reported. For changes reported after the 20th of the month, a supplement is issued for the next month no later than the 10th of the next month. If the change is reported and verified after the final date to adjust Food Stamp benefits for the following month in the Department's automated eligibility system, the change to the Food Stamp benefits must be made by the following month, even if a supplement must be issued. (4-11-06)

024. Proof Not Provided Within Ten Days. If the household fails to provide proof within ten (10) days of reporting the change, but ~~shows~~ provides proof later, benefits are increased the month after the proof of the change is provided. (~~4-11-06~~)(10-1-09)T

618. DECREASES IN FOOD STAMP BENEFITS.

If a change that is required to be ~~reported~~ acted upon results in a decrease in Food Stamp benefits, ~~and proof is required~~; the Department must ~~verify and~~ take action ~~within ten (10) days of the date the change was reported~~. ~~If the household fails to provide proof within ten (10) days, the Food Stamp case must be closed with~~ and must give timely notice, if required. The notice must explain the reason for the action. ~~If the household then provides proof before the first day of the month the case would close, benefits must be continued, adjusted, or ended as appropriate. The Department must give adequate notice to adjust or end benefits.~~ (~~4-11-06~~)(10-1-09)T

(BREAK IN CONTINUITY OF SECTIONS)

852. FOOD STAMP HOUSEHOLD RESPONSIBILITIES.

The Food Stamp household must provide correct and complete information so the Department can make accurate eligibility and benefit decisions. The responsibilities of the Food Stamp household are listed below: (6-1-94)

01. Provide Information. The Food Stamp household must provide information to determine Food stamp eligibility. This includes, but is not limited to, all information about household income, work and housing cost. ~~This includes information about people moving in or out of the household and any other changes in circumstances.~~ (~~6-1-94~~)(10-1-09)T

02. Change Reporting. The Food Stamp household must report changes ~~of income, expenses, resources or household composition~~ as required under Section 601 of these rules to the Department. (~~6-1-94~~)(10-1-09)T

03. Change of Address. The Food Stamp household ~~must~~ is encouraged to report any move or change of address. (~~6-1-94~~)(10-1-09)T

04. Quality Control. The Food Stamp household must cooperate with Quality Control if the case is selected for review. (6-1-94)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.22 - RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES IN IDAHO

DOCKET NO. 16-0322-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency and the Board of Health and Welfare has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 39-3305, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held:

WEDNESDAY - SEPTEMBER 9, 2009 - 2:00 p.m.

DHW - MEDICAID CENTRAL OFFICE
3232 Elder Street
Conference Room D
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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2009 Idaho Legislature passed House Bill 146 relating to the Idaho Residential Care or Assisted Living Act. This bill amended payment level requirements for residents who are not clients of the Department (private-pay). This law requires a facility to assess a private-pay resident for his needs and types of services and supports through the assessment and individual negotiated service agreement. The rate charged for a private-pay resident will be determined based on his needs including furnishings, equipment, supplies and basic services that he requires.

These rule changes require that certain information be provided by the facility to the resident prior to admissions that discloses how an assessment is made for needed services, rates and fee structure, how fee increases must be handled, and discharge or transfer of residents due to change in condition of resident and fee increases.

These rules are also being amended to update the Department's unit responsible for Licensing and Certification, as well as the website. Only sections that are being published in this rule docket have the underline/strike out text for this update.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 1, 2009, Idaho Administrative Bulletin, Vol. 09-4, Page 17.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Randy May at (208) 334-5747.

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 September 23, 2009.

DATED this 31st day of July, 2009.

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 PROPOSED TEXT FOR DOCKET NO. 16-0322-0901

003. ADMINISTRATIVE APPEALS AND CONTESTED CASES.

01. Administrative Appeals and Contested Cases. Administrative appeals and contested cases are governed by IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (3-30-06)

02. Informal Dispute Resolution Meeting. If a facility disagrees with a deficiency cited for a core issue, it may request an informal dispute resolution meeting to the ~~Bureau of Facility Standards~~ Licensing and Certification Unit. The policy and procedure for requesting informal dispute resolution is posted on the Licensing and Survey Agency Certification website at <http://www.facilitystandardshealthandwelfare.idaho.gov/Medical/LicensingCertification/tabid/124/Default.aspx>. (~~3-30-06~~)()

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (3-30-06)

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. (3-30-06)

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (3-30-06)

04. Telephone. (208) 334-5500. (3-30-06)

05. Internet Website Address. The Department Internet website address is: <http://www.healthandwelfare.idaho.gov>. (3-30-06)

06. Licensing and ~~Survey Agency~~ Certification Unit. The Department's Licensing and ~~Survey Agency~~ Certification Unit, 3232 Elder Street, Boise, ID 83705; Phone: 208 334-6626. (~~3-30-06~~)()

07. Licensing and ~~Survey Agency~~ Certification Unit Website. <http://www.facilitystandardshealthandwelfare.idaho.gov/Medical/LicensingCertification/tabid/124/Default.aspx>. (~~3-30-06~~)()

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in Department records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (3-30-06)

02. Public Records. The Department of Health and Welfare will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Public records in the custody of the Department of Health and Welfare are subject to disclosure, unless otherwise exempted by state and federal law. (3-30-06)

03. Disclosure of Resident Identity. Information received by the Department through filed reports, inspections, or as otherwise authorized under the law, will not be disclosed publicly in such a manner as to identify individual residents except as necessary in a proceeding involving a question of licensure. (3-30-06)

04. Public Availability of Deficiencies. The survey documents relating to a facility will be available to the public upon written request to the Department and posted on the Licensing and ~~Survey Agency~~ Certification website at <http://www.healthandwelfare.idaho.gov/Medical/LicensingCertification/tabid/124/Default.aspx>. (3-30-06)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.

01. Abuse. The non-accidental act of sexual, physical or mental mistreatment, or injury of a resident through the action or inaction of another individual. (3-30-06)

02. Accident. An unexpected, unintended event that can cause a resident injury. (3-30-06)

03. Activities. All organized and directed social and rehabilitative services a facility provides, arranges, or cooperates with. (3-30-06)

04. Activities of Daily Living. The performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment, including bathing, washing, dressing, toileting, grooming, eating, communicating, continence, and mobility. (3-30-06)

05. Administrator. An individual, properly licensed by the Bureau of Occupational Licensing, who is responsible for day to day operation of a residential care or assisted living facility. (3-30-06)

06. Adult. A person who has attained the age of eighteen (18) years. (3-30-06)

07. Advance Directive. A written instruction, such as a living will or durable power of attorney for health care, recognized under State Law, whether statutory or as recognized by the courts of the State, and relates to the provision of medical care when the individual is unable to communicate. (3-30-06)

08. Advocate. An authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of a population group served by a facility. (3-30-06)

09. Ambulatory Person. A person who, unaided by any other person, is physically and mentally capable of walking a normal path to safety, including the ascent and descent of stairs. (3-30-06)

10. Assessment. The conclusion reached using uniform criteria which identifies resident strengths, weaknesses, risks and needs, to include functional, medical and behavioral needs. (3-30-06)

11. Authentication. Proof of authorship. (3-30-06)

12. Authorized Provider. An individual who is a nurse practitioner or clinical nurse specialist or physician assistant. (3-30-06)

13. Basement. That portion of a building that is partly or completely below grade plane. A basement will be considered as a story above grade plane where the finished surface of the floor above the basement is: (1) More than six (6) feet (1829 mm) above grade plane; (2) More than six (6) feet (1829 mm) above the finished ground level for more than fifty percent (50%) of the total building perimeter; or (3) More than twelve (12) feet (3658 mm) above the finished ground level at any point. International Building Code-2003. (3-30-06)

14. Behavioral Plan. A written plan which decreases the frequency or intensity of maladaptive behaviors and increases the frequency of adaptive behaviors and introduces new skills. (3-30-06)

15. Call System. A signaling system whereby a resident can contact staff directly from their sleeping room, toilet room, and bathing area. The system may be voice communication; an audible or visual signal; and, may include wireless technology. (3-30-06)

16. Chemical Restraint. A medication used to control behavior or to restrict freedom of movement and is not a standard treatment for the resident's condition. (3-30-06)

17. Client of the Department. Any person who receives financial aid, or services, or both from an organized program of the Department. (3-30-06)

18. Complaint. A formal expression of dissatisfaction, discontent, or unhappiness by or on behalf of a resident concerning the care or conditions at the facility. This expression could be oral, in writing, or by alternative means of communication. (3-30-06)

19. Complaint Investigation. A survey to investigate the validity of allegations of noncompliance with applicable state requirements. (3-30-06)

20. Core Issue. A core issue is any one (1) of the following: abuse; neglect; exploitation; inadequate care; a situation in which the facility has operated for more than thirty (30) days without a licensed administrator designated the responsibility for the day to day operations of the facility; inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system; or surveyors denied access to records, residents or facilities. (3-30-06)

21. Criminal Offense. Any crime as defined in Section 18-111, Idaho Code, in 18 U.S.C. Section 4A1.2(o), and 18 U.S.C. Sections 1001 through 1027. (3-30-06)

22. Deficiency. A determination of non-compliance with a specific rule or part of a rule. (3-30-06)

23. Dementia. A chronic deterioration of intellectual function and other cognitive skills severe enough to interfere with the ability to perform activities of daily living and instrumental activities of daily living. (3-30-06)

24. Department. The Idaho Department of Health and Welfare. (3-30-06)

25. Developmental Disability. A developmental disability, as defined in Section 66-402, Idaho Code, means chronic disability of a person which appears before the age of twenty-two (22) years of age and: (3-30-06)

a. Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism, or other conditions 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 (3-30-06)

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 of independent living, or economic self-sufficiency; and (3-30-06)

c. Reflects the need for a combination and sequence of special, interdisciplinary or direct care,

treatment or other services which are of life-long or extended duration and individually planned and coordinated. (3-30-06)

26. Director. The Director of the Idaho Department of Health and Welfare or his designee. (3-30-06)

27. Electronic Signature, E-Signature. The system for signing electronic documents by entering a unique code or password that verifies the identity of the person signing and creates an individual "signature" on the record. (3-30-06)

28. Exit Conference. A meeting with the facility administrator or designee to: (1) provide review, discussion and written documentation of non-core issues (Punch List), and (2) to provide preliminary findings of core issues. (3-30-06)

29. Exploitation. The misuse of a resident's funds, property, resources, identity or person for profit or advantage, including: ~~(3-30-06)~~()

a. Charging a resident for services or supplies not provided; or ()

b. Charging a resident for services or supplies not disclosed in the written admission agreement between the resident and the facility. ()

011. DEFINITIONS AND ABBREVIATIONS F THROUGH M.

01. Follow-Up Survey. A survey conducted to confirm that the facility is in compliance and has the ability to remain in compliance. (3-30-06)

02. Functional Abilities Assessment. An assessment of the resident's degree of independence with which the resident performs activities of daily living and instrumental activities of daily living. (3-30-06)

03. Governmental Unit. The state, any county, municipality, or other political subdivision or any Department, division, board, or other agency thereof. (3-30-06)

04. Grade Plane. A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane will be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet (1829 mm) from the building, between the building and a point six (6) feet (1829 mm) from the building. International Building Code - 2003. (3-30-06)

05. Hands On. Physical assistance to the resident beyond verbal prompting. (3-30-06)

06. Hourly Adult Care. Nonresident daily services and supervision provided by a facility to individuals who are in need of supervision outside of their personal residence for a portion of the day. (3-30-06)

07. Immediate Danger. Any resident is subject to an imminent or substantial danger. (3-30-06)

08. Inadequate Care. When a facility fails to provide the services required to meet the terms of the Negotiated Service Agreement, or provide for room, board, activities of daily living, supervision, first aid, assistance and monitoring of medications, emergency intervention, coordination of outside services, a safe living environment, or engages in violations of resident rights or takes residents who have been admitted in violation of the provisions of Section 39-3307, Idaho Code. (3-30-06)

09. Incident. An event that can cause a resident injury. (3-30-06)

10. Incident, Reportable. A situation when a facility is required to report information to the Licensing and ~~Survey Agency~~ Certification Unit. ~~(3-30-06)~~()

a. Resident injuries of unknown origin. This includes any injury, the source of which was not

observed by any person or the source of the injury could not be explained by the resident; or the injury includes severe bruising on the head, neck, or trunk, fingerprint bruises anywhere on the body, laceration, sprains, or fractured bones. Minor bruising and skin tears on the extremities need not be reported. (3-30-06)

b. Resident injury resulting from accidents involving facility-sponsored transportation. Examples: falling from the facility's van lift, wheel chair belt coming loose during transport, or an accident with another vehicle. (3-30-06)

c. Resident elopement of any duration. Elopement is when a resident who is unable to make sound decisions physically leaves the facility premises without the facility's knowledge. (3-30-06)

d. An injury due to resident-to-resident incident. (3-30-06)

e. An incident that results in the resident's need for hospitalization, treatment in a hospital emergency room, fractured bones, IV treatment, dialysis, or death. (3-30-06)

11. Independent Mobility. A resident's ability to move about freely of their own choice with or without the assistance of a mobility device such as a wheelchair, cane, crutches, or walker. (3-30-06)

12. Instrumental Activities of Daily Living. The performance of secondary level of activities that enables a person to live independently in the community, including preparing meals, access to transportation, shopping, laundry, money management, housework, and medication management. (3-30-06)

13. Legal Guardian or Conservator. A court-appointed individual who manages the affairs or finances or both of another who has been found to be incapable of handling his own affairs. (3-30-06)

14. License. A permit to operate a facility. (3-30-06)

15. Licensing and ~~Survey Agency~~ Certification Unit. The section of the Department responsible for licensing and surveying residential care or assisted living facilities. (~~3-30-06~~)()

16. Medication. Any substance or drug used to treat a disease, condition, or symptom, which may be taken orally, injected, or used externally and is available through prescription or over-the-counter. (3-30-06)

17. Medication Administration. It is a process where a prescribed medication is given to a resident by one (1) of several routes by licensed nurses. (3-30-06)

18. Medication Assistance. The process whereby a non-licensed care provider is delegated tasks by a licensed nurse to aid a person who cannot independently self-administer medications. IDAPA 23.01.01. "Rules of the Idaho State Board of Nursing," Section 010. (3-30-06)

19. Medication Dispensing. The act of filling, labeling and providing a prescribed medication to a resident. (3-30-06)

20. Medication, Self-Administration. The act of a resident taking a single dose of his own medication from a properly labeled container and placing it internally in, or externally on, his own body as a result of an order by a authorized provider. (3-30-06)

21. Mental Disorders. Health conditions that are characterized by alterations in thinking, mood or behavior (or some combination thereof), that are all mediated by the brain and associated with distress and or impaired functioning. (3-30-06)

22. Mental Illness. Refers collectively to all diagnosable mental disorders. (3-30-06)

23. Monitoring Visit. A visit by a representative of the Licensing and ~~Survey Agency~~ Certification Unit for the purpose of assuring residents are not in immediate danger. (~~3-30-06~~)()

24. Neglect. Failure to provide food, clothing, shelter, or medical care necessary to sustain the life and health of a resident. (3-30-06)

25. Negotiated Service Agreement. The plan reached by the resident and/or their representative and the facility based on the assessment, physician or authorized provider's orders, admission records, and desires of the resident, and which outlines services to be provided and the obligations of the facility and the resident. (3-30-06)

26. Non-Core Issue. Any finding of deficiency that is not a core issue. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

215. REQUIREMENTS FOR A FACILITY ADMINISTRATOR.

Each facility must be organized and administered under one (1) licensed administrator assigned as the person responsible for the operation of the facility. Multiple facilities under one (1) administrator may be allowed by the Department based on an approved plan of operation. (3-30-06)

01. Administrator Responsibility. The administrator is responsible for assuring that policies and procedures required in Title 39, Chapter 33, Idaho Code and IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho" are implemented. (3-30-06)

02. Availability of Administrator. The facility's administrator must be on site sufficiently to provide for safe and adequate care of the residents to meet the terms in the Negotiated Service Agreement. The facility's administrator or his designee must be available to be on-site at the facility within two (2) hours. (3-30-06)

03. Thirty Day Operation Limit. The facility may not operate for more than thirty (30) days without a licensed administrator. (3-30-06)

04. Representation of Residents. The administrator, his relatives, or employees cannot act as or seek to become the legal guardian of, or have power of attorney for any resident. Specific limited powers of attorney to address emergency procedures where competent consent cannot otherwise be obtained are permitted. (3-30-06)

05. Responsibility for Acceptable Admissions. The administrator must assure that no resident is knowingly admitted or retained who requires care as defined in Section 39-3307, Idaho Code, and Subsection 152.05 of these rules. (3-30-06)

06. Sexual Offender. The administrator must assure that a non-resident on the sexual offender registry is not allowed to live or work in the facility. The registry may be accessed at http://www.isp.state.id.us/sor_id/. (3-30-06)

07. Notification of Adult Protection and Law Enforcement. The administrator must assure that adult protection and law enforcement are notified in accordance with Section 39-5310, Idaho Code. (3-30-06)

08. Procedures for Investigations. The administrator must assure the facility procedures for investigation of incidents, accidents, and allegations of abuse, neglect, or exploitation are implemented to assure resident safety. (3-30-06)

09. Notification of Reportable Incidents. The administrator must assure notification to the Licensing and ~~Survey Agency~~ Certification Unit of reportable incidents. (~~3-30-06~~)()

10. Administrator's Designee. A person authorized in writing to act in the absence of the administrator and who is knowledgeable of facility operations, the residents and their needs, emergency procedures, the location and operation of emergency equipment, and how the administrator can be reached in the event of an emergency. (3-30-06)

11. Ability to Reach Administrator or Designee. The administrator or his designee must be reachable and available at all times. (3-30-06)

12. Minimum Age of Personnel. The administrator will assure that no personnel providing hands-on care or supervision services will be under eighteen (18) years of age unless they have completed a certified nursing assistant (CNA) certification course. (3-30-06)

13. Notification to Licensing and Certification Unit. The facility must notify the Licensing and Certification Unit, in writing, within three (3) business days of a change of administrator. ()

216. -- 2198. (RESERVED).

219. REQUIREMENTS FOR ADMISSION AGREEMENTS FOR DEPARTMENT CLIENTS.

01. Initial Resident Assessment. Prior to or on the day of admission each resident must be assessed to ensure the resident is appropriate for placement in a residential care or assisted living facility. ()

02 Resident Assessment. Within twelve (12) days of admission, each resident must be assessed as required in Section 660 of these rules. The result of the assessment will determine the need for specific services and supports and establish the reimbursement rate for those services. ()

03. Written Agreement. The admission agreement may be integrated within the Negotiated Service Agreement, provided that all requirements for the Negotiated Service Agreement in Section 320 of these rules are met. ()

220. REQUIREMENTS FOR ADMISSION AGREEMENTS FOR PRIVATE-PAY RESIDENTS.

01. Resident Assessment. Prior to or on the day of admission, each private-pay resident must be assessed as required in Section 650 of these rules. The result of the assessment will determine the need for specific services and supports. ()

02. Written Agreement. Prior to or on the day of admission, the facility and each resident or the resident's legal guardian or conservator ~~will~~ must enter into a written admission agreement that is transparent, understandable, and is translated into a language the resident or his representative understands. The admission agreement will provide a complete reflection of the facility's charges, commitments agreed to by each party, and the actual practices that will occur in the facility. The agreement must be signed by all involved parties, and a complete copy provided to the resident and the resident's legal guardian or conservator prior to or on the day of admission. The admission agreement may be integrated within the Negotiated Service Agreement, provided that all requirements for the Negotiated Service Agreement in Section 320 of these rules and the admission agreement are met. Admission agreements must include all items described under Subsections 220.043 through 220.138 of ~~these~~ this rules. (3-30-06)()

043. Services ~~Provided~~, Supports, and Rates. ~~Services~~ The facility provides including: room, board, assistance with activities of daily living, supervision, assistance and monitoring of medications, laundering of linens owned by the facility, coordination of outside services, arrangement for routine, urgent, and emergency medical and dental services, emergency interventions, housekeeping services, maintenance, utilities, access to basic television in common areas, maintenance of self help skills, recreational activities, and provisions for trips to social functions. ~~must identify the following services, supports, and applicable rates:~~ (3-30-06)()

- a. Basic services must, at a minimum, include: ()
- i. Rent: ()
- ii. Utilities: ()
- iii. Food: ()

- iv. Activities of daily living services: ()
- v. Supervision: ()
- vi. First aid: ()
- vii. Assistance with and monitoring of medications: ()
- viii. Laundering of linens owned by the facility: ()
- ix. Emergency interventions and coordination of outside services: ()
- x. Housekeeping and maintenance; and ()
- xi. Access to basic television in common areas. ()
- b.** The resident's monthly charges must be specific and describe the services that are included in the basic services rate and the charged rate. ()
- c.** The facility must disclose all prices, formulas, and calculations used to determine the resident's basic services rate including: ()
 - i. Service packages; ()
 - ii. Fee-for-service rates; ()
 - iii. Assessment forms; ()
 - iv. Price per assessment point; ()
 - v. Charges for levels of care determined with an assessment; and ()
 - vi. Move-in fees or other similar charges. ()
- d.** Services or amenities that are not contained in the description of basic services are considered additional services. The facility must describe the services and rates charged for additional or optional services, supplies, or amenities that are available through the facility or arranged for by the facility for which the resident will be charged additional fees. ()
- e.** Services or rates that are impacted by an updated assessment of the resident must be identified, as well as the assessment tool, the assessor, and the frequency of the assessment, when the facility uses this assessment to determine rate changes. ()
- f.** The facility may charge residents for the use of personal furnishings, equipment, and supplies provided by the facility for private-pay residents. The facility must provide a detailed itemization of furnishings, equipment, supplies, and the rate for those items the resident will be charged. ()
- 024. Staffing.** Staffing patterns and qualification of staff on duty during a normal day. (3-30-06)
- 035. Notification of Liability Insurance Coverage.** The administrator of a residential care or assisted living facility must disclose in writing at the time of admission or before a resident's admission if the facility does not carry professional liability insurance. If the facility cancels the professional liability insurance all residents must be notified of the change in writing. (3-30-06)
- 046. Medication Responsibilities.** The facility's and resident's roles and responsibilities relating to assistance with medications including the reporting of missed doses or those taken on a PRN basis. (3-30-06)

- ~~057.~~ **Resident Personal Fund Responsibilities.** Who is responsible for the resident's personal funds. (3-30-06)
- ~~068.~~ **Resident Belongings Responsibility.** Responsibility for protection and disposition of all valuables belonging to the resident and provision for the return of resident's valuables if the resident leaves the facility. (3-30-06)
- ~~079.~~ **~~Fee Description and Emergency Transfers.~~** ~~Fee description and e~~Conditions under which emergency transfers will be made as provided in Section 152 of these rules. (~~3-30-06~~)()
- 10. Billing Practices, Notices, and Procedures for Payments and Refunds.** The facility must provide a description of the facility's billing practices, notices, and procedures for payments and refunds. The following procedures must be included: ()
- a. Arrangement for payments; (3-30-06)
- b. ~~How~~ Under what circumstances and time frame a partial month's resident fees are to be refunded when a resident no longer resides in the facility; (~~3-30-06~~)()
- c. Written notice to vacate the facility must be given thirty (30) calendar days prior to transfer or discharge on the part of either party except in the ~~following situations~~; (3-30-06)
- i. ~~In the case of the resident's emergency discharge or death, fifteen (15) days notice is required. The date of death begins the fifteen (15) days notice requirement; and~~ (3-30-06)
- ii. ~~In the case of an emergency condition that requires a resident's transfer, fifteen (15) days notice is required. The date of transfer starts the facility may charge up to fifteen (15) days notice requirement prorated rent from the date of the resident's emergency discharge or death.~~ (~~3-30-06~~)()
- ~~0811.~~ **Resident Permission to Transfer Information.** Permission to transfer information from the resident's records to any facility to which the resident transfers. (3-30-06)
- ~~0912.~~ **Resident Responsibilities.** Resident responsibilities, as appropriate. (3-30-06)
- ~~103.~~ **Restrictions on Choice of Care or Service Providers.** Any restriction on choice of care or service providers, such as pharmacy, home health agency, hospice agency, physician or authorized provider. (3-30-06)
- ~~114.~~ **Advance Directive.** Written documentation of the resident's preference regarding the formulation of an Advance Directive in accordance with Idaho state law. When a resident has an Advanced Directive, a copy must be immediately available for staff and emergency personnel. (3-30-06)
- ~~125.~~ **Notification of Payee Requirements.** Notification if the facility requires as a condition of admission that the administrator or an employee of the facility be named as payee; ~~and~~. (~~3-30-06~~)()
- 16. Contested Charges.** The facility must provide the methods by which a resident may contest charges or rate increases that include contacting the Ombudsman for the Elderly. The facility must respond as provided under Section 711.02 of these rules. ()
- 17. Transition to Publicly-Funded Program.** The facility must disclose the conditions under which the resident can remain in the facility, if payment for the resident shifts to a publicly-funded program. ()
- ~~138.~~ **Other Information.** Other information that the facility may deem appropriate. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

250. REQUIREMENTS FOR BUILDING CONSTRUCTION AND PHYSICAL STANDARDS.

01. Building Character. All buildings utilized as residential care or assisted living facilities must be of such character as to be suitable for such use. Facilities must be of such character as to enhance normalization and integration of residents into the community. (3-30-06)

02. Plans and Specifications. Plans and specifications for any proposed new facility construction, any addition or remodeling are governed by the following: (3-30-06)

a. Plans must be prepared by an architect or engineer licensed in the state of Idaho. A variance of this requirement may be granted by the Licensing and Survey Agency when the size of the project does not necessitate involvement of an architect or engineer; (3-30-06)

b. Plans and specifications must be submitted to the Licensing and Survey Agency to assure compliance with applicable construction standards, codes, and regulations; (3-30-06)

c. Newly constructed or converted buildings housing ~~sixteen~~ seventeen (167) or more residents must submit professionally prepared drawings or plans of the kitchen and a listing of all kitchen equipment for review and approval prior to construction. ~~(3-30-06)~~(____)

03. Remodeling or Additions. Remodeling of or additions to a facility will be consistent with all applicable fire and life safety requirements. (3-30-06)

04. Approval. All buildings, additions and remodeling are subject to approval by the Licensing and Survey Agency and must meet applicable requirements. (3-30-06)

05. Walls and Floor Surfaces. Walls and floors must be of such character to permit cleaning. Walls and ceilings in kitchens, bathrooms, and utility rooms must have washable surfaces. (3-30-06)

06. Toilet and Bathrooms. Each facility must provide: (3-30-06)

a. A toilet and bathroom for resident use so arranged that it is not necessary for an individual to pass through another resident's room to reach the toilet or bath; (3-30-06)

b. Solid walls or partitions to separate each toilet and bathroom from all adjoining rooms; (3-30-06)

c. Mechanical ventilation to the outside from all inside toilets and bathrooms not provided with an operable exterior window; (3-30-06)

d. Each tub, shower, and lavatory with hot and cold running water; (3-30-06)

e. At least one (1) flush toilet for every six (6) residents; (3-30-06)

f. At least one (1) tub or shower for every eight (8) residents; (3-30-06)

g. At least one (1) lavatory with a mirror for each toilet; and (3-30-06)

h. At least one (1) toilet, tub or shower, and lavatory in each building in which residents sleep, with additional units if required by the number of persons. (3-30-06)

07. Accessibility for Persons With Mobility and Sensory Impairments. For residents with mobility or sensory impairments, the facility must provide a physical environment which meets the needs of the person for independent mobility and use of appliances, bathroom facilities, and living areas. New construction must meet the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Existing facilities must comply, to the maximum extent feasible, with 28 CFR Sections 36.304 and 36.305 regarding removal of barriers under the Americans with Disabilities Act, without creating an undue hardship or burden on the facility, and must provide as required, the necessary accommodations: (3-30-06)

- a.** Ramps for residents who require assistance with ambulation shall comply with the requirements of the ADAAG 4.8; (3-30-06)
- b.** Bathrooms and doors large enough to allow the easy passage of a wheelchair as provided for in the ADAAG 4.13; (3-30-06)
- c.** Grab bars in resident toilet and bathrooms in compliance with ADAAG 4.26; (3-30-06)
- d.** Toilet facilities in compliance with ADAAG 4.16 and 4.23; (3-30-06)
- e.** Non-retractable faucet handles in compliance with ADAAG 4.19, with the exception of self-closing valves under 4.19.5, and 4.27; and (3-30-06)
- f.** Suitable hand railing must be provided on both sides of all stairs leading into and out of a building for residents who require the use of crutches, walkers, or braces. (3-30-06)
- 08. Lighting.** The facility must provide adequate lighting in all resident sleeping rooms, dining rooms, living rooms, recreation rooms, and hallways. (3-30-06)
- 09. Ventilation.** The facility must be ventilated, and precautions shall be taken to prevent offensive odors. (3-30-06)
- 10. Plumbing.** All plumbing in the facility must comply with local and state codes. All plumbing fixtures must be easily cleanable and maintained in good repair. The temperature of hot water at plumbing fixtures used by residents must be between one hundred five degrees (105°F) Fahrenheit and one hundred twenty degrees (120°F) Fahrenheit. (3-30-06)
- 11. Heating.** A heating 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 be 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. (3-30-06)
- 12. Dining, Recreation, Shower, Bathing and Living Space.** The total area set aside for these purposes must be no less than thirty (30) square feet per licensed bed. A hall or entry can not be included as living or recreation space. (3-30-06)
- 13. Resident Sleeping Rooms.** The facility must assure that: (3-30-06)
- a.** Resident sleeping rooms are not in attics, stairs, halls, or any other room commonly used for other than bedroom purposes; (3-30-06)
- b.** A room with a window that opens into an exterior window well cannot be used for a resident sleeping room; (3-30-06)
- c.** Not more than four (4) residents can be housed in any multi-bed sleeping room in facilities licensed prior to July 1, 1991. New facilities or building converted to a licensed facility after July 1, 1992, cannot have more than two (2) residents in any multi-bed sleeping room. When there is any change in ownership of the facility, the maximum number of residents allowed in any room is two (2); (3-30-06)
- d.** Square footage requirements for resident sleeping rooms must provide for not less than one hundred (100) square feet of floor space per resident in a single-bed sleeping room and not less than eighty (80) square feet of floor space per resident in a multi-bed sleeping room; (3-30-06)
- e.** Each resident's sleeping room must be provided with an operable exterior window. An operable window is not required where there is a door directly to the outside from the sleeping room; (3-30-06)

- f.** The operable window sill height must not exceed thirty-six (36) inches above the floor in new construction, additions, or remodeling; (3-30-06)
- g.** The operable window sill height must not exceed forty-four (44) inches above the floor in existing buildings being converted to a facility; (3-30-06)
- h.** Each resident sleeping room must provide a total window space that equals at least eight percent (8%) of the room's total square footage; (3-30-06)
- i.** Window screens must be provided on operable windows; (3-30-06)
- j.** Resident sleeping rooms must have walls that run from floor to ceiling; have doors that will limit the passage of smoke; and provide the resident(s) with privacy; (3-30-06)
- k.** Ceiling heights in sleeping rooms must be at least seven (7) feet, six (6) inches; and (3-30-06)
- l.** Closet space in each resident sleeping room must provide at least four (4) usable square feet per resident. Common closets used by two (2) or more residents must have substantial dividers for separation of each resident's clothing. All closets must be equipped with doors. Free-standing closets are deducted from the square footage of the sleeping room. (3-30-06)
- 14. Secure Environment.** If the facility accepts and retains residents who have cognitive impairment, the facility must provide an interior environment and exterior yard which is secure and safe. (3-30-06)
- 15. Call System.** The facility must have a call system. The call system cannot be a substitute for supervision. For facilities licensed prior to January 1, 2006, when the current system is no longer operational or repairable the facility must install a call system as defined in these rules. (3-30-06)
- 16. Dietary Standards.** Each facility must have a full service kitchen to meet the needs of the residents. Any satellite kitchen must meet all applicable requirements. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

430. REQUIREMENTS FOR FURNISHINGS, EQUIPMENT, SUPPLIES, AND BASIC SERVICES.

Each facility must provide ~~at no additional cost~~ to the resident: ~~(3-30-06)~~(____)

01. Common Shared Furnishings. Appropriately designed and constructed furnishings to meet the needs of each resident, including reading lamps, tables, and comfortable chairs or sofas; all items must be in good repair, clean, ~~and safe, and provided at no additional cost to the resident.~~ ~~(3-30-06)~~(____)

02. Resident Sleeping Room Furnishings. Comfortable furnishings and individual storage, such as a dresser, for personal items for each resident in each sleeping room; all items must be in good repair, clean, and safe. (3-30-06)

03. Resident Bed. Each resident must be provided his own bed, which will be at least thirty-six (36) inches wide, substantially constructed, clean, and in good repair. Roll-away beds, cots, futons, folding beds, or double bunks are prohibited. Bed springs must be in good repair, ~~and~~ clean, and comfortable. Bed mattresses must be standard for the bed, clean, and odor free. A pillow must be provided. ~~(3-30-06)~~(____)

04. Resident Telephone Privacy. The facility must have at least one (1) telephone that is accessible to all residents, and provide local calls at no additional cost. The telephone must be placed in such a manner as to provide the resident privacy while using the telephone. ~~(3-30-06)~~(____)

05. Basic Services. The following are basic services to be provided to the resident by the facility ~~at no~~

- additional cost to the resident within the basic services rate: room, board* ()
- a.** Rent: ()
 - b.** Utilities: ()
 - c.** Food: ()
 - d.** Activities of daily living services, supervision; ()
 - e.** First aid: ()
 - f.** Assistance with and monitoring of medications; ()
 - g.** Laundering of linens owned by the facility; ()
 - h.** Emergency interventions and coordination of outside services;~~arrangement for emergency transportation, emergency interventions, first aid,~~ ()
 - i.** Housekeeping ~~services,~~ and maintenance;~~utilities,~~ and ()
 - j.** ~~Access to basic television in common areas.~~ (3-30-06)()

06. Basic Supplies. The following are to be supplied by the facility at no additional cost to the resident: linens, towels, wash cloths, liquid hand soap, ~~shampoo, comb, hairbrush,~~ toilet paper, ~~sanitary napkins,~~ and first aid supplies, ~~electric razors or other means of shaving, toothbrush, and toothpaste~~ unless the resident chooses to provide his own. (3-30-06)()

07. Personal Supplies. Soap, shampoo, hair brush, comb, electric razor or other means of shaving, toothbrush, toothpaste, sanitary napkins, and incontinent supplies must be provided by the facility unless the resident chooses to provide his or her own. The facility may charge the resident for personal supplies the facility provides and must itemize each item being charged to the resident. ()

07. Resident Supplies and Furnishings. If a resident chooses to provide his or her own supplies or furnishings, the facility must assure that the resident's supplies or furnishings meet the minimum standards as identified in Subsections 430.01 through 430.06 of this rule. (3-30-06)()

(BREAK IN CONTINUITY OF SECTIONS)

550. REQUIREMENTS FOR RESIDENTS' RIGHTS.

The administrator must assure that policies and procedures are implemented to assure that residents' rights are observed and protected. (3-30-06)

01. Resident Records. The facility must maintain and keep current a record of the specific information on each resident. Upon request a resident must be provided access to information in his record. (3-30-06)

a. A copy of the resident's current Negotiated Service Agreement and physician or authorized provider's order; (3-30-06)

b. Written acknowledgement that the resident has received copies of the rights; (3-30-06)

c. A record of all personal property and funds that the resident has entrusted to the facility, including copies of receipts for the property; (3-30-06)

- d.** Information about any specific health problems of the resident that may be useful in a medical emergency; (3-30-06)
- e.** The name, address, and telephone number of an individual identified by the resident who should be contacted in the event of an emergency or death of the resident; (3-30-06)
- f.** Any other health-related, emergency, or pertinent information which the resident requests the facility to keep on record; and (3-30-06)
- g.** The current admission agreement between the resident and the facility. (3-30-06)
- 02. Privacy.** Each resident must be assured the right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits, and meetings of family and resident groups. (3-30-06)
- 03. Humane Care and Environment.** (3-30-06)
- a.** Each resident has the right to humane care and a humane environment, including the following: (3-30-06)
- i.** The right to a diet that is consistent with any religious or health-related restrictions; (3-30-06)
- ii.** The right to refuse a restricted diet; and (3-30-06)
- iii.** The right to a safe and sanitary living environment. (3-30-06)
- b.** Each resident has the right to be treated with dignity and respect, including: (3-30-06)
- i.** The right to be treated in a courteous manner by staff; (3-30-06)
- ii.** The right to receive a response from the facility to any request of the resident within a reasonable time; and (3-30-06)
- iii.** The right to be communicated with, orally or in writing, in a language they understand. If the resident's knowledge of English or the predominant language of the facility is inadequate for comprehension, a means to communicate in a language familiar to the resident must be available and implemented. There are many possible methods such as bilingual staff, electronic communication devices, family and friends to translate. The method implemented must assure the resident's right of confidentiality, if the resident desires. (3-30-06)
- 04. Personal Possessions.** Each resident has the right to: (3-30-06)
- a.** Wear his own clothing; (3-30-06)
- b.** Determine his own dress or hair style; (3-30-06)
- c.** Retain and use his own personal property in his own living area so as to maintain individuality and personal dignity; and (3-30-06)
- d.** Be provided a separate storage area in his own living area and at least one (1) locked cabinet or drawer for keeping personal property. (3-30-06)
- 05. Personal Funds.** Residents whose board and care is paid for by public assistance will retain, for their personal use, the difference between their total income and the applicable board and care allowance established by Department rules. (3-30-06)
- a.** A facility must not require a resident to deposit his personal funds with the facility; and (3-30-06)

b. Once the facility accepts the written authorization of the resident, it must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph. (3-30-06)

06. Management of Personal Funds. Upon a facility's acceptance of written authorization of a resident, the facility must manage and account for the personal funds of the resident deposited with the facility as follows: (3-30-06)

a. The facility must deposit any amount of a resident's personal funds in excess of five (5) times the personal needs allowance in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts and credit all interest earned on such separate account to such account. The facility must maintain any other personal funds in a non-interest bearing account or petty cash fund; (3-30-06)

b. The facility must assure a full and complete separate accounting of each resident's personal funds, maintain a written record of all financial transactions involving each resident's personal funds deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record; and (3-30-06)

c. Upon the death of a resident with such an account, the facility must promptly convey the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate. For clients of the Department, the remaining balance of funds must be refunded to the Department. (3-30-06)

07. Access and Visitation Rights. Each facility must permit: (3-30-06)

a. Immediate access to any resident by any representative of the Department, by the state ombudsman for the elderly or his designees, or by the resident's individual physician; (3-30-06)

b. Immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives; (3-30-06)

c. Immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident; and (3-30-06)

d. Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time. (3-30-06)

08. Employment. Each resident must have the right to refuse to perform services for the facility except as contracted for by the resident and the administrator of the facility. If the resident is hired by the facility to perform services as an employee of the facility, the wage paid to the resident must be consistent with state and federal law. (3-30-06)

09. Confidentiality. Each resident must have the right to confidentiality of personal and clinical records. (3-30-06)

10. Freedom from Abuse, Neglect, and Restraints. Each resident must have the right to be free from physical, mental or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints. (3-30-06)

11. Freedom of Religion. Each resident must have the right to practice the religion of his choice or to abstain from religious practice. Residents must also be free from the imposition of the religious practices of others. (3-30-06)

12. Control and Receipt of Health-Related Services. Each resident must have the right to control his receipt of health related services, including: (3-30-06)

a. The right to retain the services of his own personal physician, dentist, and other health care professionals; (3-30-06)

b. The right to select the pharmacy or pharmacist of his choice so long as it meets the statute and rules governing residential care or assisted living and the policies and procedures of the residential care or assisted living facility; (3-30-06)

c. The right to confidentiality and privacy concerning his medical or dental condition and treatment; and (3-30-06)

d. The right to refuse medical services based on informed decision making. Refusal of treatment does not relieve the facility of its obligations under this chapter. (3-30-06)

i. The facility must document the resident and his legal guardian have been informed of the consequences of the refusal; and (3-30-06)

ii. The facility must document that the resident's physician or authorized provider has been notified of the resident's refusal. (3-30-06)

13. Grievances. Each resident must have the right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents. (3-30-06)

14. Participation in Resident and Family Groups. Each resident must have the right to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility. (3-30-06)

15. Participation in Other Activities. Each resident must have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility. (3-30-06)

16. Examination of Survey Results. Each resident must have the right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Licensing and ~~Survey Agency~~ Certification Unit with respect to the facility and any plan of correction in effect with respect to the facility. ~~(3-30-06)~~(____)

17. Access by Advocates and Representatives. A residential care or assisted living facility must permit advocates and representatives of community legal services programs, whose purposes include rendering assistance without charge to residents, to have access to the facility at reasonable times in order to: (3-30-06)

a. Visit, talk with, and make personal, social, and legal services available to all residents; (3-30-06)

b. Inform residents of their rights and entitlements, and their corresponding obligations, under state, federal and local laws by distribution of educational materials and discussion in groups and with individuals; (3-30-06)

c. Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and social security benefits, and in all other matters in which residents are aggrieved, that may be provided individually, or in a group basis, and may include organizational activity, counseling and litigation; (3-30-06)

d. Engage in all other methods of assisting, advising, and representing residents so as to extend to them the full enjoyment of their rights; (3-30-06)

e. Communicate privately and without restrictions with any resident who consents to the communication; and (3-30-06)

f. Observe all common areas of the facility. (3-30-06)

18. Access by Protection and Advocacy System. A residential care or assisted living facility must

permit advocates and representatives of the protection and advocacy system designated by the governor under 42 U.S.C. Section 15043 and 42 U.S.C. Section 10801 et seq., access to residents, facilities, and records in accordance with applicable federal statutes and regulations. (3-30-06)

19. Access by the Long Term Care Ombudsman. A residential care or assisted living facility must permit advocates and representatives of the long term care ombudsman program pursuant to 42 U.S.C. Section 3058, Section 67 5009, Idaho Code, and IDAPA 15.01.03, "Rules Governing the Ombudsman for the Elderly Program," access to residents, facilities and records in accordance with applicable federal and state law, rules, and regulations. (3-30-06)

20. Transfer or Discharge. Each resident must have the right to be transferred or discharged only for medical reasons, or for his welfare or that of other residents, or for nonpayment for his stay. In non-emergency conditions, the resident must be given at least thirty (30) calendar days notice of discharge. A resident has the right to appeal any involuntary discharge. (3-30-06)

21. Citizenship Rights. Each resident has a right to be encouraged and assisted to exercise rights as a citizen, including the right to be informed and to vote. (3-30-06)

22. Advanced Directives. ~~Each resident~~ has the right to be informed, in writing, regarding the formulation of an advanced directive ~~to include applicable State law, as provided under Section 39-4510, Idaho Code.~~ (3-30-06)()

23. Fee Increases. Each resident has the right to written notice of any fee increase not less than thirty (30) days prior to the proposed effective date of the fee increase, except when a resident needs additional care, services, or supplies: and ()

a. The resident, the resident's legal guardian, or conservator agrees in writing to a specific rate or fee increase through an amendment of the admission agreement or the negotiated service agreement; and ()

b. The negotiated service agreement is amended to include provision for the additional care, services, or supplies. ()

c. In the event the facility and resident, the resident's legal guardian, or conservator are not in agreement with the change of condition fee increase, an automatic fifteen (15) day discharge notice will be in effect from the date of notification of the change of condition fee increase, unless there is a written agreement to extend the date of discharge. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.04 - EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS

DOCKET NO. 16-0404-0901 (NEW CHAPTER - FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 16-107(g) and 56-1007, Idaho Code, and the Individuals with Disabilities Education Act (IDEA), Part C, and CFR 34, Section 303.

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

TUESDAY - SEPTEMBER 15, 2009	
6:30 p.m. PDT Dept. of Health & Welfare-Reg. 2 State Office Bldg. Conf. Rm. 1118 "F" Street Lewiston, ID	6:00 p.m. MDT Dept. of Health & Welfare-Reg.6 Portneuf District Library Meeting Rm. 5210 Stuart Ave. Chubbuck, ID
WEDNESDAY - SEPTEMBER 16, 2009	
6:30 p.m. MDT Dept. of Health & Welfare-Reg.5 601 Pole Line Road DHW Conf. Rm. Twin Falls, ID	6:30 p.m. MDT Dept. of Health & Welfare-Reg. 3 3402 Franklin Road DHW Conf. Rm. Caldwell, ID

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

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

The 2009 Legislature requested that the Department's Infant Toddler Program establish a process to charge fees to families receiving early intervention services for eligible infants and toddlers. This new chapter of rules provides for family cost participation in this program, with a system of sliding fees for services not covered by private insurance. The sliding fee system will be based on family income and ability to pay. It also provides policies and procedures to administer this system for fees, sets income thresholds for assessing payment obligations, and procedures for the verification of income.

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

A sliding fee schedule is being implemented in this new rule chapter to establish a process to charge fees to families receiving early intervention services for eligible infants and toddlers. The sliding fee schedule is based on ability to pay for families with incomes above 200 percent of Federal Poverty Guidelines.

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 anticipated fiscal impact is hard to determine at this time because the Department has no income data on families that use these services. The Department estimates approximately \$15,000 to \$20,000 for the state fiscal year 2010 for system enhancements for billing or processing of receipts. The Department also estimates that receipts received will offset cost of clerical support needed for processing for the state fiscal year 2011.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The "Notice of Intent to Promulgate Rules - Negotiated Rulemaking" was published in the June 3, 2009, Idaho Administrative Bulletin, page 47. Input was received during the negotiated meetings from families, service providers, and other stakeholders regarding the development of a cost-sharing system for families receiving early intervention services.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mary Jones at (208) 334-5523.

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 October 2, 2009.

DATED this 31st day of July, 2009.

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 PROPOSED TEXT FOR DOCKET NO. 16-0404-0901

IDAPA 16
TITLE 04
CHAPTER 04

EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS

000. LEGAL AUTHORITY.

The Department of Health and Welfare has the authority to establish and enforce rules for early intervention services under Section 16-107, Idaho Code. Under Section 56-1007, Idaho Code, the Department is authorized to collect fees for services. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 16.04.04, "Early Intervention Services for Infants and Toddlers." ()

02. Scope. The Idaho Early Intervention System is a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for all infants and toddlers with disabilities and their families. The Early Intervention System is responsible to ensure early intervention services are provided to

eligible infants and toddlers from birth to thirty six (36) months with developmental delays or disabilities and their families. Services are delivered through the provisions of an Individualized Family Services Plan in accordance with the statutory provisions of the Individuals with Disabilities Education Act (IDEA), Part C, and CFR 34, Section 303. This chapter provides for a sliding fee scale to be charged to families according to their ability to pay for the early intervention services received. Included in this chapter are definitions and policies related to informing families, determining and calculating family fee obligations. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection and copying at cost at the Department of Health and Welfare, 450 West State Street, P.O. Box 83720, Boise, Idaho, 83720-0036 or at any of the Department's Regional Offices. ()

003. ADMINISTRATIVE APPEALS.

Appeals and proceedings for any Department actions are governed by IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." An appeal does not stay the action of the Department. ()

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference into these rules. ()

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

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

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ()

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. ()

04. Telephone. (208) 334-5500. ()

05. Internet Website Address. The Internet address is: <http://www.healthandwelfare.idaho.gov>. ()

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in Department records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records," and federal Public Law 103-209 and 92-544. ()

02. Public Records. The Department of Health and Welfare will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempt, as set forth in Section 9-340, Idaho Code, and other state and federal laws and regulations, all public records in the custody of the Department of Health and Welfare are subject to disclosure. ()

007. -- 009. (RESERVED).

010. DEFINITIONS AND ABBREVIATIONS.

For purposes of this chapter of rules, the following terms and abbreviations are used as defined. ()

01. Countable Income. The annual income of all members of the identified family household. ()

02. Department. The Idaho Department of Health and Welfare is the lead agency for administration of the provisions of this chapter and under Title 16, Chapter 1, Idaho Code. ()

03. Early Intervention Services. Services for eligible infants and toddlers that meet the standards of the state including the requirements of IDEA Part C and are: ()

a. Designed to meet the developmental needs of each child eligible and the needs of the family related to enhancing the child's development in any one (1) or more of the following areas: ()

i. Physical development; ()

ii. Cognitive development; ()

iii. Communication development; ()

iv. Social or emotional development; or ()

v. Adaptive development; ()

b. Selected in collaboration with the parents; ()

c. Provided under public supervision by qualified personnel in conformity with an IFSP and at no cost, unless subject to sliding fee schedule; and ()

d. Provided in natural environments in which infants and toddlers without disabilities would participate, including home and community settings, to the maximum extent appropriate to the needs of the child. ()

04. Eligible Infants and Toddlers. Children birth to three (3) years of age that meet the Idaho Infant Toddler Program eligibility criteria of having a developmental delay, established condition, or are eligible through informed clinical opinion as determined by a multi-disciplinary team. ()

05. Family. A family is an adult, or married adults, or adult(s) with children, living in a common residence. ()

06. Family Education Rights and Privacy Act (FERPA). 20 U.S.C. Section 1232g; 34 CFR Part 99 is a Federal law that protects the privacy of student education records. The law applies to all schools including early intervention programs that receive funds under an applicable program of the U.S. Department of Education. ()

07. Family Fee. Amount the family is responsible to pay for early intervention services based on a percentage of the current Federal Poverty Guideline (FPG) level on a sliding fee scale. ()

08. 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. ()

09. Federal Poverty Guidelines (FPG). Guidelines issued annually by the U.S. Department of Health and Human Services. The federal poverty guidelines are available on the U.S. Health and Human Services website at <http://aspe.hhs.gov/poverty/index.shtml>. ()

10. Full Charge for Service. One hundred percent (100%) of the hourly rate for each billable early intervention service. ()

11. Habilitative and Rehabilitative Expenses. Those expenses or charges incurred as a result of the disability needs of a family household member. These expenses include annual costs for items such as wheelchairs, adaptive equipment, medication, treatment, or therapy. ()

12. Health Insurance Lifetime Coverage Cap. The total amount that the insurer will pay during the

policy holder's lifetime. The lifetime cap varies for each individual's health insurance policy. ()

13. Idaho Infant Toddler Program. A program administered by the Department of Health and Welfare to coordinate an early intervention system to identify and serve children birth to (3) three years of age that have a developmental delay or a disability. ()

14. IDEA Part C. The Individuals with Disabilities Education Act (IDEA), a federal law, that establishes and authorizes the provision of early intervention services for eligible infants and toddlers with developmental delays or disabilities and their families. ()

15. Individualized Family Service Plans (IFSP). A written plan for providing early intervention services to a child who is eligible for early intervention services and his family. ()

16. Informed Parental Consent. Means: ()

a. The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication; ()

b. The parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity; and ()

c. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. ()

17. Parent. For the purposes of informed parental consent, "parent" means a lawful mother, lawful father, guardian, person acting as a parent of the child, including a grandparent or stepparent with whom the child lives, or surrogate parent who has been appointed in accordance with federal law, IDEA 20 U.S.C. 1477. The term does not include the state if the child is a ward of the State. ()

18. Responsible Party. Under Section 32-1002, Idaho Code, the lawful mother and lawful father of a minor child, who are financially responsible, jointly or separately, for paying for the minor child's necessities, including early intervention services provided to an eligible infant or toddler and his family. ()

19. Sliding Fee Schedule. A scale used to determine financial obligations for services based on the Federal Poverty Guidelines and the number of persons in the family household. ()

20. Taxable Income. Is the federal income that is subject to taxation according to the Internal Revenue Code, 26 USC 63, as amended. ()

21. Third-Party Payor. A person or entity other than the person receiving services, or the responsible party who is legally liable for payment for all or part of the child's or family's services. ()

22. Title XIX. Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by federal and state government and administered by each state. This program pays for medical assistance for certain eligible individuals and families with low income and limited resources. ()

23. Title XXI. Title XXI of the Social Security Act, known as the State Children's Health Insurance Program (SCHIP). This is a program that primarily pays for medical assistance for low-income children. ()

011. -- 049. (RESERVED).

050. ACCESS TO INFANT TODDLER PROGRAM.

Early intervention services through the Idaho Infant Toddler Program can be accessed through the following seven (7) service areas. ()

01. Region I. Serving the counties of Benewah, Bonner, Boundary, Kootenai, and Shoshone. Office Address: 2195 Ironwood Court, Coeur d'Alene, ID 83814, Phone: (208) 769-1409. ()

02. Region II. Serving the counties of Clearwater, Idaho, Latah, Lewis, and Nez Perce. Office Address: 2604 16th Ave., P. O. Drawer B, Lewiston, ID 83501, Phone: (208) 799-3460. ()

03. Region III. Serving the counties of Adams, Canyon, Gem, Owyhee, Payette, and Washington. Office Address: 823 Park Center Way, Nampa, ID 83651, Phone: (208) 465-8460. ()

04. Region IV. Serving the counties of Ada, Boise, Elmore, and Valley. Office Address: 1720 Westgate Dr., Boise, ID 83704, Phone: (208) 334-0900. ()

05. Region V. Serving the counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls. Office Address: 803 Harrison St., Twin Falls, ID 83301, Phone: (208) 736-2182. ()

06. Region VI. Serving the counties of Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida, and Power. Office Address: 421 Memorial Drive, Pocatello, ID 83201, Phone: (208) 234-7900. ()

07. Region VII. Serving the counties of Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton. Office Address: 150 Shoup, Ste. 19, Idaho Falls, ID 83402, Phone: (208) 528-5900. ()

051. -- 074. (RESERVED).

075. EXCLUSIONS UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT, PART C. The Idaho Infant Toddler Program services in Subsection 075.01 through 075.04 of this rule are not subject to fees: ()

01. Child Find. Implementing the child find requirements in 34 CFR, Section 303.321. ()

02. Evaluation and Assessment. Evaluation and assessments included in 34 CFR, Section 303.322, and including the functions related to evaluation and assessment in 34CFR, Section 303.12. ()

03. Service Coordination. Service coordination, as included in 34 CFR, Section 303.22 and Section 303.344(g). ()

04. Administrative and Coordinative Activities. Activities related to: ()

a. The development, review, and evaluation of Individualized Family Service Plans in 34 CFR, Sections 303.340 through 303.346; and ()

b. Implementation of the procedural safeguards and the other components of the statewide system of early intervention services. ()

076. -- 099. (RESERVED).

100. EARLY INTERVENTION SERVICES. Early Intervention Services include services in Subsections 100.01 through 100.18 of this rule when provided to eligible infants and toddlers and their families through an Individualized Family Service Plan. ()

01. Assistive Technology Devices and Services. ()

02. Audiology. ()

03. Family Training, Counseling, and Home Visits. ()

04. Early Identification, Screening, and Assessment Services. ()

05. Health Services. Health services necessary to enable the infant or toddler to benefit from the other early intervention services. ()

06. **Medical and Dental Services.** Medical and dental services for diagnostic or evaluation purposes. ()
07. **Nursing Services.** ()
08. **Nutrition Services.** ()
09. **Occupational Therapy.** ()
10. **Physical Therapy.** ()
11. **Psychological Services.** ()
12. **Respite Care.** ()
13. **Service Coordination.** ()
14. **Social Work Services.** ()
15. **Special Instruction and Developmental Therapy.** ()
16. **Speech and Language Pathology.** ()
17. **Transportation.** Transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in Section 100 of this rule. ()
18. **Vision Services.** ()
101. -- 149. **(RESERVED).**
- 150. EARLY INTERVENTION SERVICES SUBJECT TO FAMILY FEES.**
The early intervention services identified in Subsection 150.01 through 150.07 of this rule are subject to family fees. ()
01. **Assistive Technology Devices and Services.** ()
02. **Audiology.** ()
03. **Occupational Therapy.** ()
04. **Physical Therapy.** ()
05. **Psychological Services.** ()
06. **Special Instruction or Developmental Therapy.** ()
07. **Speech Language Pathology.** ()
151. -- 159. **(RESERVED).**
- 160. PARTICIPANTS EXEMPT FROM FAMILY FEES.**
The participants identified in Subsection 160.01 through 160.04 of this rule are exempt from being charged family fees. ()
01. **Home Care for Certain Disabled Children.** A participant determined eligible for Home Care for Certain Disabled Children, also known as "Katie Beckett." ()

02. Medicaid Eligible. A participant determined income eligible for Medicaid under Title XIX or CHIP under Title XXI. ()

03. Foster Care or State Custody. A participant living in foster care or under state custody. ()

04. Family Income At or Below Two Hundred Percent FPG. A participant whose family household's annual taxable income is at or below two hundred percent (200%) of Federal Poverty Guidelines (FPG). ()

161. -- 199. (RESERVED).

200. CALCULATION OF FAMILY HOUSEHOLD INCOME AND FAMILY FEE AMOUNT.

01. Determination of Ability to Pay. Financial obligations are based upon the number of persons in the family household and the taxable income of those persons. The Department will determine the number of persons in the family based on the number of persons claimed on federal tax or income records of the identified members of the family household. The inability of a lawful mother or lawful father of an eligible child to pay for services will not result in the denial of services to the child or the child's family. ()

a. Determination of ability to pay will be made following finding of initial eligibility, re-determined annually or upon request of the family, or at any time change is reported in the family household, income, or allowable deductions. ()

b. Families have a financial obligation to pay any amount up to their assigned fee level which is not paid by third-party payors, including private insurance. In no case will the amount owed exceed the cost of the service. ()

02. Taxable Income Verification. The family household will be requested to provide verification of taxable income. Information sources that may be used to verify the family household taxable income may include one (1) of the following: ()

a. Documented eligibility for a program with a financial cap at or below two hundred percent (200%) of Federal Poverty Guidelines (FPG), such as Women, Infants and Children (WIC), Food Stamps, Idaho Child Care Program (ICCP), and Medicaid; ()

b. Copies of the most recent federal income tax returns; ()

03. Alternative Income Verification. In the event that the family cannot verify taxable income according to the documentation listed in Subsection 200.02 of this rule, the Department will calculate the taxable income of the family household using alternative income verification sources including one (1) of the following: ()

a. Paycheck stubs; ()

b. Financial statements, or ()

c. Family declaration of taxable income. ()

04. Submission of Requested Information. Information regarding family taxable income, third party payors and other resources, including Medicaid or private insurance, must be reviewed in order to fully determine the family's ability to pay. The responsible party must provide information not available at the time of the initial financial interview whenever that information becomes available. ()

05. Refusal Or Failure To Provide Income Information for Fee Assessment. The family will be assessed the maximum family fee of one hundred percent (100%) of the full charge if the family refuses or fails to provide family income information. ()

201. -- 219. (RESERVED).

220. ALLOWABLE EXCLUSIONS FROM TAXABLE INCOME.

The following items in Subsections 220.01 through 220.08 of this rule, may be deducted from the family household taxable income if not already excluded or deducted on an itemized federal income tax form. ()

- 01. Health Insurance Premiums.** ()
- 02. Medical Expenses.** Medical expenses including specialized dietary supplements, vision, and dental expenses. ()
- 03. Child Care Expenses.** Child care expenses necessary for parental employment. ()
- 04. Habilitative and Rehabilitative Expenses.** ()
- 05. Non-custodial Child Support Payments.** ()
- 06. Supplemental Security Income (SSI).** ()
- 07. Supplemental Security Disability Income (SSDI).** ()
- 08. Income of Minor Children.** ()

221. -- 299. (RESERVED).

300. SLIDING FEE SCHEDULE.

The sliding fee schedule for early intervention services for infants and toddlers cost participation:

SLIDING FEE SCHEDULE TABLE 300	
Percent of Federal Poverty Level of Family Household (Based on Taxable Income)	Percentage of Full Charge or Balance After Third-Party Payment
0 - 200%	0%
201 - 300%	5%
301 - 400%	10%
401 - 500%	20%
501 - 600%	30%
601 - 700%	40%
701 - 800%	50%
801 - 900%	65%
901 - 1000%	80%
1001% and Above	100%

()

301. CAP ON AMOUNT OF FAMILY FEE.

In no case will the annual financial obligation exceed three percent (3%) of taxable income of the family household or

exceed the full charge of the service provided. ()

302. -- 319. (RESERVED).

320. VOLUNTARY CONTRIBUTIONS.

Any individual, including families not subject to fees through exemptions in these rules, may make a voluntary contribution toward the cost of service provision through the Idaho Infant Toddler Program. ()

321. -- 349. (RESERVED).

350. THIRD-PARTY PAYORS.

IDEA Part C funds can only be used for payment after third-party payors have been utilized. ()

01. Private or Public Health Insurance Payor. A family's private or public health insurance will be accessed for payment of early intervention services whenever possible, and only with informed parental consent. ()

02. Obtaining Informed Parental Consent. To obtain informed parental consent, the parent must receive and review a copy of the Infant Toddler Program's payment policy which includes notice that: ()

a. The parent may incur additional costs as a result of billing early intervention services to their private health insurance. Potential costs include insurance copayments, premiums, or deductibles. ()

b. If a family has both Medicaid and private health insurance, Idaho Medicaid will bill a family's private insurance for reimbursement. Therefore, billing early intervention services to Medicaid will result in subsequent billing of private insurance. ()

c. Early intervention services billed to their private health insurance may have financial consequences for the infant or toddler and their parents including the following: amount billed may count toward the lifetime coverage cap under their health insurance; may affect the availability of access to future health insurance; and may be the basis for increasing the health insurance premiums. ()

351. -- 399. (RESERVED).

400. DELINQUENT PAYMENTS.

If the responsible party is sixty (60) days or more past due on their payments to the Department, the responsible party is contacted to determine the reason for the delinquency. If the family household's countable income has changed significantly from the amount used for the most recent fee determination, the family is offered a revised fee assessment. If there has been no substantial change in countable income, then a payment schedule may be negotiated by the Department and the participant will be advised of the Department fee collection policies and procedures. Early intervention services will continue regardless of payment status. ()

401. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.11 - DEVELOPMENTAL DISABILITIES AGENCIES (DDA)

DOCKET NO. 16-0411-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-4605, 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Department is amending these rules to change the renewal of certification for Developmental Disabilities Agencies from the current two (2) years to three (3) years. This change will align the Department's certification period with the Commission on Accreditation of Rehabilitative Facilities (CARF), and will help meet legislative intent to encourage service providers to obtain national accreditation.

These rules are also being amended to delete references to the Idaho State School and Hospital ISSH Waiver that expired July 1, 2009.

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

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

This rulemaking will have little or no fiscal impact due to the change in renewal of certification from two to three years. These will be implemented as each certification becomes due over a two year period.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, informal negotiated rulemaking was held with the Idaho Association of Developmental Disability Agencies (IADDA), but no notice of intent to negotiate rulemaking was published in the Idaho Administrative Bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Chad Cardwell at (208) 334-5536.

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 September 23, 2009.

DATED this 21st day of July, 2009.

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 PROPOSED TEXT FOR DOCKET NO. 16-0411-0901

010. DEFINITIONS -- A THROUGH O.

For the purposes of these rules, the following terms are used as defined below: (7-1-06)

01. Adult. A person who is eighteen (18) years of age or older ~~or an Idaho State School and Hospital (ISSH) Waiver participant.~~ (7-1-06)()

02. Agency. A developmental disabilities agency (DDA) as defined in Section 010 of this rule. (7-1-06)

03. Annual. Every three hundred sixty-five (365) days except during a leap year which equals three hundred sixty-six (366) days. (7-1-06)

04. Baseline. A baseline is pre-intervention or annual data used to gauge a participant's level of independent performance as a basis for initiating therapeutic intervention. (7-1-06)

05. Board. The Idaho State Board of Health and Welfare. (7-1-06)

06. Communicable Disease. A disease that may be transmitted from one (1) person or an animal to another person either by direct contact or through an intermediate host, vector, inanimate object, or other means that may result in infection, illness, disability, or death. (7-1-06)

07. Comprehensive Assessment. An assessment used for diagnostic and evaluation purposes that contains uniform criteria used to contribute to the determination of a person's eligibility for DDA services and the need for those services. (7-1-06)

08. Deficiency. A determination of non-compliance with a specific rule or part of rule. (7-1-06)

09. Department. The Idaho Department of Health and Welfare. (7-1-06)

10. Developmental Disabilities Agency (DDA). A DDA is an agency that is: (7-1-06)

a. A type of developmental disabilities facility, as defined in Section 39-4604(7), Idaho Code, that is non-residential and provides services on an outpatient basis; (7-1-06)

b. Certified by the Department to provide DDA services to people with developmental disabilities, in accordance with these rules; (7-1-06)

c. A business entity, open for business to the general public; and (7-1-06)

d. Primarily organized and operated to provide developmental therapy and other DDA services and the corresponding assessments to people with developmental disabilities. (7-1-06)

11. DDA Services. A DDA provides services that are rehabilitative and habilitative in nature. DDA services include assessment, diagnostic, and treatment services that are provided on an outpatient basis to persons with developmental disabilities and may be community-based, home-based, or center-based in accordance with the requirements of this chapter. Each DDA is required to provide developmental therapy, and, in addition, also must provide or make available the following services: psychotherapy, occupational therapy, physical therapy, and speech and hearing therapy. A DDA may also opt to provide pharmacological management, psychiatric diagnostic interviews, community crisis supports, collateral contact, and Intensive Behavioral Intervention (IBI). (7-1-06)

12. Developmental Disability. A developmental disability, as defined in Section 66-402, Idaho Code, means a chronic disability of a person which appears before the age of twenty-two (22) years of age and: (7-1-06)

a. Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism or other condition found to be closely related to or similar to one (1) of these impairments, which requires similar treatment or services or is attributable to dyslexia resulting from such impairments; and (7-1-06)

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 (7-1-06)

c. Reflects the need for a combination or sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and individually planned and coordinated. (7-1-06)

13. Developmental Specialist. A person qualified to conduct developmental assessments and developmental therapy under these rules. (7-1-06)

14. Developmental Therapy. Developmental therapy is the use of therapeutic intervention and positive behavioral techniques that result in measurable skill acquisition or prevent regression where documentation shows that regression is anticipated in the following areas: (7-1-06)

a. Self-care; (7-1-06)

b. Receptive and expressive language; (7-1-06)

c. Learning; (7-1-06)

d. Mobility; (7-1-06)

e. Self-direction; (7-1-06)

f. Capacity for independent living; and (7-1-06)

g. Economic self-sufficiency. (7-1-06)

15. Habilitation. The process of developing skills and abilities. (7-1-06)

16. Individualized Family Service Plan (IFSP). An initial or annual plan of service, developed by the Department or its designee, for providing early intervention services to children birth to age three (3). This plan must meet the provisions of the Individuals with Disabilities Education Act (IDEA), Part C. (7-1-06)

17. Individual Program Plan (IPP). An initial or annual plan of service developed by the DDA for providing DDA services to: (7-1-06)

a. Children from three (3) through seventeen (17) years of age; (7-1-06)

b. Participants up to age twenty-one (21) who are receiving IBI or additional DDA services under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program; or (7-1-06)

c. Participants eighteen (18) years of age or older receiving DDA services and who are using the Home and Community Based Services (HCBS) Waiver for the Aged and Disabled (A&D), State Plan PCS, or are living in a nursing facility. (7-1-06)

18. Individual Service Plan (ISP). An initial or annual plan of service for persons eighteen (18) years of age or older ~~or ISSH waiver participants~~, that identifies all services and supports developed under a person-centered planning process. The Department authorizes each ISP at least once every three hundred sixty-five (365) days. This type of plan is referred to as the "plan of service" in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 507 through 515. (7-1-06)(_____)

19. Integration. The process of promoting a life for individuals with developmental disabilities that is as much as possible like that of other citizens of the community, including living in the community and having access to community resources. A further goal of this process is to enhance the social image and personal competence of individuals with developmental disabilities. (7-1-06)

20. Intensive Behavioral Intervention (IBI). Individualized, comprehensive interventions that have been shown to be effective and are used on a short term, one-to-one basis that: (7-1-06)

a. Produce measurable outcomes that diminish behaviors that interfere with the development and use of language and appropriate social interaction skills; or (7-1-06)

b. Broaden an otherwise severely restricted range of interest; and (7-1-06)

c. Increase the child's ability to participate in other therapies and environments. (7-1-06)

21. Medical/Social History. An assessment completed by a licensed social worker or other qualified professional working within the scope of his license. This assessment of the participant's history, home, family, and physical environment is part of the process used to determine his treatment needs. (7-1-06)

22. Medical, Social, and Developmental Assessment Summary. A form used by the Department to gather a participant's medical, social and developmental history and other summary information. It is required for all participants receiving DDA services under an ISP. The information is used in the assessment and authorization of a participant's services. (7-1-06)

23. Objective. A behavioral outcome statement developed to address a particular need identified for a participant. An objective is written in measurable terms that specify a target date for completion, no longer than one (1) year in duration, and include criteria for successful attainment of the objective. (7-1-06)

(BREAK IN CONTINUITY OF SECTIONS)

204. RENEWAL AND EXPIRATION OF THE CERTIFICATE.

01. Renewal of Certificate. The Department issues certificates that are in effect for a period of no ~~greater~~ longer than ~~two~~ three (23) years. (7-1-06)()

a. To ensure that there is no lapse in certification, an agency must request renewal of its certificate no less than ninety (90) days before the expiration date of the certificate. The request must contain any changes in optional services provided and outcomes of the internal quality assurance processes in accordance with Section 900 of these rules. (7-1-06)

b. Each agency seeking renewal of its certificate must be surveyed by the Department. (7-1-06)

c. The Department must find an agency to be in substantial compliance with these rules in order to renew the certificate. (7-1-06)

02. Expiration Without Timely Request for Renewal. Expiration of a certificate without a timely request for renewal automatically rescinds all rights or privileges the agency previously had to deliver services under these rules. (7-1-06)

(BREAK IN CONTINUITY OF SECTIONS)

700. REQUIREMENTS FOR A DDA PROVIDING SERVICES TO PERSONS EIGHTEEN YEARS OF AGE OR OLDER ~~AND ISSH WAIVER PARTICIPANTS.~~

Section 700 of these rules does not apply to adults who receive IBI or additional DDA services prior authorized under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program as described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits." DDAs must comply with the requirements under Section 701 of these rules for those adults. (7-1-06)(____)

01. Eligibility Determination. Prior to the delivery of any DDA services, the person must be determined to be eligible as defined under Section 66-402, Idaho Code, for DDA services. (7-1-06)

a. For persons seeking Medicaid-funded DDA services who are eighteen (18) years of age or older, ~~or are ISSH Waiver participants,~~ the Department or its designee determines eligibility for services. (7-1-06)(____)

b. For persons eighteen (18) years of age or older who are not Medicaid participants, the DDA must follow the requirements under Subsection 701.01 of these rules. (7-1-06)

02. Intake. (7-1-06)

a. For participants eighteen (18) years of age or older ~~or who are ISSH Waiver Participants,~~ and who are not listed under Subsection 700.02.b., prior to the delivery of any Medicaid-funded DDA services:(7-1-06)(____)

i. The Department or its designee will have provided the DDA with current medical, social, and developmental information; and (7-1-06)

ii. The participant must have an ISP that is authorized in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 507 through 515. (7-1-06)

b. Participants eighteen (18) years of age or older receiving DDA services and who are using the Home and Community Based Services (HCBS) Waiver for the Aged and Disabled (A&D), State Plan PCS, or are living in a nursing facility must: (7-1-06)

i. Have DDA services prior authorized by the Department or its designee; and (7-1-06)

ii. DDAs must complete an Individual Program Plan (IPP) that meets the standards described in Subsections 701.04 through 701.06 of these rules. IPPs for these individuals do not require the signature of a physician or other practitioner of the healing arts. (7-1-06)

c. For participants eighteen (18) years of age or older who are not Medicaid participants, the DDA must follow the requirements under Subsection 701.02 of these rules. (7-1-06)

03. Assessments. Requirements for assessments are found under Sections 600 through 605 of these rules. (7-1-06)

04. Individual Service Plan (ISP). For participants eighteen (18) years of age or older ~~or for ISSH Waiver participants,~~ any services provided by the DDA must be included on the plan of service and be prior authorized by the Department or its designee before a participant can receive the service from the agency. (7-1-06)(____)

05. Documentation of Plan Changes. Documentation of changes in the required plan of service or Program Implementation Plan must be included in the participant's record. This documentation must include, at a minimum, the reason for the change, the date the change was made, and the signature of the professional making the change complete with date, credential, and title. If there are changes to a Program Implementation Plan that affect the type or amount of service on the plan of service, an addendum to the plan of service must be completed. (7-1-06)

701. REQUIREMENTS FOR A DDA PROVIDING SERVICES TO CHILDREN AGES THREE THROUGH SEVENTEEN AND ADULTS RECEIVING IBI OR ADDITIONAL DDA SERVICES PRIOR AUTHORIZED UNDER THE EPSDT PROGRAM.

~~Section 701 of these rules does not apply to participants receiving ISSH Waiver services. DDAs must comply with the requirements under Section 700 of these rules for all ISSH Waiver participants.~~ (7-1-06)

01. Eligibility Determination. Prior to the delivery of any DDA services, the DDA must determine and document the participant's eligibility in accordance with Section 66-402, Idaho Code. For eligibility determination, the following assessments must be obtained or completed by the DDA: (7-1-06)

a. Medical Assessment. This must contain medical information that accurately reflects the current status of the person and establishes categorical eligibility in accordance with Section 66-402(5)(a), Idaho Code; or (7-1-06)

b. Psychological Assessment. If the medical assessment does not establish categorical eligibility, the DDA must obtain or conduct a psychological assessment that accurately reflects the current status of the person and establishes categorical eligibility in accordance with Section 66-402(5)(a), Idaho Code. (7-1-06)

c. Standardized Comprehensive Developmental Assessment. This must contain developmental information regarding functional limitations that accurately reflects the current status of the person and establishes functional eligibility based on substantial limitations in accordance with Section 66-402(5)(b), Idaho Code. (7-1-06)

02. Intake. The DDA must obtain information that accurately reflects the current status and needs of the participant prior to the delivery of services. (7-1-06)

a. The person must have been determined by the DDA to be eligible for DDA services. (7-1-06)

b. The DDA must obtain or complete a comprehensive medical and medical/social history. (7-1-06)

03. Assessments. Requirements for assessments are found under Sections 600 through 605 of these rules. (7-1-06)

04. Individual Program Plan (IPP) Definitions. The delivery of each service on a plan of service must be defined in terms of the type, amount, frequency, and duration of the service. (7-1-06)

a. Type of service refers to the kind of service described in terms of: (7-1-06)

i. Discipline; (7-1-06)

ii. Group, individual, or family; and (7-1-06)

iii. Whether the service is home, community, or center-based. (7-1-06)

b. Amount of service is the total number of service hours during a specified period of time. This is typically indicated in hours per week. (7-1-06)

c. Frequency of service is the number of times service is offered during a week or month. (7-1-06)

d. Duration of service is the length of time. This is typically the length of the plan year. For ongoing services, the duration is one (1) year; services that end prior to the end of the plan year must have a specified end date. (7-1-06)

05. Individual Program Plan (IPP). For participants three (3) through seventeen (17) years of age ~~who do not use ISSH Waiver services~~, and for adults receiving EPDST services, the DDA is required to complete an IPP. (7-1-06)()

a. The IPP must be developed following obtainment or completion of all applicable assessments consistent with the requirements of this chapter. (7-1-06)

b. The planning process must include the participant and his parent or legal guardian, if applicable,

and others the participant or his parent or legal guardian chooses. The participant's parent or legal guardian must sign the IPP indicating their participation in its development. The parent or legal guardian must be provided a copy of the completed IPP. If the participant and his parent or legal guardian are unable to participate, the reason must be documented in the participant's record. A physician or other practitioner of the healing arts and the parent or legal guardian must sign the IPP prior to initiation of any services identified within the plan, except as provided under Subsection 700.02.b.ii. of these rules. (7-1-06)

c. The planning process must occur at least annually, or more often if necessary, to review and update the plan to reflect any changes in the needs or status of the participant. Revisions to the IPP requiring a change in type, amount, or duration of the service provided must be recommended by the physician or other practitioner of the healing arts prior to implementation of the change. Such recommendations must be signed by the physician or other practitioner of the healing arts and maintained in the participant's file. A parent or legal guardian must sign the IPP prior to initiation of any services identified within the plan. (7-1-06)

d. The IPP must be supported by the documentation required in the participant's record under Section 705 of these rules. (7-1-06)

e. The IPP must promote self-sufficiency, the participant's choice in program objectives and activities, encourage the participant's participation and inclusion in the community, and contain objectives that are age-appropriate. The IPP must include: (7-1-06)

i. The participants name and medical diagnosis; (7-1-06)

ii. The name of the assigned Developmental Specialist, the date of the planning meeting, and the name and titles of those present at the meeting; (7-1-06)

iii. The dated signature of the physician or other practitioner of the healing arts indicating his recommendation of the services on the plan; (7-1-06)

iv. The type, amount, frequency and duration of therapy to be provided. For developmental therapy, the total hours of services provided cannot exceed the amount recommended on the plan. The amount and frequency of the type of therapy must not deviate from the IPP more than twenty percent (20%) over a period of a four (4) weeks, unless there is documentation of a participant-based reason; (7-1-06)

v. A list of the participant's current personal goals, interests and choices; (7-1-06)

vi. An accurate, current, and relevant list of the participant's specific developmental and behavioral strengths and needs. The list will identify which needs are priority based on the participant's choices and preferences. An IPP objective must be developed for each priority need; (7-1-06)

vii. A list of measurable behaviorally stated objectives, which correspond to the list of priority needs. A Program Implementation Plan must be developed for each objective; (7-1-06)

viii. The discipline professional or Developmental Specialist responsible for each objective; (7-1-06)

ix. The target date for completion of each objective; (7-1-06)

x. The review date; and (7-1-06)

xi. A transition plan. The transition plan is designed to facilitate the participant's independence, personal goals, and interests. The transition plan must specify criteria for participant transition into less restrictive, more integrated settings. These settings may include integrated classrooms, community-based organizations and activities, vocational training, supported or independent employment, volunteer opportunities, or other less restrictive settings. The implementation of some components of the plan may necessitate decreased hours of service or discontinuation of services from a DDA. (7-1-06)

06. Documentation of Plan Changes. Documentation of required plan of service or Program

Implementation Plan changes must be included in the participant's record. This documentation must include, at a minimum: (7-1-06)

- a. The reason for the change; (7-1-06)
- b. Documentation of coordination with other services providers, where applicable; (7-1-06)
- c. The date the change was made; and (7-1-06)

d. The signature of the professional making the change complete with date, credential, and title. Changes to the IPP require documented notification of the participant or the participant's parent or legal guardian, if applicable. Changes in type, amount, or duration of services require written authorization from a physician or other practitioner of the healing arts and the participant or the participant's parent or legal guardian prior to the change. If the signatures of the participant or the parent or legal guardian cannot be obtained, then the agency must document in the participant's record the reason the signatures were not obtained. (7-1-06)

(BREAK IN CONTINUITY OF SECTIONS)

704. PROGRAM DOCUMENTATION REQUIREMENTS.

Each DDA must maintain records for each participant the agency serves. Each participant's record must include documentation of the participant's involvement in and response to the services provided. (7-1-06)

01. General Requirements for Program Documentation. For each participant the following program documentation is required: (7-1-06)

- a. Daily entry of all activities conducted toward meeting participant objectives. (7-1-06)
- b. Sufficient progress data to accurately assess the participant's progress toward each objective; and (7-1-06)
- c. A review of the data, and, when indicated, changes in the daily activities or specific implementation procedures by the qualified professional. The review must include the qualified professional's dated initials. (7-1-06)
- d. When a participant receives developmental therapy, documentation of six (6) month and annual reviews by the Developmental Specialist that includes a written description of the participant's progress toward the achievement of therapeutic goals, and why he continues to need services. (7-1-06)

02. Additional Requirements for Participants Eighteen Years or Older ~~and for ISSH Waiver Participants~~. For participant's eighteen (18) years of age or older ~~and ISSH Waiver Participants~~, DDAs must also submit provider status reviews to the plan monitor in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 507 through 515. (7-1-06)(____)

03. Additional Requirements for Participants Seven Through Sixteen. For participants ages seven (7) through sixteen (16), the DDA must also document that the child has been referred to the local school district in accordance with Subsection 706.01 of these rules. (7-1-06)

04. Additional Requirements for Participants Birth to Three Years of Age. For participants birth to age three (3), the following are required in addition to those requirements in Subsection 702.01 of these rules: (7-1-06)

- a. Documentation of the six (6) month and annual reviews; (7-1-06)
- b. Documentation of participation in transition planning at the IFSP developed closest to the child's second birthday to assure service continuity and access to community services as early intervention services end at

- age three (3); (7-1-06)
- c. Documentation that participant rights have been met in accordance with Subsection 905.03.d.; (7-1-06)
 - d. Documentation of participation in the transition meeting with the school district; and (7-1-06)
 - e. Documentation of consultation with other service providers who are identified on the IFSP. (7-1-06)

(BREAK IN CONTINUITY OF SECTIONS)

723. COMMUNITY CRISIS SUPPORTS.

Community crisis supports are interventions for adult participants ~~who are adults or who are on the ISSH Waiver~~, who have been determined eligible for developmental disability services and who are at risk of losing housing, employment or income, or are at risk of incarceration, physical harm, family altercation, or other emergencies. DDAs that choose to provide these services must do so in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 507 through 515. (7-1-06)(____)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.01 - CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 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; also Public Law 110-351, Section 402 (1)(B) re: changes related to international adoptions affecting Part E of Title IV of the Social Security Act, Section 473 (Adoption and Guardianship Program) (42 USC 673).

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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The service of "professional foster care" is being renamed and its rules replaced with "treatment foster care" rules that align with the treatment foster care rules under IDAPA 16.07.37, "Children's Mental Health Services." Alignment between these two chapters will help eliminate confusion for foster parents providing treatment foster care who may be participating in either Child and Family Services or Children's Mental Health programs.

In addition, new rules are being proposed to clarify and resolve reimbursement issues related to contract payments to foster parents for additional services beyond regular or specialized foster care. This will be accomplished by setting out in rule the expectations for service and how payments will be structured. These new rules will increase accountability for treatment foster parents and improve services to children and youth in foster care who need a higher level of care due to behavioral and other mental health issues. The outcome of these new rules will be to increase the stability of foster care placements for children and youth who are hard to place and hard to maintain in foster care, and will better address their treatment needs.

Finally, changes are being made to update the adoption rules to increase regional efficiencies and to align rules with changes to federal law made under Public Law 110-351.

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. NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rulemaking is being done to align with the Treatment Foster Care rules found under IDAPA 16.07.37, "Children's Mental Health Services," with changes being made under Docket No. 16-0737-0901, and with changes to federal statute.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathy Morris at (208) 334-5706 or Shirley Alexander at (208) 334-6618.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, September 23, 2009.

DATED this 31st day of July, 2009.

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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THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0601-0901

485. PROFESSIONAL TREATMENT FOSTER CARE.

Placement in professional foster care for children who require professional care for clinically diagnosed emotional, behavioral, or physical problems must be based upon the documented needs of each child, including the inability of less restrictive settings to meet the child's needs and a determination that the child would require a more restrictive setting if professional foster care were not available. 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 child's 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 in the custody of the Department under the purview of the Child Protective Act, 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. (3-30-07)()

01. Qualifications. At least one (1) parent must possess a bachelor's degree or three (3) years of experience in a human service delivery setting or be otherwise licensed or certified to provide specialized social and medical care to children, and neither parent can be a Department employee. Prior to being considered for designation and reimbursement as a treatment foster parent, each prospective treatment foster parent must accomplish the following: (3-30-07)()

a. Meet all foster family licensure requirements as set forth in IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensure"; ()

b. Complete Department-approved treatment foster care initial training; and ()

c. Provide a minimum of two (2) references in addition to those provided to be licensed to provide foster care. The additional references must be from individuals who have worked with the prospective treatment foster parent. The additional references must verify that the prospective treatment foster parent has: ()

i. Training related to, or experience working with, children or youth with mental illness or behavior disorders; and ()

ii. Demonstrated cooperation and a positive working relationship with families and providers of child welfare or mental health services. ()

02. Continuing Education. Following designation as a treatment foster home, each treatment foster home parent must complete fourteen (14) hours of additional training per year as specified in an agreement developed between the treatment foster parents and the Department. ()

03. Availability. At least one (1) treatment foster parent, in each treatment family home, must be available twenty-four (24) hours a day, seven (7) days a week to respond to the needs of the foster child. ()

024. Payment. ~~Payment will be made through a professional services contract with the Department for a basic rate and cost for social services total of one thousand dollars (\$1,000) per month per child. The Department will pay treatment foster parents up to one thousand eight hundred (\$1,800) dollars per month, per child, which includes the monthly payment rate specified in Sections 483 and 484 of these rules. The payment will be made to treatment foster parents in accordance with a contract with the Department. The purpose of the contract is to make clear that the treatment foster parents must fulfill the requirements for treatment foster parents under the child's treatment plan referenced in Subsection 485.06 of this rule.~~ (3-30-07)()

05. Payment to Contractors. The Department may also provide treatment foster care through a contract with an agency that is a private provider of treatment foster care. The Department will specify the rate of payment in the contract with the agency. ()

036. Treatment Plan. The ~~professional~~ treatment foster parent(s) must implement ~~a~~ the portions of the Department-approved treatment plan for which they are designated as responsible, ~~developed in conjunction with the child's family services worker,~~ for each child in their care. This plan is incorporated as part of the family services plan identified in Section 011.05 of these rules. (3-30-07)()

(BREAK IN CONTINUITY OF SECTIONS)

831. HOME STUDY, SUPERVISORY REPORTS, AND REPORTS OF THE COURT FEES.

A family who cares for a child, or children, with special needs ~~through who is in the custody of the Department foster care program, who is not able to pay the costs associated with the pre-placement home study, supervisory reports, or the report to the court, may apply to the regional Child and Family Services Program Manager for a waiver of some or all of the fees~~ is not required to pay the costs of the Department adoption services identified in Section 832 of these rules for the adoption of that child, or children. A relative or kin family being considered by the Department for adoption of a child from foster care who is their relative or kin, is not required to pay the costs referenced in Section 832 of these rules. If a family who ~~receives a waiver of the pre-placement home study fee~~ did not pay the fee uses that home study to pursue adoption of a child not in the Department's custody, ~~the Department will rescind the waiver and the family will be expected to~~ must pay the Department for the full cost of the study and any other applicable fees identified in Section 832 of these rules. (5-8-09)()

(BREAK IN CONTINUITY OF SECTIONS)

861. PROGRESS REPORTS.

Progress reports will be prepared regularly and will be based on the family services worker's findings. (3-30-07)

01. Initial and Subsequent Reports. ~~The first p~~Progress reports must be made ~~within two (2) weeks after placement, and subsequent progress reports must be made~~ at intervals not to exceed thirty (30) days. These reports will include: (3-30-07)

~~a.~~ The family services worker's observation of ~~the~~ each child and the prospective adopting parent(s), with emphasis on: (5-3-03)()

~~ba.~~ Special needs~~,~~ special circumstances, or both, of each child~~(ren)~~ at time of placement; (3-18-99)()

~~eb.~~ Services provided to each child~~(ren)~~ and the family during the report period; (3-18-99)()

~~ec.~~ Services to be provided to each child~~(ren)~~ and the family; (3-18-99)()

- ed.** General appearance and adjustment of each child~~(ren)~~ during the report period (may include eating, sleep patterns, responsiveness, bonding); (3-18-99)(____)
- fe.** Adjustment of each child to all of the following that apply: School, daycare, and day treatment program adjustment; (3-18-99)(____)
- gf.** Health ~~and~~ developmental progress, and medical practitioner information for each child; (3-18-99)(____)
- hg.** Whether ~~the~~ each child~~(ren)~~ have has been accepted for coverage on the family's medical insurance, when coverage begins, and whether there will be any limitations, exclusions, or both; (3-30-01)(____)
- ih.** Family's adjustment to adoptive placement; (3-18-99)
- ji.** ~~Whether respite care is a need for the family~~ Adoption assistance negotiation; (3-18-99)(____)
- kj.** Changes in family situation or circumstances; (3-18-99)
- lk.** Areas of concern during the report period as addressed by ~~both~~ each child~~(ren)~~ and the adoptive parent(s); and (5-3-03)(____)
- ml.** The ~~D~~date of the next required six (6) month review or twelve (12) month permanency hearing; (3-18-99)(____)

02. Monthly Foster Care Payments -- Pre-Adoptive Placement. To receive Title IV-E monthly foster care payments during the period pending completion of adoption, the prospective adoptive parent(s) must have a foster care license. (3-20-04)

03. ~~Final Progress Report.~~ ~~The final report must include pertinent information about the readiness of the child and the family for completion of the adoption. The family's decision to apply for adoption assistance benefits for the child should be documented. The family's attorney who will be handling the finalization of the adoption should be identified. The family's health insurance carrier should be identified, along with the date the child's medical coverage will begin. An up-to-date medical report on the child must be obtained from the child's physician, so that the Department will have current information about the health of the child. Any problem in placement must be brought to the attention of the Department.~~ (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

900. ADOPTION ASSISTANCE.

The purpose of the adoption assistance program is to encourage the legal adoption of children with special needs who would not be able to have the security of a permanent home without support payments. Applications are made through the Division of Family and Community Services, Resource Development Unit for a determination of eligibility. Once an application for adoption assistance is submitted to the Division of Family and Community Service's, the Division will respond with a determination of the child's eligibility within forty-five (45) days. (3-30-07)

01. Determination of Eligibility for Title IV-E Adoption Assistance. Child and Family Services will determine whether a child is a child with special needs. Children applying for adoption assistance benefits must meet Idaho's definition of a child with special needs according to Section 473 (c) of P.L. 96-272 (The Adoption Assistance and Child Welfare Act of 1980). There are five (5) ways a child can be eligible for Title IV-E adoption assistance: (5-8-09)

- a.** Child is Aid to Families with Dependent Children (AFDC) eligible, is in the custody or care of the

public child welfare agency or an Indian tribe with whom the state has a IV-E agreement and meets the definition of a child with special needs. For children whose adoption assistance eligibility is based on the child's AFDC eligibility, the child must meet the AFDC criteria at the time of removal from his home. (5-8-09)

i. If the child is removed from his home in accordance with the first judicial determination, such determination must indicate that it was contrary to the welfare of the child to remain in the home. (5-8-09)

ii. If the child is removed from the home in accordance with a voluntary out-of-home placement agreement, the child must receive at least one (1) Title IV-E foster care payment to be eligible for Title IV-E adoption assistance. (5-8-09)

b. Child is eligible for Supplemental Security Income (SSI) benefits and meets the definition of a child with special needs. (5-3-03)

i. A child is eligible for adoption assistance if, at the time the adoption petition is filed, the child has met the requirements for Title XVI (SSI) benefits; (5-3-03)

ii. The circumstances of a child's removal from his home or whether the public child welfare agency has responsibility for the child's placement and care is not relevant. (5-3-03)

c. Child has been voluntarily relinquished to a private non-profit adoption agency and meets the definition of a child with special needs. (5-3-03)

i. The child must meet the requirements, or would have met the requirements, of the AFDC program as such sections were in effect on July 16, 1996, in or for the month in which the relinquishment occurred, or court proceedings were held which lead to the removal of the child from his home; (5-3-03)

ii. At the time of the voluntary relinquishment, the court must make a judicial determination that it would be contrary to the welfare of the child for the child to remain in the home. (5-8-09)

d. Child is eligible for Title IV-E adoption assistance as a child of a minor parent and at the time of the adoption petition the child meets the definition of a child with special needs. (5-3-03)

i. The child's parent is in foster care and receiving Title IV-E foster care maintenance payments that cover both the minor parent and child at the time the adoption petition is filed; and (5-3-03)

ii. The child continues to reside in the foster home with his minor parent until the adoption petition has been filed. If the child and minor parent have been separated in foster care prior to the time of the adoption petition, the child's eligibility for Title IV-E adoption assistance must be determined based on the child's current and individual circumstances. (5-3-03)

e. Child is eligible due to prior Title IV-E adoption assistance eligibility and meets the definition of a child with special needs. (5-3-03)

i. A child whose adoption later dissolves or the adoptive parent(s) die, may continue to be eligible for Title IV-E adoption assistance in a subsequent adoption. (5-3-03)

ii. The subsequent adoption of a child may be arranged through an independent adoption, private agency, or state agency. (5-3-03)

iii. No needs or eligibility redetermination is to be made upon a subsequent adoption. The child's need and eligibility remain unchanged from what they were prior to the initial adoption. (5-3-03)

iv. It is the responsibility of the placing state to determine whether the child meets the definition of special needs and to pay the subsidy in a subsequent adoption. (5-3-03)

02. Special Needs Criteria. The definition of special needs includes the following factors: (3-30-07)

- a. The child cannot or should not be returned to the home of the parents as evidenced by an order from a court of competent jurisdiction terminating parents rights ~~or an Abandonment Certificate~~ or its equivalent ~~issued by a governmental entity either domestic or foreign~~; and (5-8-09)(____)
- b. The child has a physical, mental, emotional, or medical disability, or is at risk of developing such disability based on known information regarding the birth family and child's history, or (3-18-99)
- c. The child's age makes it difficult to find an adoptive home; or (3-18-99)
- d. The child is a member of a sibling group that must not be placed apart; and (5-3-03)
- e. State must make a reasonable but unsuccessful effort to place the child with special needs without a subsidy, except in cases where it is not in the best interests of the child due to his significant emotional ties with the foster parent(s) or relative(s) who are willing to adopt the child. (5-3-03)

03. Determination of Eligibility for State Funded Adoption Assistance. Children in state custody who meet the special needs criteria found in Subsection 900.02 of these rules and do not meet any of the criteria for Title IV-E adoption assistance found at Subsection 900.01 in these rules, may be eligible for state-funded adoption assistance benefits. If the child is determined ineligible for Title IV-E adoption assistance, the application will be evaluated for a state-funded subsidy. (3-30-07)

04. Interjurisdictional Adoptions. When a child's adoption is arranged through the care and placement of a private non-profit adoption agency in another state and the adoptive family are residents of Idaho, the state of Idaho is responsible for the eligibility determination, negotiation, and payment of any subsequent Title IV-E adoption assistance benefits. (3-30-07)

05. International Adoptions and Adoption Assistance. A child who meets the criteria for special needs under Subsection 900.02 of this rule, who is not a citizen or resident of the United States, and who was adopted outside of the United States or was brought into the United States for the purpose of being adopted, is not eligible to receive adoption assistance. This restriction does not prohibit adoption assistance payments for a child described in this Subsection who is placed in foster care subsequent to the failure, as determined by the State, of the initial adoption of the child by the adoptive parents. (____)

(BREAK IN CONTINUITY OF SECTIONS)

910. TYPES AND AMOUNTS OF ASSISTANCE.

The needs of the child and the family, including any other children in the family, will be considered in determining the amount and type of support to be provided. Assistance may include the following: (3-30-07)

01. Nonrecurring Adoption Reimbursement. Payment for certain one (1) time expenses necessary to finalize the adoption may be paid when a family adopts a special needs child. The child's eligibility must be determined and the contract for reimbursement must be fully executed prior to the finalization of the adoption. The reimbursement is paid only after the adoption finalizes. The expenses are defined as reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption finalization of a child with special needs and which are not incurred in violation of state or federal law. They may include mileage and lodging involved in visiting the child before placement occurs. These expenses cannot be reimbursed if they are paid for the adoptive parents by other sources such as an employer. Documentation of expenses must be submitted. Costs are reimbursable up to two thousand dollars (\$2,000) per child and are entered on the Adoption Assistance Program Agreement. ~~Families applying for Nonrecurring Adoption Reimbursement separate from the regular Adoption Assistance program must submit an application for Nonrecurring Adoption Expenses Reimbursement, obtain a determination of eligibility, and negotiate a Nonrecurring Adoption Expenses Reimbursement Agreement prior to the finalization of the child's adoption. Families applying for Nonrecurring Adoption Expenses Reimbursement on behalf of a child who is adopted through an international adoption must~~

~~submit an application for Nonrecurring Adoption Expenses Reimbursement, obtain a determination of eligibility, and negotiate a Nonrecurring Adoption Expenses Reimbursement Agreement prior to the family's departure to the foreign country and the child's adoption in the foreign country.~~ Children for whom the adoption has been finalized without a negotiated Nonrecurring Expenses Reimbursement Agreement are not eligible to apply for these benefits.

(5-3-03)()

02. Monthly Cash Payment. Financial assistance in the form of a monthly cash payment may be established to assist the adoptive family in meeting the additional expenses of the child's special needs. The amount of the payment must be negotiated with the family by the adoption worker and based on the family's circumstances and what additional resources are needed to incorporate the child into the adoptive family. The amount must not exceed the rate for family foster care which would be made if the child were in a family foster home in Idaho. For children who meet the definition of special needs at Subsection 900.02 of these rules, no monthly cash payment is allowable until such time as the specific disability for which the child is known to be at risk becomes evident. For children who are currently eligible for Personal Care Services (PCS), the professional foster care rate may be used in negotiating the adoption assistance upon prior approval of the Department's Family and Community Services (FACS) Division Administrator. Benefits will continue until the child reaches eighteen (18) years, based upon an annual determination of continuing need. (3-30-07)

03. Title XIX -- Medicaid Coverage. Any child with special needs who has an adoption assistance agreement in effect is also eligible for medical coverage. A Title IV-E adoption assistance agreement provides Medicaid coverage in the state of Idaho and in all other states. Under a state-funded adoption assistance agreement, a child living in Idaho is eligible for Medicaid. If the family moves to another state, Medicaid may or may not be available. If Medicaid is not available in the new state, provisions for medical coverage must be contained in the adoption assistance agreement or in an amendment to the agreement. Families enrolled in a group health plan who plan to request to use Medicaid as the child's primary health care coverage must apply to the Idaho Health Insurance Premium Payment (HIPP) program at the time of benefit negotiation. Medicaid provides secondary coverage after the family's health insurance has reached its benefit limit. All services reimbursed by Medicaid must be determined to be medically necessary. Prior authorization may be required for some Medicaid reimbursable services. Medicaid benefits are available until the child reaches the age of eighteen (18), based upon an annual determination of continuing need. (3-30-07)

04. Title XX -- Social Services. Any child with special needs who has an Adoption Assistance Agreement is also eligible for state-authorized Title XX - Federal Social Services Block Grant funded services. (3-30-07)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING
DOCKET NO. 16-0602-0901 (FEE RULE)
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005, Idaho Code.

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

Wednesday, September 9, 2009 7:00 p.m. MDT	Monday, September 21, 2009 7 p.m. PDT	Wednesday, September 23, 2009 7:00 p.m. MDT
Dept. of Health & Welfare Region 4 DHW - Region III Office 3402 Franklin Road Sawtooth Room Caldwell, ID	Dept. of Health & Welfare Region 1 1120 Ironwood Drive 1st Floor Large Conference Rm. Coeur d'Alene, ID	Dept. of Health & Welfare Region 7 State Office Building 150 Shoup Ave. 2nd Floor Conference Room Idaho Falls, ID

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

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

Under Senate Bill 1112, the 2009 Legislature amended the statewide system for the protection of children in daycare facilities. These changes to Title 39, Chapter 11, Idaho Code, take effect January 1, 2010. These amendments to statute necessitated corresponding changes and clarification in this chapter of rules.

These rule changes provide requirements for areas related to daycare licensing including fees, criminal history checks, safety and health standards, licensure requirements, suspension, denial, and revocation of licenses. While amending these rules for daycare standards, other updates were made for consistency in language and for clarification, deleting obsolete language and updating references. These amendments will help assure processes that will provide protection for the health and safety of children in a daycare licensed by the Department.

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

The 2009 Legislature amended Section 39-1107, Idaho Code, establishing a maximum licensing fee for a basic daycare license not to exceed \$175 for daycare centers, and \$100 for group daycare facilities. Criminal history and background checks are the responsibility of the applicant and are based on the actual cost of the check.

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 Department estimates that the cost for the State Fiscal Year 2011 will be approximately \$45,000, which is the difference for licensing fees collected and expenditures for the health and safety inspections. This cost will be covered by the Federal Child Care Development Funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), negotiated rulemaking was conducted. A Notice of Negotiated Rulemaking was published in the July 1, 2009, Idaho Administrative Bulletin, Vol.09-7, page 91. The Department entered into negotiated rulemaking to seek input from families, daycare providers, and other stakeholders in the development of rules to align with changes in statute.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Landis Rossi at 334-5688.

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 September 23, 2009.

DATED this 31st day of July, 2009.

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 PROPOSED TEXT FOR DOCKET NO. 16-0602-0901

000. LEGAL AUTHORITY.

Under Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code, the Idaho Legislature authorizes the Department of Health and Welfare and the Board of Health and Welfare to adopt and enforce rules governing standards and procedures for licensing or certification of daycare centers, group daycare facilities, family daycare homes, foster homes, children's agencies and children's residential care facilities in Idaho. (7-1-09)()

001. TITLE, SCOPE, AND POLICY, PURPOSE, AND EXCEPTIONS TO LICENSING.

01. Title. The title of this chapter of rules is IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (7-1-09)

02. Scope. These rules establish minimum standards and procedures for ~~the~~ licensing or certification of: ()

a. Daycare centers; ()

b. Group daycare facilities; ()

c. Family daycare homes, voluntarily; ()

d. ~~Foster homes;~~ ()

e. ~~Children's agencies, and;~~ ()

f. ~~Children's residential care facilities, including non-accredited residential schools;~~ ()

g. ~~Children's camps providing child care in Idaho. These standards apply~~ for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period; ()

h. ~~e~~Children's therapeutic outdoor programs; in Idaho; ()

i. ~~a~~Alcohol-drug abuse treatment facilities for adolescents certified according to IDAPA 16.06.03, "Rules and Minimum Standards Governing Alcohol/Drug Abuse Prevention and Treatment Programs"; and ()

j. ~~f~~Facilities specializing in maternity care to minors; ~~daycare centers and group daycare facilities. Also included are standards and procedures for voluntary compliance for licensing of group daycare facilities and family daycare homes.~~ (7-1-09)()

03. Policy. It is the policy of the Department to assure that children of this state receive adequate substitute parental care in the event of absence, temporary or permanent inability of parents to provide care and protection for their children or the parents are seeking alternative twenty-four (24) hour long-term care for their children. This policy is based on the fact that children are vulnerable and not capable of protecting themselves. When parents, for any reason have relinquished their children's care to others, there arises the possibility of certain risks to those children's lives, health and safety which the community as a whole must protect against. This requires the offsetting statutory protection of review and, in certain instances, licensing or registration. (7-1-09)

04. Purpose. The Department issues a license to assure, as is reasonably practicable, that the care, services, and physical surroundings of each program or facility are in substantial compliance with these rules and minimum standards. ()

a. According to Section 39-1117, Idaho Code, a daycare license does not constitute a representation affirming to any person that the program or facility is free from risk. A daycare licenses does not guarantee adequacy of care, services, safety, or the well-being of any child, employee, contractor, volunteer, or visitor of a daycare facility. It is the parents primary responsibility for evaluation and selection of daycare services. ()

b. The state, its employees or agents of the state or its political subdivisions, will not be liable for nor will a cause of action exist for any loss or damage based upon the failure of any daycare facility to meet the minimum standards contained in these rules. ()

05. Exceptions to Licensing. The minimum standards and licensing requirements in these rules do not apply to: ()

a. The occasional or irregular care of a neighbor's, relative's, or friend's child or children by a person not ordinarily in the business of providing daycare; ()

b. The operation of a private school or religious school for educational purposes for children over four (4) years of age, or a religious kindergarten; ()

c. The provision of occasional care exclusively for children or parents who are simultaneously in the same building; ()

d. The operation of day camps, programs and religious schools for less than twelve (12) weeks during a calendar year or not more often than once a week; ()

e. The provision of care for children of a family within the second degree of relationship as defined in Section 011 of these rules; or ()

f. Foster homes that have been approved by a licensed children's agency, provided the standards for approval by such agency are at least as stringent as the rules and standards established by the Board and that such agency is maintained, operated, and conforms with these rules and standards of the Board and the provisions in Section 39-1213(b), Idaho Code. ()

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (4-11-06)

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. (4-11-06)

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (4-11-06)

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (4-11-06)

05. Internet Website. The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. (4-11-06)

06. Child Care Licensing Authority Location. The Department's child care licensing authority for children's residential treatment facilities, children's agencies, and children's outdoor therapeutic programs is located at 450 West State Street, Boise, Idaho 83702; Phone (208) 334-5700. (~~7-1-09~~)()

07. Daycare Licensing Authority Locations. The Department's daycare licensing authorities for daycare centers, group daycare facilities, and family daycare homes are located in the Department's Regional Offices listed below: ()

a. Region I Office Address: 2195 Ironwood Court, Coeur d'Alene, ID 83814. ()

b. Region II Office Address: 1118 "F" Street, P. O. Drawer B, Lewiston, ID 83501. ()

c. Region III Office Address: 3402 Franklin Rd., Caldwell, ID 83605. ()

d. Region IV Office Address: 1720 Westgate Dr., Boise, ID 83704. ()

e. Region V Office Address: 823 Harrison Dr., Twin Falls, ID 83301. ()

f. Region VI Office Address: 421 Memorial Drive, Pocatello, ID 83204. ()

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." (4-11-06)

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. (4-11-06)

03. Licensure or Deficiencies Records. Under Section 9-340C(9), Idaho Code and IDAPA 16.05.01, "Use and Disclosure of Department Records," information referring or relating to individuals, programs, or facilities subject to this chapter of rules, IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," will be released to the public upon written request if they are part of an inquiry into an individual's or organization'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. ()

007. -- 008. (RESERVED).

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance with Department Criminal History and Background Check. Criminal history and background checks are required for ~~providers~~ individuals who are licensed ~~or certified~~ under these rules. ~~Providers~~ Individuals who are required to have a criminal history check must comply with IDAPA 16.05.06, "Criminal History and Background Checks," with the exception of those individuals described in Subsection 009.04 of ~~these~~ this rules. (3-30-07)(____)

02. When ~~Certification or~~ License is Granted. The applicant must have a completed criminal history and background check, including clearance, prior to ~~certification or~~ licensure. Any other adult living in the home must complete a ~~self declaration form~~ criminal history application, must be fingerprinted, and must not have any ~~designated~~ disqualifying crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks." (3-30-07)(____)

03. Applicants and Providers Subject to Criminal History Check Requirements. The following applicants and providers must receive a criminal history and background check: (3-30-07)

a. Adoptive Parents. The criminal history and background check requirements applicable to adoptive parents are found in Subsection 671.02 of these rules. (3-30-07)

b. Child Care Facility ~~Staff~~. The criminal history and background check requirements applicable to a child care facility are found in Section 109 of these rules. (3-30-07)(____)

c. Children's Agency Facility ~~Staff~~. The criminal history and background check requirements for a children's agency facility are found in Section 109 of these rules and in Section 39-1210(10), Idaho Code. (3-30-07)(____)

d. Children's Residential Care Facility ~~Staff~~. The criminal history and background check requirements for a children's residential care facility are found in Section 109 of these rules and in Section 39-1210(10), Idaho Code. (3-30-07)(____)

e. Children's Therapeutic Outdoor Program ~~Staff~~. The criminal history and background check requirements for a children's therapeutic outdoor program are found in Section 810 of these rules and in Section 39-1208(8), Idaho Code. (3-30-07)(____)

f. Daycare Center, Group Daycare Facility, ~~Staff~~ Family Day Care Home. The criminal history and background check requirements applicable to ~~licensed a~~ daycare providers center, group daycare facility, and family daycare home are found in Section ~~4309~~ of these rules and in Sections 39-1105, 39-1113, and 39-1114, Idaho Code. (3-30-07)(____)

g. Licensed Foster Care Home. The criminal history and background check requirements applicable to licensed foster care are found in Section 404 of these rules and in Section 39-1211(4), Idaho Code. (3-30-07)

04. Exceptions to Criminal History and Background Checks for Certain Youths. Criminal history and background checks are optional for certain youth placed in licensed foster homes and licensed residential care facilities. (3-30-07)(____)

a. Youth in foster care who reach the age of eighteen (18) and continue to reside in the same licensed foster home. (3-30-07)

b. Youth in a children's residential care facility who reach the age of eighteen (18) and continue to live in the same licensed residential facility. (3-30-07)

05. Criminal History and Background Check at Any Time. The Department can require a criminal history and background check at any time on any individual who: (____)

a. ~~is a permanent~~ resident ~~of~~ an adult living in a licensed foster home ~~or~~; (____)

b. Is a resident or adult living in, employee, contractor, volunteer, or staff member of a licensed residential facility; or ~~(3-30-07)~~()

c. Is a owner, operator, or employee of a daycare center, group daycare facility, family daycare home, and all other individuals who are thirteen (13) years of age or older who have unsupervised direct contact with children or who are regularly on the premises. ()

010. DEFINITIONS A THROUGH M.

For the purposes of these rules, the following terms apply. (7-1-09)

01. Accredited Residential School. A residential school for any number of children subject to the jurisdiction of the Idaho Department of Education that has been certified as accredited according to the accrediting standards promulgated by the Idaho State Board of Education or a secular or religious accrediting association recognized by the Idaho Department of Education. (3-30-01)

02. Alcohol-Drug Abuse Treatment Facility. A children’s residential care facility specializing in providing programs of treatment for children whose primary problem is alcohol or drug abuse, certified according to IDAPA 16.06.03, “Rules and Minimum Standards Governing Alcohol/Drug Abuse Prevention and Treatment Programs.” ~~(3-30-01)~~()

03. Board. The Idaho State Board of Health and Welfare. (3-30-01)

04. Chief Administrator. The duly authorized representative of an organization responsible for day-to-day operations, management and compliance with these rules and Title 39, Chapter 12, Idaho Code. (7-1-09)

05. Child. ()

a. For requirements of Title 39, Chapter 12, Idaho Code, and Sections 400 through 999 of these rules, “child” means ~~A~~an individual less than eighteen (18) years of age, synonymous with juvenile or minor. ~~(3-30-01)~~()

b. For requirements of Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, “child” means a person less than thirteen (13) years of age. ()

06. 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)

07. Child-Staff Ratio. For requirements of Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, “child-staff ratio” means the maximum number of children allowed under the care and supervision of one (1) staff person. ()

078. Children's Agency. A person who operates a business for the placement of children in foster homes, children's residential care facilities or for adoption in a permanent home and who does not provide child care as part of that business. A children’s agency does not include a licensed attorney or physician assisting or providing natural and adoptive parents with legal services or medical services necessary to initiate and complete adoptive placements. (3-30-01)

089. Children's Camp. A program of child care at a location away from the child’s home, which is primarily recreational and includes the overnight accommodation of the child and is not intended to provide treatment, therapy or rehabilitation for the child. A children’s camp which only provides child care for any one (1) child for less than nine (9) consecutive weeks in any one (1) year period is exempt from the licensure and disclosure provisions of this chapter. A children’s camp which provides child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period constitutes a children’s residential care facility. (7-1-09)

0910. Children's Institution. A person defined herein, who operates a residential facility for unrelated children, for the purpose of providing child care. Children’s institutions include foster homes, children's residential

care facilities, maternity homes, or any residential facility providing treatment, therapy or rehabilitation for children, or any children's therapeutic outdoor program. (5-3-03)

101. Children's Residential Care Facility. A facility that provides residential child care, excluding foster homes, residential schools, juvenile detention centers and children's camps that: (3-30-01)

a. Seeks, receives or enrolls children for treatment of special needs such as substance abuse, mental illness, emotional disturbance, developmental disability, mental retardation, or children who have been identified by the judicial system as requiring treatment, therapy, rehabilitation or supervision; (3-30-01)

b. Receives payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; or (3-30-01)

c. Represents to the payor of the child care services provided by the children's facility that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services; and (5-3-03)

d. May include a children's therapeutic outdoor program whether or not that program operates out of a standard facility. (5-3-03)

102. Children's Therapeutic Outdoor Program. A program which is designed to provide behavioral, substance abuse, or mental health services to minors in an outdoor setting and serves either adjudicated or non-adjudicated youth. Children's Therapeutic Outdoor programs do not include outdoor programs for minors that are primarily designed to be educational or recreational that may include Boy Scouts, Girl Scouts, 4-H and other youth organizations. (5-3-03)

103. 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. (7-1-09)

104. Contraband. Goods or merchandise, the possession of which is prohibited, such as weapons and drugs. (3-30-01)

105. Daycare. The care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood, ~~or~~ marriage, or legal guardianship to the person or persons providing the care, in a place other than the child's or children's own home or homes. (3-30-01)()

106. Daycare Center. A place or facility providing daycare for compensation ~~for~~ to a child or children not related by blood, marriage, or legal guardianship to the person or persons providing the care, where thirteen (13) or more children, regardless of relationship to the person or persons providing the care, are regularly on the premises. ~~(3-30-01)~~()

107. Department. The Idaho Department of Health and Welfare ~~or its designee.~~ (7-1-09)()

108. Direct Care Staff. An employee who has direct personal interaction with children in the provision of child care and is included as staff in meeting the minimum staff-child ratio requirements. (3-30-01)

109. Director. Director of the Idaho Department of Health and Welfare ~~or designee.~~ (3-30-01)()

1020. Family Daycare Home. A home, place, or facility providing daycare for compensation to a child or children not related by blood, marriage, or legal guardianship to the person or persons providing the care, where six (6) or fewer children during part of a twenty-four (24) hour day, regardless of relationship to the person or persons providing the care, are regularly on the premises. ~~(3-30-01)~~()

201. Foster Care. The twenty-four (24) hour substitute parental care of children by persons who may or may not be related to a child. (7-1-09)

~~242.~~ **Foster Home.** The private home of an individual or family licensed or approved as meeting the standards for foster care and providing twenty-four (24) hour substitute parental care to six (6) or fewer children. (7-1-09)

~~223.~~ **Foster Parent.** A person or persons residing in a private home under their direct control to whom a foster care license ~~or certification~~ has been issued. (~~3-30-01~~)()

~~234.~~ **Group Daycare Facility.** A home, place, or facility providing daycare for compensation to a child or children not related by blood, marriage or legal guardianship to the person or person providing the care, where seven (7) to twelve (12) children, regardless of relationship to the person or persons providing the care, are regularly on the premises. (~~3-30-01~~)()

~~245.~~ **Inter-Country Adoption.** The placement of a child from one (1) country to another for the purpose of adoption. (3-30-01)

~~25-~~ **Licensing Authority.** ~~The Department's child care licensing unit responsible for licensure or certification of Children's Residential Treatment Facilities, Children's Agencies, and Children's Outdoor Therapeutic Program.~~ (~~7-1-09~~)

~~26.~~ **Mechanical Restraint.** Devices used to control the range and motion of an individual, including handcuffs, restraint boards, restraint chairs, and restraint jackets. (3-30-01)

~~27.~~ **Medical Professionals.** Persons who have received a degree in nursing or medicine and registered nurse, nurse practitioner, physician's assistant and medical doctor. (3-30-01)

~~28.~~ **Member of the Household.** Any person, other than a foster child, who resides in, or on the property of, a foster home. (3-30-01)

011. DEFINITIONS N THROUGH Z.
For the purposes of these rules, the following terms apply. (7-1-09)

01. Nonaccredited Residential School. A residential school for any number of children that is not certified or accredited pursuant to Section 39-1207, Idaho Code, or has lost accreditation and is subject to the jurisdiction of the Department as a children's residential care facility pursuant to Section 39-1210, Idaho Code, unless and until accreditation is certified by the Idaho Department of Education. (3-30-01)

02. Non-Compliance. Violation of, or inability to meet the requirements of, the act or a rule promulgated under the act, or terms of licensure. (3-30-01)

03. Organization. A children's agency or a children's residential care facility. (3-30-01)

04. Person. Any individual, group of individuals, associations, partnerships or corporations. (3-30-01)

05. Physical Intervention. Physical restraint utilized to control the range and motion of an individual. (3-30-01)

06. Placement. The activities and arrangements related to finding a suitable licensed home or facility in which a child will reside for purposes of care, treatment, adoption, or other services. (3-30-01)

07. Plan of Correction. The detailed procedures and activities developed between the licensing authority and caregiver required to bring a foster family, facility, or children's agency into conformity with these licensing rules. (3-30-01)

08. Regularly on the Premises. For the purposes of Sections 300 through 399 of these rules, regularly on the premises means twelve (12) hours or more in any one (1) month, or daily during any hours of operation. ()

- ~~089~~. **Relative.** Individuals related to a child by blood, marriage or adoption. (3-30-01)
- ~~0910~~. **Representative.** An employee of the Department of Health and Welfare. (3-30-01)
- ~~101~~. **Residential School.** A residential facility for any number of children which: (3-30-01)
- a. Provides a planned, scheduled, regular, academic or vocational program for students in the elementary, middle or secondary grades as defined in Section 33-1001, Idaho Code; and (3-30-01)
- b. Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and (3-30-01)
- c. Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; and (3-30-01)
- d. Does not receive payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability, or mental retardation; and (3-30-01)
- e. Does not represent to the payor of child care services provided that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services. (3-30-01)
- ~~142~~. **Restraint.** Interventions to control the range and motion of a child. (3-30-01)
- ~~123~~. **Seclusion.** A room within a facility designed to temporarily isolate an individual in order to gain emotional or physical control by means of structure and minimal stimulation. (3-30-01)
- 14.** **Second Degree of Relationship.** The second degree of relationship refers to persons related consanguineally (“blood relative”) and affinally (“relative by marriage”) and includes their spouses. The number of degrees between two (2) relatives is calculated by summing the number of ties between each relative and the common ancestor. ()
- ~~135~~. **Secure.** A physically restrictive setting, as in a locked or guarded residential facility. (3-30-01)
- ~~146~~. **Security Risk.** An individual who presents the possibility by actions, behavior or emotional reaction that may result in harm to self or others, or escape from physical control. (3-30-01)
- ~~157~~. **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. (7-1-09)
- ~~168~~. **Shelter Care.** The temporary or emergency out-of-home care of children in a foster home or residential facility. (3-30-01)
- ~~179~~. **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.” (7-1-09)
- ~~1820~~. **Soft Restraints.** Mechanical restraints made of leather, cloth or other combinations of fibers, utilized to control the range of motion of an individual. (3-30-01)
- 21.** **Supervision.** For requirements of Sections 300 through 399 of these rules, supervision is defined as within sight and normal hearing range of the child or children being cared for. ()
- ~~1922~~. **Time-Out.** Separation of a child from group activity as a means of behavior management. (3-30-01)

203. Training. The preparation, instruction and education related to child care that increases the knowledge, skill and abilities of a foster parent, agency and residential care facility staff or volunteers. (3-30-01)

214. Transitional Living. Living arrangements and aftercare services for children, or as continued care, to gain experience living on their own in a supportive and supervised environment prior to emancipation. (3-30-01)

225. Variance. The means of complying with the intent and purpose of a child care licensing rule in a manner acceptable to the Department other than that specifically prescribed in the rule. (7-1-09)

236. Waiver. The non-application of a child care licensing rule, except those related to safety, extended to a relative foster home by the licensing authority which serves to promote child health, well-being, and permanence while not compromising safety. (7-1-09)

012. -- 099. (RESERVED).

LICENSING AND CERTIFICATION
(Sections 100 through 299)

100. LICENSING AND CERTIFICATION.

The purpose of licensing ~~and certification~~ is to set minimum standards and to monitor compliance. Persons applying for licensure need to be physically and emotionally suited to protect the health, safety and well-being of the children in their care. Physical surroundings must present no hazards to the children in care. (7-1-09)(____)

~~**01. Local Option.** If a city or county, within its respective jurisdiction, has adopted and is enforcing ordinances for regulating or licensing of daycare services which are at least as stringent as those contained in Subsections 300.01 through 300.15 of these rules, then those provisions of Section 39-1108, Idaho Code, will not apply within such city or county, unless the ordinance is subsequently repealed or is no longer enforced. (7-1-09)~~

~~**02. Exemptions From Licensing.** Under Sections 39-1103 and 39-1211, Idaho Code, the occasional or irregular care of a neighbor's, relative's, or friend's child or children by a person not ordinarily engaged in child care is exempt from licensure requirements for daycare and foster homes. Foster homes which have been certified by a licensed children's agency are exempt from licensure requirements, provided the standards for approval by such agency are at least as stringent as the rules and standards established by the Board and that such agency is maintained and operated in conformity with the rules and standards of the Board under Section 39-1213(b), Idaho Code. (7-1-09)~~

~~**031. Responsibilities of the Foster Parent or Operator.** A foster parent or operator must conform to the terms of the license ~~or certification~~. In addition: (3-30-01)(____)~~

~~**02. Responsible for Knowledge of Standards.** The foster parent or operator is responsible for knowing the standards and rules applying to the type of foster home, children's residential care facility or children's agency covered by the license ~~or certification~~, and for conforming to them at all times; and (3-30-01)(____)~~

~~**03. Responsible for Agency Staff Knowledge.** The operators of child care facilities and agencies are responsible for ensuring that all staff members are familiar with the applicable rules governing the children's residential care facility, children's therapeutic outdoor program, or children's agency. A copy of these rules are available from the Office of the Administrative Rules Coordinator, 650 W. State Street, Boise ID 83720, or on the Office of the Administrative Rules Coordinator's website, <http://adm.idaho.gov/adminrules/>; and (7-1-09)(____)~~

~~**04. Return of License.** The foster parent or operator must immediately return his license ~~or certification~~ to the Department under any of the following circumstances: (3-30-01)(____)~~

~~**ia.** Changes of management or address; ~~or~~ (3-30-01)(____)~~

~~##b.~~ Upon suspension or revocation of the license ~~or certification~~ by the Department; or (3-30-01)(____)

~~##c.~~ Upon voluntary discontinuation of service. (3-30-01)

101. APPLICATIONS FOR LICENSE ~~OR CERTIFICATION.~~

~~An applications~~ for a license ~~or certification are to~~ must be submitted ~~and action is to be initiated on all applications within thirty (30) days after receipt, that addresses each requirement for the particular type of home, facility or agency to the Department.~~ Licensing ~~and certification~~ studies will follow the format of these rules and will contain a specific recommendation regarding the terms of the license ~~or certification~~. All foster homes, children's agencies, children's therapeutic outdoor programs, daycare centers, group daycare facilities, family daycare homes voluntarily licensed by the Department, and children's residential care facilities must also comply with applicable Idaho city and county ordinances. (7-1-09)(____)

01. Sanitation Inspection. The applicant must request and obtain a sanitation inspection and written report from the applicable Idaho Public Health District. (7-1-09)

02. Fire Inspection. The applicant must request and obtain a fire safety inspection and written report from the office of the Idaho State Fire Marshall or local fire department. (7-1-09)

03. Corrective Action and Fees. The applicant must correct all deficiencies noted in the sanitation and fire reports, in order to provide documentation that the applicant has passed the inspections, and is responsible to pay any fees charged. (7-1-09)

04. Planning and Zoning. The applicant must provide documentation demonstrating it meets planning and zoning requirements of the applicable Idaho city or county. (7-1-09)

102. DISPOSITION OF APPLICATIONS.

The Department will initiate action on each completed application within thirty (30) days after receipt that addresses each requirement for the specific type of home, facility, or agency. Upon receipt of a completed application and study, the licensing authority will review the materials for conformity with these rules. (7-1-09)(____)

01. Approval of Application. A license ~~or certification~~ will be issued to any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential facility or children's agency found to be in conformity with these rules governing the home or facility. The license ~~or certification~~ is issued according to the terms specified in the licensing ~~or certification~~ study and will be mailed to the applicant. (7-1-09)(____)

02. Regular License. A regular license ~~or certification~~ will be issued to any daycare ~~or center,~~ group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential care facility, children's therapeutic outdoor program, or children's agency found to be in conformity with these rules governing the facility and will specify the terms of licensure ~~or certification~~, such as: (7-1-09)(____)

a. Full time or daycare; (3-30-01)

b. The number of children who may receive care at any one (1) time; and (3-30-01)

c. Age range and gender, if there are conditions in the foster home or children's residential care facility making such limitations necessary; (3-30-01)

d. The regular license ~~or certification~~ for foster homes, children's agencies and twenty-four (24) hour a day child care residential facilities will be in effect for one (1) year from the date of issuance unless suspended or revoked earlier; (7-1-09)(____)

e. A regular license ~~or certification~~ for a daycare ~~and center,~~ group daycare facility, or family daycare home voluntarily licensed by the Department is in effect for two (2) years from the date of issuance unless suspended or revoked earlier; and (7-1-09)(____)

f. If the license for a foster home is for a specific child only, the name of that child will be shown on the foster home license. (3-30-01)

03. **Waiver.** A regular license ~~or certification~~ may be issued to the foster home of a relative who has received a waiver of licensing rules provided: (7-1-09)(____)

a. The waiver is considered on an individual case basis; (3-30-01)

b. The waiver is approved only for non-safety foster care rules; (7-1-09)

c. All other licensing ~~or certification~~ requirements have been met; (3-30-01)(____)

d. The approval of a waiver of any foster home rules requires the licensing authority to document a description of the reasons for issuing a waiver, the rules being waived, and assurance that the waiver will not compromise the child's safety; and (7-1-09)

e. The approved waiver must be reviewed for continued need and approval at regular intervals not to exceed six (6) months. (7-1-09)

04. **Variance.** A regular license ~~or certification~~ will be issued to a foster home, children's residential care facility or children's agency approved for a variance of a licensing rule provided: (3-30-01)(____)

a. The variance is considered on an individual case basis; (3-30-01)

b. The variance is approved for a non-safety licensing rules; (3-30-01)

c. The approval of a variance must have no adverse effect on the health, safety, and well-being of any child in care at the foster home or facility; (7-1-09)

d. The approval of a variance is documented by the licensing agency and includes a description of the reasons for issuing a variance and assurances that the variance will not compromise any child's health, safety, and well-being; and (7-1-09)

e. The approved variance must be reviewed for continued need and approval annually. (7-1-09)

05. **Provisional License ~~or Certification~~.** A provisional license ~~or certification~~ may be issued to a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential care facility, or children's agency when a licensing standard cannot be met but can be expected to be corrected within six (6) months, provided this does not affect the health, safety and well-being of any child in care at the home or facility. (3-30-01)(____)

a. A provisional license ~~or certification~~ will be in effect for not more than six (6) months. (3-30-01)(____)

b. Only one (1) provisional license ~~or certification~~ will be issued to a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, or children's residential care facility, children's agency, or a children's therapeutic outdoor program in any twelve-month period of time under Sections 39-1216, Idaho Code, and for daycare facilities defined in Section 39-1102, Idaho Code. (7-1-09)(____)

06. **Limited License.** A limited license for a foster home may be issued for the care of a specific child in a home which may not meet the requirements for a license, provided that: (3-30-01)

a. The child is already in the home and has formed strong emotional ties with the foster parents; and (3-30-01)

b. It can be shown that the child's continued placement in the home would be more conducive to their

welfare than would removal to another home.

(3-30-01)

07. Denial of Application. In the event that an application is denied, a signed letter will be sent directly to the applicant by registered or certified mail, advising the applicant of the denial and stating the basis for such denial. An applicant whose application has been denied may not reapply until after one (1) year has elapsed from the date on the denial of application. ~~(7-1-09)~~(____)

08. Failure to Complete Application Process.

(7-1-09)

a. Failure of the applicant to complete the application process within six (6) months of the original date of application will result in a denial of the application. (7-1-09)

b. An applicant whose application has been denied for being incomplete may not reapply until after one (1) year has elapsed from the date on the denial of application. (7-1-09)

103. RESTRICTIONS ON APPLICABILITY AND NONTRANSFER.

01. Issued License. A child care license ~~or certification~~ applies only to the foster home, child care facility, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility, children's agency, or the person and premises designated. Each license is issued in the name of the individual, firm, partnership, association, corporation, or governmental unit identified on the application and only to a specified address of the facility or program stated in the application for the period and services specified. A license issued in the name of a foster parent, child care facility, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, or children's agency applies only to the services specified in the license ~~or certification~~. Any change in management or address renders the license ~~or certification~~ null and void, and the foster parent or operator must immediately return the license ~~or certification~~ to the licensing agency as required in Section 100 of these rules. ~~(3-30-01)~~(____)

02. Nontransferable. A license is nontransferable or assignable from one (1) individual to another, from one (1) business entity or governmental unit to another, or from one (1) location to another. (____)

03. Change in Ownership, Operator, or Location. When there is a change in ownership, operator, or a change in location occurs, the facility or program must reapply for a license as required in Section 101 of these rules. The new owner or operator must obtain a license before starting operations. (____)

(BREAK IN CONTINUITY OF SECTIONS)

105. REVISIT; AND RELICENSE AND RECERTIFICATION.

Revisit; and relicense; and re-certification studies will document how the daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential care facility, or children's agency continues to meet the standards for licensing. Consideration must be given to each point of the standards, including a review of the previous study and original application to determine what changes have occurred. An application for renewal of a license ~~or certification~~ must be made by the operator on the form furnished by the Department, and filled out prior to the expiration date of the license ~~or certification~~ currently in force. When such application for renewal has been made in the proper manner and form, the existing license ~~or certification~~ will, unless officially revoked, remain in force until the Department has acted on the application for renewal. ~~(7-1-09)~~(____)

106. COMPLAINTS AGAINST DAYCARE CENTERS, FOSTER HOMES, CHILDREN'S RESIDENTIAL CARE FACILITIES AND CHILDREN'S AGENCIES.

01. Investigation. The Department will investigate complaints regarding daycare centers, group daycare facilities, family daycare homes voluntarily licensed by the Department, foster homes, children's residential care facilities or children's agencies. The investigation may include further contact with the complainant, scheduled or unannounced visits to the children's residential care facility, foster home, daycare center, group daycare facility,

family daycare home, or children's agency, collateral contacts including interviews with the victim, parents or guardian, children's residential care facility or children's agency administrator, operator, staff, consultants, children in care, other persons who may have knowledge of the complaint, and inspections by fire or health officials. ()

02. Informed of Action. If an initial preliminary investigation indicates that a more complete investigation must be made, the foster parents, operator, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility or children's agency will be informed of the investigation, and any action to be taken, including referral for civil or criminal action. (7-1-09)()

107. SUSPENSION FOR CIRCUMSTANCES BEYOND CONTROL OF FOSTER PARENT OR OPERATOR.

When circumstances occur over which the foster parent or operator has no control including illness, epidemics, fire, flood, or contamination, which temporarily place the operation of the foster home, child care facility, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility, children's therapeutic outdoor program, or children's agency out of conformity with Idaho law or with these rules, the license ~~or certification~~ must be suspended until the nonconformity is remedied. (7-1-09)()

108. SUSPENSION OR REVOCATION FOR INFRACTIONS.

A license ~~or certification~~ may be suspended for infractions of these rules. Such suspension may lead to revocation if the foster parent or operator fails to satisfy the Director that the infractions have been corrected sufficiently to assure conformity with the rules. (7-1-09)()

109. NON-RENEWAL, DENIAL, REVOCATION, OR SUSPENSION OF LICENSE—~~OR CERTIFICATION.~~

If, upon investigation, it is found that an applicant, foster parent, or operator has failed or refused to comply with any of the provisions of the Basic Daycare License Law, Sections 39-1101 through 39-11720, Idaho Code, or the Child Care Licensing Reform Act, Sections 39-12081 through 39-1224, Idaho Code, or with these rules, or with any provision of the license ~~or certification~~, the Director may deny, suspend, revoke, or not renew a license ~~or certification~~. The Department may also deny, suspend, revoke, or ~~not renew~~ deny renewal of a license ~~or certification~~ for any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, child care facility, children's residential care facility, children's agency, children's therapeutic outdoor program, or foster home when any of the following in Subsection 109.01 and 109.02 of this rule is determined: (7-1-09)()

01. Criminal Record. Anyone providing direct care or working onsite under these rules refuses to comply with the requirements in IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-09)

02. Other Misconduct. The applicant, foster parent, operator, or the person proposed as chief executive officer ~~except for daycare facilities~~: (3-30-01)()

a. Fails to furnish any data, statistics, records or information requested by the Department without good cause or provides false information; (3-30-01)

b. Has been found guilty of or is under investigation for fraud, deceit, misrepresentation or dishonesty associated with the operation of a children's residential care facility or children's agency; (3-30-01)

c. Has been found guilty of or is under investigation for the commission of any felony; (3-30-01)

d. Has failed to exercise fiscal accountability toward a client or the Department regarding payment for services; or (3-30-01)

e. Has knowingly permitted, aided or abetted the commission of any illegal act on the premises of the daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential care facility, or children's agency. (7-1-09)()

(BREAK IN CONTINUITY OF SECTIONS)

111. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENTS OR CHILDREN.

The Department may summarily suspend a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's agency, children's therapeutic outdoor program, or a children's residential care facility license and require the program to transfer residents or children when the Department has determined a resident's or child's health and safety are in immediate jeopardy. Children in a daycare center, group daycare facility, or family daycare home will not be transported from the facility, instead the parent or legal guardian will be contacted. (7-1-09)(____)

112. ENFORCEMENT REMEDY REVOCATION OF LICENSE AND TRANSFER OF RESIDENTS OR CHILDREN.

The Department may revoke the license of a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's agency, children's therapeutic outdoor program, or children's residential care facility when the Department determines the provider is not in compliance with these rules. Children in a daycare center, group daycare facility, or family daycare home will not be transported from the facility, instead the parent or legal guardian will be contacted. Revocation and transfer of residents or children may occur under the following circumstances. (7-1-09)(____)

01. Endangers Health or Safety. Any condition that endangers the health or safety of any resident or child. (7-1-09)(____)

02. Not in Substantial Compliance. A foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, or children's residential care facility is not in substantial compliance with these rules. (7-1-09)(____)

03. No Progress to Meet Plan of Correction. A foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, or children's residential care facility has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted a plan of correction. (7-1-09)(____)

04. Repeat Violations. Repeat violations of any requirement of these rules or provisions of Title 39, Chapter 11 and Chapter 12, Idaho Code. (7-1-09)(____)

05. Misrepresented or Omitted Information. A foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, or children's residential care facility has knowingly misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate. (7-1-09)(____)

06. Refusal to Allow Access. Refusal to allow Department representatives full access to the foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, or children's residential care facility and its grounds facilities and records. (7-1-09)(____)

07. Violation of Terms of Provisional License. A children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, or children's residential care facility that has violated any of the terms or conditions of a provisional license. (7-1-09)(____)

(BREAK IN CONTINUITY OF SECTIONS)

300. STANDARDS FOR DAYCARE.

In addition to meeting the rules and minimum standards required in Sections 000 through 199 of these rules, each owner, operator, or applicant seeking licensure from the Department as a daycare center, group daycare facility, or

family daycare home must also meet the requirements under Title 39, Chapter 11, Idaho Code and Sections 300 through 399 of these rules. ()

01. Purpose. *The stated legislative purpose of Sections 39-1101 through 39-1117, Idaho Code, is to provide for minimum statewide daycare licensing for children less than twelve (12) years of age. Persons with certain criminal backgrounds are prohibited from working in daycare centers. Responsibilities for regulatory authority are divided between the Board, the state fire marshal, and the public health districts. As stated in Section 39-1101, Idaho Code: "It is declared to be the policy of the state to establish a minimum statewide system for the protection of children in daycare centers. This system is intended to establish minimum standards, while still leaving primary responsibility for evaluation and selection of daycare services with parents. The minimum standards established by this chapter are not to be construed as preempting more stringent regulation by county or city ordinance."* **Local Option.** If a city or county, within its respective jurisdiction, has adopted an ordinance for regulation or licensing of daycare services, then the provisions of Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules will not apply within such city or county, unless the ordinance is subsequently repealed. To qualify for local option exemption, the local ordinance of a county or a city must include: (4-9-09)()

a. A criminal history check at least as stringent as the check required in Sections 39-1105 and 39-1113, Idaho Code; ()

b. Compliance with safety standards at least as stringent as required in Section 39-1109, Idaho Code; ()

c. Compliance with health standards at least as stringent as required in Section 39-1110, Idaho Code; ()

d. Compliance with immunization requirements at least as stringent as required in Section 39-1118, Idaho Code; and ()

e. Compliance with training requirements at least as stringent as required in Section 39-1119, Idaho Code. ()

02. Fee Charged. *Fees are charged at the time of initial application for a basic daycare license or certification. The fees will be used to cover the expenses for fire inspections, health inspections and criminal history and background checks. The initial inspection fees are non-refundable. Basic daycare licenses and certifications are valid for a period of two (2) years. **Minimum Age of Applicant.** An individual, submitting an application to the Department to be licensed for a daycare center, group daycare facility, or family daycare home, must be a minimum of eighteen (18) years of age.* (4-9-09)()

a. *Fees will also be charged at the time of application for renewal of a license or certification. An application for renewal must be filed every two (2) years prior to the expiration of a current basic daycare license or certification in order for the current license or certification to remain valid, pending the completion of the appropriate inspections. Application and inspection fees for renewal are non-refundable.* (4-9-09)

b. *Fees for initial inspection and renewal of basic daycare licenses and certifications must be paid directly to the inspecting fire and health agencies. The criminal history check fees and application fee for renewal must be paid directly to the Department.* (4-9-09)

e. *The applicable license fee payable to the Department upon initial application or a renewal will be reduced for any daycare facility which provides evidence that at least fifty percent (50%) of its staff is certified in infant/child first aid and cardiopulmonary resuscitation.* (4-9-09)

i. *To receive such refund of monies paid to the Department for licensure or renewal, the applicant or owner/operator of such daycare facility must submit to the Department daycare licensing unit, at any time during the period of a valid license or certificate for daycare, written documentation of the number of staff in the daycare facility and that at least fifty percent (50%) of that staff is certified in infant/child first aid and cardiopulmonary resuscitation.* (4-9-09)

~~ii. Upon receipt of valid documentation that fifty percent (50%) of the staff of that daycare facility is so certified, a payment equal to twenty five percent (25%) of the licensing fee paid will be made to the applicant or owner/operator of such licensed daycare facility. (4-9-09)~~

~~**03. Initial Application Fees for Basic Daycare License.** All unlicensed and previously licensed daycare centers caring for thirteen (13) or more children are required to submit an initial application for a basic daycare license. The maximum fees for both unlicensed and previously licensed centers cannot exceed one hundred dollars (\$100) for a state license. (4-9-09)~~

~~**a.** The following fees will be included with the initial application for a basic daycare license: (3-30-01)~~

~~i. Health Inspection—thirty five dollars (\$35) payable to the Health District; (3-30-01)~~

~~ii. Fire Inspection—up to twenty dollars (\$20) payable to fire inspector or fire inspection agency; and (3-30-01)~~

~~iii. Criminal History Check—forty five dollars (\$45) for the criminal history check will be charged for each licensing applicant and is separate from the application fees for health and fire inspections. The fees for criminal history checks are the responsibility of the individual or daycare center with which they are associated. (4-9-09)~~

~~**b.** Posting of license in a conspicuous place at the daycare center is required. (3-30-01)~~

~~**e.** The Department obtains a criminal history check on only those applicants, owners, operators, employees or volunteers who have direct contact with the children in care and on all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. "Volunteers" when used in this chapter means only those persons who have direct unsupervised contact with children in care for more than twelve (12) hours in any one (1) month. (4-9-09)~~

~~**04. Application Fees for Renewal of Basic Daycare License.** A basic daycare license must be renewed every two (2) years. The application fee for renewal of a license cannot exceed sixty dollars (\$60). The following fees will be included with an application for renewal of a basic daycare license: (4-9-09)~~

~~**a.** Department—ten dollars (\$10) payable to the Department; (3-30-01)~~

~~**b.** Health Inspection—thirty dollars (\$30) payable to the Health District; and (3-30-01)~~

~~**e.** Fire Inspection—up to twenty dollars (\$20) payable to fire inspector or fire inspection agency. (3-30-01)~~

~~**d.** It will be the responsibility of the applicant, owner, or operator of a daycare center to ensure that a criminal history check is initiated within ten (10) days for staff having direct contact with children to include employees and volunteers and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. (3-30-01)~~

~~**05. Initial Application Fees for Certification.** All unlicensed and previously licensed group daycare facilities caring for seven (7) to twelve (12) children are not required to be licensed but must be certified by obtaining a fire inspection and criminal history check for applicant and staff. (4-9-09)~~

~~**a.** The following fees shall be included with the initial application for a state certification: (3-30-01)~~

~~i. Fire Inspection—up to twenty dollars (\$20) payable to fire inspector or fire inspection agency; (3-30-01)~~

~~ii. Criminal History Check—fifty five dollars (\$55) will be charged for each certification applicant, owner, operator, employee or volunteer at the group daycare facility requiring a criminal history check and is~~

~~separate from the application fee for a fire inspection and is the responsibility of the individual or group daycare facility. (4-9-09)~~

~~b. The fire inspection certification and verification of the required criminal history check must be available for inspection on the premises. (4-9-09)~~

~~e. The Department obtains a criminal history check on only those applicants, owners, operators, employees, or volunteers and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. (4-9-09)~~

~~**06. Application Fee for Renewal of Certification.** A certification must be renewed every two (2) years. The application fee for renewal of a certification will not exceed thirty dollars (\$30). The following fees will be included with the application for renewal of certification: (4-9-09)~~

~~a. Department—ten dollars (\$10) payable to the Department; and (3-30-01)~~

~~b. Fire Inspection—up to twenty dollars (\$20) payable to fire inspector or fire inspection agency. (3-30-01)~~

~~e. It will be the responsibility of the applicant, owner or operator of a group daycare facility to ensure that any employees and volunteers having direct contact with children have, upon employment or assignment, a criminal history check initiated within ten (10) days for staff. (3-30-01)~~

~~**07. Voluntary Compliance by Group Daycare Facilities for Basic Daycare License.** A group daycare facility may elect voluntarily to secure a basic daycare license and must meet the same requirements as for daycare centers. Group daycare facilities wishing to apply for a basic daycare license must comply in all cases with the requirements of a fire inspection, health inspection and criminal history check. Group daycare facilities electing to secure a basic daycare license will be charged the same fees as for daycare centers. (4-9-09)~~

~~**08. Family Daycare Homes.** Family daycare homes caring for six (6) or fewer children are not required to have a basic daycare license or certification. A family daycare home may, however, elect voluntarily to secure a basic daycare license and must meet the same requirements as for daycare centers. Family daycare homes wishing to apply for a basic daycare license must comply with the requirements of a fire inspection, health inspection and criminal history check, when required. Family daycare homes electing to secure a basic daycare license will be charged the same fees as for daycare centers. (4-9-09)~~

~~**09. Procedure for Criminal History Checks.** The Department is hereby authorized to obtain and submit criminal history checks with fingerprints on applicants, owners, operators, employees and volunteers of daycare centers, group daycare facilities and family daycare homes, when the home wishes to voluntarily comply with the requirements for a basic daycare license. The criminal history check is conducted under Sections 39-1113 and 56-1004A, Idaho Code, and IDAPA 16.05.06, "Criminal History and Background Checks." Criminal history checks are required on employees, volunteers, and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. Basic daycare licenses, certifications and/or daycare provider permits will be used as a means of verifying that no record has been found under Sections 39-1113 and 39-1115(3), Idaho Code, on licensing and certification applicants, owners, operators, employees and volunteers requiring criminal history checks. (4-9-09)~~

~~**10. Temporary Basic Daycare Licenses, Certifications, and Daycare Provider Permits. (3-30-01)**~~

~~a. The Department may issue temporary basic daycare license, temporary certifications and temporary daycare provider permits to licensing or certification applicants pending the completion of the necessary daycare inspections or criminal history checks. The Department may also issue temporary daycare provider permits to daycare providers who are owners, operators, employees and volunteers pending the completion of the criminal history check. All temporary basic daycare licenses, temporary certifications and temporary daycare provider permits will be issued under the following conditions: (4-9-09)~~

~~i. Issued for a period not to exceed one hundred twenty (120) days, unless otherwise extended by the~~

~~Department. (4-9-09)~~

~~ii. Applicants, owners, operators, employees and volunteers requiring a criminal history check properly completing and signing a notarized self declaration certifying that they have never been found guilty of or received a withheld judgement for any of the crimes enumerated in Sections 39-1113 and 39-1115(3), Idaho Code, pending the completion of the criminal history check. (3-30-01)~~

~~iii. All temporary basic daycare licenses and certifications are conditional upon satisfactory daycare facility inspections and applicants' satisfactory criminal history checks. (3-30-01)~~

~~iv. All temporary daycare provider permits are conditional upon satisfactory criminal history checks. (3-30-01)~~

~~b. If a criminal history check on an applicant for licensing or certification or a currently licensed or certified daycare facility discloses an owner, operator, employee or volunteer with a guilty conviction or a withheld judgement under Sections 39-1113 and 39-1115(3), Idaho Code, the individual must be suspended immediately from continued employment or volunteering. The daycare facility and individual will be in violation of these rules and subject to a misdemeanor if the individual is retained after receiving notice by certified mail from the Department that the individual has been found guilty of or received a withheld judgement for an offense under Sections 39-1113 and 39-1115(3), Idaho Code. (4-9-09)~~

~~11. **Responsibilities of Applicants, Owners or Operators.** It is the responsibility of the applicant, owner or operator of a daycare facility to maintain a personnel record on each employee and volunteer at the daycare facility having direct contact with children. The personnel record must include date of initial employment or assignment, date of termination or extended leave from employment or assignment, a copy of the daycare provider permit and any other information which may be necessary to establish daycare facility and personnel compliance with Section 39-1105, Idaho Code. It is the responsibility of the applicant, owner or operator of a daycare facility to ensure new employees and volunteers having direct contact with children, and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children, submit to the Department within ten (10) days from the date of initial employment or assigned self-declaration certifying they have not been found guilty of or received a withheld judgement for the crimes under Section 39-1115(3), Idaho Code. Two (2) fingerprint cards (FD-258) with fingerprints for personnel requiring criminal history checks must also be completed within ten (10) days from the date of initial employment or assignment. (4-9-09)~~

~~12. **Immunizations Required.** Under Section 39-1118, Idaho Code, the immunizations required and the manner and frequency of their administration are provided in IDAPA 16.02.11, "Immunization Requirements for Children Attending Licensed Daycare Facilities in Idaho." (4-9-09)~~

~~13. **Employee Training.** The owner operator of a daycare center must ensure through documentation that each employee receives four (4) hours of ongoing training every twelve (12) months after the employee's hire date. (4-9-09)~~

~~14. **Preemption.** These rules do not preempt more stringent local regulation or requirements. (3-30-01)~~

301. TYPES OF DAYCARE LICENSES.

Subject to meeting all requirements under Title 39, Chapter 11, Idaho Code, and the rules and minimum standards set forth in this chapter, the Department may issue the following types of daycare licenses: ()

01. Daycare Center License. A license is issued for a place or facility providing care and supervision for compensation to a child or children not related by blood, marriage, or legal guardianship to the person or persons providing the care, where thirteen (13) or more children, regardless of relationship to the person or persons providing the care, are regularly on the premises. ()

02. Group Daycare Facility. A license is issued for a place or facility providing care and supervision for compensation to a child or children not related by blood, marriage or legal guardianship to the person or persons providing the care, where seven (7) to twelve (12) children, regardless of relationship to the person or persons providing the care, are regularly on the premises. ()

03. Family Daycare Home. A place or facility providing care or supervision for compensation to a child or children not related by blood, marriage, or legal guardianship to the person or persons providing the care, where six (6) or fewer children, regardless of relationship to the person or persons providing the care, are regularly on the premises. A family daycare home is not required to be licensed; however, a family daycare home may voluntarily elect to submit an application for a license to the Department. ()

04. License Based Upon Facility Size. The Department will determine the type of license required by a place or facility providing daycare by counting each child, regularly on the premises, regardless of relationship to the person or person providing the care. ()

302. -- 308. (RESERVED).

309. CRIMINAL HISTORY AND BACKGROUND CHECK FOR DAYCARE STANDARDS.

01. Criminal History and Background Check for Daycare Centers and Group Daycare Facilities. Each owner, operator, or applicant seeking licensure for a daycare center, group daycare facility, or a family daycare home must submit evidence that is satisfactory to the Department that the following individuals have successfully completed and received a clearance for a Department criminal history and background check under the provisions of Sections 39-1105 and 39-1113, Idaho Code: ()

a. Owners, operators, and employees: ()

b. All other individuals thirteen (13) years of age or older who have unsupervised direct contact with children or are regularly on the premises. ()

02. Juvenile Justice Records. The criminal history and background check for any individual under eighteen (18) years of age, must include a check of the juvenile justice records, as authorized by the minor and his parent or guardian. Records must be checked for each jurisdiction in which the individual has resided since becoming thirteen (13) years of age through eighteen (18) years of age. Each owner, operator, or applicant is responsible for requesting a check of the juvenile justice record, paying for the costs of a check of the juvenile justice records, and submitting them to the Department for review. A check of the juvenile justice records must include the following: ()

a. Juvenile justice records of adjudication of the magistrate division of the district court: ()

b. County probation services; and ()

c. Department records. ()

03. Criminal History and Background Check for Family Daycare Homes. Under Section 39-1114, Idaho Code, any person providing daycare for four (4) or more children in a family daycare home is required to comply with the requirements of Sections 39-1105 and 39-1113, Idaho Code. ()

04. Criminal History and Background Check for Private Schools and Private Kindergartens. Under Section 39-1105, Idaho Code, any person who owns, operates, or is employed by a private school for educational purposes for children four (4) through six (6) years of age or a private kindergarten is required to comply with the requirements of Sections 39-1105 and 39-1113, Idaho Code. ()

05. Cost of Criminal History and Background Check and Juvenile Justice Records. Each owner, operator, or applicant seeking licensure of a daycare center, group daycare facility, or family daycare home is responsible for the cost of the criminal history and background check and check of the juvenile justice records. ()

06. On-going Duty to Report Convictions. Following completion of a criminal history and juvenile justice background check and clearance, additional criminal convictions and juvenile justice adjudications for disqualifying crimes under Section 39-1113, Idaho Code, must be self-disclosed by the individual to the owner or operator of a daycare center, group daycare facility, or family daycare home. The owner or operator must report these

additional convictions and adjudications to the Department within five (5) days of learning of the conviction or adjudication. ()

310. -- 319. (RESERVED).

320. LICENSING FEES.

The nonrefundable licensing fee must be paid directly to the Department at the time of initial application or at the time the application for renewal is submitted. ()

01. Licensing Fee Amounts. The maximum fee for initial application of an unlicensed daycare or renewal must not exceed the following amounts. ()

a. Daycare center license fee must not exceed one hundred seventy-five dollars (\$175). ()

b. Group daycare facility license fee must not exceed one hundred dollars (\$100). ()

c. Family daycare home voluntarily license fee must not exceed one hundred dollars (\$100). ()

02. Inspection Fees. Fees for fire inspections and health and safety inspections are included in application fees paid to the Department. ()

321. APPLICATION FOR DAYCARE LICENSE OR RENEWAL.

Any individual applying for licensure as a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must be at least eighteen (18) years of age. The applicant must apply on forms provided by the Department and must provide information required by the Department set forth in the following Subsections 321.01 through 321.10. ()

01. Completed and Signed Application. A completed application form signed and dated by the applicant. ()

02. Application Fee. The applicant must include the appropriate licensing fee described in Subsection 320.01 of this rule at the time the initial application is submitted to the Department. ()

03. Inspection Reports. The following reports must be submitted to the Department with the application: ()

a. Proof that the proposed facility meets local building code, where required; ()

b. Proof that the proposed facility meets local electrical code, where required; ()

c. Proof that the proposed facility meets fire code, where required; and ()

d. Proof that the facility meets local planning and zoning requirements. ()

04. Proof of Insurance. The applicant must provide proof of current fire and liability insurance coverage for the daycare facility. ()

05. Criminal History and Background Clearance. Evidence that the applicant and all individuals required to have a criminal history and background check have received a clearance from the Department required in Section 309 of these rules. ()

06. Statement to Comply. The applicant must provide a written statement that these rules have been thoroughly read and reviewed and the applicant is prepared to comply with all of its provisions. ()

07. Statement Disclosing Revocation or Disciplinary Actions. A written statement that discloses any revocation or other disciplinary action taken or in the process of being taken against the applicant as a daycare provider in Idaho or any other jurisdiction, or a statement from the applicant stating he has never been involved in any

such action. ()

08. Other Information as Requested. The applicant must provide other information that may be requested by the Department for the proper administration and enforcement of the provisions of this chapter. ()

09. Additional Requirements for License Renewal. A daycare license must be renewed every two (2) years. The daycare operator must submit to the Department the renewal application, fee, and all required documentation in this section of rule at least forty-five (45) days prior to the expiration of the current daycare license. ()

10. Termination of Application Process. Failure of the applicant to cooperate with the Department in the application process may result in the termination of the application process. Failure to cooperate means that the information requested is not provided in a timely manner, or not provided in the form requested by the Department, or both. ()

321. --324. (RESERVED).

325. ISSUANCE OF LICENSE.

01. Department Action. The Department will order a health and safety inspection of the daycare facility once the application for licensure is complete. ()

02. Issuance of a Regular License. If the Department determines the applicant is in compliance with the rules and minimum standards set forth in these rules, the Department will within thirty (30) days from the date the completed application is submitted issue one (1) of the following licenses: ()

a. Daycare Center License, stating the type of facility, the number of children who may receive care at any one (1) time, and the length the license is in effect; ()

b. Group Daycare Facility License, stating the type of facility, the number of children who may receive care at any one (1) time, and the length the license is in effect; or ()

c. Family Daycare Home License, stating the type of facility, the number of children who may receive care at any one (1) time, and the length the license is in effect. ()

03. Issuance of Provisional License. If the Department determines that a licensing standard can not be met but is expected to be corrected within six (6) months, provided this does not effect the health, safety, and well-being of any child in care at the home or facility, a provisional license may be issued for a period of time not to exceed one hundred eighty (180) days. A provisional license automatically expires after one hundred eight (180) days and can only be issued one (1) in any twelve-month period. A provisional license may be issued for: ()

a. Daycare Center License, stating the type of facility, the number of children who may receive care at any one (1) time, and the length the license is in effect; ()

b. Group Daycare Facility License, stating the type of facility, the number of children who may receive care at any one (1) time, and the length the license is in effect; or ()

c. Family Daycare Home License, stating the type of facility, the number of children who may receive care at any one (1) time, and the length the license is in effect. ()

04. Denial of Licensure. If the Department determines the applicant is not in compliance with the rules and minimum standards set forth in this chapter and further determines not to issue a regular license or provisional license, the Department will, within thirty (30) days from the date the completed application is submitted, issue a letter of denial of licensure stating the basis for the denial. ()

05. Incomplete Application. The Department is not required to take any action on an application until the application is complete. ()

06. Notification of License Renewal. The Department will notify the licensed daycare operator at least ninety (90) days prior to expiration of the license. ()

07. List of Licensed Daycare Facilities. The Department will maintain a list of all licensed daycare facilities for public use. ()

326. --329. (RESERVED).

330. EMPLOYEE AND OTHER INDIVIDUAL RECORD REQUIREMENTS.

Each owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must maintain a current list covering the previous twelve-month period of all employees and other individuals thirteen (13) years of age or older who have unsupervised direct contact with children, or are regularly on the premises, regardless of how many hours worked or volunteered. The list must specify, at a minimum, the following: ()

01. Legal name. ()

02. Proof of Age. ()

03. Phone Number. ()

04. Record of Training. ()

05. Results of Criminal History and Background Check. ()

06. Certification. Verification of CPR/First Aid certification, when applicable. ()

07. Record of Hours. The times, dates, and records of hours on the premises each day. ()

331. CHILD RECORD CONTENT REQUIREMENTS.

Each owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must maintain a record for each child regularly on the premises covering the previous twelve-month period. The record must contain, at a minimum, the following: ()

01. Child's Full Name. ()

02. Date of Birth. ()

03. Parent or Guardian's Name, Address, and Contact Information. ()

04. Emergency Contact Information. ()

05. Child's Health Information. ()

a. Immunization record; ()

b. Any medical conditions that could affect the care of the child; ()

c. Medications the child is taking or may be allergic to. ()

06. Record of Hours. The times, dates, and record of hours on the premises each day. ()

332. -- 334. (RESERVED).

335. CHILD-STAFF RATIOS AND MAXIMUM GROUP SIZES.

Each owner or operator of a daycare center, group daycare facility, or family daycare home licensed by the

Department must maintain, at all times during hours of operation, or when children are present, child-staff ratios and maximum group size according to Section 39-1109, Idaho Code. ()

01. Computing the Child-Staff Ratio. The Department will compute the child-staff ratios as follows: ()

a. The maximum ratio of children to staff is determined by the age of the youngest child; ()

b. Each child regularly on the daycare premises, regardless of relationship to the person or persons providing the care, is counted for the purposes of determining the child-staff ratio; ()

c. All adults providing direct supervision to the children are counted as staff for the purpose of computing the child-staff ratio; and ()

d. Employees sixteen (16) and seventeen (17) years of age under the supervision of an adult employee, when providing direct supervision to children, may be counted as staff for the purpose of computing the child-staff ratio. ()

02. Computing the Maximum Group Size. The Department will compute the maximum group size as follows: ()

a. The maximum allowable group size is determined by the age of the youngest children on the premises. ()

b. Each child, regularly on the premises, regardless of relationship to the person or persons providing the care, is counted for the purpose of determining the maximum group size; ()

c. The maximum group size for all groups cannot exceed twice the number of children allowed for a single staff member except; ()

i. If no more than two (2) children are in attendance under the age of twenty-four (24) months, the maximum group size is ten (10) children; or ()

ii. If three (3) or more children are in attendance under the age of twenty-four (24) months the maximum group size is nine (9) children. ()

03. Child-Staff Ratios and Maximum Group Sizes. Child-staff ratios and maximum group sizes must be maintained during all hours of operation or when children are present on the premises as described in the table below:

CHILD-STAFF RATIOS AND MAXIMUM GROUP SIZE Based on Age of Youngest Child TABLE 335.03		
<u>Ages and Counts Based on Age of Youngest Child</u>	<u>Child:Staff Ratio</u>	<u>Maximum Group Size</u>
1 child under the age of 24 months	6:1 or 12:2	12
2 children under the age of 24 months	6:1 or 10:2	10
3 or more children under the age of 24 months	6:1 or 9:2	9
All children at least 2 years of age but less than 3 years of age	8:1 or 16:2	16
All children at least 3 years of age but less than 4 years of age	10:1 or 20:2	20

CHILD-STAFF RATIOS AND MAXIMUM GROUP SIZE		
Based on Age of Youngest Child		
TABLE 335.03		
<u>Ages and Counts Based on Age of Youngest Child</u>	<u>Child:Staff Ratio</u>	<u>Maximum Group Size</u>
All children at least 4 years of age but less than five years of age	12:1 or 24:2	24
All children at least 5 years of age or more	18:1 or 36:2	36

()

04. Supervision of Children. In addition to meeting all of the minimum requirements of child-staff ratio and maximum group size, the owner or operator of a daycare center, group daycare facility, or family daycare home licensed by the Department must ensure that at least one (1) adult who has current certification in pediatric rescue breathing and first-aid treatment from a certified instructor is awake and on duty on the premises at all times during regular business hours or when children are present. The operator and all employees are responsible for the direct care, protection, supervision, and guidance of children through active involvement or direct observation. ()

05. Napping Children. Napping children who are not within sight of an employee must be within easy hearing distance at all times. ()

06. Overnight Daycare. For daycare operators providing overnight care of children the following must apply: ()

a. A sleeping child must sleep on the same level as the employee and the employee must be able to hear the children; and ()

b. An employee must be awake and on duty to release and receive a child. ()

336. -- 339. (RESERVED).

340. TRAINING REQUIREMENTS.

Each owner or operator of a daycare center, group daycare facility, or family daycare home licensed by the Department, must ensure that each employee receives four (4) hours of ongoing training every twelve (12) months after the employee's date of hire. ()

01. Child Development Training. Training must be related to continuing education in child development. ()

02. Documented Training. It is the responsibility of the daycare owner or operator to ensure that employees have completed and documented four (4) hours of training each year. ()

03. First Aid and CPR. First aid and CPR training will not count towards the required four (4) hours of annual training. ()

04. Employee Training Records. Each daycare owner or operator is responsible for maintaining documentation of employee training and may be asked to produce documentation at the time of license renewal. ()

342. -- 344. (RESERVED).

345. MANDATORY REPORTING OF ABUSE, ABANDONMENT, OR NEGLECT.

Under Section 16-1605, Idaho Code, daycare personnel, including the owners, operators, employees, and any other person who has reason to believe that a child has been abused, abandoned, or neglected or is being subjected to

conditions or circumstances which would reasonably result in abuse, abandonment, or neglect, must report or cause to be reported within twenty-four (24) hours, such conditions or circumstances to the Department or the proper law enforcement agency. ()

346. VISITATION AND ACCESS.

01. Visitation Rights. Parents and guardians have the absolute right to enter the daycare premises when their child is in the care of the daycare operator. Failure or refusal to allow parental or guardian entry to the daycare premises or access to their child may result in the suspension or revocation of a daycare license. ()

02. Court Ordered Denied or Limited Visitation Rights. If a parent or guardian has been granted limited or has been denied visitation rights by a court of competent jurisdiction, and the daycare operator has written documentation from the court, Subsection 346.01 of this rule does not confer a right to visitation upon the parent or guardian. ()

03. Department Access. The owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must allow the Department access to the premises for re-inspection at any time during the licensing period. ()

347. -- 349. (RESERVED).

350. FIRE SAFETY STANDARDS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the fire safety standards outlined in Subsections 350.01 and 350.02 of this rule. ()

01. Inspections. Inspections must be completed by the local fire official or designee. For a daycare located outside of the area of authority outlined in Section 39-1109, Idaho Code, the Department can designate an approved inspector for daycare licensing purposes only. ()

02. Unobstructed Exits. Required exits must be located in such a way that an unobstructed path outside the building is provided to a public way or area of refuge. ()

a. Exit doors must open from the inside without the use of a key or any special knowledge or effort. ()

b. There must be at least two (2) exits located a distance apart of not less than one-half (1/2) the diagonal dimension of the building or portion used for daycare, but not to exceed seventy-five (75) feet. An exception may be made for the following: ()

i. The distance between exits may be extended to ninety (90) feet if the building is totally protected throughout with smoke detectors; or ()

ii. The distance between exits may be increased to one hundred ten (110) feet if the building is equipped with an automatic fire sprinkler system. ()

c. The required dimensions of exits must not be less than thirty-two (32) inches of clear exit width and not be less than six (6) feet, eight (8) inches in height. An exception for sliding patio doors will be accepted as a required second exit in a family daycare home and group daycare facilities only. ()

d. Sleeping room exits must be provided with at least one (1) emergency egress window having at least a minimum single net clear opening of five point seven (5.7) square feet, minimum height twenty-four (24) inches, minimum width twenty (20) inches, and maximum finished sill height not over forty-four (44) inches. ()

i. Approved egress windows from sleeping areas must be operable from the inside without the use of separate tools. ()

ii. In lieu of egress windows, an approved exit door is acceptable. ()

iii. An approved piece of furniture or platform, if anchored in place, may be approved to sit in front of a window if the sill height is over forty-four (44) inches. ()

e. Where children are located on a story below the level of exit discharge (basement), there must be at least two (2) exits, one (1) of which must open directly to the outside. More than one (1) exit from the basement opening directly to the outside may be required, depending on the structure of the building, in order to ensure the safety of the occupants. ()

351. FACILITY CAPACITY AND DETERMINING OCCUPANT LOAD.

Occupant load is determined by the local fire official or designee using the standards provided in the International Fire Code for Daycare Facilities. ()

01. Area for Daycare Use Only. The local fire official or designee will only use those areas used for daycare purposes when determining the occupant load. ()

02. Facilities with an Occupancy Load of Fifty or More. Facilities with an occupancy load of fifty (50) or more occupants must meet the requirements in Section 350 of these rules in addition to Subsections 351.01 through 351.03 of this rule. ()

a. Exit doors must swing in the direction of egress. ()

b. Exit doors from rooms, if provided with a latch, must have panic hardware installed. ()

03. Exit Signs. Exit signs must be installed at required exit doorways and wherever else necessary to clearly indicate the direction of egress. ()

352. FIRE EXTINGUISHERS AND SAFETY REQUIREMENTS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the fire extinguisher and safety requirements in this section of rule as applicable for size and type of facility. ()

01. Portable Fire Extinguisher. There must be a portable fire extinguisher (minimum 2A-10BC) mounted securely in a visible location not to exceed five (5) feet from the floor to the top of the extinguisher and not more than seventy five (75) feet travel distance to an extinguisher and maintained properly. ()

02. Kitchen Area. A fire extinguisher or flame suppressant system must be kept in the kitchen area. ()

03. Fire Code. Fire extinguishers must be maintained as per the International Fire Code/National Fire Protection Association. ()

04. Facilities Over Three Thousand Square Feet. Each daycare facility over three thousand (3,000) square feet is required to have additional fire extinguishers as approved by the local fire official or designee. ()

05. Fire Alarm System. Each daycare facility with over fifty (50) children, must have an approved fire alarm system installed. ()

06. Smoke Detectors. Smoke detectors must be installed and maintained in the following locations: ()

a. On the ceiling or wall outside or each separate sleeping area in the immediate vicinity of bedrooms; ()

b. In each room used for sleeping purposes; and ()

c. In each story within a facility including basements. ()

d. If there is a basement, there must be a smoke detector installed in the basement having a stairway which opens from the basement into the facility. Such detector must be connected to a sounding device or other detector to provide an alarm which is audible in the sleeping area. ()

07. Automatic Sprinkler Systems. An automatic sprinkler system must be provided in all daycare facilities greater than twenty thousand (20,000) square feet in area or when the number of children under the age of eighteen (18) months exceeds one hundred (100). ()

353. FIRE SAFETY AND EVACUATION PLANS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must have an approved fire safety and evacuation plan prepared. Fire evacuation and safety plans must include the following: ()

01. Evacuation. Procedures and policies for accounting for employees and children after an evacuation is completed. ()

02. Assembly Point. Evacuation plan and assembly point for children and employees. ()

03. Locations of Facility Exits. ()

04. Evacuation Routes. ()

05. Location of Fire Alarms. ()

06. Location of Fire Extinguishers. ()

07. Annual Review. Fire safety and evacuation plans must be reviewed or updated annually and available in the facility for reference and review. ()

08. Frequency of Fire and Emergency Evacuation Drills. Fire and evacuation drills must be conducted on a routine schedule and all employees and children must participate. ()

354. -- 359. (RESERVED).

360. HEALTH STANDARDS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the health standards in Subsections 360.01 through 360.19 of this rule. Health inspections will be completed by a qualified inspector designated by the Department. ()

01. Food Source. Food must be from an approved source as defined in IDAPA 16.02.19, "The Idaho Food Code." Food must not be served past expiration or "use by date." ()

02. Food Preparation. Food for use in daycare facilities must be prepared and served in a sanitary manner with sanitized utensils and on surfaces that have been cleaned, rinsed, and sanitized prior to the use to prevent cross-contamination. ()

a. Frozen food must not be thawed at room temperature and must be cooked to proper temperatures. ()

b. Individuals preparing food must use proper hand-washing techniques, minimize bare hand contact with food, and wear clean clothes. ()

03. Food Temperatures. Potentially hazardous foods must be kept refrigerated at forty-one degrees Fahrenheit (41°F) or less. Refrigerators must be equipped with an accurate thermometer. ()

04. Food Storage. All food that is served in daycare facilities must be stored in such a manner that

protects it from potential contamination. There must be no evidence of pests present in the daycare facility. ()

05. Food Contact Surfaces. Food contact surfaces must be kept clean and sanitized, including counters, serving tables, high chair trays, and cutting boards. ()

06. Dishwashing Sanitizing. Dishes, glasses, utensils, silverware and all other objects used for food preparation and eating must be sanitized using appropriate sanitizing procedures. ()

07. Utensil Storage. Clean utensils must be stored on clean shelves or drawers and not subject to recontamination. Sharp knives and other sharp objects must be kept out of reach of children. ()

08. Garbage. Garbage must be kept covered and inaccessible to children. ()

09. Hand Washing. Children and facility employees must be provided with individual or disposable towels for hand drying. The hand washing area must be equipped with soap and warm and cold running water. ()

10. Diaper Changing. Diaper changing must be conducted in such a manner as to prevent the spread of communicable diseases. A diaper-changing area must be separate from food preparation and serving areas and have easy access to a hand-washing sink. ()

11. Sleeping Areas. Children sleeping at the facility must have separate cots, mats, or beds and blankets. ()

12. Restrooms, Water Supply, and Sewage. All daycare facilities must have restrooms. ()

a. Each facility must have at least one (1) flushable toilet and at least one (1) hand washing sink with warm and cold water per restroom. ()

b. Plumbing and bathroom fixtures must be in good condition. ()

c. In addition, daycare centers must comply with requirements of the International Building Code incorporated by reference in Section 004 of these rules. ()

13. Water Supply. The facility's water supply must meet one (1) of the following requirements: ()

a. Be from a source that is approved for a private home by the health authority according to IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," at the time of initial application and application for license renewal; or ()

b. Water used for consumption at a daycare facility must be from an acceptable source, bottled water from an acceptable source, or boiled for a period specified by the local health authority according to IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." ()

14. Sewage Disposal. Facility sewage must be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority, according to IDAPA 58.01.03 "Individual/Subsurface Sewage Disposal Rules." ()

15. Use of Alcohol and Illegal Drugs. Alcohol and illegal drugs must not be used by operators, children, employees, volunteers, or visitors at daycare facilities or in the presence of children during hours of operation or in vehicles while transporting children. ()

a. Any individual under the influence of alcohol or drugs must not be permitted at or in the daycare facility. ()

b. Illegal drugs are prohibited by law and therefore must not be allowed on the premises of a licensed daycare facility at anytime whether the facility is open or closed. ()

16. Smoke Free Environment. Children must be afforded a smoke-free environment during all daycare hours, whether indoors or outdoors. While children are in care, the operator and all employees must ensure that no smoking or other tobacco use occurs within the facility or in outdoor areas when children are present. ()

17. Medication. No person can administer any medication to a child without it first being authorized by a parent or caretaker. All medications, refrigerated or unrefrigerated, must be in a locked box or otherwise inaccessible to children. ()

18. Adequate Heat, Light and Ventilation. A daycare facility must have adequate heat, light and ventilation. Window and doors must be screened if used for ventilation. ()

19. Immunizations. Daycare operators must comply with the immunizations requirements provided in IDAPA 16.02.11, "Immunization Requirements for Children Attending Licensed Day Care Facilities in Idaho." ()

361. MISCELLANEOUS SAFETY REQUIREMENTS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must comply with the miscellaneous safety standards in Subsections 361.01 through 361.07 of this rule. ()

01. Telephone. An operable telephone or cell phone must be available on the facility at all times and the following conditions shall apply: ()

a. The telephone used to meet this standard must not have an unlisted number and the number must be made available to parents and guardians. ()

b. Emergency phone numbers to include 911, an adult emergency substitute operator, as well as the address and phone number of the facility, must be posted by the telephone or in a location that is immediately visible at all times. ()

03. Heat Producing Equipment. A furnace, fireplace, wood-burning stove, water heater and other flame or heat-producing equipment shall be installed and maintained as recommended by the manufacturer. Fireplaces and wood burning stoves shall be protected on all surfaces by screens or other means. ()

04. Portable Heating Devices. Portable heating devices shall be limited and approved for use and location by the Fire Inspector prior to use within a facility. ()

05. Storage of Weapons, Firearms, and Ammunition. Firearms at a daycare facilities must be unloaded and stored in a locked cabinet, gun safe, or container that is inaccessible to children. ()

a. Ammunition must be stored in a locked container separate from firearms. ()

b. Matches, lighters, and any other means of starting fires must be kept away from and out of the reach of children. ()

c. Other weapons that could cause harm to children must be stored out of reach of children. ()

06. Animals and Pets. Any pet or animal present at the facility, indoors or outdoors, must be in good health, show no evidence of carrying disease, and be a friendly companion of the children. The operator must maintain the animal's vaccinations and vaccination records. These records must be made available to the Department upon request. ()

07. Storage of Hazardous Materials. Cleaning materials, flammable liquids, detergents, aerosol cans, and other poisonous and toxic materials must be kept in their original containers and in a place inaccessible to children. They must be used in such a way that will not contaminate play surfaces, food, food preparation areas or constitute a hazard to the children. ()

362. -- 364. (RESERVED).

365. BUILDINGS, GROUNDS, FURNISHINGS, AND EQUIPMENT.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must comply with these minimum standards in Subsections 365.01 through 365.08 of this rule. ()

01. Appliances and Electrical Cords. All appliances, lamp cords, exposed light sockets and electrical outlets must be protected to prevent electrocution. ()

02. Balconies and Stairways. Balconies and stairways accessible to children must have substantial railings as required by the state-adopted International Building Code that is incorporated by reference in Section 004 of these rules. ()

03. Stairway Protection. Where an operator cares for children less than three (3) years of age, stairways must be protected to prevent child access to stairs. ()

04. Hazard Areas Restrictions. Based on the age and functioning level of children in care and the type of hazard, any outdoor hazard area must be restricted to prevent easy access to the hazard. ()

05. Fueled Equipment. Fueled equipment including, but not limited to, motorcycles, mopeds, lawn-care equipment and portable cooking equipment may not be stored or repaired in areas where children are present. ()

06. Water Hazards. Pools, hot tubs, ponds, and other bodies of water that are on the daycare facility premises must provide the following safeguards: ()

a. The area surrounding the body of water must be fenced and locked in a manner that prevents access by children and meets the following requirements: ()

i. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide and be designed so that a young child cannot climb or squeeze under or through the fence. The fence must surround all sides of the pool and have a self-closing gate that has a self latching mechanism in proper working order that is out of the reach of young children. ()

ii. If the house forms one (1) side of the barrier for the pool, all doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the door is opened. ()

b. Furniture or other large objects must not be left near the fence in a manner that would enable a child to climb on the furniture or other large object and gain access to the pool. If the area surrounding a pool, hot tub, pond or other body of water is not fenced and locked, there must be a secured protective covering that will prevent access by a child. ()

c. Wading pools and buckets must be empty when not in use. ()

d. Children must be under direct supervision of an employee who is certified in CPR and first aid while using a bath tub, pool, hot tub, pond, or other body of water. ()

e. A minimum of a four (4) foot high fence must be present that prevents access from the daycare facility premises, if the daycare premises are adjacent to a body of water. ()

07. Indoor Play Areas and Toys. The indoor play areas must be clean, reasonably neat and free from accumulation of dirt, rubbish or other health hazards. ()

08. Outdoor Play Areas and Toys. Any outdoor play area must be maintained free from hazards such as wells, machinery and animal waste. ()

a. If any part of the play area is adjacent to a busy roadway, drainage or irrigation ditch, stream, large holes, or other hazardous areas, the play area must be enclosed with a fence in good repair that is at least four (4) feet

high without any holes or spaces greater than four (4) inches in diameter. ()

b. Outdoor equipment, such as climbing apparatus, slides and swings, must be anchored firmly and placed in a safe location and in accordance with the manufacturer's instructions. ()

c. Outdoor play areas must be designed so that all parts are always visible and are easily supervised by an employee. ()

d. Toys, play equipment, and any other equipment used by the children must be of substantial construction and free from rough edges and sharp corners. Unguarded ladders on slides must be kept in good repair and well maintained. ()

e. Toys and objects with a diameter of less than one (1) inch (two point five (2.5) centimeters), objects with removable parts that have a diameter of less than one (1) inch (two point five (2.5) centimeters), plastic bags, styrofoam objects and balloons must not be accessible to children ages three (3) and under or children who are known to place such objects in their mouths. ()

366. -- 389. (RESERVED).

390. CONTINUED COMPLIANCE, REPORTING CHANGES, AND CRITICAL INCIDENTS.

Each daycare owner or operator must remain in compliance at all times with fire, safety, and health requirements as required in this chapter of rules. ()

01. Posting of License and Other Information. ()

a. A daycare license issued by the Department to operators meeting the standards in these rules must be posted in plain view where it can be seen by parents and the public upon entering the facility. ()

b. A daycare must post contact information of the Department and the statewide number to file daycare complaints. ()

02. Reporting Changes. The Department must be notified of any changes that would affect the terms of licensure or could affect the health, well-being or safety of children. ()

03. Critical Incidents. A daycare operator must report any of the following to the Department within twenty four (24) hours: ()

a. Serious injury or death of a child at the facility; ()

b. Any arrests, citations, withheld judgments, or criminal convictions of disqualifying crimes associated with Section 39-1113, Idaho Code, of an operator or any other individual regularly on the premises of the facility and provide documentation that the individual is not working with children or is not on the premises. ()

391. -- 394. (RESERVED).

395. FAILURE TO COMPLY.

01. Misdemeanors to Operate Without a License. It is a misdemeanor to operate a daycare center or group daycare facility without first obtaining a daycare license from the Department or to fail to post the license in a place easily seen by a parent or the general public. ()

02. Grace Period. The Department may grant a grace period of no more than sixty (60) days to come into compliance with the minimum standards set forth in this chapter and with Title 39, Chapter 11, Idaho Code. The individual must agree to begin the application process as described in Section 321 of these rules within one (1) business day. ()

~~396.~~ -- 399. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.03 - RULES AND MINIMUM STANDARDS GOVERNING ALCOHOL/DRUG ABUSE PREVENTION AND TREATMENT PROGRAMS

DOCKET NO. 16-0603-0901 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-305, 39-306, 39-307, 39-311, 56-1003, and 56-1007, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Tuesday - September 22nd 10:30am to 12:00pm	Tuesday - September 29th 10:00am to 12:00pm	Thursday - October 1st 1:00pm to 3:00pm
Dept. of Health & Welfare Grand Teton Conf. Rm. 3402 Franklin Road Caldwell, Idaho	State Office Building 3rd Floor Conf. Rm. 1118 F Street Lewiston, Idaho	Dept. of Health & Welfare 1st Floor Conf. Rm. 1070 Hilina Pocatello, Idaho

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

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: This chapter of rule is being repealed to avoid duplication with a new chapter of rules being promulgated under IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs," and being published in this Administrative Bulletin under Docket No. 16-0720-0901.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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: This rulemaking has no anticipated fiscal impact to state general funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, informal negotiated rulemaking was conducted. Townhall meetings were held during the month of May 2008, in Coeur d'Alene, Boise, and Pocatello.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Sherry Johnson at (208) 334-5934. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 5, 2009.

DATED this 27th day of July, 2009.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720

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IDAPA 16.06.03 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.01 - BEHAVIORAL HEALTH SLIDING FEE SCHEDULES

DOCKET NO. 16-0701-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 16-2433, 19-2524, 20-520(i), 20-511A, 39-309, and 39-3137, 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking changes the definition of family household to include all household members and their income except for persons on supplemental security income, disability income, or non-dependent adult siblings. This rule change will result in a consistent method of counting household members and their income for adult mental health, substance use disorders, and children's mental health programs when applying the sliding fee schedule. The consistency will also be fair to the consumer of services and accurately reflect their family situation.

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:

There is no anticipated fiscal impact to the state general fund as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this change is very minor and has no potential for controversy.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Chuck Halligan at (208) 334-6559.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, September 23, 2009.

DATED this 29th day of July, 2009.

Tamara Prisock
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THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0701-0901

010. DEFINITIONS.

For the purposes of this chapter, the following definitions apply. (4-9-09)

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. (4-9-09)

02. Adjusted Gross Income. Total family annual income less allowable annual deductions. (4-9-09)

03. Adult. An individual 18 years of age or older. (4-9-09)

04. Adult Mental Health Program. A program administered by the Idaho Department of Health and Welfare to serve severely and persistently mentally ill adults. (4-9-09)

05. Allowable Annual Deductions. In determining the family's ability to pay for behavioral health services, the following are allowable annual deductions: (4-9-09)

a. Court-ordered obligations; (4-9-09)

b. Dependent support; (4-9-09)

c. Child care payments necessary for parental employment; (4-9-09)

d. Medical expenses. (4-9-09)

e. Transportation; (4-9-09)

f. Extraordinary rehabilitative expenses; and (4-9-09)

g. State and federal tax payments, including FICA taxes. (4-9-09)

06. Behavioral Health Services. Services offered by the Department to improve behavioral health issues or alcohol and substance use disorders. (4-9-09)

07. Child. An individual who is under the age of eighteen (18) years. (4-9-09)

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. (4-9-09)

09. Client. The recipient of services. The term "client" is synonymous with the terms: patient, participant, resident, consumer, or recipient of treatment. (4-9-09)

10. Court-Ordered Obligations. Financial payments which have been ordered by a court of law. (4-9-09)

11. Court-Ordered Recipient. A person receiving behavioral health services under Sections 19-2524, 20-520(i), and 20-511A, Idaho Code. (4-9-09)

12. Department. The Idaho Department of Health and Welfare. (4-9-09)

13. Dependent Support. An individual that is dependent on his family's income for over fifty percent (50%) of his financial support. (4-9-09)

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. (4-9-09)

15. Family. A family is an adult, or married adults, or adult(s) with children, living in a common residence. (4-9-09)

16. Family Household. Persons in a family related by blood, marriage, or adoption. ~~Step parents, step children, a~~ Adult siblings, who are not claimed as dependents 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." (4-9-09)()

17. Federal Poverty Guidelines. Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income limits. The federal poverty guidelines for the current year may be found at: <http://aspe.hhs.gov/poverty/>. (4-9-09)

18. Parent. The person who, by birth or through adoption, is legally responsible for a child. (4-9-09)

19. Recipient. The person receiving services. The term "recipient" is synonymous with the terms: "patient," "participant," "resident," "consumer," or "client." (4-9-09)

20. Sliding Fee Scale. A scale used to determine an individual's financial obligation for services based on Federal Poverty Guidelines and the number of persons in the family household. (4-9-09)

21. 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. (4-9-09)

22. 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. (4-9-09)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.20 - ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT AND RECOVERY SUPPORT SERVICES FACILITIES AND PROGRAMS

DOCKET NO. 16-0720-0901 (NEW CHAPTER - FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-305, 39-306, 39-307, 39-311, 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Tuesday - September 22nd 10:30am to 12:00pm	Tuesday - September 29th 10:00am to 12:00pm	Thursday - October 1st 1:00pm to 3:00pm
Dept. of Health & Welfare Grand Teton Conf. Rm. 3402 Franklin Road Caldwell, Idaho	State Office Building 3rd Floor Conf. Rm. 1118 F Street Lewiston, Idaho	Dept. of Health & Welfare 1st Floor Conf. Rm. 1070 Hilina Pocatello, Idaho

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

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

1. In order to protect adults with alcohol and substance use disorders, the requirement for a criminal background check needs to be added for those programs serving adults.
2. Services for the treatment of substance abuse have been expanded under Medicaid; this chapter needs to be aligned with Medicaid rules.
3. Requirements that were removed from IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing" effective 7/1/09 need to be added to this chapter of rules in order to ensure there is no lapse in licensing requirements.
4. The current chapter, IDAPA 16.06.03, is being repealed.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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:

1. The criminal history and background check (CHC) requirement is being expanded to require a CHC for each program employee who provides services to adults. Currently, a program serving only adults is not required to have criminal background checks for its employees. This new requirement will better ensure the safety of adults being served in alcohol and drug treatment programs. The fee for a CHC is \$55.
2. A new fee is being added for the initial approval and the renewal of a program approved under this chapter of rules.

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:

1. The requirement for criminal history and background checks is being expanded to include employees working in provider programs serving adults. Currently, only treatment providers serving adolescents are required to pay for a Department criminal history and background check. The fees for the criminal history checks are covered under IDAPA 16.05.06, "Criminal History and

Background Checks.” While there is a fiscal impact to the Criminal History Unit - Indirect Services Budget, and the Provider Fee Substance Abuse Receipts (neither of which go to the general fund), there is no anticipated fiscal impact to the state general fund.

2. The Department is proposing a new fee for the initial approval as well as the renewal inspections of substance use disorder treatment programs. This fee will be \$100 per treatment facility, \$100 per facility for treatment and Recovery Support Services, and \$50 per Recovery Support Services only. It is estimated that \$11,600 in fees will be collected annually. This money will be used by the Division of Behavioral Health to offset the cost of contracting the inspection process with the “Application of Substance Abuse Technologies Quality Management and Certification Services (CASAT)” program. The services of CASAT have been retained in order to handle all aspects of the treatment programs approval process.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), informal negotiated rulemaking was conducted. Townhall meetings were held during the month of May 2008, in Coeur d’Alene, Boise, and Pocatello, Idaho. Additional town hall meetings were held in May, June, and July 2009, with Regional Advisory Committees (RACs) in Lewiston, Pocatello, Boise, Twin Falls, Coeur d’Alene, and Caldwell, Idaho. A teleconference was held with the Board of Occupations for Marriage and Family Therapists and Licensed Clinical Professional Counselors in June, 2009.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Sherry Johnson at (208) 334-5934. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 5, 2009.

DATED this 27th day of July, 2009.

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THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 16-0720-0901

**IDAPA 16
TITLE 07
CHAPTER 20**

**ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT
AND RECOVERY SUPPORT SERVICES FACILITIES AND PROGRAMS**

000. LEGAL AUTHORITY.

Under Title 39, Chapter 3, Idaho Code, the Board of Health and Welfare is authorized to adopt rules that set standards

for the approval of alcohol and substance use disorders treatment and recovery support services facilities and programs in the state of Idaho. Under Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009 Idaho Code, the Director of the Department is authorized to supervise and administer services dealing with the problems of alcoholism including the care and rehabilitation of persons suffering from alcoholism. ()

001. TITLE, SCOPE, AND PURPOSE.

01. Title. The title of these rules is IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs." ()

02. Scope. These rules set minimum standards for approved public and private alcohol and substance use disorders treatment or recovery support services facilities and programs in the state of Idaho. These programs treat or provide services to persons who use or are substance dependent on alcohol or drugs, including prescription drugs, to the extent that their health is impaired or endangered, or their social or economic functioning is disrupted. ()

03. Purpose. The purpose of these rules is to: ()

a. Establish requirements for the approval, denial, suspension, or revocation of certificates of approval for approved public and private alcohol and substance use disorders treatment and recovery support services facilities and programs in Idaho; ()

b. Set fees to be charged by the Department for inspections of approved public and private alcohol and substance use disorders treatment and recovery support services facilities and programs in Idaho; ()

c. Establish criteria for the admission and discharge of persons by approved public and private alcohol and substance use disorders treatment and recovery support services facilities and programs in Idaho; and ()

d. Establish requirements for health, safety, and quality of treatment, care, and services provided by approved public and private alcohol and substance use disorders treatment and recovery support services facilities and programs in Idaho. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department has a Minimum Case Management Standards Manual which contains forms, policies, procedures, and interpretations of these rules for the development and provision of case management services, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection as described in Sections 005 of these rules. The standards are also available by accessing the Department's website at <http://healthandwelfare.idaho.gov/Medical/SubstanceUseDisorders/RecoverySupportServices/tabid/381/Default.aspx>, and clicking on the links under "RSS Case Management." ()

003. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ()

004. INCORPORATION BY REFERENCE.

The documents listed in Subsection 004.01 through 004.08 of these rules, are incorporated by reference as provided by Section 67-5229 (a), Idaho Code. ()

01. 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. ()

02. ASAM PPC-2R. American Society of Addiction Medicine (ASAM) Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition - Revised (ASAM PPC-2R). A copy of this manual is available by mail at the American Society of Addiction Medicine, 4601 North Park Ave., Suite 101, Chevy Chase, MD 20815; by telephone and fax, (301) 656-3920 and (301) 656-3815 (fax); or on the internet at <http://>

www.asam.org. ()

03. DSM-IV-TR. American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR) Washington, DC, American Psychiatric Association, 2000. 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. ()

04. Guidelines for the Accreditation of Opioid Treatment Programs (OTP). Substance Abuse and Mental Health Services Administration, Office of Pharmacologic and Alternative Therapies, Attention: OTP Certification Program, Room 2-1086, 1 Choke Cherry Road, Rockville, MD 20857; or on the internet at <http://www.dpt.samhsa.gov/regulations/certification.aspx> for an overview of certification regulations, and <http://www.dpt.samhsa.gov/pdf/OTPAccredGuidelines-2007.pdf> for the specific guidelines dated July 20, 2007. 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. ()

05. 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>. ()

06. The Joint Commission's 2009 Comprehensive Accreditation Manual for Behavioral Health CARE (CAMBHC). The standards for conducting "Research" are available from The Joint Commission, 2009 CAMBHC, 1 Renaissance Blvd., Oakbrook Terrace, IL 60181-4294, phone: 1-877-223-6866, and online at <http://www.jcrinc.com/Accreditation-Manuals/2009-CAMBHC/1260/>. ()

07. National Fire Protection Association (NFPA) Documents. The NFPA documents referenced in this chapter of rules as the Uniform Fire Code are available from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322-9908, phone: 1-800-344-3555, and online at <http://www.nfpa.org>. ()

08. Treatment Improvement Protocol (TIP) 42. "Substance Abuse Treatment for Persons with Co-occurring Disorders." This publication is available from the Substance Abuse Mental Health Service Administration's (SAMHSA's) Health Information Network, P.O. Box 2345, Rockville, MD 20847-2345, phone: 1-877-SAMHSA-7 (1-877-726-4727), TTY: 1-800-487-4889, Fax: 1-240-221-4292, Email: SHIN@samhsa.hhs.gov, Web Site: <http://www.samhsa.gov/shin>. ()

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

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

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ()

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State St., Boise, Idaho 83702. ()

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ()

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

06. Substance Use Disorders Services Website. The Substance Use Disorders Services internet website is found at <http://www.substanceabuse.idaho.gov>. ()

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUEST.

01. Public Records. The use or disclosure of Department records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." Unless otherwise exempted by state or federal law, all public records in the custody of the Department are subject to disclosure. ()

02. Public Availability of Licensure or Deficiencies. In compliance with Section 9-340C(9), Idaho Code, and IDAPA 16.05.01.100.02, "Use and Disclosure of Department Records," records relating to alcohol and substance use disorders treatment and recovery support services programs will be released to the public upon written request if they are part of an inquiry into an individual's or organization'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. ()

007. -- 008. (RESERVED).

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. All owners, operators, employees, transfers, reinstated former employees, student interns, contractors and volunteers hired or contracted with after May 1, 2010, who provide direct care or service or have direct client access, must comply with the provisions of IDAPA 16.05.06 "Criminal History and Background Checks." ()

02. Availability to Work. An individual listed in Subsection 009.01 of these rules is available to work on a provisional basis at the discretion of the employer or agency once the individual has submitted his criminal history and background check application, it has been signed and notarized, reviewed by the employer or agency, and no disqualifying crimes or relevant records are disclosed on the application. An individual must be fingerprinted within twenty-one (21) days of submitting his criminal history and background check application. An individual is allowed to work or have access to clients only under supervision until the criminal history and background check is completed. ()

010. DEFINITIONS - A THROUGH C.

For the purposes of these rules, the following terms are used. ()

01. Access. A client's ability to obtain alcohol or substance use disorder treatment or services that he is seeking. ()

02. Active Client. A client who receives services from an approved alcohol and substance use disorders treatment or recovery support services program, who has had face-to-face contact with a program's qualified substance use disorders professional within the immediately preceding thirty (30) calendar days. ()

03. Adolescent. An individual between the ages of fourteen (14) and eighteen (18). ()

04. Adult. An individual eighteen (18) years of age or older. ()

05. Adjunct Services. Those clinical and non-clinical services provided outside of an approved alcohol and substance use disorders treatment or recovery support services program that support client recovery. Adjunct services may include: Women, Infant and Children (WIC), welfare, mental health services, and medical services. ()

06. Advocacy. The act of pleading for, supporting, or recommending services, supports, treatment, or opportunities for a client. For example, a case manager advocates for the unmet needs of the client and encourages independence. Advocacy, as part of case management, can be done with or for a client. ()

07. Alcohol and Drug Testing. The collection and initial screening of urine, hair, or oral fluid samples for screening and detecting alcohol and substance use. ()

08. Applicant. A person, firm, partnership, association, corporation, agency, or organization which has filed an application with the Department to become an approved alcohol and substance use disorders treatment or

recovery support services program under these rules. ()

09. Appropriate. A term used to indicate that a particular procedure, treatment, test, or service is suitable or compatible in quantity, and provided in the best setting to meet the client's needs. ()

10. Approved Private Treatment Facility. An alcohol and substance use disorders treatment program or recovery support services program meeting the standards prescribed in Section 39-305(1), Idaho Code, and approved under the provisions of Section 39-305(3), Idaho Code, and these rules. The term "facility" is synonymous with the term "program." ()

11. Approved Public Treatment Facility. An alcohol and substance use disorders treatment program or recovery support services program operating under the Alcoholism and Intoxication Treatment Act (Title 39, Chapter 3, Idaho Code) through a contract with the Department and meeting the standards prescribed in Section 39-305(1), Idaho Code, and approved pursuant to Section 39-305(3), Idaho Code and these rules. The term "facility" is synonymous with the term "program." ()

12. ASAM PPC-2R. Refers to the manual containing the patient placement criteria for the treatment of substance-related disorders, published by the American Society of Addiction Medicine (ASAM) as incorporated by reference in Section 004 of these rules. ()

13. Assessment and Referral Services. A substance use disorders program provides these services in order to treat, provide services, or refer individuals. An assessment is designed to gather and analyze information regarding a client's current substance use disorder behavioral, social, medical, and treatment history. The purpose of the assessment is to provide sufficient information for problem identification and, if appropriate, substance abuse related treatment or referral. ()

14. Behavioral Health Services. Services offered by the Department to treat behavioral health issues or alcohol and substance use disorders. ()

15. Biopsychosocial Assessment. Those procedures by which a qualified substance use disorders professional evaluates an individual's strengths, weaknesses, problems, needs, and determines priorities so that a treatment plan can be developed. ()

16. CARE. The Commission on Accreditation of Rehabilitation Facilities. ()

17. Case Management. The administration and evaluation of an array of services that may include assessment of client and client family needs, service planning, linkage to other services, client advocacy, monitoring service provision, and coordination of services. ()

18. Case Management Planning. The planning process where the case manager and client, parent, guardian, spouse, or significant other, as applicable, define goals, strategies to achieve these goals, responsibilities for action, and time frames for action. It also includes community reintegration planning, and discharge planning to terminate case management services when case management is no longer required by the client, goals have been met, the client no longer wishes to participate in case management, or the client is no longer eligible for services. ()

19. Certificate of Approval. A certificate issued by the Department under Section 145 of these rules to an alcohol and substance use disorders treatment or recovery support services program which the Department deems to be in compliance with these rules. ()

20. Child. An individual under the age of fourteen (14). ()

21. Client. A person receiving treatment for an alcohol or a substance use disorder or receiving recovery support services. The term "client" is synonymous with the terms "patient," "resident," "consumer," "participant," or "recipient of treatment." ()

22. Client Record. All documentation of individual client treatment and related services. ()

23. Clinical Case Management. Clinical case management is a service that integrates mental health and substance use disorders clinical expertise with case management skills to implement comprehensive interventions that address the overall maintenance of the client's physical and social environment. Clinical case management includes: engagement of the client, assessment, planning, treatment, linkage with resources, consultation with families, collaboration with psychiatrists, client education, and crisis intervention. ()

24. Clinical Supervisor. The program staff member responsible for oversight of all clinical aspects of the treatment services provided. ()

25. 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. ()

26. Clinically Managed High-Intensity Residential Treatment. A program that offers intensive residential treatment services, staffed twenty-four (24) hours per day, seven (7) days a week, which is 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. This level of care is also known as long-term residential care or a Therapeutic Community. ()

27. Clinically Managed Low-Intensity Residential Treatment. A program that offers at least five (5) hours per week of outpatient or intensive outpatient treatment services along with a structured residential recovery environment, staffed twenty-four (24) hours per day, seven (7) days a week, which provides sufficient stability to prevent or minimize relapse or continued use. This level of care is also known as a Halfway House. ()

28. Clinically Managed Medium-Intensity Residential Treatment. A program that offers structured residential treatment services, staffed twenty-four (24) hours per day, seven (7) days a week, which provides 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. This level of care is also known as residential care. ()

29. Clinical Supervision. Clinical supervision includes planning, directing, monitoring, and evaluating the clinical work of another staff person by a Department-qualified clinical supervisor. ()

30. College of Professional Psychology. Professional certification entity of the American Psychological Association Practice Organization. ()

31. Competencies. Competencies are the knowledge, skills, and attitudes required for the members of the alcohol and substance use disorders clinical staff as a prerequisite to proficiency in the professional treatment of alcohol and substance use disorders. The model of competencies is determined by the Department. ()

32. Compliance. Demonstration that these rules, policies and procedures, and applicable federal and state statutes and regulations are observed. Compliance is determined by the Department. ()

33. Comprehensive Case Management Service Plan. A written comprehensive service plan based on a current assessment as described in Section 370 of these rules, that addresses the medical, psychosocial, legal, educational, and financial needs of the client. The comprehensive service plan provides for the coordination of services across multiple need dimensions. ()

34. Continuing Care. Care that supports a client's progress, monitors his condition, and can respond to a return to substance use or a return of symptoms of mental disorder. It is both a process of post-treatment monitoring and a form of treatment itself. ()

35. Contract. A formal agreement with any organization, agency, or individual specifying the services, personnel, products or space to be provided by, to, or on behalf of the program and the consideration to be expended in exchange. ()

36. Contracted Intermediary. A third party contractor of the Department who handles direct contracting with network providers for alcohol and substance use disorders treatment and recovery support services. Direct services may include network management, claims payment, data gathering per federal and state requirements, and census management. ()

37. Co-Occurring Disorders Capable (COD-C). Of or pertaining to programs that address co-occurring mental health and substance-related disorders in their policies and procedures, assessment, treatment planning, program content, and discharge planning. The term “co-occurring disorders capable (COD-C) program” is synonymous with the term “dual diagnosis capable (DDC) program.” ()

38. Co-Occurring Disorders (COD). The co-occurring diagnoses of mental health and substance use disorders. ()

39. Criminogenic Need. A client attribute shown by research to be correlated with criminal behavior and to be an appropriate target for treatment intervention. ()

011. DEFINITIONS - D THROUGH H.

For the purposes of these rules, the following terms are used. ()

01. Department. The Idaho Department of Health and Welfare. ()

02. Detoxification Services. Services necessary to monitor individuals who are undergoing the systematic reduction of a toxic agent from the body during withdrawal. ()

03. Director. The Director of the Department of Health and Welfare or his designee. ()

04. Discharge. The point at which the client's active involvement in treatment or recovery support services is terminated and the program no longer maintains active responsibility for the care of the client. ()

05. Discharge Plan. The plan developed jointly by the qualified substance use disorders professional and the client that provides the client with the resources needed to support his recovery. ()

06. Discharge Summary. A document written by the client's provider upon discharge from treatment and contains a summary of the following: ()

a. Assessment of client problems at admission; ()

b. Expected treatment outcomes; ()

c. Treatment plans and strategies; ()

d. Client status at discharge; ()

e. Treatment progress; ()

f. Summaries of continuing care plans; and ()

g. Referrals for further treatment. ()

07. Drug Court Outpatient Treatment Program. A Department-approved program for the treatment of alcohol and substance use disorders for individuals under the jurisdiction of a local drug court. ()

08. Drug Court Team. Individuals who collectively plan and evaluate services for drug court

participants and determine participant compliance, progress, sanctions, movement from one (1) treatment phase to another, and continuation or termination of drug court treatment. ()

09. Early Intervention Services. Services that are designed to explore and address problems that appear to be related to substance use. ()

10. Education. Strategies that teach people critical information about alcohol and other drugs and the physical, emotional, and social consequences of their use. ()

11. Executive Director. The individual who is responsible for the overall management of the program or facility. The executive director is appointed by the governing body to act on its behalf. The term “executive director” is synonymous with the terms “administrator,” “director,” “superintendent,” “president,” “vice-president,” and “executive vice-president.” ()

12. Facility/location. The individual building or buildings, including furnishings and fixtures, or locations where persons with alcohol or substance use disorders receive services. The term “facility” is synonymous with office, clinic, or physical plant. ()

13. Governing Body. The individual or individuals, board of directors, group, or agency that has ultimate authority and responsibility for the overall operation of an alcohol and substance use disorders treatment or recovery support services facility or program and for full compliance with these rules and minimum standards.()

14. Group Counseling. The application of formal counseling techniques involving interaction among members of a group of clients. ()

15. Guardian. ()

a. Under Title 15, Chapter 5, Part 2, Idaho Code, an individual who has been appointed by a court of law to have and exercise the powers and responsibilities of a parent who has not been deprived of custody of his minor and unemancipated child; ()

b. Under Title 66, Chapter 3 and 4, Idaho Code, an individual who has been appointed by a court of law to have and exercise the powers and responsibilities of a guardian for a person who is mentally ill or with a developmental disability; or ()

c. Under Title 15, Chapter 5, Part 3, Idaho Code, an individual who has been appointed by a court of law to assist any incapacitated person to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person. ()

012. DEFINITIONS - I THROUGH P.
For the purposes of these rules, the following terms are used. ()

01. Idaho Board of Alcohol/Drug Counselor Certification, Inc. (IBADCC). A board affiliated with the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC). The IBADCC is the certifying entity that oversees credentialing of Idaho Student of Addiction Studies (ISAS), Certified Alcohol/Drug Counselors (CADC), Advanced Certified Alcohol/Drug Counselors (ACADC), Certified Clinical Supervisors (CCS), and Certified Prevention Specialists (CPS) in the state of Idaho. The IBADCC may be contacted at: 270 N. 27th Street, Suite B, Boise, ID 83702; phone: (208) 395-1078; <http://ibadcc.org/>. ()

02. Idaho Student of Addiction Studies (ISAS). An entry-level certification for substance use disorder treatment granted by the IBADCC. ()

03. Immediate Danger. Exposure to imminent, substantial injury, pain, harm, or loss. ()

04. Individualized Treatment Plan. A written action plan, based on an intake eligibility screening and full clinical assessment, that identifies the applicant's clinical needs, the strategy for providing services to meet those needs, treatment goals and objectives, and the criteria for terminating the specified interventions. ()

05. Informal Networks. Informal networks are the web of relationships that people use to exchange resources and services. The content of their exchanges can be work-related, personal, or social. Informal networks are distinct from formal networks in that they are not officially recognized or mandated by organizations. ()

06. Intake Eligibility Screening. The collection of data, analysis, and review, which the Department or its designee, uses to screen and determine whether an applicant is eligible for adult or adolescent alcohol or substance use disorders services available through the Department. ()

07. Intern. An individual who has a written agreement with an educational institution that requires a student practicum in a behavioral health care setting. An intern may be referred to as a "Practicum Student," "Student," or an "Idaho Student of Addiction Studies." ()

08. Intensive Outpatient Services. An organized service delivered by addiction professionals or addiction-credentialed clinicians, which provides a planned regimen of treatment consisting of regularly scheduled sessions within a structured program, for a minimum of nine (9) hours of treatment per week for adults and six (6) hours of treatment per week for adolescents. ()

09. Inventory of Treatments. The various program activities intended to cause or support the reduction or elimination of alcohol or substance use. These activities may include: education, individual, group, or family counseling, vocational rehabilitation services, medical and psychological services, and self-help groups. These services may include activities provided by the program through contractual arrangement with an outside organization. ()

10. Level of Service Inventory -- Revised (LSI-R). An assessment tool used to assess criminal offenders for their risk to commit further offenses and their service needs. The LSI-R is available at this web site: <http://www.assessments.com/default.asp>. ()

11. Licensed Clinical Professional Counselor. An individual licensed in Idaho by the Idaho State Licensing Board of Professional Counselors and Marriage and Family Therapists under Title 54, Chapter 34, Idaho Code. ()

12. Licensed Clinical Social Worker. An individual who has a master's degree or doctorate in social work and two (2) years of postgraduate supervised clinical experience licensed in Idaho by the State Board of Social Work Examiners under Title 54, Chapter 32, Idaho Code. ()

13. Licensed Marriage and Family Therapist, Associate Marriage and Family Therapist, or Registered Marriage and Family Therapist Intern. An individual licensed in Idaho by the Idaho State Licensing Board of Professional Counselors and Marriage and Family Therapists under Title 54, Chapter 34, Idaho Code. ()

14. Licensed Masters Social Worker. An individual who has a doctorate or master's degree in social work from a college or university licensed in Idaho by the State Board of Social Work Examiners under Title 54, Chapter 32, Idaho Code. ()

15. Licensed Professional Counselor. An individual licensed in Idaho by the Idaho State Licensing Board of Professional Counselors and Marriage and Family Therapists under Title 54, Chapter 34, Idaho Code. ()

16. Licensed Social Worker. An individual licensed in Idaho by the State Board of Social Work Examiners under Title 54, Chapter 32, Idaho Code. ()

17. Management Service Contractor (MSC). An independent contractor with whom the Department contracts to manage a statewide network of Department approved facilities and programs to deliver substance use disorders treatment and recovery support services. ()

18. Medical Consultant. A medical consultant provides medical advice in an advisory capacity. For

the purpose of this rule a medical consultant is someone who is knowledgeable about medical detoxification procedures. A medical consultant may have worked previously as a nurse, doctor, or other healthcare specialist. ()

19. Medical Screening. An examination performed by a licensed professional nurse, nurse practitioner, physician's assistant, or a licensed physician. ()

20. Mental Health Services. A variety of services for treating mental health disorders that include: emergency services, medication management, assessment, clinical treatment services, case management, family support, and consumer advocacy. ()

21. NFPA. The National Fire Protection Association. ()

22. Network Provider. A treatment or recovery support services provider who has been approved by the Department and is contracted with the Department's Management Service Contractor. A list of network providers can be found at the Department's website given in Section 005 of these rules. ()

23. Nurse. A professional nurse (Registered Nurse or RN) or nurse practitioner licensed in Idaho by the State Board of Nursing under Title 54, Chapter 14, Idaho Code. ()

24. Northwest Indian Alcohol/Drug Specialist Certification Board. A board that represents the Native American Chemical Dependency programs in the state of Washington, Oregon, and Idaho and offers certification for chemical dependency counselors. Information regarding certification standards may be obtained at the following website: <http://www.nwiadcb.com/NWIADCB/index.html>. ()

25. On-Site Testing. Using a device or kit at a treatment or recovery support service facility to test for alcohol or substance use. ()

26. Opioid Replacement Outpatient Services. This service is specifically offered to a client who has opioids as his substance use disorder. Services are offered under the guidelines of an accredited program incorporated by reference in Section 004 of these rules. ()

27. Outpatient Services. An organized non-residential service, delivered in a variety of settings, in which addiction treatment personnel provide professionally directed evaluation and treatment for alcohol and substance use disorders. ()

28. Physician. An individual who holds a license issued by the Idaho State Board of 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." ()

29. Program. Refers to the organization offering substance use disorders treatment or recovery support services, or both. It includes the organization's facilities, management, staffing pattern, treatment, and related activities. The term "program" is synonymous with the term "facility." ()

30. Program Approval. Refers to the certification under Section 145 of these rules to formally recognize the facility, program, or service as having met the requirements of these rules that pertain to specific substance use disorder treatment services. ()

31. Program Evaluation. Processes primarily used by the program's administration to assess and monitor, on a regular or continuous basis, program operation, service delivery, quality assurance, and client outcome. ()

32. Provisional Approval. A temporary certificate of approval issued under Section 145 of these rules to an alcohol and substance use disorders treatment or recovery support services program in operation at the time of promulgation of new rules, in order to afford reasonable time to comply with the new rules and to obtain approval, or which, while not in full compliance with rules, has no deficiencies which would endanger the health, safety and welfare of clients and is in the process of making the necessary changes to comply fully. ()

013. DEFINITIONS - Q THROUGH Z.

For the purposes of these rules, the following terms are used. ()

01. Qualified Substance Use Disorders Professional. A professional qualified to provide substance use disorders services under Section 218 these rules. ()

02. Quality Assurance. An ongoing process of evaluation that ensures compliance with minimum standards and provides for continuous improvements in the quality of services. ()

03. Recovery Support Services. Non-clinical services that may include: adult safe and sober housing that is staffed, transportation, child care, family education, life skills education, marriage education, drug testing, peer-to- peer mentoring, and case management. ()

04. Referral. The process of linking clients to appropriate treatment and recovery support services. ()

05. Release of Information. A signed client authorization to exchange specific treatment information with a specified person or agency. ()

06. Residential Treatment Facility. A setting for the treatment of alcohol and substance use disorders that provides twenty-four (24) hour per day, seven (7) days a week, living accommodations for clients. ()

07. Screening. A brief process used to determine if an individual meets the program's admission criteria. The screening process is conducted prior to admission to an approved treatment program. ()

08. Service. The activities of a treatment or recovery support services program grouped according to a common goal or purpose. Examples of services are Treatment Services, Food Services, Social Services, Nursing Services, Vocational Rehabilitation Services, and services provided to treat an alcohol or substance use disorder. ()

09. Staff Member. A person who is directly employed by, or assigned to, a program on either a full or part-time basis. This includes volunteers, contractors, and students of a program. ()

10. Student Practice. A formal education or training program for a student involved in the treatment of alcohol or substance use disorders. ()

11. Substance Dependence. Substance dependence is marked by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues to use alcohol or other substances despite significant related problems. The cluster of symptoms can include: ()

a. Tolerance; ()

b. Withdrawal or use of a substance in larger amounts or over a longer period of time than intended; ()

c. Persistent desire or unsuccessful efforts to cut down or control effects; ()

d. Relinquishing important social, occupational or recreational activities because of substance use; and ()

e. Continuing alcohol or drug use despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by such use as defined in the DSM-IV-TR. ()

12. Substance-Related Disorders. Substance-related disorders include disorders related to the taking of alcohol or another substance of abuse, to the side effects of a medication, and to toxin exposures. They are divided

into two (2) groups: the Substance Use Disorders and the Substance-Induced Disorders as defined in the DSM-IV-TR. ()

13. Substance Use Disorder. Includes Substance Dependence and Substance Abuse, according to the DSM-IV-TR. Substance Use Disorders are one (1) of two (2) subgroups of the broader diagnostic category of Substance-Related Disorders. ()

14. 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. ()

15. Trainee. An individual who is acquiring the required one thousand forty (1,040) hours of clinical supervised experience in accordance with Section 223 of these rules and has a current certification or is licensed in Idaho as a: ()

- a. Nurse practitioner; ()
- b. Clinical nurse specialist; ()
- c. Nurse practitioner; ()
- d. Physician; ()
- e. Physician assistant; or ()
- f. Registered nurse. ()

16. Transitional Treatment Facility. A clinically supervised, peer-supported therapeutic environment with clinical involvement that provides twenty-four (24) hours per day, seven (7) days a week, living accommodations for clients. ()

17. Treatment(s). The provision of individual therapy, group therapy, assessment, education, and other services to eliminate or reduce alcohol and substance use and arrest, reverse or retard problems associated with alcohol or substance abuse, or both. ()

18. Treatment Plan Review. Documented examination of treatment plans at regular intervals throughout the course of treatment to assess client progress in relation to planned treatment outcomes and make treatment plan adjustments as necessary. ()

19. Treatment Supervisor. The person responsible for the overall management of all aspects of the provision of a treatment service or multiple treatment services. ()

20. Uniform Fire Code. Refers to the latest edition of the Uniform Fire Code, according to Section 41-253(1), Idaho Code, as minimum standards for the protection of life and property from fire and explosions. ()

014. -- 099. (RESERVED).

**GENERAL REQUIREMENTS FOR ALL ALCOHOL AND SUBSTANCE USE DISORDERS
TREATMENT OR RECOVERY SUPPORT SERVICES FACILITIES AND PROGRAMS
(Sections 100 through 129)**

100. CERTIFICATE OF APPROVAL REQUIRED.

01. Certificate of Approval for Public Treatment Facilities. Under Sections 39-302(4), and 39-305(1), Idaho Code, a certificate of approval is required for each facility/location of a program in order to operate, establish, manage, conduct, or maintain, directly or indirectly, an approved public treatment facility. ()

02. List of Approved Facilities. The Department will maintain a list of approved public and private treatment facilities in accordance with Section 39-305(3), Idaho Code. The issuance of a certificate of approval does not guarantee adequacy of individual care, treatment, personal safety, fire safety, or the well-being of any client employee, contractor, or volunteer or occupant of a facility. ()

03. Referral and Reimbursement. In order to receive referrals from the Department or any law enforcement officer, or receive any kind of state or federal reimbursement from the Department, a facility must be on the Department's list of approved treatment facilities and also be an approved contractor in good standing with the Department's MSC. ()

04. Injunction. Notwithstanding the existence or pursuit of any other remedy, in accordance with Section 39-305(6), Idaho Code, the Department may in the manner provided by law maintain an action in the name of the State for injunctive relief or other process against any person or entity in violation of these rules or the Alcoholism and Intoxication Treatment Act (Title 39, Chapter 3, Idaho Code). ()

101. APPROVAL FOR A PROGRAM WITH MULTIPLE FACILITIES.

An alcohol and substance use disorders treatment or recovery support services program may have more than one (1) facility or location. Each facility/location of the program must comply with all of the requirements and minimum standards in these rules in order to operate, establish, manage, conduct, or maintain, directly or indirectly, an approved public treatment facility. ()

01. Approval for Multiple Facilities Attached to One Program. A program with more than one (1) facility or location must submit an application for each location under Section 130 of these rules. ()

02. Certificate of Approval for Each Location. Each facility/location of the program must receive a certificate of approval issued by the Department in order for it to operate, establish, manage, conduct, or maintain, directly or indirectly, an approved public treatment facility. ()

03. Failure to Receive Approval for Multiple Facilities Attached to One Program. If a program has made application for certificates of approval for multiple locations or facilities, the denial of a certificate of approval for a facility/location will not affect any of the program's other applications for certificates of approval for facilities/locations that have not been denied. ()

102. OUT-OF-STATE PROGRAMS AND FACILITIES UTILIZED BY IDAHO RESIDENTS.

The Department may, in its discretion, accept the approval and certification by the state in which a treatment program and facility is located, if the out-of-state program and facilities are utilized by clients who are residents of the state of Idaho. A program or facility licensed or certified by another state that is located, maintained, or operated within the state of Idaho, irrespective of the program headquarters, must comply with these rules and minimum standards and receive a certificate of approval issued by the Department in order to operate, establish, manage, conduct, or maintain, directly or indirectly, an approved public treatment facility in the state of Idaho. ()

103. SERVICES FOR CO-OCCURRING DISORDERS (COD).

The objectives of integrated COD treatment services are to keep the client engaged in treatment, improve client outcomes, coordinate mental health and substance use disorders treatment services, and maintain the least restrictive level of care required for successful client outcomes. All approved treatment facilities and programs must be co-occurring capable as defined in Section 010 of these rules. In addition to meeting all the rules and minimum standards contained in Sections 000 through 499 of these rules, each alcohol and substance use disorders treatment services program must meet the following requirements: ()

01. Co-Occurring-Capable. All alcohol and substance use disorders treatment programs must be co-occurring capable as defined in Section 010 of these rules. ()

02. Co-Occurring Disorders. For clients with co-occurring disorders, coordinated services for these disorders must be provided or arranged, directly or indirectly. ()

a. Each client must have access to a full range of services provided by qualified, trained staff. ()

b. Each client must receive services necessary to fully address his treatment needs. The treatment program must: ()

i. Directly provide all necessary services in accordance with the program's capabilities and certification; and ()

ii. Provide those services within its capability and promptly arrange additional services from another program as necessary. ()

c. Services must be continuously coordinated between programs, where applicable. Programs must: ()

i. Ensure that services are not redundant or conflicting; and ()

ii. Maintain communication regarding the individual's treatment plan and progress. ()

03. Duplication of Services. Integrated COD treatment services must not duplicate services currently provided by or under any other state-funded program. ()

04. COD Competency. All alcohol and substance use disorders treatment staff must demonstrate basic COD competencies as listed in Treatment Improvement Protocol (TIP) 42 - "Substance Abuse Treatment for Persons with Co-Occurring Disorders" incorporated by reference in Section 004 of these rules. ()

05. Written Agreements. Alcohol and substance use treatment or recovery support services programs that do not provide COD treatment services must maintain written agreements with other approved programs that will be providing these services. This collaboration must be documented in the client's record. ()

104. -- 129. (RESERVED).

**APPLICATION FOR APPROVAL AND RENEWAL OF AN ALCOHOL AND SUBSTANCE USE
DISORDERS TREATMENT OR RECOVERY SUPPORT SERVICES PROGRAM.
(Sections 130 - 159)**

**130. INITIAL APPLICATION FOR APPROVAL OF AN ALCOHOL AND SUBSTANCE USE
DISORDERS TREATMENT OR RECOVERY SUPPORT SERVICES PROGRAM.**

Application for approval of a program must be made to the Department at least ninety (90) days prior to the planned opening date. The application for approval must include the following: ()

01. Initial Application for Approval. Initial application for approval forms are available upon written request or online at the Department of Health and Welfare website identified in Section 005 of these rules. The applicant must provide the following items: ()

a. A completed and signed Department application form. ()

b. A non-refundable application fee for each facility being applied for as follows: ()

i. Treatment facility - one hundred dollars (\$100); ()

ii. Treatment and Recovery Support Services facility - one hundred dollars (\$100); and ()

iii. Recovery Support Services facility only - fifty dollars (\$50). ()

c. A written statement that discloses the following with respect to the applicant, owner, or person proposed as executive director: ()

- i. Any revocation of a license, certification, or approval that is held or previously held in Idaho or any other state or jurisdiction; or ()
- ii. Other disciplinary action taken, or in the process of being taken in Idaho or any other state or jurisdiction. This includes on-going fraud, waste, and abuse investigations. ()
- d. A written statement that discloses any issues involving the Internal Revenue Service or Idaho State Tax Commission for the past five (5) years. ()
- e. A copy of the "Certificate of Assumed Business Name" from the Idaho Secretary of State. ()
- f. A detailed floor plan of the facility, including measurements of all rooms, or a copy of architectural drawings. ()
- g. Disclosure of ownership as required in Section 160 of these rules. ()
- h. Copies of current and valid certificates, permits, or licenses as appropriate which may include:
 - i. Certificate of occupancy from the local building authority utilizing the latest edition of the Uniform Building Code according to Section 39-4109, Idaho Code, with a determination of either a Group R-1, Congregate Residence of more than ten (10) persons or a Group R-3, Congregate Residence of ten (10) persons or less for each facility site. ()
 - ii. Certificate of fire inspection in accordance with the Uniform Fire Code as adopted by the state fire marshal, with authority delegated to the local fire chief. If an inspection cannot be provided by the local fire department, it is the responsibility of the program to arrange for and, if necessary, to pay for the inspection. ()
 - iii. Food service permit from the district health department, if food is prepared and served at the facility. ()
 - iv. Joint Commission certificate, if accredited. ()
 - i. Documentation that the menus have been reviewed and approved by a registered dietician within the preceding twelve (12) months if food is prepared and served at the facility. ()
 - j. The written plan for an inventory of treatments as defined in Section 012 of these rules. This plan must include at a minimum:
 - i. A statement establishing the geographic area for which the applicant intends to provide services, the proposed location of all offices and facilities; ()
 - ii. A full and complete description of all services the applicant proposes to provide; ()
 - iii. Specific goals and objectives, ()
 - iv. Data and other information demonstrating the need for the services in the area intended to be served, description of unmet needs, and a discussion of why those needs are not being met currently; ()
 - v. The program's relationship to other alcohol and substance use disorders services and related programs in the service area and how the applicant will collaborate with them to achieve a comprehensive system of care in the service area; ()
 - vi. The program's plans to secure additional funding; ()
 - vii. A description of the fiscal and information management systems the applicant plans to use; and

- ()
- viii. The applicant's plan for measuring and reporting outcomes and results. ()
- k. A copy of the lease, if the real property in which the program is located is leased. ()
- l. A written statement that the applicant, owner, or person proposed as executive director have thoroughly read and reviewed the Alcoholism and Intoxication Treatment Act and these rules and are prepared to comply with all of their respective provisions. ()
- m. Satisfactory evidence that the owner, applicant, person proposed as executive director and all employees, transfers, reinstated former employees, student interns, contractors, volunteers, and any other persons hired or contracted with after May 1, 2010, who provide care or services or have access to clients have successfully passed a criminal history background check that complies with Section 009 of these rules. ()
- n. Other information that may be requested by the Department for the proper administration and enforcement of these rules. ()

02. Proof of Insurance. The minimum insurance required for all programs is professional liability, commercial general liability, and comprehensive liability for all program vehicles. All facilities must maintain professional liability insurance in the amount of at least five-hundred thousand dollars to one million dollars (\$500,000/\$1,000,000) and general liability and automobile insurance in the amount of at least one million dollars to 3 million dollars (\$1,000,000/\$3,000,000). Copies of the declarations face-sheet for all policies must be included with the application. ()

03. Electronic Version of Agency Operating Policies and Procedures. A complete electronic version of the program's operating policies and procedures based on these rules. ()

04. Identification of the Executive Director, Clinical Supervisor, and Treatment Supervisor. In addition to documentation that demonstrates compliance with Sections 215, 216, 217, and 218 of these rules, the applicant must provide the following information for the staff identified as Executive Director, Clinical Supervisor, and Treatment Supervisor: ()

- a. Current resume that includes a detailed work history with start and end dates, job descriptions, and contact information for references. ()
- b. Copies of applicable licenses and certifications. ()

131. FAILURE TO COMPLETE APPLICATION PROCESS.

Failure of the applicant to cooperate with the Department or complete the application process within six (6) months of the original date of application will result in a denial of the application. If the application is denied, the applicant is barred from submitting, seeking, or obtaining another application for a certificate of approval for a period of one (1) year from the date of the original application. ()

132. -- 134. (RESERVED).

135. RENEWAL OF APPROVAL OF AN ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT OR RECOVERY SUPPORT SERVICES PROGRAM.

Application for renewal of approval of a program must be made to the Department at least ninety (90) days prior to the expiration date on the current certificate of approval and must include the following: ()

01. Application for Renewal. To renew a certificate of approval, the applicant must provide the following items: ()

- a. A completed and signed Department renewal application form. Application for renewal forms are available upon written request or online at the Department of Health and Welfare website identified in Section 005 of these rules. ()

- b. A non-refundable renewal application fee for each facility. The renewal application fees are as follows: ()
 - i. Treatment facility is one hundred dollars (\$100); ()
 - ii. Treatment and recovery support services facility is one hundred dollars (\$100); and ()
 - iii. Recovery support services facility is fifty dollars (\$50). ()
 - c. A written statement that discloses the following with respect to the applicant, owner, or person proposed as executive director: ()
 - i. Any revocation of a license, certification, or approval that is held or previously held by in Idaho or any other state or jurisdiction; or ()
 - ii. Other disciplinary action taken or in the process of being taken in Idaho or any other state or jurisdiction. This includes on-going investigations and Medicaid investigations. ()
 - d. A written statement that discloses any present or previous issues, since the previous renewal of approval, involving the Internal Revenue Service or State of Idaho Tax Commission. ()
 - e. Disclosure of any changes in ownership, governing body, or administration not previously made known to the Department as required in Section 160 of these rules. ()
 - f. Copies of current, valid certificates, permits, licenses, or documentation listed in Subsection 130.01 of these rules. ()
 - g. The written plan for an inventory of treatments and annual review as described in Section 130.01 of these rules. ()
 - h. A copy of the lease if the real property in which the program is located is leased. ()
- 02. Proof of Insurance.** The minimum insurance required for all programs is professional liability, commercial general liability, and comprehensive liability for all program vehicles. All facilities must maintain professional liability insurance in the amount of at least five hundred thousand dollars to one million dollars (\$500,000/\$1,000,000) and general liability and automobile insurance in the amount of at least one million dollars to three million dollars (\$1,000,000/\$3,000,000). Copies of the declarations face-sheet for all policies must be included with the application. ()
- 03. Electronic Version of Agency Operating Policies and Procedures.** A complete electronic version of the program's operating policies and procedures based on these rules. ()
- 04. Identification of the Executive Director, Clinical Supervisor, and Treatment Supervisor.** In addition to documentation that demonstrates compliance with Sections 215, 216, 217, and 218 of these rules, the applicant must provide the following information for the staff identified as Executive Director, Clinical Supervisor, and Treatment Supervisor. ()
- a. Current resume which includes a detailed work history with start and end dates, job descriptions, and contact information for references. ()
 - b. Copies of applicable licenses and certifications. ()

136. -- 137. (RESERVED).

138. JOINT COMMISSION ACCREDITATION.

The Department may approve programs or renew a program's certificate of approval based upon Joint Commission

accreditation under the following conditions: ()

01. Organization Chart Verifying Staffing Credentials. Organization chart with verification that staff meet minimum credential or certification standards; ()

02. Criminal History and Background Checks. Satisfactory evidence that the owner, applicant, person proposed as executive director and all employees, transfers, reinstated former employees, student interns, contractors, volunteers, and any other persons hired or contracted with after May 1, 2010, who provide care or services or have access to clients have successfully passed a criminal history and background check as described in Section 009 of these rules; ()

03. Tuberculosis Testing. The personnel policies and procedures must establish tuberculosis testing requirements. All staff members, volunteers, and student practice/ISAS interns, must have upon employment, or engagement, and annually thereafter, a tuberculin skin test by the Mantoux method. Staff members, volunteers, and student practice/ISAS interns who are known to be a positive reactor must have a chest x-ray examination in lieu of a required tuberculin skin test. Personnel who have active tuberculosis must be restricted from employment and attendance at the facility until it is determined by laboratory evaluation that the tuberculosis is non-infectious. Results of the testing must be documented in personnel record; and ()

04. Application Fee. Payment of non-refundable application or renewal fee as described in Sections 130 and 135 of these rules. ()

139. (RESERVED).

140. REVIEW OF APPLICATION AND INSPECTION PROCESS.

01. Departmental Review of Application for Approval or Renewal. Upon receipt of the completed application for approval or renewal of a program, the Department will review and advise the applicant within sixty (60) days if the application meets the requirements of Section 130 or Section 135 of these rules, whichever is appropriate. ()

a. If the Department determines the application meets the requirements in Sections 130 or 135 of these rules, the Department will schedule an inspection of the program's facility site(s). The Department will make reasonable efforts to schedule an inspection within thirty (30) days of its determination. ()

b. If the Department determines the application does not meet the requirements in Section 130 or 135 of these rules, it will be returned to the applicant, with written recommendations for correction and completion of the recommendations. Failure to meet the application requirements within six (6) months of the original date of application may result in a denial of the application. If the application is denied, the applicant may reapply no sooner than one (1) year from the date of the denial. ()

02. Program Facility Inspection. The inspection of the program's facility site(s) will be conducted by a person or persons appointed by the Department. The Department may use the services of any qualified person or organization, either public or private, to examine, survey, or inspect any entity requesting or holding a certificate of program approval. ()

a. The applicant's program facility site(s) will be open to Departmental inspection at any reasonable time necessary to determine compliance with these rules and with the "Alcoholism and Intoxication Treatment Act," Sections 39-301, et seq., Idaho Code. Inspections may be made without prior notice to the applicant. ()

b. The applicant must, in compliance with federal and state confidentiality requirements, provide for review of the following: ()

i. Any and all client records; ()

ii. Administrative records; ()

- iii. Financial statements; ()
 - iv. Other state and local inspection reports; and ()
 - v. Other such documents required by the Department to make its determination, including any information that might have changed since the time the application was submitted. ()
- c. The applicant must arrange for Departmental inspection of the premises of any of its contractors to determine compliance with applicable requirements of these rules and with the "Alcoholism and Intoxication Treatment Act," Sections 39-301, et seq., Idaho Code. ()

03. Responsibility of the Department. Within sixty (60) days of the date of the inspection, the Department must submit a written report of findings to the applicant. Upon completion of the application and inspection process, the Department may take any of the following actions: ()

- a. Issue a certificate of approval for a period of two (2) years if a facility is in compliance with the pertinent score in each category and overall weighted score for that length of time as set forth in Subsection 145 of these rules and minimum standards; ()
- b. Issue a certificate of approval for a period of one (1) year if a facility is in compliance with the pertinent score in each category and overall weighted score for that length of time as set forth in Subsection 145 of these rules and minimum standards; ()
- c. Issue a provisional certificate of approval for a period of six (6) months contingent on an approved plan to correct all deficiencies prior to the expiration of the provisional certificate if a facility is in compliance with the pertinent score in each category and overall weighted score for that length of time as set forth in Subsection 145 of these rules and minimum standards. A facility will not be issued more than one (1) provisional certificate of approval in any two (2) year period; or ()
- d. Deny a certificate of approval or renewal. ()

141. -- 144. (RESERVED).

145. CERTIFICATE OF APPROVAL.

01. Issuance of a Certificate of Approval. If the Department is persuaded by a preponderance of the evidence that the application and inspection demonstrates that the facility, program, or service is in substantial compliance with these rules and minimum standards, the Department will issue a certificate of approval based upon the following scoring:

TABLE 145.01 - CERTIFICATE OF APPROVAL SCORING		
Duration of Certificate of Approval	Score in Each Category	Overall Weighted Score
24 months	80% - 100%	90% - 100%
12 months	75% - 79%	75% - 89%
6 months (provisional)	65% - 74%	65% - 74%

()

02. Limitations. A certificate of approval is issued in the name of the persons, firm, partnership, association, corporation, or governmental units identified on the application and only to the address of the facility stated in the application for the period and services specified. A certificate of approval is not transferable or assignable from one (1) individual to another, from one (1) business entity or governmental unit to another or from one (1) location to another. When a change of ownership, operator, or location occurs, the program must follow the

procedures set forth in Subsection 160 of these rules. ()

03. One Provisional Certificate of Approval Per Twenty-Four Month Period. Only one (1) provisional certificate of approval per facility will be issued to a program within a twenty-four (24) month period. ()

a. The facility being issued the provisional certificate of approval must be clearly specified. ()

b. The issuance of a provisional certificate of approval for a facility, will not affect the standing of any of the program's other certificates of approval that have not been issued provisionally. ()

04. Posting of the Certificate of Approval. The certificate of approval or provisional certificate of approval must be posted in a conspicuous place at each of the program's facilities. ()

05. Expiration. A certificate of approval issued to an alcohol and substance use disorders treatment or recovery support services program will, unless sooner suspended or revoked, expire on the date designated on the certificate of approval. ()

06. Responsibility. The individual or governing board of the entity named on the certificate of approval is responsible for the operation of the alcohol and substance use disorders treatment or recovery support services program and compliance with these rules and minimum standards. ()

146. -- 149. (RESERVED).

150. DENIAL, SUSPENSION, AND REVOCATION OF CERTIFICATE OF APPROVAL.

01. Denial of a Certificate of Approval or Renewal. The Department will deny a certificate of approval or renewal when a program or facility receives a score of sixty-four percent (64%) or below in any category, or an overall weighted score of sixty-four percent (64%) or below, or both. Additional causes for denial of a certificate of approval or renewal include any of the following: ()

a. The applicant, owner, or person proposed as executive director: ()

i. Has violated any conditions of a certificate of approval; ()

ii. Has willfully misrepresented or omitted material information on the application or other documents pertaining to obtaining or renewing any certificate of approval; ()

iii. Has been found guilty of fraud, gross negligence, abuse assault, battery, or exploitation of children or vulnerable adults. ()

iv. Has been denied or has had revoked any license or certificate issued by the Department or under Title 54, Idaho Code; ()

v. Has been convicted of operating any facility without a license; ()

vii. Has been enjoined from operating any facility; ()

vii. Has been convicted of a criminal offense within the past five (5) years, other than a minor traffic violation or infraction; or ()

viii. Is directly under the control or influence of any person who is described in Subsections 150.01.a.i. through 150.01.a.vii. of these rules; or ()

b. Any act or omission adversely affecting the welfare of any client, employee, contractor, or volunteer is being permitted, aided, performed, or abetted by the facility, applicant, owner, executive director. Such acts or omissions may include: neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or

exploitation of children or vulnerable adults. ()

02. Immediate Revocation, Suspension and Transfer of Clients without Notice. The Department will, without prior notice, revoke or suspend a certificate of approval of any facility, program, or service and immediately transfer clients, when persuaded by a preponderance of the evidence that such conditions exist as to endanger the health or safety of any client, employee, contractor, or volunteer. ()

03. Revocation, Suspension, or Terminate/Limit on Admissions with Written Notice. The Department will suspend, or revoke a certificate of approval, or terminate or limit admissions, by giving fifteen (15) days' written notice prior to the effective date, to any alcohol and substance use disorders treatment and recovery support services program or facility when persuaded by a preponderance of the evidence that: ()

a. One (1) or more of a program facilities are not in compliance with applicable provisions of the Idaho Code, or these rules and minimum standards. ()

b. The owner, applicant, or the person proposed as the Executive Director as defined in Section 011 of these rules: ()

i. Without good cause, fails to furnish any data, statistics, records or information requested by the Department, or files fraudulent returns thereof; ()

ii. Has been found guilty of or is under investigation for fraud, deceit, misrepresentation or dishonesty associated with the operation of a program, regardless of the population the program serves or the services the agency provides; ()

iii Has been found guilty of, or is under investigation for, the commission of any felony; ()

iv. Has failed to exercise fiscal accountability toward a client or the Department regarding payment for services, regardless of the population the program serves or the services the agency provides; ()

v. Has knowingly permitted, aided, or abetted the commission of any illegal act on the premises of an alcohol and substance use disorders treatment or recovery support services program; ()

vi. Has been found guilty of or is under investigation for federal or state tax violations; or ()

vii. Has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a program approval. ()

c. The program changed location from the building identified in the application. Any change in location from the building requires the program to notify the Department and submit required documentation, ninety (90) days prior to the move, so the Department can inspect the new facility. Failure to do so renders the certificate of approval null and void, and the Department will suspend it, pending submission of a new application and approval of the new facility. ()

d. Any act adversely affecting the welfare of clients is being permitted, aided, performed, or abetted such as: neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, criminal activity, or exploitation. ()

e. The program demonstrated or exhibited a lack of sound judgment that is essential to the operation and management of an alcohol and substance use disorders treatment or recovery support services program. ()

f. The program is not in compliance with any of the conditions of a provisional certificate of approval. ()

g. The program lacks personnel, as required by these rules or as directed by the Department, to properly treat or serve the number of clients in the program. ()

h. A program, facility, or service has not complied with a facility or program requirement within thirty (30) days from the date the Department accepted their plan of correction. ()

i. A program, facility, or service has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted their plan of correction. ()

j. The Department makes a determination of repeated noncompliance with respect to a program, facility, or service. ()

04. Return of the Certificate of Approval. The certificate of approval issued to a facility, program, or service is the property of the state of Idaho and must be immediately returned to the Department under the following circumstances: ()

a. Upon the suspension or revocation of the certificate of approval; ()

b. If the facility, program, or service is discontinued by the voluntary action of the facility, program, or service; or ()

c. Upon expiration of the certificate of approval. ()

05. Multiple Certificates of Approval. When a facility, program, or service holds multiple certificates of approval: ()

a. The facility, program, or service having the certificate of approval denied, suspended or revoked must be clearly specified. ()

b. If a facility, program, or service holds multiple certificates of approval, the denial, suspension or revocation of a certificate of approval will not affect the standing of any of the program's other certificates of approval that have not been denied, revoked, or suspended. ()

151. SIX-MONTH PROVISIONAL APPROVAL.

01. Issuance of Six-Month Provisional Certificate of Approval for New Programs. Each applicant for initial approval that does not have deficiencies that would impair the health, safety, and welfare of any client, employee, contractor, or volunteer and that receives a score of sixty-five percent (65%) to seventy-five percent (75%) in every category, and an overall weighted score of sixty-five percent (65%) to seventy-five percent (75%) will be issued a six-month provisional certificate of approval. ()

02. Issuance of Six-Month Provisional Certificate of Approval for Deficiencies. The Department may revoke a certificate of approval and issue a provisional certificate of approval for a period not to exceed six (6) months to the entire program or to one (1) of its facilities at any time if the program had been approved at its last application, but has subsequently been found by the Department to be deficient in relation to the requirements of these rules and minimum standards. ()

03. Provisional Certificate of Approval Written Plan of Compliance. Within thirty (30) days of the issue date of the provisional certificate of approval, the program must prepare and submit a written plan of correction acceptable to the Department which sets forth the program's plan for achieving compliance with all requirements of these rules by the expiration of the provisional certificate. ()

04. One Provisional Certificate of Approval Per Twelve Twenty-Four Month Period. Only one (1) provisional certificate of approval per facility will be issued to a program within a twenty-four (24) month period. ()

a. The facility being issued the provisional certificate of approval must be clearly specified. ()

b. If a facility, program, or service holds multiple certificates of approval, the issuance of a provisional certificate of approval for a facility, will not affect the standing of any of the program's other certificates

of approval that have not been issued provisionally. ()

05. Expiration of Provisional Certificate of Approval. If a facility, program, or service fails to achieve compliance within the six (6) month provisional period, the provisional certificate of approval will automatically expire at the end of the six (6) month provisional period, without further notice or Department action. The facility, program, or service cannot reapply for approval for two years (2) year after the expiration date of the provisional certificate of approval. ()

152. NOTICE OF DENIAL, SUSPENSION, OR REVOCATION.

01. Written Notice of Determination. With the exception of any action taken under Subsection 150.02 of these rules, in the event an application or certificate of approval is denied, suspended, or revoked, the Department will, within fifteen (15) business days of making its decision, notify the applicant or the owner's designated representative, in writing, by certified mail, return receipt requested, of its determination. The written notice must include the following: ()

- a. The applicant's or owner's name and identifying information; ()
- b. A statement of the decision; ()
- c. A concise statement of the reasons for the decision; and ()
- d. The process for pursuing an administrative appeal. ()

02. Effect of Previous Denial or Revocation. ()

a. Denial. The Department will not accept or consider an application for a certificate of approval from any applicant, owner, executive director, related person, or entity who has had a certificate of approval denied until after two (2) years have elapsed from the date of the denial. ()

b. Revocation. The Department will not accept or consider an application for a certificate of approval from any applicant, owner, executive director, related person, or entity who has had a certificate of approval revoked until after five (5) years have elapsed from the date of the revocation. ()

153. CUMULATIVE ENFORCEMENT POWERS.

If the Department determines that a facility, program, or recovery support service does not meet these rules and minimum standards, it may take any of the enforcement actions described in these rules or impose any remedy, independently or in conjunction with any others authorized by law or these rules. ()

154. -- 159. (RESERVED).

**FACILITY PROGRAM REQUIREMENTS
(Sections 160 Through 449)**

160. DISCLOSURE OF OWNERSHIP, ADMINISTRATION, GOVERNING BODY.

01. Disclosure of Ownership. Each alcohol and substance use disorders treatment or recovery support services program must maintain a report available to the public which fully discloses ownership. The report must disclose: ()

a. The names and addresses of all persons having an ownership interest in the facility, program, or service and whether they are individuals, partnerships, corporations, or subdivisions of other bodies, such as public agencies or religious, fraternal, or other charitable organizations; and ()

b. In the case of corporations, the names and addresses of all officers, directors, and principal

stockholders who hold ten percent (10%) or more interest in the corporation, either beneficial or of record. ()

02. Non-Transfer of Certificate of Approval. A program's certificate of approval is not transferable from one (1) individual to another, from one (1) business entity to another, or from one (1) location to another. When a change of ownership, lease or location occurs, the facility must be re-approved using the application procedures set forth in Section 130 of these rules and obtain a certificate of approval before commencing operations as an alcohol or substance use disorders treatment or recovery support services facility. For residential programs serving clients who are children or adolescents, a license granted to the program under Title 39, Chapter 12, Idaho Code and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," is not transferable. ()

03. Change in Ownership, Location, or Lease of Real Property. The program must notify the Department in writing within ten (10) days of any change in ownership, location, or any amended lease of the real property in which the treatment activities or recovery support services are provided. ()

04. Changes in Governing Body or Administration. The program must notify the Department of any change in governing body or administration. The Department may request a hearing to determine if a new application is required when the Department determines that any change in governing body or administration may result in deviation from the intent of the application for approval, renewal application, or plan for an inventory of treatments, as submitted by the program. ()

05. Change of Ownership for a Facility In Litigation. An application for change of ownership of a facility from a person who is in litigation for failure to meet certification standards, or who has had a certification revoked, must include evidence that there is a bonafide arm's-length agreement and relationship between the two (2) parties. An entity purchasing a facility with an enforcement action acquires the enforcement action. ()

06. Change in Name of Program. The program must notify the Department in writing at a minimum of thirty (30) days prior to the change in name of business. The notification must include the effective date of change and reason for the change. ()

161. NOTIFICATION OF PROGRAM CLOSURE.

01. Notification of Anticipated Closure. A program must notify the Department in writing within a minimum of thirty (30) days prior to an anticipated closure of any of its programs. ()

02. Contents of Notification of Closure. The notification of closure must include: ()

a. Location(s) of closure; ()

b. Location(s) of where client records will be maintained; ()

c. Explanation of the closure; ()

d. Procedure for client care during transition; and ()

c. Procedures to assist clients with continuation of services through another service provider. ()

162. -- 164. (RESERVED).

165. GOVERNING BODY OF AN ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT OR RECOVERY SUPPORT SERVICES PROGRAM.

Each alcohol and substance use disorders treatment and recovery support services program must have a governing body that meets the following standards: ()

01. Governing Body Has Overall Responsibility. The facility, program, or services must have a governing body which has overall responsibility for the operation of the program and compliance with these rules and minimum standards. ()

- a. The governing body for a program operated by a government entity must have: ()
 - i. A written description of the administrative organization of the government entity within which it operates; and ()
 - ii. A written description of how the lines of authority within the government entity relate to the governing body of the program. ()
- b. The governing body for a program operated by a non-governmental person or entity must have a charter or constitution, bylaws or administrative policies. ()

02. Mission Statement, Goals and Objectives. The governing body must develop a written mission statement, goals and objectives that establish the program's philosophy and direction for treatment or recovery support services. ()

03. Bylaws or Administrative Policies. The governing body must establish bylaws or administrative policies to guide relationships between itself and the responsible administrative and professional staffs and the community. Current copies of the bylaws or administrative policies are readily available to all members of the governing body, the Department and other persons in accordance with their responsibilities or involvement in implementing the policies of the program. ()

166. -- 169. (RESERVED).

170. EXECUTIVE DIRECTOR.

All alcohol and substance use disorders treatment or recovery support services programs serving adults, children, and adolescents must have provisions for an executive director as follows: ()

01. Appointment and Hiring Procedure. The governing body must appoint or hire an executive director for the facility, program, or services. When more than one person in a program has executive authority from, and responsibility to, the governing body, those persons must comply with all standards that relate to the executive director. ()

02. Qualifications for the Executive Director. The qualifications of the executive director must be stated in the governing body bylaws or administrative procedures and include the following: ()

a. The executive director must be a qualified substance use disorders professional with previous responsibility relevant to administration of an alcohol and substance use disorders treatment program; or ()

b. Experience may be substituted for requirements of a qualified substance use disorders professional, if carefully evaluated, justified and documented by the governing body. ()

03. Authority of the Executive Director. The governing body bylaws and administrative policies must state the executive director's responsibility to the governing body for the overall operation of the program, including the control, utilization and management of its physical and financial assets and the recruitment and direction of staff. ()

04. Responsibilities of the Executive Director. The governing body bylaws or administrative policies must state the executive director's responsibilities in assisting the governing body in formulating policy by preparing, presenting, and reviewing with them: ()

a. A current table of organization which sets forth lines of staff authority, responsibility and communication in accordance with policies established by the governing body. ()

b. Policies and procedures to guide the administration and operation of the program. ()

c. Long-term and short-term plans for the program, including the plan for an inventory of treatments as outlined in Section 130 of these rules. ()

- d. Reports on the nature and extent of funding and other available resources. ()
- e. Reports describing the program's operations. ()
- f. Reports evaluating the efficiency and effectiveness of program activity. ()
- g. Budgets and financial statements. ()
- h. Any data, information, reports and records requested by the Department. ()

05. Guardianship and the Executive Director. The executive director must not act as, or become guardian of, any client of the alcohol and substance use disorders treatment or recovery support services program. ()

171. -- 174. (RESERVED).

175. FISCAL MANAGEMENT.

Alcohol and substance use disorders treatment or recovery support services programs must have a fiscal management system that meets the requirements in this section of rule. ()

01. Fiscal Responsibility. The executive director must maintain responsibility for a fiscal system which follows generally accepted accounting principles. ()

02. Annual Budget. All alcohol and substance use disorders treatment or recovery support services programs must prepare a written annual budget, which includes a statement of expected revenues and expenses. ()

03. Fee Schedule. The fiscal management system of alcohol and substance use disorders treatment or recovery support services programs must include a fee schedule. ()

04. Reporting Mechanism. The fiscal management system must include a reporting mechanism that maintains information on the program's fiscal performance. ()

05. Policies and Procedures for Fiscal Management System. The program must maintain current, written policies and procedures for the operation of the fiscal management system. ()

06. Safekeeping of Clients' Valuables. Any alcohol and substance use disorders treatment or recovery support services program safekeeping clients' funds or other valuables must maintain an inventory of such valuables. ()

a. A proper accounting of clients' funds or other valuables deposited with the program for safekeeping or expenditure must be kept and made available to authorized individuals for review. Such authorized individuals include the client or his immediate family or guardian. ()

b. At the time of depositing client funds or other valuables with the program for safekeeping, the client must sign a receipt for all such funds or valuables with one (1) copy going to the client and one (1) copy being retained by the program. ()

176. -- 179. (RESERVED).

180. MANAGEMENT INFORMATION SYSTEM.

Alcohol and substance use disorders treatment or recovery support services programs must maintain a management information system that allows for the efficient retrieval of data needed to measure the program's performance. Specific requirements of the management information system are as follows: ()

01. Automated or Manual System Management Information System. The system may be an

automated or manual system and must delineate the provision of the alcohol and substance use disorder treatment services as outlined in the program's plan for an inventory of treatments. ()

02. Demonstration of Provided Services. The system must be capable of demonstrating that services are being provided to persons in need of alcohol and substance use disorders treatment in the program's plan for an inventory of treatments and recovery support services. ()

181. -- 199. (RESERVED).

200. DESCRIPTION OF SERVICES.

All alcohol and substance use disorders treatment or recovery support services programs must prepare a written plan for the provision of services that meets the requirements in this section of rule. ()

01. Content of Written Plan for Provision of Services. The plan must contain: ()

a. The mission statement, goals, and objectives developed by the governing body under Section 165 of these rules. ()

b. Goals and objectives that identify the annual and the long-range needs of the program: ()

i. Goals and objectives that are specified for each facility; and ()

ii. The objectives are written so that performance can be measured. ()

c. A description of the process for developing, adopting and implementing goals and objectives. ()

d. The client population served, including age groups and other relevant characteristics. ()

e. The hours and days the program provides services. ()

f. Inventory of treatment services provided. ()

g. Description of recovery support services provided. ()

h. Annual evaluation of the need for the services in the area, description of unmet needs, and goals for improving the unmet need. ()

i. Annual evaluation of collaboration with other substance use disorders treatment or recovery support service providers in the achievement of a comprehensive system of care in the service area. ()

j. The intake or admission process, including how the initial contact is made with the client and the family or significant others. ()

k. The client assessment and evaluation procedures used by the program. ()

02. Distribution of Written Plan for Provision of Services. The written plan for provision of services must be made known and made available to all program staff and to the executive director. ()

03. Annual Review of Written Plan for Provision of Services. The written plan for provision of services must be reviewed at least annually, and revised as necessary, in accordance with the changing needs of clients and the community and with the overall objectives and goals of the program. The written plan must be signed and dated by the governing body when reviewed or revised. Revisions to the plan must include: ()

a. Notation of any changes in relation to the requirements of Subsection 200.01 of these rules. ()

b. Relevant findings from the program evaluation process, including assessment of progress toward

the goals and objectives set forth in the plan and reasons for non-attainment of any objectives. ()

c. Relevant findings from the program's quality assurance program for the purpose of improving client treatment and resolving problems in client treatment. ()

201. -- 209. (RESERVED).

210. PERSONNEL POLICIES AND PROCEDURES.

All alcohol and substance use disorders treatment or recovery support services programs must have and adhere to personnel policies and procedures that meet the following standards: ()

01. Required Personnel Policies and Procedures. Personnel policies and procedures must be developed, adopted and maintained to promote the objectives of the program and provide for a sufficient number of qualified substance use disorders professionals, treatment and support staff to render the services of the program and provide quality care during all hours of operation. ()

a. All personnel policies must be written, reviewed on an annual basis by the executive director and governing body, and signed and dated when reviewed or revised. ()

b. The personnel policies must include procedures for recruiting, selecting, promoting and terminating staff. ()

c. The personnel policies and procedures must apply to all employees, but may differ with respect to job classifications. ()

d. The personnel policies and procedures must include information on the following: ()

i. Employee benefits; ()

ii. Recruitment and promotion; ()

iii. Orientation; ()

iv. Training and staff development; ()

v. Employee grievances; ()

vi. Safety and employee injuries; ()

vii. Relationships with employee organizations; ()

viii. Disciplinary systems; ()

ix. Suspension and termination mechanisms; ()

x. Wages, hours and salary administration; ()

xi. Rules of conduct; ()

xii. Lines of authority; and ()

xiii. Performance appraisals and evaluation schedule. ()

e. The personnel policies and procedures must include a mechanism for determining that all personnel are capable of performing assigned tasks. ()

f. The personnel policies and procedures must ensure that personnel who have a communicable

disease, infectious wound or other transmittable condition and who provide care or services to clients or have access to clients are required to implement protective infection control techniques in accordance with these rules. If protective infection control techniques are not implemented, personnel who have a communicable disease, infectious wound or other transmittable condition must not work until the infectious state is corrected and non-infectious; or be reassigned to other areas where contact with others is not expected and the likelihood of transmission of infection is absent; or seek other remedies that will avoid spreading the infection. ()

g. The personnel policies and procedures must describe methods and procedures for supervising all personnel, including volunteers and students. ()

h. The personnel policies and procedures must assure confidentiality of personnel records and specify who has access to personnel information. ()

i. There must be documentation to verify that the policies and procedures are made available to and discussed with each employee at the time of hire and are made available to others upon request. ()

j. A mechanism must be established for notifying employees of changes in the policies and procedures. ()

k. The personnel policies and procedures must establish tuberculosis testing requirements for all staff members. Each employee must have upon employment, and annually thereafter, a tuberculin skin test by the Mantoux method. An employee who is known to be a positive reactor may have a chest x-ray examination in lieu of a required tuberculin skin test. Personnel who have active tuberculosis must be restricted from employment and attendance at the facility until it is determined by laboratory evaluation that the tuberculosis is non-infectious. Results of the testing must be documented in personnel record. ()

l. The personnel policies and procedures must establish the requirement for CPR training and basic first aid training for all direct client care staff. Staff responsible for client care must complete this training within ninety (90) days of employment. Additionally, the policies and procedures must establish the methods for renewal of CPR and first aid certification so that they remain current at all times. ()

m. The personnel policies and procedures must establish the provision for criminal history background checks for all employees as described in Section 009 of these rules. ()

n. The personnel policies and procedures must establish the provision of clinical supervision. ()

o. Policy and procedures must be written that establish a drug free workplace. ()

02. Hiring Practices. Hiring practices must be specified in the written policies and procedures and must be consistent with the needs of the program and its services. ()

a. The selection of personnel must be based on criteria that are demonstrably related to the job under consideration. ()

b. Qualified substance use disorders professional staff must participate in determining what training, experience, and demonstrated competence will be required for assuming specific clinical service responsibility. ()

c. There must be documentation to verify that qualified substance use disorders professionals meet all federal, state and local requirements for licensure, registration or certification. ()

03. Equal Employment Opportunity. No alcohol and substance use disorders treatment or recovery support services program approved under these rules will discriminate on the basis of race, creed, color, religion, age, gender, national origin, veteran, or disability, except in those instances where bona fide occupational qualifications exist. ()

04. Responsible Staff Member to Implement Personnel Policies and Procedures. The executive

director must appoint a staff member to implement and coordinate personnel policies and procedures to accomplish the following tasks: ()

- a. Develop a written organizational plan for personnel services; ()
- b. Maintain personnel records; ()
- c. Disseminate employment information to staff; ()
- d. Develop staff orientation programs; ()
- e. Implement procedures designed to assure compliance with federal, state and local laws related to employment practices; and ()
- f. Supervise the processing of employment-related forms. ()

05. Contents of Personnel Record for Each Staff Member. A personnel record must be kept on each staff member and must contain the following items: ()

- a. Application for employment including a record of the employee's education or training and work experience. This may be supplemented by a resume; ()
- b. A written record of all findings from verbal contacts with references, and letters of recommendation; ()
- c. Verification of licensure, certification, registration or renewals; ()
- d. A signed and dated commitment to a code of ethics appropriate for alcohol and substance use disorders treatment staff; ()
- e. Number of hours per pay period, wage and salary information, including all adjustments; ()
- f. Performance appraisals; ()
- g. Counseling actions; ()
- h. Disciplinary actions; ()
- i. Commendations; ()
- j. Employee incident reports; ()
- k. A Department criminal history check; ()
- l. Results of tuberculosis testing; ()
- m. Verification of employee and emergency orientation procedures; and ()
- n. Verification of current cardiopulmonary resuscitation (CPR) training and basic first aid training. For employees in direct care at Residential Social Detoxification Settings, verification of additional training specific to detoxification prior to being charged with the responsibility of client care. ()

06. Job Description for a Position in the Program. For each position in the program, there must be a written job description that specifies the duties and responsibilities of the position and the minimum level of education, training or related work experience required or needed to fulfill it. ()

- a. Each job description must specify the following: ()

- i. The position title; ()
 - ii. The program, department, service, or unit; ()
 - iii. Direct supervisor's title; ()
 - iv. Positions supervised, if any; ()
 - v. Clear descriptions of job functions; and ()
 - vi. Clinical, administrative, and procedural responsibility and authority. ()
 - b.** Each job description must accurately reflect the job and must be revised whenever a change in qualifications, duties, supervision, or any other major job-related factor is made. ()
 - c.** Each job description must be comprehensive enough to enable a new employee to understand the position, job functions, responsibility, chain-of-command, and authority. ()
 - d.** Each job description must be sufficiently detailed to serve as a basis for performance appraisals. ()
- 07. Performance Appraisals.** Performance appraisals must be conducted and must be related to the job description and job performance. ()
- a.** The criteria used to evaluate job performance must be measurable and relate to the skills, knowledge and attitudes that the job requires. ()
 - b.** Performance appraisals must be conducted, at a minimum, annually. ()
 - c.** Performance appraisals must be in writing. ()
 - d.** There must be documentation to verify that the employee has reviewed the evaluation and has had an opportunity to comment on it. The employee must sign the appraisal after review and comments are completed. ()
 - e.** The program must develop policies and procedures to follow when there is a serious discrepancy between the staff member's actual job performance and the criteria for an acceptable level of job performance. ()
- 211. -- 214. (RESERVED).**
- 215. SUPERVISORY STAFF COMPOSITION.**
All alcohol and substance use disorders treatment programs must meet required staff to client ratios. Unless otherwise specified, facilities providing treatment services must provide for the following supervisory staff: ()
- 01. Treatment Supervisor.** The facility will provide for a Treatment Supervisor. The individual may supervise more than one (1) treatment activity. This position can also be the Clinical Supervisor. In those instances where these positions are combined, all standards must be met for all positions. ()
 - 02. Clinical Supervisor.** The facility must provide for a Clinical Supervisor who can be the Treatment Supervisor. In those instances where these positions are combined, all standards must be met for all positions. ()
 - 03. Services Provided at a Satellite Location.** If the treatment supervisor is not available to oversee the treatment activities at a satellite location on a full-time basis, the agency must: ()
 - a.** Employ a substance use disorder treatment professional who has been appointed a substance use disorder treatment professional for a minimum of two (2) years; ()

- b.** Ensure the employee receives clinical supervision as required in Section 217 of these rules; ()
- c.** Develop a written plan that includes an emergency contact for the treatment professional in the event of an emergency; and ()
- d.** The treatment supervisor must conduct an on-site review and assessment of the services provided at the satellite location a minimum of one (1) time per month. ()

216. SUPERVISORY STAFF QUALIFICATIONS.

Qualifications of the supervisory staff must be verified through written documentation of work experience, education, and classroom instruction. The supervisory staff must meet the requirements in Section 218 of these rules and the following requirements: ()

01. Treatment Supervisor. The Treatment Supervisor must meet the requirements in Section 218 of this rule and have a combination of education and experience as follows: ()

a. Equivalent of five (5) years full-time paid professional experience providing alcohol and substance use disorders treatment with at least two (2) of the five (5) years providing direct treatment in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority. This experience must be relevant for child and adolescent treatment if supervising treatment in a child and adolescent treatment program; or ()

b. Bachelor's Degree in relevant field and four (4) years paid full-time professional experience with two (2) years in direct treatment in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority; or ()

c. Master's Degree and three (3) years paid full-time professional experiences with two (2) years in direct treatment in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority; and ()

d. Equivalent of one (1) year paid full-time supervision experience of alcohol and substance use disorders treatment services in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority; and ()

e. Knowledge and experience in providing alcohol and substance use disorders treatment including client evaluation, counseling techniques, relapse prevention, case management, and family therapy. ()

02. Clinical Supervisor. The Clinical Supervisor must meet the requirements in Section 218 of this rule and have a combination of education and experience as follows: ()

a. Bachelor's Degree in relevant field and seven (7) years paid full-time professional experience with four (4) years in direct treatment in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority and three (3) years paid full-time supervision experience; or ()

b. Master's Degree from an accredited, approved, and recognized college or university in health and human services and the equivalent of four (4) years paid full-time professional experience with three (3) years providing direct substance use disorders treatment and one (1) year paid full-time supervision experience in a substance use disorders treatment services state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority. This experience must be relevant for child and adolescent treatment if supervising treatment in child and adolescent treatment programs; ()

c. Knowledge and experience demonstrating competence in alcohol and substance use disorders treatment including client evaluation, counseling techniques, relapse prevention, case management, and family therapy; and ()

d. For outpatient programs providing services to children and adolescents, the clinical supervisor must have two (2) years of experience working with families or children in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority. Working knowledge of child and adolescent growth and development, and the effects of alcohol and drugs on a child's growth and development. ()

e. A clinical supervisor must have completed the Clinical Supervision training model as identified by the Department. ()

f. A Clinical Supervisor for Co-Occurring Disorders Enhanced Programs must meet all requirements in Subsection 216.02.b. of this rule, have a Master's Degree from an accredited, approved, and recognized college or university in health and human services, and possess a current Idaho state license to provide behavioral health clinical services. ()

217. CLINICAL SUPERVISION.

The alcohol and substance use disorders treatment program must provide for supervision of all clinical activities by qualified substance use disorders professionals including: ()

01. Inventory of Treatments Written Plan. A written plan for an inventory of treatments providing and defining the procedure for the supervision of all clinical activities by qualified substance use disorders professionals; ()

02. Specific Treatment Responsibilities. All members of the treatment team who have been assigned specific treatment responsibilities must be qualified by training or experience and demonstrated competence; ()

03. Supervision by a Clinical Supervisor. All members of the treatment team must be supervised by a clinical supervisor as defined in Section 010 of these rules; ()

04. Evaluation of Competencies. Clinical supervision must include a documented evaluation of the competencies of the members of the clinical staff, and a plan of activities which bring those competencies to proficiency. The evaluation will be conducted within one (1) month of initial hire and annually thereafter. Documentation of the evaluation and a record of improvement activities must be present in each Clinical Supervision record. The clinical supervision record must contain at a minimum: ()

a. Demographic information including name, date of hire, credential, and position; ()

b. Learning plan(s); ()

c. Observation documentation; ()

d. Competency rating forms; ()

e. Intensive supervision plan, if required; ()

f. Current resume; and ()

g. Documentation of clinical supervision activities which include date of clinical supervision, type of clinical supervision activity, length of time spent performing the clinical supervision activity. ()

218. QUALIFIED SUBSTANCE USE DISORDERS PROFESSIONAL PERSONNEL REQUIRED.

The alcohol and substance use disorders program must employ the number and variety of staff to provide the services

and treatments offered by the program as a multidisciplinary team. The program must employ at least one (1) qualified substance use disorders professional for each facility. ()

01. Qualified Substance Use Disorders Professional. A qualified substance use disorders professional includes the following: ()

a. IBADCC Certified Alcohol/Drug Counselor; ()

b. IBADCC Advanced Certified Alcohol/Drug Counselor; ()

c. Native American Certified Alcohol and Drug Abuse Counselor (NACADC); ()

d. Northwest Indian Alcohol/Drug Specialist Certification - Counselor II or Counselor III; ()

e. National Board for Certified Counselors (NBCC) - Master Addictions Counselor (MAC); ()

f. “Licensed Clinical Social Worker” (LCSW) licensed under Title 54, Chapter 32, Idaho Code, and holding one of the certifications under Subsections 218.01.a. through 218.01.e. of this rule; ()

g. “Marriage and Family Therapist,” “Registered Marriage and Family Therapist Intern,” or “Associate Marriage and Family Therapist” licensed under Title 54, Chapter 34, Idaho Code, and holding one of the certifications under Subsections 218.01.a. through 218.01.e. of this rule ()

h. “Masters Social Worker” licensed under Title 54, Chapter 32, Idaho Code, and holding one of the certifications under Subsections 218.01.a. through 218.01.e. of this rule; ()

i. “Nurse Practitioner” licensed under Title 54, Chapter 14, Idaho Code, may provide substance use disorder services. A nurse practitioner must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment, in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority; ()

j. “Clinical Nurse Specialist” licensed under Title 54, Chapter 14, Idaho Code, may provide substance use disorder services. A clinical nurse specialist must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority; ()

k. “Physician Assistant” licensed under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, “Rules for the Licensure of Physician Assistants” may provide substance use disorder services. A physician assistant must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority; ()

l. “Licensed Professional Counselor” (LPC) licensed under Title 54, Chapter 34, Idaho Code, and holding one of the certifications under Subsections 218.01.a. through 218.01.e. of this rule; ()

m. “Psychologist” licensed under Title 54, Chapter 23, Idaho Code with a Certificate of Proficiency in the Treatment of Alcohol and Other Psychoactive Substance Use Disorders as issued by the College of Professional Psychology, or holding one of the certifications under Subsections 218.01.a. through 218.01.e. of this rule; ()

n. “Physician” licensed under Title 54, Chapter 18, Idaho Code, may provide substance use disorder services. A licensed physician must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; ()

o. "Professional Nurse" RN licensed under Title 54, Chapter 14, Idaho Code, may provide substance use disorder services. An RN must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority. ()

02. Qualified Substance Use Disorders Professional Status Granted Prior to May 1, 2010. Subsections 218.01 and 218.02 of this section are applicable to all new applications for appointment as a qualified Substance Use Disorders Professional submitted to the Department after May 1, 2010. If an individual was granted an appointment prior to May 1, 2010, and met the requirements at that time, he may continue to have his appointment recognized. The appointment of this status will be given by the Department after the Department has received documentation affirming the qualified substance use disorder professional's education and experience meets standards in place prior to May 1, 2010. ()

03. Arrangement for Provision of Counseling Services. If the program arranges for the provision of counseling services, it must maintain a valid written agreement or contract with a qualified substance use disorders professional as defined in Subsection 218.01 of this section. ()

219. -- 220. (RESERVED).

221. VOLUNTEERS.

Alcohol and substance use disorders treatment or recovery support services programs that utilize volunteers must meet the following requirements. ()

01. Objectives and Scope of Volunteer Services. In programs where volunteers are utilized, the objectives and scope of the volunteer services must be clearly stated in writing. The statement must be reviewed at least annually and signed and dated by the executive director or his designee. ()

02. Orientation of Volunteers to Program Goals, Objectives, and Services. An orientation must be conducted to familiarize volunteers with the program's goals, objectives and services and to provide clinical orientation regarding the program's clients. At a minimum, the orientation must address at least the following: ()

a. The individual responsible for supervising the volunteer; ()

b. The requirements of maintaining confidentiality and protecting client's rights; ()

c. The emergency policies and procedures; and ()

d. The program's channels of communication and the distinctions between administrative and clinical authority and responsibility. ()

03. Supervision of Volunteers. Volunteers must be under the direct supervision of the staff of the program, service or unit utilizing their services and must receive general direction and guidance. ()

a. When volunteers are used as members of treatment teams, they must supplement the total treatment program only under the direct supervision of qualified substance use disorders professionals and after consideration of client's needs. ()

b. Qualified substance use disorders professionals must be available to help volunteers establish the most effective relationship with clients. ()

c. Procedures must be established to assure that the observations of a volunteer are reported to the qualified substance use disorders professional staff member responsible for the client. These observations may be recorded in the client's record. ()

04. Volunteer Activity Records. Volunteer activity records and reports must contain information that can be used to evaluate the effectiveness of the volunteers, based on effectiveness criteria identified by the program. ()

05. Criminal History Check for Volunteers. Volunteers hired or contracted with after May 1, 2010, must submit to a criminal history and background check under Section 009 of these rules. ()

06. Tuberculosis Testing Requirements. Under Section 210 of these rules, the personnel policies and procedures must establish tuberculosis testing requirements for all volunteers. ()

222. (RESERVED).

223. STUDENT/ISAS/TRAINEE PRACTICE.

Each student/ISAS/trainee practicing in an alcohol and substance use disorders treatment program must meet the requirements in these rules. ()

01. Written Agreement Required for Students. When the participant is involved with an educational institution to obtain their practicum, the program must have a written agreement with the educational institution that defines the nature and scope of student activities within the program. ()

02. Supervision of Student/ISAS/Trainee. Each student/ISAS/trainee practicing in the alcohol and substance use disorders treatment program must be supervised by a qualified substance use disorders professional. There must be a qualified substance use disorders professional on duty at all times providing appropriate oversight. ()

03. Informed of Student/ISAS/Trainee Providing Treatment. All staff, clients, their families or guardians must be informed when a student/ISAS/trainee is providing client treatment. ()

04. Student/ISAS/Trainee Criminal History Check. A student/ISAS/trainee hired or contracted with after May 1, 2010, must submit to a criminal history check in accordance with the provisions of Section 009 of these rules. ()

05. Student/ISAS/Trainee Job Description. Student/ISAS/trainee status must be indicated by their job description and title presented to the public and clients. The job description must include the responsibilities of receiving supervision and maintaining documentation of the supervision plan. ()

06. Student/ISAS/Trainee Length of Appointment Status. Student/ISAS/trainee status is restricted to no more than three calendar (3) years from appointment to student/ISAS/trainee status. A student/ISAS/trainee who has not achieved counselor status must show an increased scope of work, with increased proficiency, as documented in the clinical supervision record. ()

07. Orientation of Student/ISAS/Trainee. An orientation must be conducted to familiarize individuals with the program's goals, objectives, and services and to provide clinical orientation regarding the program's clients. At a minimum, the orientation must address at least the following: ()

a. Person responsible to supervise student/ISAS/trainee. ()

b. The requirements of maintaining confidentiality and protecting client's rights; ()

c. The emergency policies and procedures; and ()

d. The program's channels of communication and the distinctions between administrative and clinical authority and responsibility. ()

08. Work Qualifications for Students. Clinical staff designated as a student/ISAS/trainee and who with intensive supervision would be allowed to gradually add the tasks of a qualified substance use disorders professional, must have one of the following levels of qualification to begin work: ()

- a. Idaho Student in Addiction Studies (ISAS); ()
 - b. Formal designation from the ICRC of trainee status; ()
 - c. Formal documentation as a Native American Certified Alcohol and Drug Abuse Counselor Intern; ()
 - d. Formal documentation as a Northwest Indian Alcohol/Drug Specialist Counselor Intern; ()
 - e. “Licensed Clinical Social Worker” (LCSW) licensed under Title 54, Chapter 32, Idaho Code, and holding one of the certifications under Subsections 218.01.a. through 218.01.e. of this rule, or formal documentation of preparation for the National Board for Certified Counselors (NBCC) - Master Addictions Counselor (MAC); ()
 - f. “Marriage and Family Therapist,” “Registered Marriage and Family Therapist Intern,” or “Associate Marriage and Family Therapist” licensed under Title 54, Chapter 34, Idaho Code, and holding one of the certifications under Subsections 218.01.a. through 218.01.e. of this rule, or formal documentation of preparation for the National Board for Certified Counselors (NBCC) - Master Addictions Counselor (MAC); ()
 - g. “Nurse Practitioner” licensed under Title 54, Chapter 14, Idaho Code, with formal documentation of obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; ()
 - h. “Clinical Nurse Specialist” licensed under Title 54, Chapter 14, Idaho Code, with formal documentation of obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; ()
 - i. “Physician Assistant” licensed under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, “Rules for the Licensure of Physician Assistants” may provide substance use disorder services., with formal documentation of obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; ()
 - j. “Licensed Professional Counselor” (LPC) licensed under Title 54, Chapter 34, Idaho Code, and holding one of the certifications under Subsections 218.01.a. through 218.01.e. of this rule, or formal documentation of preparation for the National Board for Certified Counselors (NBCC) - Master Addictions Counselor (MAC); ()
 - k. “Psychologist” licensed under Title 54, Chapter 23, Idaho Code with formal documentation of obtaining a Certificate of Proficiency in the Treatment of Alcohol and Other Psychoactive Substance Use Disorders as issued by the College of Professional Psychology, or holding one of the certifications under Subsections 218.01.a. through 218.01.e. of this rule, or formal documentation of preparation for the National Board for Certified Counselors (NBCC) - Master Addictions Counselor (MAC); ()
 - l. “Physician” licensed under Title 54, Chapter 18, Idaho Code, with formal documentation of obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; or ()
 - m. “Professional Nurse” RN licensed under Title 54, Title 14, Idaho Code, may provide substance use disorder services. An RN must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment. ()
 - n. Individuals listed in Subsection 223.08.a. through 223.08.m. of this Section, working with children and adolescents, must document coursework specific to human development and child and adolescent behavior. ()
- 09. Tuberculosis Testing Requirements for Students.** Under Section 210 of these rules, the personnel

policies and procedures must establish tuberculosis testing requirements for all students/ISAS/trainees. ()

224. PLAN FOR ACTIVITIES OF QUALIFIED SUBSTANCE USE DISORDERS PROFESSIONALS.

Each facility of the alcohol and substance use disorders treatment program must have a written plan for activities of qualified substance use disorders professionals that meets the requirements in these rules. ()

01. Activities Plan. The list of treatment activities must include: ()

a. A description of each activity; ()

b. The measurable objectives of each activity; and ()

c. The qualified substance use disorders professional(s) who will provide or supervise each activity. ()

02. Activities Schedules. All treatment activities offered by the alcohol and substance use disorders treatment program must be provided and scheduled to meet the needs of clients and their families. ()

a. Treatment activity schedules must be made known to participating clients and staff. ()

b. There is documentation that the treatment activities of the approved program are regularly reviewed and revised to meet the changing needs of clients. ()

225. STAFF DEVELOPMENT.

All alcohol and substance use disorders treatment programs must have a staff development program that meets the requirements in these rules. ()

01. Staff Development Plans and Procedures. The alcohol and substance use disorders treatment program must provide staff development opportunities for administrative, professional, and support personnel. The plan must be approved by the administrator and reviewed annually. ()

02. Employee, Contractor, and Volunteer Orientation. The alcohol and substance use disorders treatment program must provide orientation and training plans for all employees. The program must document that each new employee, contractor, and volunteer participates in an orientation that includes the information described as follows: ()

a. Orientation must be completed during the first thirty (30) days of employment after an employee's, contractor's, or volunteer's start date. ()

b. Orientation for new employees must include training in emergency policies and procedures and familiarize each employee with existing staff backup and support systems. ()

c. The purpose of the program. ()

d. The policies and procedures of the program as they relate to his job function. ()

e. The employee's, contractor's, or volunteer's role and responsibilities. ()

f. The requirement to report suspected incidents of child abuse, neglect, and abandonment. ()

03. Administrative and Service Changes. Staff development plans must be provided to reflect all administrative and service changes in the program and to prepare personnel for promotions, added responsibility, and emergency situations. ()

a. The staff development plans must include educational opportunities such as workshops, institutes, seminars, and formal continuing education courses. ()

b. The staff development plan must provide for the participation of staff when appropriate in clinical and administrative committees and conferences. ()

c. All program staff must receive training and must demonstrate competence in emergencies. ()

04. Continuous Professional Education Plan. A continuous professional education plan must be provided to keep the professional staff informed of significant clinical and administrative developments and to improve skills. ()

a. The professional staff development plan must include in-service activities. ()

b. In-service activities must be planned, scheduled in advance and conducted on a continuing basis. ()

05. Quality Assurance Activities. The staff development plan must address the results of quality assurance activities, including client care evaluations. ()

a. Staff development activities must be designed to meet needs identified in the quality assurance program. ()

b. Written documentation must demonstrate that staff development activities are influenced by the findings of the quality assurance program. ()

06. Annual Evaluation of Plans. Staff education and in-service training plans must be evaluated at least annually and signed and dated by the reviewer. ()

226. -- 329. (RESERVED).

330. QUALITY ASSURANCE.

All alcohol and substance use disorders treatment or recovery support services programs must have a written plan for their ongoing quality assurance program. This plan must include: ()

01. Review Schedule. The plan must describe how clinical practices focusing on client health, safety, risk and treatment outcomes. ()

02. Procedures to Address Deficiencies. The plan must describe the procedures to be followed in the event a practice or procedure is deficient and does not meet the program's standard of quality. ()

03. Client Outcome Assessment. The plan must include procedures for assessing client outcome as a result of participation in the treatment program. ()

331. -- 339. (RESERVED).

340. RESEARCH CONDUCTED WITHIN ALCOHOL AND SUBSTANCE USE DISORDERS PROGRAMS AND FACILITIES.

When an alcohol and substance use disorders treatment or recovery support services program conducts or participates in research with clients, it must be conducted in accordance with the standards set forth in the "Research" chapter of the most current edition of the Joint Commission's Comprehensive Accreditation Manual for Behavioral Health Care (CAMBHC), as incorporated by reference in Section 004 of these rules. ()

341. -- 349. (RESERVED).

350. CLIENT RIGHTS.

All alcohol and substance use disorders treatment or recovery support services programs must have written policies and procedures to protect the fundamental human, civil, constitutional, and statutory rights of each client. ()

01. General Rights. The client rights policies and procedures must address the following: ()

- a. The right to impartial access to treatment and services, regardless of race, creed, color, religion, gender, national origin, age, or disability; ()
- b. Respect for personal dignity in the provision of all care and treatment; ()
- c. The right to humane services, regardless of the source of financial support; ()
- d. The right to receive services within the least restrictive environment possible; ()
- e. The right to an individualized treatment plan, based on assessment of current needs; ()
- f. The right of the client to participate in planning for treatment and recovery support services; and ()
- g. The right of the client to request Department staff review the treatment plan or the services provided. ()

02. Personal Privacy. Each client's personal privacy must be assured and protected within the constraints of the individual treatment plan. ()

a. The client's family and significant others, regardless of their age, must be allowed to visit the client, during regular hours of visitation, unless such visits are clinically contraindicated. ()

b. Suitable areas must be provided for clients to visit in private, unless such visits are clinically contraindicated. ()

c. Clients must be allowed to send and receive mail without hindrance, unless clinically contraindicated. ()

d. Clients must be allowed to conduct private telephone conversations with family and friends, unless clinically contraindicated. ()

e. If individual therapeutic indications necessitate restrictions on visitors, telephone calls or other communications, those restrictions must be evaluated for therapeutic effectiveness by a qualified substance use disorders professional at least every three (3) days. ()

f. Any restrictions on visitors, telephone calls or other communications must be fully explained to the client and the client's family. ()

03. Visitation. There must be written procedures designed to protect clients' rights and privacy with respect to visitors. ()

a. The client must be informed in advance of educational or other individual or group visitations available through the alcohol and substance use disorders treatment program. ()

b. Visitations to the alcohol and substance use disorders treatment program's facility must be conducted so as to limit disruption of the client's usual activities and treatment processes. ()

04. Individualized Treatment Plan Review. Each client will have the right to request the opinion of a consultant at his own expense or to request an in-house review of the individualized treatment plan, as provided in specific procedures of the program. ()

05. Client to Be Informed of Rights. Each client must be informed of his rights. ()

a. Each client must be given a written statement of client rights, which includes who the client may contact with questions, concerns or complaints regarding services provided. ()

- b. Copies of the program's client rights statement must be posted in conspicuous places at all sites. ()

- 06. Client and Family to Be Informed Regarding Care and Treatment.** The client and, where there is a valid release of information, the client's family must be fully informed regarding: ()
 - a. Client's rights; ()
 - b. The name, professional status and position of staff members responsible for the client's care;()
 - c. The nature of care, treatment and procedures that the client will receive; ()
 - d. The current and future use and disposition of products of special observation and audiovisual techniques, such as one-way mirrors, tape recorders, video recorders, television, movies or photographs; ()
 - e. Specific risk, benefit, or side effects of clinical care associated with their treatment plan. This informed consent will address common risk or benefits associated with treatment and is not meant to be all-inclusive to every risk, benefit, or side effect; ()
 - f. Alternative treatment procedures that are available; ()
 - g. The right to refuse to participate in any research project without compromising his access to program services; ()
 - h. The right to refuse specific treatment procedures; ()
 - i. As appropriate, the cost, itemized when possible, of services rendered; ()
 - j. The source of the program's reimbursement and any limitations placed on duration of services as it relates to each client's financial circumstance; ()
 - k. The reasons for any proposed change in the professional staff responsible for the client or for any transfer of the client within or outside of the program; ()
 - l. The rules and policies of the program applicable to client conduct; ()
 - m. The right to initiate a complaint or grievance procedure and the means to request a hearing or review of the complaint. ()
 - n. The discharge plan; and ()
 - o. The plans for recovery support activities following discharge. ()

- 07. Informed Consent.** In accordance with the requirements of any applicable law or any applicable standard contained in these rules, a written, dated, and signed informed consent form must be obtained from the client, the client's family or the client's guardian, as appropriate, for participation in any research project or other procedures or activities where informed consent is required by law. ()

- 08. Client Abuse and Neglect.** Every alcohol and substance use disorders treatment or recovery support services program must have written policies and procedures for handling cases of client abuse and neglect. ()
 - a. The policies and procedures on client abuse and neglect must be given to all personnel and must be made available to others upon request. ()
 - b. The policies and procedures must ensure the reporting within twenty-four (24) hours to the proper

law enforcement agency or to the Department of any allegations of client abuse and neglect under the following:

- ()
- i. "Idaho Child Protective Act," Section 16-1619, Idaho Code, for minors; and ()
- ii. "Adult Abuse, Exploitation, and Abandonment Act," Section 39-5303, Idaho Code, for adults. ()
- c. Any and all alleged violations of the policies and procedures must be investigated. ()
- d. There must be documentation that the results of such investigation must be reviewed and approved by the executive director and reported to the governing body. ()

351. -- 359. (RESERVED).

360. ADMISSION POLICIES AND PROCEDURES.

All alcohol and substance use disorders treatment or recovery support services programs must have policies and procedures governing the admission process. These must be available to clients and their families and to the general public. ()

01. Admission Policies. The admission policies and procedures must be in writing and must specify the following: ()

- a. Criteria for determining the eligibility of individuals for admission in accordance with ASAM placement criteria; ()
- b. The information to be obtained on all applicants or referrals for admission; ()
- c. The procedures for accepting referrals from outside agencies and organizations; ()
- d. The records to be kept on all applicants; ()
- e. The statistical data, as determined by the Department's MSC, to be kept on the admission process; and ()
- f. The procedures to be followed, including alternative referrals, when an applicant is found ineligible for admission. ()

02. Methods of Admission. Methods of admission must be based on the needs of clients as identified through a screening as follows: ()

- a. The screening is conducted prior to admission to treatment to determine if the client meets the admission criteria; ()
- b. The screening is done by a qualified substance use disorders professional; and ()
- c. The results of the screening must be clearly explained to the client, and family when appropriate. ()

03. Acceptance for Treatment. Acceptance of a client for treatment must be based on an admission procedure that assures the following: ()

- a. The care provided by the program at that facility site is appropriate for the client and must be based on admission, continued stay, and discharge criteria approved by the Department; ()
- b. Assessment data is collected to develop a preliminary treatment plan; ()

c. If the potential client is a minor or an incompetent person, a parent, guardian, or other legal representative may make application for voluntary admission to treatment; and ()

d. No otherwise qualified individual is denied access to treatment services on the basis of race, creed, color, religion, gender, national origin, age, or disability. ()

e. Acceptance for treatment is based on the program's scope of practice, capability, and capacity. ()

04. Provisions for Persons Requiring Protective Custody. For persons coming voluntarily or being brought by a law enforcement officer to an alcohol and substance use disorders treatment program for protective custody, the program must comply with the provisions of Section 39-307A, Idaho Code. ()

05. Assure Applicants Understand Rights and Responsibilities. During the admission process, every effort must be made to assure that applicants understand the following: ()

a. The nature and goals of the treatment program; ()

b. The hours during which services are available; ()

c. The treatment costs, if any, to be borne by the client; and ()

d. The rights and responsibilities of clients, including the rules governing client conduct and the types of infractions that can result in disciplinary action or discharge from the program. ()

06. Reasonable Precautions in All Admissions. Reasonable precautions must be taken in all admissions to ensure the safety of the client, other clients, staff of the program, and members of the community. ()

361. -- 369. (RESERVED).

370. ASSESSMENT.

All alcohol and substance use disorders treatment or recovery support services program must have an assessment process that meets the requirements in these rules. ()

01. Assessment Tool. All approved programs must utilize an assessment tool approved by the Department. ()

02. Assessment Required. A qualified substance use disorders professional must develop a written assessment of each client to identify the effects of alcohol or substance use on the client's life. The qualified substance use disorders professional may be on staff or arranged for by the program. ()

03. Content of Assessment. The assessment must consist of evaluation of the client's use of alcohol and drugs, the signs and symptoms of alcohol and drug use and the consequences of alcohol and drug use in life areas such as, physical and mental health, social situation, family issues, legal issues, and the work and school situation. ()

04. Clinical Consideration of Client Needs. Clinical consideration of each client's needs must include a determination of the type and extent of special clinical examinations, tests and evaluations necessary for a complete assessment. ()

05. Physical Examination. In all programs, there must be policies and procedures establishing when a medical examination must be performed. ()

371. ASSESSMENT AND REFERRAL SERVICES.

In addition to the requirements in Section 370 of these rules, all alcohol and substance use disorders treatment or recovery support services program must have an assessment and referral process that meets the requirements in these

rules. ()

01. Established Policy and Procedure. Policies and procedures to address processes for referrals must be established. ()

02. Screening and Assessment Determines Problem Severity and Service Needs. Screening and assessment must be sufficient to determine the problem severity and service needs. ()

03. Services Provided by a Qualified Substance Use Disorders Professional. Services must be provided by a qualified substance use disorders professional under Section 218 of these rules. ()

04. Oversight by a Clinical Supervisor. A Clinical Supervisor must oversee services as required under Section 215 of these rules. ()

372. -- 374. (RESERVED).

375. CLIENT RECORDS REQUIREMENTS.

Each alcohol and substance use disorders treatment or recovery support services program must meet the client records requirements set forth in these rules. ()

01. Written Client Record Required. The alcohol and substance use disorders treatment or recovery support services program must maintain a written client record on each client. All entries in the client record must be signed and dated. Symbols and abbreviations may be used. An abbreviations legend must be available for the Department to review. The abbreviations legend must be located in the client record for reference. ()

02. Content of Client Record. The client record must describe the client's situation at the time of admission and include the services provided, all progress notes, and the client's status at the time of discharge. At a minimum the record must contain: ()

a. Identifying data including the client's name, home address, home telephone number, date of birth, gender, marital status, race or ethnic origin, next of kin or person to contact, educational level, type and place of employment, date of initial contact or admission to the program, source of any referral, legal status including relevant legal documents, name of personal physician, record of any known drug reactions or allergies, and other identifying data as indicated. ()

b. The identifying data as described in Subsection 375.02.a. of these rules must be dated with the date the information was gathered and signed by the staff member gathering the information. ()

03. Assessments Completed With the Client. All assessments completed with the client must be dated, signed by the person providing the assessment, and give a full accounting of the findings of such assessments. ()

04. Progress Notes. Notes for each treatment session charting the client's progress must include: ()

a. Date of session; ()

b. Beginning and ending time of session; ()

c. Description of the session; ()

d. Signature of person conducting the session; ()

e. All staffing notes pertaining to the client; ()

f. All medical records regarding the client. These may include documentation of a medical examination, results of any medical tests, including drug and alcohol screening tests performed by the program, and

results of any medical tests reported to the program which were performed outside the program; and ()

g. Documentation that justifies the client meets criteria for admission, continued stay, and discharge. The documentation must be based on admission, continued stay and discharge criteria approved by the Department. ()

05. Unusual Occurrences. The client record must contain information on any unusual occurrences, such as: ()

a. Treatment complications; ()

b. Accidents or injuries to the client; ()

c. Serious illness; ()

d. Death of the client. In the event of a client's death, the person must be pronounced dead in accordance with the provisions of Idaho law and a summation statement must be entered in the record in the form of a discharge summary. ()

06. Telephone Calls. The client record must contain correspondence concerning the client's treatment and signed and dated notations of telephone calls concerning the client's treatment. ()

07. Discharge Plan. The client record must contain a plan for discharge. ()

08. Discharge Summary. A discharge summary must be entered in the client record within a reasonable period of time not to exceed fifteen (15) days following discharge, as determined by the professional staff and policies or standards. ()

376. MAINTENANCE OF CLIENT RECORDS.

Every alcohol and substance use disorders treatment or recovery support services program must maintain, control and supervise client records and is responsible for maintaining their quality in accordance with the requirements set forth in these rules. ()

01. Active Client Records Kept at the Facility Site. The active client's records must be kept at the facility site where the client is being treated. ()

02. Compilation, Storage, Dissemination, and Accessibility of Client Records. The program must have written policies and procedures governing the compilation, storage, dissemination, and accessibility of client records. The policies and procedures must be designed to ensure: ()

a. The program fulfills its responsibility to safeguard and protect client records against loss, unauthorized alteration or disclosure of information; ()

b. In the event of unauthorized release client identifying information such as theft, the Department is notified immediately; ()

c. In the event of closure of program how and where records will be stored; ()

d. Each client record contains all required information; ()

e. Uniformity in the format and forms is used in client records; ()

03. Entries in Client Records Are Dated and Signed. The policies and procedures must require entries in client records to be dated and signed. ()

04. Storage Facilities. The program must provide facilities for the storage, processing and handling of client records, including locked and secured rooms and files. ()

05. Electronic Storage of Client Data. When a program stores client data in electronic or other types of automated information systems, they must have security measures to prevent inadvertent or unauthorized access to such data. ()

06. Length of Maintenance of Client Records. Client records must be maintained for a minimum of five (5) years from the date they are officially closed. ()

07. Disposal of Client Records. The program must have a written policy governing the disposal of client records. Methods of disposal must be designed to assure the confidentiality of client information. ()

08. Confidentiality and Disclosure of Information. The program must have written policies and procedures that protect the confidentiality of client records and govern the disclosure of information in the records under Section 006 of these rules. ()

377. -- 379. (RESERVED).

380. INDIVIDUALIZED TREATMENT PLAN.

01. Individualized Treatment Plan. A state-approved alcohol and substance use disorder treatment program must prepare for each client an individualized treatment plan that addresses the alcohol or substance use and co-occurring mental health disorders health affects on the client's major life areas. The development of a treatment plan must be a collaborative process involving the client, family members, and other support and service systems. ()

02. Treatment Plan Based on a Biopsychosocial Assessment. The treatment plan must be based on a biopsychosocial assessment of the client's alcohol or substance use disorders treatment needs, and contributions provided by the informal support system. ()

03. Development and Implementation of the Treatment Plan. The assigned qualified substance use disorders professional staff member within a state approved program has overall responsibility for the development and implementation of the treatment plan. ()

04. Timeline for Development of the Treatment Plan. A treatment plan must be developed within seventy-two (72) hours following admission to an inpatient or residential facility. A treatment plan must be developed within thirty (30) days of the completion of a state approved assessment in an outpatient setting. The treatment plan must be updated at least every seven (7) days in a residential setting and at least every ninety (90) days in an outpatient setting. ()

05. Content of the Treatment Plan. The individualized treatment plan must include the following: ()

a. The services deemed clinically necessary to facilitate the client's alcohol and substance use disorders recovery; ()

b. Referrals for needed adjunct services that the alcohol and substance use disorders treatment program does not provide. ()

c. Referrals for recovery support services that support treatment as defined in Subsection 012.03 of these rules; ()

d. Goals that the client must complete to reduce or eliminate alcohol or substance use and support recovery; ()

e. Objectives that relate to the goals, written in measurable terms, with targeted expected achievement dates; ()

- f. Service frequency; ()
- g. Criteria to be met for discharge from treatment; and ()
- h. A plan for including the family or significant others. ()

06. Integrated COD Treatment Plan Development. In addition to the information in Section 380.05 of this section, the individualized treatment plan for a client with a co-occurring disorder must address the COD treatment and recovery support service needs of the client as identified in the current assessment. These additional items include the following: ()

- a. A list of COD problems and needs identified during the assessment; ()
- b. Overall goals to be achieved consistent with the client's treatment and recovery support services needs and assessment; ()
- c. Reference to all services and contributions provided by the informal support system; ()
- d. Documentation of who participated in the selection of services; ()
- e. Documentation of unmet needs and service gaps; ()
- f. References to any formal services arranged including specific providers; ()
- g. Time frames for achievement of the treatment plan goals and objectives. ()

381. -- 384. (RESERVED).

385. REFERRALS OF CLIENTS.

All alcohol and substance use disorders treatment or recovery support services programs must have policies and procedures to facilitate the referral of clients and the provision of consultation among the program's services and between the program and other service providers in the community. ()

386. DISCHARGE REQUIREMENTS.

All alcohol and substance use disorders treatment programs must meet the discharge standards in these rules. ()

01. Discharge Plan. A discharge plan must be jointly developed by the qualified substance use disorders professional and the client. This discharge plan includes the resources needed to support their recovery. ()

- a. The discharge plan must be initiated within forty-eight (48) hours of admission to a residential program and completed prior to the conclusion of substance use disorders treatment and recovery support services. ()
- b. The discharge plan must be initiated within thirty (30) days of admission to an outpatient program and completed prior to the conclusion of substance use disorders treatment and recovery support services. ()
- c. A hard copy of the discharge plan must be given to the client at the time of discharge from treatment. ()
- d. The discharge plan must include: ()
 - i. The recovery support services and adjunct services to be continued after discharge including the location and contact information of existing appointments; ()
 - ii. Information about accessing resources to maintain gains achieved while in treatment; ()

iii. Identification of stressors that may led to a return to the use of alcohol or drugs and methods to address the stressors; and ()

iv. Identification of person(s) to contact if additional services are needed. ()

02. Discharge Summary. A discharge summary must be entered in the client record within fifteen (15) days following discharge. ()

a. The discharge summary must include the results of the initial assessment and diagnosis. ()

b. The discharge summary must include a clinical summary of the following: ()

i. The course and progress of the client with regard to each identified clinical problem; ()

ii. The clinical course of the client's treatment; ()

iii. The final assessment, including the general observations and understanding of the client's condition initially, during treatment and at discharge; and ()

iv. The recommendations and arrangements for further treatment as described in the discharge plan. ()

387. -- 389. (RESERVED).

390. ENVIRONMENT REQUIREMENTS.

Each facility site of the program must have appropriate space, equipment and fixtures to meet the needs of clients. ()

01. Fixtures and Equipment. Fixtures and equipment designated for each service must be constructed or modified in a manner that provides, insofar as possible, pleasant and functional areas that are accessible to all clients regardless of their disabilities. ()

02. Office Space. Private space must be provided for personal consultation and counseling as well as family and group counseling sessions. All space for offices, storage, and supplies must be accessible. ()

03. Equipment and Supplies. There must be equipment and supplies to meet the needs of the client at each facility. ()

04. Safety, Fire, Health, and Sanitation Requirements. Space, equipment and facilities utilized by the program must meet federal, state and local requirements for safety, fire prevention, health and sanitation. ()

05. 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 needs of the person for independent mobility. New construction must meet the requirements of the American with Disabilities Act Accessibility Guidelines (ADAAG). Existing facilities must comply, to the maximum extent feasible, with 28 CFR Sections 36.304 and 36.305 regarding removal of barriers under the Americans with Disabilities Act, without creating an undue hardship or burden on the facility, and must provide as required, reasonable accommodations. The facility must provide the following: ()

a. Ramps for clients who require assistance with ambulation must comply with the requirements of the ADAAG 4.8; ()

b. Bathrooms and doors large enough to allow the easy passage of a wheelchair as provided for in the ADAAG 4.13; ()

c. Grab bars in toilet and bathrooms in compliance with ADAAG 4.26; ()

- d. Toilet facilities in compliance with ADAAG 4.16 and 4.23; ()
- e. Non-retractable faucet handles in compliance with ADAAG 4.19, with the exception of self-closing valves under 4.19.5, and 4.27; and ()
- f. 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. ()

391. EMERGENCY PREPAREDNESS PLAN.

All alcohol and substance use disorders treatment or recovery support services programs must establish and maintain an Emergency Preparedness Plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the program's ability to provide care. ()

01. External and Internal Disasters. The program must have written policies and procedures to enable them to effectively prepare for both external and internal disasters that can negatively affect its environment of care. The policies and procedures must include: ()

- a. Communication plan for business hours and after hours; ()
- b. Clear chain of command which includes how to contact supervisors at all times; and ()
- c. Disaster orientation for all workers; ()

02. The Role as a Provider of Care to the Residents of Its Community. The program must have written policies and procedures describing how the program is ready to assist as needed in case of community emergency, and as appropriate integrates its Emergency Preparedness Plan with community disaster plans to support the community's response to a disaster. ()

03. Interruption of Utility Services. Policies and Procedures must be written describing what action to be taken in the event of interruption of utility services, such as lighting, in order that staff can perform essential functions, back up computer data, and obtain urgent medical data to provide to a primary care physician; and ()

04. Disruption of Services. Policies and procedures must be written describing what action will be taken in the event of disruption of services and management of space, supplies, communications, and security. ()

392. MEDICAL EMERGENCY SERVICES.

All alcohol and substance use disorders treatment or recovery support services programs must have a written plan describing the manner in which medical emergency services must be accessed. ()

01. Medical Emergency Services Policies and Procedures. The program must have written policies and procedures describing the type of medical emergency services available and the arrangements for referring or transferring clients to a medical facility. The policies and procedures must clearly specify the following: ()

- a. The staff of the program who are available and authorized to provide necessary emergency evaluations. ()
- b. The staff of the program who are authorized to arrange for clients to be referred or transferred to a medical facility. ()
- c. The arrangements the program has made for exchanging records with the medical facility when it is necessary for the care of the client. ()
- d. The location of the medical facility and the medical facilities contact information. ()
- e. The method of communication between the program and medical facility. ()
- f. The arrangements the program has made for transporting clients, when necessary, from the medical

facility providing emergency services. ()

g. Policies concerning notification of the client's family of emergencies and of arrangements that have been made for referring or transferring the client to another program or facility. ()

02. Staff Training for Emergency Services. All staff must be trained in the emergency policies and procedures. ()

03. CPR and Basic First Aid Training. All employees must have current CPR and basic first aid training. ()

04. Annual Review and Revisions. There must be documentation that the policies and procedures are reviewed at least annually and revised as necessary. ()

393. NOTIFICATION OF DEATH, SERIOUS INCIDENT, ACCIDENT, FIRE, OR LOSS OF RECORDS OR OTHER CLIENT IDENTIFYING INFORMATION.

01. Notification of Death. The program must notify the Department in writing within twenty-four (24) hours of a patient, client, or staff death where death occurs on site or in treatment-related circumstances. The program must notify the decedent's family or next of kin as soon as possible in accordance with confidentiality and HIPAA requirements. ()

02. Notification of Serious Incident. The program must notify the Department in writing within twenty-four (24) hours of any serious incident occurring outside the normal course of treatment, involving a patient, client, or staff occurring on the premises related to the operation of the service, that requires the services of a doctor or hospital in accordance with confidentiality and HIPAA requirements. ()

03. Notification of Fire, Accident, or Other Incident. The program must notify the Department in writing within twenty-four (24) hours of any fire, accident, or other incident resulting in significant damage to the service site in accordance with confidentiality and HIPAA requirements. ()

04. Notification of Loss of Client Records or Other Identifying Information. The program must notify the Department in writing within twenty-four (24) hours of any situation resulting in the loss of client records or other identifying information in accordance with confidentiality and HIPAA requirements. ()

05. Notification of Change in Executive Director. The program must notify the Department in writing within twenty-four (24) hours if there is a change of executive director. ()

06. Notification of an Employee Investigation. The program must notify the Department in writing within twenty-four (24) hours if an employee is the subject of an investigation for client abuse or neglect. ()

394. ADMINISTRATION OF MEDICATIONS.

Administration of medications in alcohol and substance use disorders treatment or recovery support services programs, except those located in licensed hospitals, must be by means of self-administration. ()

01. Self-Administration of Medications. Self-administration of over-the-counter and prescription medication is permitted only under the supervision of staff. Prescription medication is permitted only when a client has a prescription from a physician, a nurse practitioner, or a physician assistant. Medication must be available to clients as prescribed. ()

02. Storage. The program will provide secured central storage of prescribed and over-the-counter medication. ()

03. Policies and Procedures for Storage of Medication. The program must have policies and procedures for storage and provide storage facilities for prescribed and over-the-counter medication. ()

04. Administration of Medications in Child and Adolescent Residential Programs. State approved

programs serving children and adolescents in residential programs must follow the requirements found in IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," Subsections 752.02 through 752.06. ()

395. FOOD SERVICE.

Alcohol and substance use disorders treatment or recovery support services programs providing services that include the preparation of meals must meet the requirements in these rules. ()

01. Meals and Snacks. In general, wholesome and nutritionally balanced food must be provided. Three (3) meals must be served daily at regular times. Snacks of nourishing quality must be available to clients at all times. ()

a. Menus. ()

i. Menus must be planned in advance. ()

ii. Menus must be reviewed and approved by a registered dietician annually. ()

iii. Menus must be conspicuously posted in the dining room and must be dated. ()

iv. When changes in the menu are necessary, substitutions must provide equal nutritional value. Records of menus and substitutions must be retained for at least six (6) months. ()

b. Processed food not prepared on site must be obtained from sources inspected and approved by the Department and must be protected from contamination during transport and preparation. Home canned or home processed food must not be used or served. ()

c. Approved refrigeration and cooking appliances must be installed and maintained in operating condition. ()

d. Shelves, counters, and cabinets for preparation of food and storage of food, dishes, and cooking utensils must be maintained in a safe and sanitary manner. ()

e. All sink and cabinet tops must have smooth, washable, non-absorbent finishes. ()

f. Tables and chairs or equivalent must be provided for dining purposes. ()

02. Food Sanitation. The acquisition, preparation, storage, and serving of all food and drink in a program's facilities must comply with Idaho Department of Health and Welfare Rules, IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments." ()

396. RESIDENTIAL AND TRANSITIONAL TREATMENT FACILITY ENVIRONMENT.

All alcohol and substance use disorders treatment facilities providing twenty-four (24) hour per day care must establish an environment that enhances the positive self-image of clients and preserves their human dignity and that meets the minimum standards in these rules. ()

01. Living Conditions. The facility must meet each of the following requirements regarding the client's therapeutic environment: ()

a. Clients must be allowed to wear their own clothing. If clothing is provided by the program, it must be appropriate and not demeaning. ()

b. Clients must be allowed to keep and display personal belongings, and to add personal touches to the decoration of their own room. ()

c. The program must develop policies and procedures for storage, availability and use of personal possessions, personal hygiene items, and other client belongings. ()

- d. Clients must be encouraged to take responsibility for maintaining their own living quarters. ()
- e. Mirrors must be placed as an aid in grooming and to enhance the client's self-awareness. ()
- f. There must be ample closet and drawer space for the storage of personal property and property provided for the resident's use. ()

02. Resident Sleeping Rooms. The facility must assure that: ()

a. Resident sleeping rooms are not in attics, stairs, halls, or any other room commonly used for other than bedroom purposes; ()

b. There must be sufficient window space for natural light and ventilation. Emergency egress or rescue windows must comply with the state-adopted Uniform Building Code. ()

c. Square footage requirements for resident sleeping rooms must provide at least seventy (70) square feet, exclusive of closet space, in a single occupancy room. In a multiple occupancy room, there must be at least forty-five (45) square feet per occupant, exclusive of closet space. Existing multiple occupancy sleeping rooms, may be approved relative to square feet per occupant until the room is remodeled or the building is extensively remodeled. There must be a minimum of three (3) feet between the sides of beds and two (2) feet at the end of the beds. ()

d. Window screens must be provided on operable windows; ()

e. Ceiling heights in sleeping rooms must be at least seven (7) feet, six (6) inches. ()

f. Doorways to sleeping areas must be provided with doors in order to provide privacy. ()

g. Separate bedrooms and bathrooms must be provided for men and women. ()

03. Contributions of Environment. The environment of the treatment facility must contribute to the development of therapeutic relationships in at least the following ways: ()

a. Areas must be available for a full range of social activities for all clients, from two (2) person conversations to group activities. ()

b. Furniture, furnishings and equipment must be available to accommodate all occupants. ()

i. Furniture and furnishings must be comfortable and maintained in clean condition and good repair. ()

ii. All equipment and appliances must be maintained in good operating order. ()

c. To promote awareness of the time and season, clocks and calendars must be provided at least in the major use areas. ()

397. HOUSEKEEPING SERVICES.

All alcohol and substance use disorders treatment or recovery support services facilities providing twenty-four (24) hour per day care must have written policies and procedures for maintaining a clean and safe environment to meet applicable standards in these rules. ()

01. Personnel and Equipment. Housekeeping and maintenance personnel and equipment must be provided to maintain the interior and exterior of the program's facility site in a safe, clean, orderly, and attractive manner. ()

a. After discharge of a client, the room must be thoroughly cleaned, including the bed, bedding and furnishings. ()

b. Storage areas, attics, basements, and grounds must be kept free from refuse, litter, weeds and other items detrimental to the health, safety or welfare of the clients. ()

02. Clients' Personal Articles. Clients personal care and grooming supplies, clothing and shoes must not be allowed to accumulate on the floor thus impeding proper housekeeping measures. ()

03. Laundry Facilities. One (1) washing machine and clothes dryer must be provided unless other approved laundry facilities are available. If laundry is processed on site, the laundry equipment and processing must be located in an area separate from kitchen, dining, and living areas. ()

04. Housekeeping Services and Equipment. Housekeeping, maintenance personnel, and equipment must be provided to maintain the interior and exterior of the facility in a clean, safe, and orderly manner. ()

398. INFECTION CONTROL POLICIES AND PROCEDURES.

Each alcohol and substance use disorders treatment or recovery support services program must have infection control policies and procedures that meet the standards in these rules. ()

01. Written Policies and Procedures for Infection Control. The program must have written policies and procedures pertaining to the operation of an infection control program. ()

a. Effective measures must be developed to prevent, identify and control infections. ()

b. Provision is made for reporting, evaluating and maintaining records of infections among clients and personnel and there is a process for implementing procedures to control the spread or eliminate the cause(s) of the infection. ()

c. All new employees must be instructed in the importance of infection control and personal hygiene and in their responsibility in the infection control program. ()

d. There must be documentation that on-going in-service education in infection prevention and control is provided to all employees. ()

e. There must be documentation that the policies and procedures are reviewed at least annually and revised as necessary. ()

02. Alcohol and Drug Testing. Urine samples will be collected in accordance with Section 740 of these rules. ()

03. Universal Precautions. Universal precautions must be used in the care of clients to prevent transmission of infectious disease according to the Centers for Disease Control and Prevention (CDC) guidelines. These guidelines may be accessed on the CDC website at http://www.cdc.gov/ncidod/dhqp/bp_universal_precautions.html. ()

399. PLANT TECHNOLOGY AND SAFETY MANAGEMENT.

Alcohol and substance use disorders treatment or recovery support services programs must meet applicable standards set forth in these rules. ()

01. Buildings. Buildings on the premises in which services are delivered must be in compliance with the requirements of the local, state and federal codes concerning access, construction, fire and life safety that are applicable. ()

a. Prior to initial occupancy and annually thereafter, the program's site(s) must be inspected for compliance with the Uniform Fire Code. Documentation of all findings, recommendations and corrective actions must be kept on file. ()

b. Prior to initial occupancy and at the time of any structural change in a building, it must be inspected and found to be in compliance with local building codes. Written documentation of all findings, recommendations

and corrective actions must be kept on file by the program. ()

02. Grounds. The program grounds must be maintained in a manner that is designed to provide safe access in a safe environment for clients, personnel and visitors. ()

a. The program must have specific plans and policies for the maintenance, supervision and safe use of all its grounds and equipment. ()

b. The premises and all buildings must be kept free from the accumulation of weeds, trash and rubbish. ()

03. General Safety. The program must have a plan that is designed to provide a safe environment for clients, personnel and visitors, and monitors that environment. ()

a. There must be established procedures for the development, implementation and review of safety policies for all services. ()

b. There must be a procedure for reporting, investigating and evaluating all accidents, injuries and safety hazards. The responses and follow-up actions are to be documented. ()

c. Safety-related policies and procedures must be included in the orientation of all new employees and in the continuing education of all employees. ()

04. Emergency Preparedness. There must be a plan for the protection of all persons in the event of a fire or other emergency. ()

a. Each facility must develop and implement an emergency preparedness plan to follow in the event of fire, explosion, flood, earthquake, high wind, or other emergency. ()

b. The facility must have written procedures outlining steps to be taken in the event of an emergency including: ()

i. The individual(s) who is to respond; ()

ii. Each person's responsibilities; ()

iii. Where and how clients are to be evacuated; and ()

iv. Notification of emergency agencies. ()

c. All clients and employees must be advised of the actions required under emergency conditions. Diagrams of the building showing emergency protection areas and evacuation routes and exits must be conspicuously posted throughout the building. An outline of emergency instructions must be posted with the diagram. ()

d. There must be a minimum of one (1) 2-A-10BC type fire extinguisher per floor, and if there is a kitchen on the floor, fire extinguisher must be in or immediately adjacent to the kitchen. Each extinguisher must be inspected annually by a fire extinguisher service agency. ()

e. All exits must be marked with a lighted exit sign. ()

f. There is a fire plan that includes the use and function of fire alarm and detection systems, containment and the protection of lives. ()

i. Each work shift must have personnel trained and responsible for implementing the fire plan and the activation of the non-automatic components of the fire safety systems. ()

ii. A minimum of one (1) fire drill must be held at least every thirty (30) days at unexpected times and

under varying conditions to simulate unusual circumstances encountered in case of a fire. A record of drills must be maintained which includes the date and time of the drill, response of the personnel and clients, problems encountered and recommendations for improvements. ()

iii. The alarm and detection system and any sprinkler system must be under the direct supervision of a staff member who must cause proper tests to be made at specified intervals and must have general charge of all alterations and additions. ()

g. Program employees and clients must be provided with training about emergency preparedness policies and procedures. ()

h. The emergency preparedness policies and procedures must be evaluated annually and updated as needed. ()

05. Report of Fire. A separate report of each fire incident occurring within the program's facility must be submitted to the Department within twenty-four (24) hours of the occurrence. The "Facility Fire Incident Report," will be issued to the Department to report specific information concerning date, origin, extent of damage, method of extinguishment and injuries, if any. ()

06. Electrically Powered Equipment. The program must have procedures to assure that electrically powered, line-operated equipment is electrically safe. ()

a. There must be a policy that identifies types of equipment that may pose an electrical hazard during intended use and outlines conditions of safe use. ()

b. Policies for the use and control of personal electrical equipment must be developed and implemented. ()

i. Clients must be apprised of the policies and procedures regarding use of personal electrical equipment upon admission to the program's facility. ()

ii. Employees must be apprised of the policies and procedures regarding use of personal electrical equipment upon employment. ()

c. There must be a policy that outlines the action to be taken by staff to ensure client safety during a power outage. All staff must be trained in the procedure. ()

07. Electrical Distribution. The program's facility must have an electrical distribution system that is designed, installed, operated, and maintained to provide electrical power for all required operations. ()

a. There must be a schedule for preventive maintenance to assure that the electrical distribution system operates safely and reliably. ()

b. Inspections and corrective actions must be documented. ()

08. Heating, Ventilating and Air Conditioning. Where provided, the heating, ventilating, and air-conditioning (HVAC) system must be designed, installed, operated and maintained in a manner that provides a comfortable and safe environment for clients, personnel and visitors. ()

09. Plumbing. The plumbing systems must be designed, installed, operated, and maintained in a manner that provides a safe supply of water for all required facility operations and facilitates the complete and safe removal of all storm water and waste water. The plumbing systems must comply with applicable local and state codes. ()

10. Hazardous Materials and Wastes. The program must comply with applicable federal, state and local codes concerning hazardous materials and waste management. ()

11. Boiler and Steam. Where provided, boiler systems must be installed, operated and maintained in a manner that is designed to provide a safe supply of steam or hot water for all required facility operations. ()

12. Safety Devices and Practices. The program must have in place and maintain safety devices and operational practices to assure the safety of clients and personnel. ()

a. Facility sites that do not have emergency medical care resources must have first aid kits. ()

b. All staff must be familiar with the locations, contents, and use of the first aid kits. ()

13. Smoking. Written regulations governing the use of smoking materials must be adopted, conspicuously posted and made known to all program clients, staff members and the public. The written regulations must include at least the requirements listed below. Nothing in this section requires that smoking be permitted by programs whose admission policies prohibit smoking. ()

a. Designated areas must be assigned for client, staff and public smoking. ()

b. Noncombustible ashtrays of a safe design must be provided in all areas where smoking is permitted. ()

c. Metal containers with self-closing, tight-fitting lids or their equivalent must be provided in all areas where smoking is permitted. Containers must be twenty (20) feet from the entrance of the building. ()

d. Tobacco products must not be used by children, adolescents, staff, volunteers, or visitors in any building used to house children or adolescents, or in the presence of children or adolescents, or in vehicles used to transport children or adolescents. ()

14. Structure, Maintenance, Equipment to Assure Safety. The facility must be structurally sound, maintained, and equipped to assure the safety of clients, personnel, and the public including: ()

a. Furnishings, decorations, or other objects cannot be placed so as to obstruct exit access or exits. ()

b. All ramps, open porches, sidewalks, and open stairs must be maintained free of snow and ice buildup. ()

c. Wood stoves must have railings or other protection designed to prevent residents from coming into contact with the stove surfaces. ()

d. All fireplaces must have heat tempered glass fireplace enclosures or its equivalent. ()

e. Boilers, hot water heaters, and unfired pressure vessels must be equipped with automatic pressure relief valves. ()

f. Portable heating devices of any kind are prohibited; portable electric space heaters and moveable fuel-fired heaters are considered portable comfort heating devices. Exceptions: Heated mattress pads, electric blankets and heating pads when ordered by an authorized provider, physician. ()

g. Flammable and highly combustible materials cannot be stored in the facility unless the building is protected throughout by an approved automatic fire extinguishing system. ()

400. -- 449. (RESERVED).

**APPROVED FACILITY AND PROGRAM SERVICES
(Sections 450 Through 454)**

450. ADULT FACILITY AND PROGRAM SERVICES.

The following are adult facility and program services that may be approved by the Department: ()

- 01. Assessment and Referral Services. ()
- 02. Residential Social Detoxification Facility. ()
- 03. Clinically Managed Medium-Intensity Residential Treatment. ()
- 04. Clinically Managed Low-Intensity Residential Treatment (Halfway House). ()
- 05. Level I - Outpatient, and Level II.1 - Intensive Outpatient Treatment. ()
- 06. Opioid Treatment Program. ()
- 07. Drug Court Outpatient Treatment Program. ()
- 08. Recovery Support Services. ()
- 09. Early Intervention Services. ()

451. CHILD AND ADOLESCENT FACILITY AND PROGRAM SERVICES.

The following are child and adolescent facility and program services that may be approved by the Department:()

- 01. Clinically Managed Medium-Intensity Residential Treatment. ()
- 02. Level I - Outpatient, and Level II.1 - Intensive Outpatient Treatment. ()
- 03. Drug Court Outpatient Treatment Program. ()
- 04. Transitional Residential Treatment Services. ()
- 05. Recovery Support Services. ()
- 06. Early Intervention Services. ()

452. SERVICES FOR CHILDREN AND ADOLESCENTS.

In addition to meeting all the rules and minimum standards contained in Sections 000 through 499 of these rules, each alcohol and substance use treatment or recovery support services program seeking approval to provide services to children and adolescents must meet the requirements in Section 452 of these rules: ()

01. Separate Services From Adults. Provide children and adolescent services separate from adult services except for “continued care” described in Subsection 452.03 of these rules. ()

02. Residential Care as an Alternative to Parental Care. Any program which provides care, control, supervision, or maintenance of children or adolescents for twenty-four (24) hour per day as an alternative to parental care must meet the following criteria: ()

a. Be licensed under the “Child Care Licensing Act,” Title 39, Chapter 12, Idaho Code, according to IDAPA 16.06.02, “Rules Governing Standards for Child Care Licensing”; or ()

b. Be certified by the Department of Juvenile Corrections according to IDAPA 05.01.02, “Rules and Standards for Secure Juvenile Detention Centers”; and ()

c. Be approved under IDAPA 16.07.20, “Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs.” ()

03. Continued Care of an Eighteen Year Old Adolescent. An adolescent in a state approved outpatient or intensive outpatient treatment program who reaches the age of eighteen (18) years may remain in the program in continued care for up to ninety (90) days after his eighteenth birthday, or, until the close of the current school year for an individual attending school. Prior to accepting an individual into continued care, the following are required to be presented to the Department's MSC: ()

a. 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. ()

b. A written assessment to assure that an individual in continued care does not jeopardize the health, safety, and well being of other children and adolescents in the program. ()

c. Written documentation verifying the individual in continued care was in the care of the program prior to his eighteenth birthday. ()

d. Written documentation verifying the individual needs to remain in continued care in order to complete treatment, education, or other similar needs. ()

04. Licensed Hospital Facilities. Facilities licensed as hospitals under Title 39, Chapter 13, Idaho Code, are exempt from the requirements in Subsections 452.01 through 452.03 of these rules. ()

453. SERVICES FOR WOMEN WITH DEPENDENT CHILDREN.

These services for women with dependent children including women who are attempting to regain custody of their children apply to all approved treatment facilities and programs seeking approval to provide services to women with dependent children. ()

01. Services. In addition to meeting all the rules and minimum standards contained in Sections 000 through 499 of these rules, each alcohol and substance use disorders treatment or recovery support services program seeking approval to provide services to women with dependent children must provide the following services, either directly or indirectly: ()

a. Primary Medical and Prenatal Care. Primary medical care, including prenatal care for women in treatment. ()

b. Primary Pediatric Care. Primary pediatric care for the children of women in treatment, including immunizations. ()

c. Gender Specific Treatment. Gender specific alcohol and substance use disorders treatment. ()

d. Therapeutic Interventions for Women. Therapeutic interventions for women addressing issues such as relationships, sexual and physical abuse, and parenting. ()

e. Therapeutic Interventions for Children. Therapeutic interventions for children in custody of women in treatment to address, among other things, developmental needs, sexual abuse, physical abuse, and neglect. ()

f. Child Care. Child care while the women are receiving services. ()

g. Treatment Provided as a Family Unit. Treating the family as a unit and therefore admit both women and their children into treatment, when appropriate. ()

h. Case Management. Case management to assist in establishing eligibility for public assistance programs provided by Federal, State, or local governments, employment, and training programs. ()

i. Education and Special Education Programs. Education and special education programs. ()

j. Drug-free and Safe Housing. Drug-free and safe housing for women and their children. ()

k. Childhood Programs. Therapeutic day care, Head Start, and other early childhood programs for children. ()

l. Sexual Harassment Training. Curriculum that covers sexual harassment training for the clients. ()

02. Written Agreements. Alcohol and substance use treatment or recovery support services programs that do not directly provide one or more of the services described in Subsection 453.01 of these rules directly to women with dependent children must maintain written agreements with other approved programs that will be providing these services. A copy of the written agreements must be retained in the client's record. ()

454. CASE MANAGEMENT SERVICES.

In addition to meeting all the rules and minimum standards contained in Subsections 000 through 499 of these rules, each alcohol and substance use disorders treatment or recovery support services program seeking approval as a case management facility must meet the requirements in Section 454 of these rules. Case management services include. ()

01. Case Management Services. ()

a. Services must include a case management assessment of the client and client family strength and needs, service planning, linkage to other services, client advocacy and monitoring service provisions. ()

b. There must be policies and procedures for ensuring that multiple services are delivered in a coordinated and therapeutic manner to meet the goals of treatment outcomes. ()

c. Case management services must not duplicate case management services currently provided under any other state-funded program. ()

02. Comprehensive Service Plan Development. The case manager must prepare for each client a comprehensive service plan that addresses the service needs of the client as identified in the current assessment. To the maximum extent possible, the development of the comprehensive service plan must be a collaborative process involving the client, family members, and other support and service systems. A written comprehensive service plan must be developed and implemented within thirty (30) days after the client chooses a case management agency. The comprehensive service plan must be updated at least every ninety (90) days. Sections 370 and 380 of these rules do not apply in this setting. The individual's comprehensive service plan is based on the Department's Minimum Case Management Standards referenced under Section 002 of these rules. ()

02. Case Manager Contact and Availability. ()

a. The case manager must have a face-to-face contact with each client, at least every month. Contact may be made more often depending upon the level of case management. ()

b. At least every thirty (30) days, depending upon the level of case management provided, case managers must have additional contact with the client, guardian, or provider who can verify the client's well being and whether services are being provided according to the written plan. The frequency, mode of contact, and person being contacted must be identified in the plan and must meet the needs of the client. ()

03. Case Manager Qualifications. A case manager must have completed training in the essentials of case management as identified by the Department. ()

a. A case manager providing basic or intensive case management must be a qualified substance use disorders professional as defined in Section 013 of these rules, an ISAS as defined in Section 012 of these rules, or a trainee as defined in Section 013 of these rules. An ISAS or trainee may provide case management services only under direct intensive clinical supervision and a learning plan. ()

b. A case manager providing clinical case management must have a master's degree, or higher in

human services, be a qualified substance use disorders professional, and have one thousand forty (1,040) hours of clinically supervised substance use disorders treatment experience. ()

c. A trainee must not provide clinical case management. ()

04. Case Manager Status Granted Prior to May 1, 2010. Subsections 218.01 and 218.02 of these rules are applicable to all new applications for appointment as a case manager submitted to the Department after May 1, 2010. If an individual was granted an appointment prior to May 1, 2010, and met the requirements at that time, he may continue to have his appointment recognized. The appointment of this status will be given by the Department after the Department has received documentation affirming the qualified substance use disorder professional's education and experience meets standards in place prior to May 1, 2010. ()

05. Staffing. A case managers total caseload must not be so large that it cannot assure quality service delivery and client satisfaction. For case managers who have other recovery support service or treatment caseloads, or both, the total caseload must not exceed thirty (30) clients at any given time. ()

06. Supervision. The case management program must provide and document at least one (1) hour of case management supervision per month for each case manager. ()

a. Case management supervisors must have a master's degree in a human services field, be a qualified substance use disorders professional, and have one (1) year treatment experience with the substance use disorders population. ()

b. Case management supervision must be documented and include the following: the date supervision is provided; the times the supervision begins and ends; the topics discussed, the duration of each session, whether the supervision was to an individual or group, and the signatures and credentials of both the individual conducting the supervision and the individual(s) receiving supervision. ()

07. Client Records For Case Management Program. Department approved case management forms must be used and can be found on the Department's website as described in Sections 002 and 005 of these rules. The case management program must maintain a written client record and documentation of services on each client utilizing the forms and procedures described in the Minimum Case Management Standards referenced in Section 002 of these rules. All entries in the client record must be signed and dated. Symbols and abbreviations may be used only if they have been approved by professional staff and only when there is an explanatory legend. Sections 375 and 386 of these rules do not apply in this setting. ()

455. -- 499. (RESERVED).

**ALCOHOL AND SUBSTANCE USE DISORDERS
RESIDENTIAL TREATMENT COMPONENT SERVICES
(Sections 500 Through 599)**

500. RESIDENTIAL SOCIAL DETOXIFICATION FACILITY.

Each alcohol and substance use disorders treatment program seeking approval as a residential social detoxification facility must meet the requirements in Section 500 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499 of these rules. ()

01. Detoxification Services in a Residential Social Detoxification Facility. ()

a. Residential social detoxification facilities provide living accommodations in a structured environment for individuals who require twenty-four (24) hour per day, seven (7) days a week, supervised detoxification services. ()

b. Detoxification services must be available continuously twenty-four (24) hours per day, seven (7) days per week. ()

c. There must be clearly written policies and procedures for the detoxification of clients, which have been reviewed and approved by a medical consultant with specific knowledge of detoxification best practice. ()

d. Counseling services must be provided to motivate clients to accept referral into the continuum of care for alcohol or drug abuse. ()

e. The level of monitoring of the client or the physical restrictions of the environment must be adequate to prevent the client from causing serious harm to self or others. ()

f. Clients must be under continuous direct observation by trained personnel who meet training requirements established in this section. ()

g. There must be provisions for any emergency care required. ()

h. There must be clearly written policies and procedures for the transfer of clients from one (1) detoxification program to another, when necessary. ()

i. There must be clearly written policies and procedures for dealing with clients who leave against professional advice. ()

02. Supervision in a Residential Social Detoxification Facility. The program must provide supervisory staff as described in Section 215 of these rules. ()

03. Staffing in a Residential Social Detoxification Facility. There must be twenty-four (24) hour per day, seven (7) days a week, trained personnel coverage. ()

a. A minimum staff to client ratio of one (1) trained staff to six (6) clients must be maintained twenty-four (24) hours per day, seven (7) days a week. ()

b. All staff members responsible for direct client care during the detoxification, must have completed CPR training, the basic first-aid training course, and additional training specific to detoxification prior to being charged with the responsibility of supervising clients. ()

04. Transfer to an Outside Program From a Residential Social Detoxification Facility. Policies and procedures for transferring a client to another program must be established. The policies and procedures must clearly specify the following: ()

a. The staff of the program who are authorized to arrange for clients to be referred or transferred when necessary. ()

b. The arrangements the program has made for exchanging records with the outside program when it is necessary for the care of the client. ()

c. The location of the outside program and the names of the appropriate personnel to contact. ()

d. The method of communication between the programs. ()

e. The arrangements the program has made for transporting clients, when necessary, from the facility site of detoxification services. ()

f. The policy for transferring clients needing substance use disorders treatment after detoxification. ()

g. Policies concerning notification of the client's family of emergencies and of arrangements that have been made for referring or transferring the client to another program. ()

- h. The policies and procedures must be known and available to all detoxification staff. ()

501. -- 509. (RESERVED).

510. LEVEL IV - MEDICALLY MONITORED INPATIENT TREATMENT.

Each alcohol and substance use disorders treatment program seeking approval as a Level IV-Medically Monitored Inpatient Treatment Facility (Level IV) must meet the requirements in Section 510 of these rules, in addition to all rules contained in Sections 000 through 499 of these rules. ()

01. Treatment Services for Level IV. Treatment services must be provided in a hospital licensed under Title 39, Chapter 13, Idaho Code. ()

02. Hospital Services for Level IV. ()

a. The program's facility must be licensed as a hospital under Title 39, Chapter 13, Idaho Code. A copy of the current license must be available for inspection. ()

b. The full range of services offered by the hospital must be available to the client. ()

511. -- 519. (RESERVED).

520. LEVEL III.5 - CLINICALLY MANAGED MEDIUM INTENSITY RESIDENTIAL TREATMENT FACILITY FOR CHILDREN AND ADOLESCENTS.

Each alcohol and substance use disorders treatment program seeking approval as a Level III.5 - Clinically Managed Medium Intensity Residential Treatment Facility (Level III.5) for children and adolescents, must meet the requirements in Section 520 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499 of these rules. Each treatment program must also be licensed annually under IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." ()

01. Admission Criteria for Child and Adolescent Level III.5. A Level III.5 treatment facility will only admit children and adolescents with a primary diagnosis of alcohol, substance, or alcohol and substance abuse or dependency. ()

02. Treatment Focus of Child and Adolescent Level III.5. A Level III.5 treatment facility must focus primarily on alcohol and substance use disorders diagnosed problems. A child or adolescent who is likely to have a withdrawal reaction will be admitted only after stabilization of withdrawal unless the Level III.5 treatment facility has a medically supervised program specifically designed for dealing with withdrawal. A Level III.5 treatment facility must provide individual and group counseling sessions, family treatment services, and alcohol and substance use disorders education sessions. Care must include at least twenty-one (21) hours a week of treatment program hours specific to alcohol and substance use disorders treatment by clinical staff, including planned and structured education, individual and group counseling, family counseling and motivational counseling. ()

03. Required Staff Ratios in Child and Adolescent Level III.5. There must be written staff ratios for direct care staff to children and adolescents and service workers to children and adolescents. Unless otherwise specified in these rules, staff ratios must be: ()

a. Supervisor to Staff Ratio. At least one (1) staff supervisor for every twenty (20) direct care staff or fraction thereof. ()

b. Staff to Child or Adolescent Ratio-Daytime. At least one (1) direct care staff to every eight (8) children or adolescents when the children or adolescents are awake and present, unless the presenting problems of the children or adolescents in care are such that a ratio of one (1) to eight (8) is not sufficient to provide for the safety and treatment needs of the children or adolescents. In that case, the ratio of direct care staff to children or adolescents ratio must be increased to ensure the safety and treatment needs of the children are met. ()

c. Staff to Children or Adolescents' Ratio-Sleeping Hours. At least one (1) awake direct care staff to twenty (20) children or adolescents or fraction thereof during the children or adolescent's normal sleeping hours in

buildings housing children or adolescent's sleeping quarters. If the presenting problems of the children or adolescents in care are such that a ratio of one (1) to twenty (20) is not sufficient to provide for the safety and treatment needs of the children or adolescents, then the ratio of direct care staff to children or adolescents ratio must be increased to ensure the safety and treatment needs of the children or adolescents are met. ()

d. Medical Emergency. At least two (2) staff persons on duty during working hours in a children or adolescent's residential care facility must be certified to provide cardiopulmonary resuscitation (CPR) and first aid for the age of the children or adolescents in care. During sleeping hours, only one (1) staff person on duty must be certified to provide CPR and first aid for the age of children or adolescents in care. ()

e. Emergency Staff Access. When only one (1) direct care worker is on duty, an additional staff person must be available within ten (10) minutes or if assistance from law enforcement is available within ten (10) minutes an additional staff person must be available within thirty (30) minutes to assist with an emergency. ()

f. Service Worker Ratios. Except for non-accredited children or adolescent's residential schools, at least one (1) service worker needs to be available for every twenty (20) children or adolescents in care or fraction thereof. ()

04. Staff Training in Child and Adolescent Level III.5. Unless otherwise specified in these rules, an employee or volunteer whose primary job function requires interaction with children or adolescents and who works twenty-four (24) or more hours a week must receive at least twenty (20) hours of training annually. An employee or volunteer whose primary job function requires interaction with children or adolescents and who works less than twenty-four (24) hours a week must receive at least ten (10) hours of training annually. The training must include cultural sensitivity and diversity, behavior management, and child and adolescent development issues appropriate to the population served. Training for direct client care staff must also include instruction in administering cardiopulmonary resuscitation (CPR) and administering first aid appropriate to the age of the children or adolescents in care within ninety (90) days after employment. ()

05. Care Provided to Children, Adolescents, and Adults in Level III.5. Level III.5 treatment facilities providing care to children, adolescents, and adults must ensure the separation of child and adolescent clients from adult clients. This includes not sharing the same wing, or the same floor for recreation, living, sleeping, and restroom facilities. Children and adolescents must not dine together with adult residents. Children and adolescents must not share treatment groups, recreation, counseling sessions, educational programs, or treatment programs with adults except through utilization of continued care in compliance with Subsections 16.06.02.530 through 532, "Rules Governing Standards for Child Care Licensing." ()

06. After Care Plan for Child and Adolescent Level III.5. A children or adolescent's residential care facility that provides alcohol and substance use disorders treatment must develop a written plan of aftercare services for each child or adolescent that includes procedures for reintegrating the child or adolescent into the family and community as appropriate, and outpatient and other continued care services recommended. ()

07. Alcohol-Drug Testing for Child and Adolescent Level III.5. A Level III.5 treatment facility must establish and follow written policies and procedures for drug testing of children and adolescents as described in Section 740 of these rules. ()

521. -- 529. (RESERVED).

530. LEVEL III.5 - CLINICALLY MANAGED MEDIUM INTENSITY RESIDENTIAL TREATMENT FACILITY FOR ADULTS.

Each alcohol and substance use disorders treatment program seeking approval as a Level III.5 - Clinically Managed Medium Intensity Residential Treatment Facility (Level III.5) for adults must meet the requirements in Section 530 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499 of these rules. ()

01. Treatment Services for Adults Level III.5. ()

a. A Level III.5 treatment facility provides living accommodations in a structured environment for

adults who require twenty-four (24) hour per day, seven (7) days a week, supervision. ()

b. Services must include assessment, treatment, and referral components. ()

c. At a minimum there must be thirty-six (36) hours of counseling and educational programming available to the clients each week. ()

d. There must be policies and procedures for medical screening, care of clients requiring minor treatment or first aid, and handling of medical emergencies. These provisions must be approved by the staff and consulting physician. ()

e. There must be written provisions for referral or transfer to a medical facility for any person who requires nursing or medical care. ()

f. Recreational activities must be provided for the clients. ()

i. Appropriate activities must be provided to all clients during the day, in the evening, and on the weekend. ()

ii. The activities must be planned to provide a consistent and well-structured yet flexible framework for daily living. ()

iii. The activities must make use of community resources. ()

iv. Whenever possible, clients must participate in planning activities. ()

02. Supervision of Adults Level III.5. A Level III.5 treatment facility must provide supervisory staff as described in Section 215 of these rules. ()

03. Staffing Adult Level III.5. There must be qualified staff to maintain appropriate staff to client ratios. ()

a. There must be one (1) qualified substance use disorders professional staff member for every ten (10) clients. ()

b. There must be other staff sufficient to meet the ratio of one (1) staff person to twelve (12) clients continuously, twenty-four (24) hours per day. ()

04. Care Provided to Children, Adolescents, and Adults in Level III.5. Level III.5 treatment facilities providing care to children, adolescents, and adults must ensure the separation of the child and adolescent clients from adult clients. This includes not sharing the same wing, or the same floor for recreation, living, sleeping, and restroom facilities. Children and adolescents must not dine together with adult residents. Children and adolescents but must not share treatment groups, recreation, counseling sessions, educational programs, or treatment programs with adults unless there is a documented therapeutic reason. ()

531. -- 539. (RESERVED).

540. LEVEL III.1 - CLINICALLY MANAGED LOW-INTENSITY RESIDENTIAL TREATMENT FACILITY FOR ADULTS (HALFWAY HOUSE).

Each alcohol and substance use disorders treatment program seeking approval as a Level III.1 - Clinically Managed Low Intensity Residential Treatment Facility (Level III.1) must meet the requirements in Section 540 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499. ()

01. Treatment Services for Adults Level III.1. ()

a. A Level III.1 treatment facility provides living accommodations in a structured environment that encourages each adult client to assume responsibility for their own rehabilitation. ()

- b.** Treatment and adjunct services must not be provided but can be arranged for by the program. ()
 - c.** A Level III.1 treatment facility must encourage use of community resources by persons recovering from alcohol and substance use disorders. ()
 - d.** There must be written provisions for medical screening, care of clients requiring minor treatment or first aid and handling of medical emergencies. ()
 - 02. Supervision for Adults Level III.1.** A Level III.1 treatment facility must be supervised by a qualified substance use disorders professional. Section 215 of these rules does not apply to this level of care in this setting. ()
 - 03. Staffing for Adults Level III.1.** A staff person must be available to residents twenty-four (24) hours per day, seven (7) days a week. The staff to client ratio must not exceed twelve (12) clients to one (1) staff person. The staff must be composed of: ()

 - a.** A house manager; and ()
 - b.** Other staff sufficient to meet the required staff to client ratio. ()
- 541. -- 599. (RESERVED).**

**ALCOHOL AND SUBSTANCE USE DISORDERS
OUTPATIENT TREATMENT COMPONENT SERVICES
(Sections 600 Through 699)**

- 600. LEVEL I - OUTPATIENT, AND LEVEL II.1 - INTENSIVE OUTPATIENT TREATMENT FACILITIES FOR CHILDREN, ADOLESCENTS, AND ADULTS.**
Each alcohol and substance use disorders treatment program seeking approval as a Level I - Outpatient Treatment Facility (Level I), or a Level II.1 - Intensive Outpatient Treatment Facility (Level II.1), must meet the requirements in Section 600 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499 of these rules. ()
- 01. Treatment Services in Level I, and Level II.1.** ()

 - a.** Services in outpatient facilities must be provided at specified times. ()
 - b.** Counseling services must be provided through the outpatient program on an individual, family, or group basis. ()
 - c.** The services must include educational instruction and written materials on the nature and effects of alcohol and substance use disorders and the recovery process. ()
 - d.** The program must provide adjunct services or refer the client to adjunct services as indicated by client need. ()
 - 02. Supervision in Level I, and Level II.1.** The program must provide supervisory staff as described in Section 215 of these rules. ()
 - 03. Staffing in Level I, and Level II.1.** There must be qualified staff to maintain appropriate staff to client ratios. ()

 - a.** Level I must employ at a minimum one (1) qualified substance use disorders professional staff

person for every fifty (50) clients. Irrespective of whether the caseload is private or publicly funded, the maximum caseload for one (1) qualified substance use disorders professional is fifty (50) clients. ()

b. Level II.I must employ at a minimum one (1) qualified substance use disorders professional staff person for every thirty (30) clients. Irrespective of whether the caseload is private or publicly funded, the maximum caseload for one (1) qualified substance use disorders professional is fifty (50) clients. ()

04. Treatment Service Delivery Settings Offsite in Levels I and II.1. Provision of outpatient treatment services outside of an approved facility: ()

a. Services must be provided by qualified substance use disorders professionals. ()

b. Services must be provided in a state or federally approved institution or client's residence. ()

c. Services must be provided in a safe setting. ()

d. Confidentiality according to 42CFR and HIPAA regulations must be adhered to. ()

e. Client records must be maintained in accordance to Sections 375 and 376 of these rules. ()

f. Individual client needs, as reflected in the treatment plan, indicate the need or appropriateness of providing treatment outside the approved facility. ()

g. The Department has final authority over the decision of whether a site meets Subsections 600.04.a. through 600.04.f. of these rules. ()

601. -- 609. (RESERVED).

610. OPIOID TREATMENT PROGRAM.

An Opioid Treatment Program (OTP) will be approved by the Department only if all requirements are met under 42 CFR, Section 8.12, Federal Opioid Treatment Standards. These standards have been incorporated by reference and information to access the standards is found in Section 004 of these rules. The OTP must provide documentation to the Department of their current certification under the federal standards. Any changes to the OTP certification status must be reported immediately to the Department. In addition to the above referenced requirements, all sections of these rules apply. ()

611. -- 619. (RESERVED).

620. DRUG COURT OUTPATIENT TREATMENT PROGRAM.

Each alcohol and substance use disorders treatment program seeking approval as a drug court outpatient treatment program must meet the requirements in Sections 620 through 622 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499 of these rules. ()

01. Governing Body for a Drug Court Outpatient Treatment Program. A drug court outpatient treatment program must have a governing body, which can be the local Drug Court Board. ()

a. The governing body must develop a written mission statement, goals, and objectives that establish the drug court outpatient treatment program's philosophy and direction for treatment services. ()

b. The governing body must establish bylaws and administrative policies to guide relationships between itself and the responsible administrative and professional staffs and the community. Current copies of the bylaws and administrative policies must be readily available to all members of the governing body, the Department, and other persons in accordance with their responsibilities or involvement in implementing the policies of the drug court outpatient treatment program. ()

02. Assessment and Participation Policies and Procedures for a Drug Court Outpatient Treatment Program. The local Drug Court Board and State Drug Court Coordinating Committee are responsible for

developing policies and procedures for assessment and participation in a drug court outpatient treatment program. ()

03. Admissions and Discharge Policies and Procedures for a Drug Court Outpatient Treatment Program. The local Drug Court Board is responsible for developing policies and procedures governing the treatment admissions process which must include use of eligibility guidelines, the LSI-R, substance use disorder assessments, program capacity, acceptance, and appropriateness for treatment. The Board is also responsible for developing policies and procedures governing the treatment discharge process. ()

621. DRUG COURT OUTPATIENT TREATMENT PROGRAM REQUIREMENTS.

01. Staff Composition in a Drug Court Outpatient Treatment Program. The drug court outpatient treatment program must have a sufficient number of treatment staff, qualified substance use disorders professionals, and administrative and support staff to provide for the care and treatment of clients. ()

a. Unless otherwise specified, programs providing treatment services must provide for the following supervisory staff: ()

i. The program must provide for a Program Administrator who is responsible for oversight of all services provided by the program. ()

ii. The program must provide for a Treatment Supervisor to provide on-site supervision at the treatment facility. The individual may supervise more than one (1) treatment activity. This position can also be the Clinical Supervisor, Program Administrator, or both. In those instances where these positions are combined, requirements must be met for all positions. ()

iii. The program must provide for a Clinical Supervisor who can be the same individual or position as the Program Administrator, Treatment Supervisor, or both. In those instances where these positions are combined, all requirements must be met for all positions. The Clinical Supervisor can be a single individual who will provide for statewide oversight of clinical activities but need not provide direct clinical supervision of staff. ()

b. Supervisory staff, which includes the Program Administrator, Treatment Supervisor, and Clinical Supervisor, must meet the qualifications listed in Section 215 of these rules. ()

c. The drug court treatment program must provide supervision as follows: ()

i. Qualified substance use disorders professionals must supervise all treatment activities. ()

ii. Procedures for supervision of all clinical activities must be established which specify frequency and type of supervisory contact, and periodic client file reviews. ()

d. There must be qualified staff to maintain appropriate staff to client ratios as set by the State Drug Court Coordinating Committee, and staff to provide necessary support to the professional staff. ()

e. The program must employ at least one (1) qualified substance use disorders professional for each facility; or ()

i. If the program arranges for the provision of counseling services, it must maintain a valid written agreement or contract with a qualified substance use disorders professional. ()

ii. When a qualified substance use disorders professional is not available or needed on a full-time basis, arrangements must be made to obtain a qualified substance use disorders professional on an attending, continuing consultative, or part-time basis. ()

02. Policies and Procedures for Drug Court Client Expectations. Drug court outpatient treatment programs must have written policies and procedures that specify client expectations of drug court outpatient treatment program including: ()

- a. Impartial access to treatment regardless of race, creed, color, religion, age, gender, national origin, veteran, or disability that does not preclude participation in the alcohol and substance use disorders treatment program; ()
- b. Respect for personal dignity in the provision of all care and treatment; ()
- c. Humane services, regardless of the source of financial support; ()
- d. An individualized treatment plan, based on assessment of current needs; ()
- e. Client access to their treatment plan; and ()
- f. What information will be shared and the nature of communications with members of the local drug court team. ()

03. Client to be Informed of Expectations in a Drug Court Outpatient Treatment Program. The drug court outpatient treatment program must inform each client of the drug court client expectations. The client must sign a written statement of drug court client expectations that includes who the client may contact with questions, concerns, or complaints regarding services provided. ()

622. DRUG COURT OUTPATIENT TREATMENT PLAN AND SERVICES.

01. Individualized Treatment Plan in a Drug Court Outpatient Treatment Program. The drug court outpatient treatment program must have a written, individualized treatment plan for each client that addresses the alcohol and substance use disorders affects on the major life areas and is based on assessment of the client's clinical and criminogenic needs. ()

a. Overall responsibility for development and implementation of the treatment plan must be assigned to a qualified substance use disorders professional staff member. ()

b. Beginning with the completion of the assessment process, and within time frames set by the local Drug Court Board, a detailed individualized treatment plan must be developed which meets the following requirements: ()

- i. Specifies the services necessary to meet the client's needs; ()
- ii. Includes referrals for needed services that the program does not provide; ()
- iii. Contains specific goals that the client must achieve to reduce or eliminate alcohol or drug use; ()
- iv. Contains specific objectives that relate to the goals, are written in measurable terms and includes expected achievement dates; and ()
- v. Specifies the frequency of treatments. ()

c. When appropriate, the client must participate in the development of the treatment plan and such participation must be documented in the client's record. ()

d. A specific plan for involving the family or significant others must be included when indicated. ()

02. Treatment Services Provided in a Drug Court Outpatient Treatment Program. ()

a. Services in outpatient facilities must be provided at specified times. ()

b. Counseling services must be provided through the outpatient program on an individual, family, or group basis. ()

c. The services must include educational instruction and written materials on the nature and effects of substance use disorders and the recovery process, as well as cognitive behavioral interventions to address the identified criminogenic needs. Assessments must include the use of the LSI-R. ()

d. The program must provide adjunct services or refer the client to adjunct services as indicated by client need. ()

e. Requirements for group treatment must be present for the effective delivery of education, skill training, and process groups, and must specify the maximum number of participants allowed for each type of group. ()

623. -- 629. (RESERVED).

630. CHILD AND ADOLESCENT TRANSITIONAL RESIDENTIAL TREATMENT FACILITY.

Each alcohol and substance use disorders treatment program seeking approval as a Child and Adolescent Transitional Residential Treatment Facility must meet the requirements in Section 630 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499 of these rules. ()

01. Licensing of a Child and Adolescent Residential Transitional Facility. A Child and Adolescent Residential Transitional Facility must meet the requirements in IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," and be licensed annually as a Children's Residential Care Facility. ()

02. Treatment Services in a Child and Adolescent Residential Transitional Facility. ()

a. Child and Adolescent Transitional Residential Treatment will be provided as a Level III.1 - Clinically Managed Low-Intensity Residential Service, which includes outpatient for clients who have completed Level III.5, Section 520, and lack supportive recovery environments. ()

c. A Level III.1 facility provides living accommodations in a structured environment that encourages each child and adolescent client to assume responsibility for their own rehabilitation. ()

d. Treatment and adjunct services must not be provided but can be arranged for by the program. ()

e. A Level III.1 treatment facility must encourage use of community resources by persons recovering from alcohol and substance use disorders. ()

f. Treatment under Level III.1 is directed toward applying recovery skills, preventing relapse, improving social functioning and ability for self-care, promoting personal responsibility, developing a social network supportive of recovery, and reintegrating the individual into the worlds of school, work and family life. ()

03. Case Management in a Child and Adolescent Residential Transitional Facility. Every Child and Adolescent Transitional Residential Treatment Facility must provide case management and meet the requirements set forth in Section 454 of these rules. ()

631. -- 639. (RESERVED).

640. LEVEL .5 - EARLY INTERVENTION SERVICES FOR CHILDREN AND ADOLESCENTS.

Early intervention is a brief intensive service that is delivered in an approved treatment facility. ()

01. Services in Child and Adolescent Level .5. Services must be provided by a qualified substance use disorders professional. ()

02. Case Management in Child and Adolescent Level .5. Case Management may be provided as set

forth in Section 454 of these rules. ()

03. Individualized Intervention Plan in Child and Adolescent Level .5. The intervention program must prepare for each client an intervention plan that addresses the service needs of the client as identified in the current assessment. To the maximum extent possible, the development of the intervention plan must be a collaborative process involving the client, family members, and other support/service systems. A written intervention plan must be developed and implemented within fifteen (15) days of initiation of services. The intervention plan must be updated at least every ninety (90) days. The individualized intervention plan must contain at least the following: ()

a. A list of problems describing areas of concern, and needs identified during the assessment; ()

b. Overall goals, describing desired results to be achieved, consistent with the client's service needs and assessment; ()

c. Identification of the nature, amount, frequency, and duration of the intervention services required by the client; ()

d. Selection of the nature, amount, type, frequency, and duration of services will be determined with the participation of the client, the client's informal support network, and providers of services; ()

e. Documentation of who participated in the selection of services; ()

f. Documentation of unmet needs and service gaps; ()

g. Concrete measurable goals, objectives, and interventions; and ()

h. Time frames for achievement of the case management goals and objectives. ()

04. Education in Child and Adolescent Level .5. All providers must utilize an evidence based education program from the Department's list of approved programs. ()

05. Counseling in Child and Adolescent Level .5. Each program will provide individual and group counseling to support client's abstinence. ()

06. Discharge from Child and Adolescent Level .5. Discharge is upon successful completion of the intervention plan or therapeutic discharge. ()

07. Discharge Plan in Child and Adolescent Level .5. Each client must participate in the development of a discharge plan as described in Section 386 of these rules. ()

08. Client Intervention Services in Child and Adolescent Level .5. Clients in intervention services are to be served separately from clients in other levels of care. ()

641. -- 649. (RESERVED).

650. LEVEL .5 - EARLY INTERVENTION SERVICES FOR ADULTS. Early intervention is a brief intensive service that is delivered in an approved treatment facility. ()

01. Case Management in Adult Level .5. Case Management may be provided as set forth in Section 454 of these rules. ()

02. Individualized Intervention Plan in Adult Level .5. The intervention program must prepare for each client an intervention plan that addresses the service needs of the client as identified in the current assessment. To the maximum extent possible, the development of the intervention plan must be a collaborative process involving the client, family members, and other support/service systems. A written intervention plan must be developed and implemented within fifteen (15) days of initiation of services. The intervention plan must be updated at least every

ninety (90) days. The individualized intervention plan must contain at least the following: ()

- a.** A list of problems describing areas of concern, and needs identified during the assessment; ()
- b.** Overall goals, describing desired results to be achieved, consistent with the client's service needs and assessment; ()
- c.** Identification of the nature, amount, frequency, and duration of the intervention services required by the client; ()
- d.** Selection of the nature, amount, type, frequency, and duration of services will be determined with the participation of the client, the client's informal support network, and providers of services; ()
- e.** Documentation of who participated in the selection of services; ()
- f.** Documentation of unmet needs and service gaps; ()
- g.** Concrete measurable goals, objectives, and interventions; and ()
- h.** Time frames for achievement of the case management goals and objectives. ()

03. Education in Adult Level .5. All providers must utilize an evidence based education program from the Department's list of approved programs. ()

04. Counseling in Adult Level .5. Each program will provide individual and group counseling to support client's abstinence. ()

05. Discharge in Adult Level .5. Discharge is upon successful completion of the intervention plan or therapeutic discharge. ()

06. Clients in Intervention Services in Adult Level .5. Clients in intervention services are to be served separately from clients in other levels of care. ()

07. Discharge Plan in Adult Level .5. Each client must participate in the development of a discharge plan as described in Section 386 of these rules. ()

651. -- 699. (RESERVED).

**RECOVERY SUPPORT COMPONENT SERVICES
(Sections 700 Through 799)**

700. ADULT STAFFED SAFE AND SOBER HOUSING FACILITY.

Each alcohol and substance use disorders treatment or recovery support services program seeking approval as an Adult Staffed Safe and Sober Housing facility must meet the requirements in Section 700 of these rules, in addition to Sections 000 through 499 of these rules, unless otherwise specified in this section. ()

01. Services in an Adult Staffed Safe and Sober Housing Facility. ()

a. Adult Staffed Safe and Sober Housing facilities provide a safe, clean, and sober environment for clients who are transitioning back into the community. ()

b. There must be written policies and procedures that establish house rules and requirements and include procedures for monitoring client compliance and consequences for violating house rules and requirements. ()

c. Adult Staffed Safe and Sober Housing programs must allow clients to participate in daily living activities, physical activities, and leisure time activities. Section 224 of these rules does not apply to this level of care in this setting. ()

d. Adult Staffed Safe and Sober housing facilities must encourage use of community resources by persons recovering from alcohol and substance use disorders. Sections 370 and 380 of these rules do not apply to this level of care in this setting. ()

02. Program Fees for Expenses in an Adult Staffed Safe and Sober Housing Facility. ()

a. An Adult Staffed Safe and Sober Housing facility must not bill rent to clients receiving state substance use disorders funding for housing but may impose a “program fee” to cover the following expenses:()

i. Basic utilities-electricity, gas, water, sewer, trash, etc.; ()

ii. Telephone service; ()

iii. Cable or satellite television; ()

iv. Internet services, if available to client; ()

v. Amenities fund covers wear and tear on home living items such as furniture, bedding, curtains, washer and dryer, cookware, dishes, appliances, etc.; ()

vi. Cleaning supplies, if supplied by provider; ()

b. Program fees must not exceed one hundred dollars (\$100) per month. ()

c. Program fees must be imposed equally on residents receiving state funding for housing and non-state funded residents. ()

d. Adult Staffed Safe and Sober Housing facilities must assure that clients fully understand the purpose of an imposed program fee and what it includes. ()

e. Adult Staffed Safe and Sober Housing facilities must disclose to the Department any program fees imposed and what is included in the fee. Changes to program fees must be reported to the Department prior to being imposed. ()

f. The client, client's guardian, or conservator must be notified in writing of an increase in the program fee at least thirty (30) calendar days prior to such a raise taking effect. ()

03. Termination of Housing from an Adult Staffed Safe and Sober Housing Facility. Section 386 of these rules does not apply to this subsection. The housing provider may discharge a client who violates house rules and requirements in accordance with the following: ()

a. Client is informed verbally and in writing of reasons for discharge; ()

b. A process is in place that recognizes the rights of the client to due process and allows the client to request a formal review of the decision; ()

c. The reasons for discharge and any actions following are clearly documented in the client's file. ()

04. Staffing in an Adult Staffed Safe and Sober Housing Facility. A staff person must be available to residents twenty-four (24) hours per day, seven (7) days a week, and conduct daily site visits. Sections 215 through 218 of these rules does not apply to this level of care in this setting. At a minimum, the staff must include: ()

- a. A house manager who is on-site a minimum of twenty (20) hours a week; or ()
- b. A housing coordinator who is off-site, but monitors house activities on a daily basis. ()

05. Staff Qualifications for an Adult Staffed Safe and Sober Housing Facility. A house manager and housing coordinator must have at least one (1) year of experience or training working with the substance use disorders clients. ()

06. Certified Home Inspection in an Adult Staffed Safe and Sober Housing Facility. An Adult Staffed Safe and Sober Housing program must provide a certified home inspection in addition to the required fire inspection documentation. There must be documentation that any major health and safety issues identified in the certified home inspection have been corrected. ()

07. Living Environment in an Adult Staffed Safe and Sober Housing Facility. Adult Staffed Safe and Sober Housing facilities must meet the requirements set forth in Section 396 of these rules. ()

08. Facility Inspection of an Adult Staffed Safe and Sober Housing Facility. Adult Staffed Safe and Sober Housing facilities must be inspected by staff a minimum of three (3) times a week to determine if hazards or potential safety issues exist. A record of the inspection must be maintained that includes the date and time of the inspection, problems encountered, and recommendation for improvement. ()

09. Fire Inspection of an Adult Staffed Safe and Sober Housing Facility. An Adult Staffed Safe and Sober Housing facility must provide documentation of a fire safety inspection conducted annually by the State Fire Marshall or designee. ()

701. -- 709. (RESERVED).

710. CHILD CARE.

Each alcohol and substance use disorders treatment or recovery support services program seeking approval as a Child Care provider must meet the requirements in Section 710 of these rules, in addition to Sections 000 through 499 of these rules, unless otherwise specified in this section. ()

01. Services in a Child Care Program. Child Care programs provide substitute care and supervision to a client's child or children while the client is participating in clinical treatment, recovery support services, or both. Sections 224, 370, 380, and 386 of these rules do not apply to this setting. ()

- a. Child Care providers must: ()
 - i. Provide documentation of a current license under IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing"; or ()
 - ii. Request a waiver for child care licensing. ()
- b. Child Care programs will be expected to: ()
 - i. Provide services at a time and location that is suitable for the client to attend clinical treatment or recovery support services; and ()
 - ii. Provide a setting that promotes and ensures the health, well-being, and safety of the child or children in care. ()
- c. There must be policies and procedures in place that address the following: ()
 - i. Behavior management and discipline methods; ()
 - ii. Current certification in pediatric rescue breathing and first aid; ()

iii. Health and safety standards for hand washing are practiced before and after child care routines including: diapering, assisting children in the bathroom, wiping noses, administering first aid, preparing food, and eating meals; ()

iv. Foods given to children are kept at proper temperatures and not subject to contamination; ()

v. Medicines, cleaning products, and other dangerous substances and articles are kept away from children at all times; and ()

vi. A telephone or other means of communication is working at all times and made available in the event of an emergency. ()

02. Child Care Program Request for Waiver. ()

a. Child Care programs may request a waiver of the child care licensing requirement in accordance with the following: ()

i. The request for waiver must be in writing; and ()

ii. Care is exclusively for a child or children of parent(s) who are on site. ()

b. Child Care programs requesting a waiver must submit a written statement that the program will comply with the standards for health and safety established by the Department under IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." ()

03. Supervision in a Child Care Program. The program must adopt and implement lines of authority that ensure the proper and effective supervision and monitoring of employees and volunteers. Sections 215 through 218 of these rules do not apply to this setting. ()

04. Staffing in a Child Care Program. There must be staff to provide for the needs, safety, protection, and supervision of children served. ()

a. The minimum age for child care providers is eighteen (18) years. ()

b. No one living in the place where child care is provided or employed in the child care program has any physical or mental condition that poses a health risk to a child receiving care. ()

05. Child Care Program Permanent Register. The program must maintain a permanent register of all children receiving services. The permanent register must include each child's full name, gender, date of birth, parents or guardian, the date and time of services, and name of individual(s) providing care. ()

711. -- 719. (RESERVED).

720. LIFE SKILLS.

Each alcohol and substance use disorders treatment or recovery support services program seeking approval as Life Skills provider must meet the requirements in Section 720 of these rules, in addition to Sections 000 through 499 of these rules, unless otherwise specified in these rules. ()

01. Services in a Life Skills Program. Life Skills programs are non-clinical services designed to enhance personal and family skills for work and home, reduce marriage and family conflict, and develop attitudes and capabilities that support the adoption of healthy, recovery-oriented behaviors and healthy re-engagement with the community. ()

a. Services may be provided on an individual basis or in a group setting and can include activities that are culturally, spiritually, or gender-specific. Sections 370, 380, and 386 of these rules do not apply to this setting. ()

b. Life Skills programs must have a written plan. This written plan must include the curriculum used. Section 224 of these rules does not apply to this setting. The list of activities must include: ()

- i. A description of each activity; ()
- ii. The measurable goals of each activity; and ()
- iii. The staff person responsible for providing or supervising each activity. ()

c. Life Skills may be approved for clinical treatment providers on a case-by-case basis under the following conditions: ()

- i. The service is billable only as a recovery support service; and ()
- ii. The service is distinguishable from treatment services. ()
- iii. Clients receiving individual services from a qualified substance use disorders professional must be included in the staff-to-client ratio counts required for treatment services. ()

02. Supervision in a Life Skills Program. The program must provide staff with supervision to ensure that services are provided effectively and appropriately. Sections 215 through 218 of these rules do not apply to this setting. ()

03. Staffing in a Life Skills Program. Each Life Skills program must ensure services are provided by qualified staff who meet the following requirements: ()

- a.** Each staff person has completed training to deliver the service or has a record of performance in the provision of service of at least one (1) year; ()
- b.** Personnel file must contain documentation that each staff person is qualified; ()
- c.** There must be one (1) qualified staff person for every thirty (30) clients in a group setting; and ()
- d.** The total client caseload of any qualified staff person must not exceed forty-five (45) clients. ()

721. -- 729. (RESERVED).

730. TRANSPORTATION SERVICES.

Each alcohol and substance use disorders treatment or recovery support services program seeking approval as a transportation provider must meet the requirements in Section 730 of these rules, in addition to Sections 000 through 499 of these rules, unless otherwise specified in this section. ()

01. Transportation Services. Transportation services are provided to clients who are engaged in alcohol and substance use disorders treatment or recovery support services, or both, and who have no other means of obtaining transportation. Reimbursement is not available for transportation services to and from employment. Sections 215, 216, 217, 218, 224, 370, 380, and 386 of these rules do not apply to this setting. Transportation services include any of the following types of transportation: ()

- a.** Public Transportation. Any entity in the business of transportation that is organized to provide and actually provides transportation to the general public. ()
- b.** Individual Transportation. Individual transportation is any individual providing transportation who does not meet the definition of public or Agency Transportation and provides only transportation services to an eligible client. Only individual transportation providers who are approved by the Bureau of Substance Use Disorders can be reimbursed. ()

c. Agency Transportation. Agency transportation is an entity whose employees or agents provide transportation services in addition to one (1) or more other services to the same eligible client. ()

02. Programs Seeking Approval for Transportation Services. Programs seeking approval for transportation services must meet the following requirements: ()

a. Agencies must maintain documentation of a valid driver's license for each employee who transports clients; ()

b. The program must adhere to all laws, rules, and regulations applicable to drivers and type of vehicles used; ()

c. The minimum insurance required for all programs is professional liability, commercial general liability, and comprehensive liability for all program vehicles. All facilities must maintain professional liability insurance in the amount of at least five hundred-thousand to one million dollars (\$500,000/\$1,000,000) and general liability and automobile insurance in the amount of at least one million to three million dollars (\$1,000,000/\$3,000,000). Copies of the declarations face-sheet for all policies must be included with the application. Individual providers must carry at least the minimum insurance required by Idaho law. If an agency permits employees to transport clients in employee's personal vehicles, the agency must ensure that insurance coverage is carried to cover those circumstances. ()

d. The program must document that the person for whom services are billed was actually transported for all the distance billed. ()

e. Transportation is paid on a reimbursement basis only. ()

f. Only the least expensive, most appropriate means of transportation will be authorized. ()

g. Transportation providers must provide the following services and perform the following tasks: ()

i. Provide services to transport clients to and from alcohol and substance use disorders treatment or recovery support services; ()

ii. Provide services at a time and location that is suitable for the client to attend alcohol and substance use disorders treatment or recovery support services; and ()

i. The program must provide transportation by the most direct route practical. ()

j. Each transportation program must ensure the safety and well-being of all clients transported. This includes maintaining and operating vehicles in a manner that ensures protection of the health and safety of the clients transported. The transportation program must meet the following requirements: ()

i. The driver is prohibited from using a cell phone while transporting a client; ()

ii. No smoking in the vehicle; ()

iii. All vehicles must be equipped with a first aid kit and fire extinguisher; and ()

iv. The vehicle must be equipped with appropriate restraints. ()

03. Staffing for Transportation Services. The operator of a motor vehicle transporting clients must be, at a minimum, eighteen (18) years of age. ()

731. -- 739. (RESERVED).

740. ALCOHOL AND DRUG TESTING SERVICES.

Each alcohol and substance use disorders treatment or recovery support services program seeking approval as an

Alcohol and Drug Testing provider must meet the requirements in Section 740 of these rules, in addition to Sections 000 through 499 of these rules, unless otherwise specified in this section. ()

01. Alcohol and Drug Testing Services. ()

a. Alcohol and Drug Testing providers must have policies and procedures regarding the collection, handling, testing, and reporting of drug-testing specimens. Sections 224, 370, 380, and 386 of these rules do not apply to this setting. ()

b. Alcohol and Drug Testing providers performing on-site testing must use alcohol and drug screening tests that are approved by the U.S. Food and Drug Administration. ()

c. Laboratories used for lab-based confirmation or lab-based testing must meet the requirements in IDAPA 16.02.06, "Rules Governing Quality Assurance for Idaho Clinical Laboratories." ()

d. Testing is performed at the provider level and may be administered randomly or at scheduled intervals. Frequency of testing will vary depending on the client's progress. ()

e. The scope of testing must be sufficiently broad to detect the client's primary drug of choice as well as other drugs of abuse. ()

f. Elements contributing to the reliability and validity of a testing process must include: ()

i. Direct observation of specimen collection; ()

ii. Verification temperature and measurement of creatinine levels in urine samples to determine the extent of water loading; ()

iii. Specific, detailed, written procedures regarding all aspects of specimen collection, specimen evaluation, and result reporting; ()

iv. A documented chain of custody for each specimen collected; ()

v. Quality control and quality assurance procedures for ensuring the integrity of the process; and ()

vi. Procedures for verifying accuracy when drug test results are contested. ()

g. Each employee responsible for collection and testing of specimens must be instructed in the precautions to take when handling specimens. ()

h. Employees responsible for collection and testing of specimens must be provided with, and wear, gloves when collecting or handling specimens. ()

i. There must e procedures in place for storage and disposal of specimens and chemicals used for testing. ()

j. There must be a designated staff member who has responsibility for developing these policies and procedures and for documenting their implementation. ()

02. Supervision of an Alcohol and Drug Testing Service. The program must adopt and implement lines of responsibility that ensure the proper and effective supervision and monitoring of employees and volunteers. Sections 215 through 218 of these rules do not apply in this setting. ()

03. Staffing of an Alcohol and Drug Testing Service. Staff must be trained to administer alcohol and drug testing utilizing elements contributing to the reliability and validity of such testing. ()

741. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.37 - CHILDREN'S MENTAL HEALTH SERVICES

DOCKET NO. 16-0737-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 16-2404, 16-2406, 16-2423, 16-2433, 56-202(b), 56-203B, 56-204A, 56-1003, 56-1004, and 56-1004A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Since both Child and Family Services and the Children's Mental Health program use the same treatment foster care resources, the rules in this chapter pertaining to treatment foster care are being aligned with the corresponding rules in the Department's "Child and Family Services" chapter. This will reduce confusion for treatment foster care providers, make training of providers more efficient, increase the stability of placements for children and youth who are hard to place and hard to maintain in foster care, and improve outcomes for children and youth in treatment foster care.

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: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rulemaking is being done to align with the Treatment Foster Care rules proposed under IDAPA 16.06.01, "Child and Family Services," Docket No. 16-0601-0901.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Chuck Halligan at (208) 334-6559.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, September 23, 2009.

DATED this 31st day of July, 2009.

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 PROPOSED TEXT FOR DOCKET NO. 16-0737-0901

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 child's 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. (5-8-09)(____)

01. Qualifications. ~~A treatment foster parent must~~ Prior to being considered for designation and reimbursement as a treatment foster parent, each prospective treatment foster parent must accomplish the following: (5-8-09)(____)

a. Meet all foster family licensure requirements as set forth in IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing"; (5-8-09)

b. Complete Department-approved treatment foster care initial training; and (5-8-09)

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.~~ Provide a minimum of two (2) references in addition to those provided to be licensed to provide foster care. The additional references must be from individuals who have worked with the prospective treatment foster parent. The additional references must verify that the prospective treatment foster parent has: (5-8-09)(____)

i. Training related to, or experience working with, children or youth with mental illness or behavior disorders; and (____)

ii. Demonstrated cooperation and a positive working relationship with families and providers of mental health services. (____)

02. Continuing Education. Following designation as a treatment foster home, each treatment foster home parent must complete fourteen (14) hours of additional training per year as specified in an agreement developed between the treatment foster parents and the Department. (____)

023. Availability. At least one (1) treatment foster parent in each treatment family home must be available twenty-four (24) hours a day, seven (7) days a week to respond to the needs of the foster child. (5-8-09)(____)

034. Payment. The Department will pay treatment foster parents up to one thousand eight hundred (\$1,800) dollars per month per child, which includes the monthly payment rate specified in Sections 583 and 584 of these rules. The payment will be made to treatment foster parents in accordance with a contract with the Department, ~~to enable them to~~ The purpose of the contract is to make clear that the treatment foster parents must fulfill the requirements for treatment foster parents under the treatment plan referenced in Subsection 600.056 of this rule. (5-8-09)(____)

045. Payment to Contractors. The Department may also provide treatment foster care through a contract with an agency that is a private provider of treatment foster care. The Department will specify the rate of payment in the contract with the agency. (5-8-09)

056. Treatment Plan. The treatment foster parent(s) must implement ~~a~~ the portions of the Department-approved treatment plan for which they are designated as responsible, developed in conjunction with the child's clinician, for each child in their care. This plan is incorporated as part of the treatment plan identified in Section 101 of these rules. (5-8-09)(____)

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.55 - FIRE SAFETY STANDARDS FOR DAY CARE
DOCKET NO. 18-0155-0901 - (CHAPTER REPEAL)
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2010.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 41-211, and 41-254.

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 September 23, 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 rule is being repealed in its entirety because the statutory authority for the rule was eliminated by Senate Bill 1112 as passed by the 2009 Legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The change is needed to conform to governing law.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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 the change was made necessary by action of the 2009 Idaho Legislature's enactment of SB 1112.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Mark Larson, State Fire Marshal at 208/334-4371.

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 September 23, 2009.

DATED this 31st day of July, 2009.

Mark Larson, State Fire Marshal
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720, Boise ID 83720-0043
Phone: 208/334-4371, Fax: 208/334-4398

IDAPA 18.01.55 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 21 - DIVISION OF VETERANS SERVICES

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

DOCKET NO. 21-0101-0901

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 29, 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 Section 65-204, 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 September 16, 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 U. S. Department of Veterans Affairs established revised requirements concerning payments to state veterans nursing homes during the hospitalization of a resident (see 74 Fed. Reg. 19426-451). These rules were effective May 29, 2009, and conflict with the Idaho State Veterans Homes' established rules. The rule revisions remove references to specific time periods and payment rates for residents admitted to a hospital and desiring to retain their residence at a state veterans home. As required by the rules of the Idaho Department of Health and Welfare, IDAPA 16.03.02.100.03, the state veterans homes will fully inform residents upon admission of its bed hold policies and charges, and upon any change to the policies.

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 revisions are necessary to be in compliance with amendments to governing federal regulations.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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 need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jim Adams, Administrative Support Manager, (208) 246-8770.

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 September 23, 2009.

DATED this 10th day of July 2009.

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 TEMPORARY AND PROPOSED TEXT FOR DOCKET NO. 21-0101-0901

915. MAINTENANCE CHARGES.

Upon becoming a resident of a Home, each resident is liable for the payment of a maintenance charge as well as expenses for supplies, medication, equipment, and services (other than basic services for the assigned level of care) that are not provided or paid for by VA, Medicaid, Medicare, or other insurance unless otherwise determined by the Home Administrator. Residents living in a Home for any part of a month must pay for each day, based on the actual number of days in the month, at that fraction of their total charge. Refusal or failure to pay the established maintenance charge or related expenses is cause for discharge from the Home. (3-30-01)

- 01. Charges.** Charges will be computed, based on the following factors: (3-30-01)
 - a.** If the resident has an income, those items used to compute the charge will include: (3-30-01)
 - i. Social Security benefits; (3-30-01)
 - ii. Retirement benefits; (3-30-01)
 - iii. Income from annuities; (3-30-01)
 - iv. Insurance benefits; (3-30-01)
 - v. Rental from property; (3-30-01)
 - vi. Farm income; (3-30-01)
 - vii. VA pensions or compensations; (3-30-01)
 - viii. Tax refunds; and (3-30-01)
 - ix. Income from any and all other sources. (3-30-01)
 - b.** If the resident is single, incompetent, and has liquid assets in excess of one thousand five hundred dollars (\$1,500), he will be assessed the current maximum charge until those assets are reduced to less than one thousand five hundred dollars (\$1,500). (3-15-02)
 - c.** If the resident is single, competent, and has liquid assets in excess of fifteen hundred dollars (\$1,500), he will be assessed the current maximum charge until those assets are reduced to less than fifteen hundred dollars (\$1,500). (3-30-01)
 - d.** Joint income will be used in computing charges for married persons. If the resident has dependents

who rely upon him for financial support, the amount of liquid assets will not be drawn upon after they have declined to a level of five thousand dollars (\$5,000). (3-30-01)

02. Exclusions from Income or Payment. The only exclusions in computing monthly charges will be: (3-30-01)

a. Those funds which a resident receives from the sale of hobby/craft items constructed and sold as part of a Home occupational therapy program; or (3-30-01)

b. Those unusual expenses specified below, which are incurred after the resident's admission to a Home and are approved by the Home Administrator, up to a maximum monthly allowance which is established pursuant to Section 980 of these rules: (3-30-01)

i. Prosthetic, orthopedic, and paraplegic appliances; (3-30-01)

ii. Sensory aids; (3-30-01)

iii. Wheelchairs; (3-30-01)

iv. Therapy services; (3-30-01)

v. Hospital, medical, surgical expenses and bills for prescription drugs incurred and paid by the individual in the current month and documented by a paid receipt. (3-30-01)

c. Reasonable medical insurance premiums, as paid, with documentation of payment. Other insurance premiums are excluded from consideration; or (3-30-01)

d. An allowance established pursuant to Section 980 of these rules for retention by a resident for personal needs; (3-30-01)

e. That amount necessary for a resident of a Home to contribute to the support of a legal dependent where proof of actual payment is documented. A monthly allowance will be established for a spouse or additional dependents pursuant to Section 980 of these rules. (These allowances take into consideration housing and utility costs.) (3-30-01)

03. Income Eligibility Limits. (3-30-01)

a. Nursing Care. None. (3-30-01)

b. Residential and Domiciliary Care. A resident's total monthly net income, from all sources, may not exceed the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12) unless waived by the Home Administrator in accordance with Subsection 100.08 of these rules. (3-30-01)

c. While in residence at a Home, a domiciliary resident may seek outside employment and receive income so that his total monthly net income from all sources will exceed the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12) for a one (1) month transitional period. At the end of this one (1) month transitional period, the resident will be discharged. (3-30-01)

04. Continued Eligibility. (3-30-01)

a. Nursing Care. A resident may continue to be eligible for residency in a Home, regardless of income changes, if the conditions defined in Subsection 100.09 of these rules continue to be met. (3-30-01)

b. Residential and Domiciliary Care. If a resident's net monthly income exceeds the income eligibility limit after admission to the Home, the resident may appeal to the Home Administrator for a waiver of the income eligibility limit which may be granted for good cause. Consideration for good cause must include "need for

continuing medical care” as documented by a VA Medical Center physician. (3-30-01)

05. Charges. (3-30-01)

a. Nursing Care. After allowable deductions, a resident will be assessed a fee equal to the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge is based on historical costs that are adjusted to include anticipated costs and an inflation factor. Changes to the maximum charge are made pursuant to Section 980 of these rules. (3-30-01)

b. Residential Care. After allowable deductions, a resident will be assessed a fee of seventy-five percent (75%) of the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge shall be seventy-five percent (75%) of the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12). (3-30-01)

c. Domiciliary Care. After allowable deductions, a resident will be assessed a fee of sixty percent (60%) of the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge shall be sixty percent (60%) of the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12). (3-30-01)

06. Payment Schedule. Maintenance charges are due the first of each month and must be paid in full by the resident or guardian on or before the tenth day of the month. Payments may be made either by cash or by check, and a receipt will be issued. (3-15-02)

07. Security Deposit. A deposit of one hundred dollars (\$100) will be required by domiciliary and residential care residents upon admission to a Home, unless waived by the Home Administrator. This deposit will be held until the resident leaves. Any debts or liabilities on behalf of the resident will be offset against this deposit at that time. After payment of any debts or liabilities, the remaining balance of the deposit will be returned to the outgoing resident. (5-3-03)

08. Leave of Absence or Hospitalization. Residents receiving Medicaid, ~~or Medicare, or VA per diem~~ will be charged for leave of absence or hospitalization in accordance with Medicaid, ~~and Medicare, and VA~~ requirements. The Home will not reduce charges for leave of absence or hospitalization of residents not ~~receiving~~ qualifying for Medicaid, ~~or Medicare, or VA payment~~ for such absence and each day will count as if the resident were present at a Home. Unless waived by the Home Administrator ~~or prohibited by law~~, the Home will charge residents receiving Medicaid, Medicare, or VA per diem the current VA per diem rate for each absent day of a leave of absence or hospitalization in excess of ~~twenty-four (24) hours~~ the period eligible for payment by Medicaid, Medicare, or the VA. Unless waived by the Home Administrator, the Home will charge residents not receiving Medicaid the current VA per diem rate for each absent day of a leave of absence or hospitalization in excess of ninety-six (96) hours or a hospital stay in excess of ten (10) days. Residents receiving Medicaid may be granted therapeutic leaves upon a doctor's orders for up to seventy-two (72) hours, not to exceed fifteen (15) days in a calendar year. (~~3-30-07~~)(5-29-09)T

09. Medicaid Eligibility. All nursing care residents, including re-admitted residents, entering a Home on or after July 1, 2000 must either apply for or become eligible for Medicaid benefits, or must pay the maximum monthly charge as it may be established from time to time. Eligibility for Medicaid benefits is determined entirely by the Idaho Department of Health and Welfare and its agents. Residents who cannot, or choose not to, qualify for Medicaid shall be required to pay for services in full from other than Medicaid funds. Care and services for those residents who are Medicaid eligible will be billed to and paid by Medicaid. Residents eligible for Medicaid will be assessed a fee equal to the resident's liability as determined by Medicaid. (3-30-07)

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 PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 65-202 and 65-204, Idaho Code.

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

There are no changes to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009 Idaho Administrative Bulletin, Vol. 09-7, pages 99 and 100.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jim Adams, Administrative Support Manager, (208) 246-8770.

DATED this 30th day of July, 2009.

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

DOCKET NO. 21-0104-0901 - 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 09-7, July 1, 2009, pages 99 and 100.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2010 Idaho State Legislature for final adoption.

IDAPA 23 - BOARD OF NURSING

23.01.01 - RULES OF THE IDAHO BOARD OF NURSING

DOCKET NO. 23-0101-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1404 and 54-1418, Idaho Code.

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

There are no changes to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009 Idaho Administrative Bulletin, Vol. 09-7, pages 101 through 104.

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 Sandra Evans, M.A.Ed., R.N., Executive Director, (208) 334-3110 ext. 26.

DATED this 30th day of July 2009.

Sandra Evans, M.A.Ed., R.N.
Executive Director
Board of Nursing
280 N. 8th St., Ste. 210
P. O. Box 83720
Boise, ID 83720-0061
Phone: (208) 334-3110 ext. 26
Fax: (208) 334-3262

DOCKET NO. 23-0101-0901 - 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 09-7, July 1, 2009, pages 101 through 104.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2010 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY

DOCKET NO. 24-0401-0901

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 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 Section 54-821, 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 September 16, 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 2009 Legislature passed SB1073, which added "practice" to Section 54-827, Idaho Code. Rule 176 implements the law change by adding "practice" to the permit, adding a deadline for application submission, designating the Bureau as the agent allowed to issue permits when objective requirements are met, and establishing sanitation requirements.

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

The 2009 Legislature passed S1073, which added "practice" to Section 54-827, Idaho Code. This allows the Board of Cosmetology to issue permits to practice, demonstrate or teach cosmetology. It also allows the board to designate an agent and establish requirements for a permit.

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 the change is due to revisions in Title 54, Chapter 8, Idaho Code.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2009.

DATED this 1st day July, 2009.

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

THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT FOR DOCKET NO. 24-0401-0901

176. APPLICATION AND FEE FOR PERMIT TO PRACTICE, DEMONSTRATE, OR TEACH COSMETOLOGY. (RULE 176).

Application and fee for permit to practice, demonstrate, or teach cosmetology shall be made by the sponsoring agent on forms furnished by the Board and must be received in that office at least seven (7) business days prior to the date of practice, demonstration, or instruction. The applicant shall include the name, address, license number, and the state, territory, possession, or country of licensure, and a ten dollar (\$10) fee for each person who shall practice, demonstrate, or instruct. The permit fee shall not be required for those persons holding a current personal Idaho license issued by the Board. Said practice, demonstration, or instruction shall not commence until the permit is received by the applicant. The permit shall be available for inspection by the Board or its agent at the location of said practice, demonstration, or instruction. The applicant shall be required to inform each person of the sanitary rules for shops and schools prior to said practice, demonstration, or instruction. If the application meets objective requirements established by the Board and the location where the permitted activities are to occur meets the sanitary requirements of Board Rule 800, the Bureau may issue the permit. ~~(3-8-02)~~(7-1-09)T

IDAPA 28 - DEPARTMENT OF COMMERCE

28.02.01 - IDAHO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (ICDBG)

DOCKET NO. 28-0201-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 67-4702, Idaho Code.

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

There are no changes to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009 Idaho Administrative Bulletin, Vol. 09-7, pages 108 through 122.

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 Porter, Community Development Manager, (208) 334-2650 ext. 2145.

DATED this 30th day of July, 2009.

Donald Dietrich
Director
Department of Commerce
700 W. State St.
P. O. Box 83720
Boise, ID 83720-0093
Phone: (208) 334-2470
Fax: (208) 334-2631

DOCKET NO. 28-0201-0901 - 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 09-7, July 1, 2009, pages 108 through 122.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2010 Idaho State Legislature for final adoption.

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 PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 33-2503, Idaho Code.

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

There are no changes to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009 Idaho Administrative Bulletin, Vol. 09-7, pages 123 and 124.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ann Joslin, State Librarian, (208) 334-2150.

DATED this 30th day of July, 2009.

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

DOCKET NO. 30-0101-0901 - 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 09-7, July 1, 2009, pages 123 and 124.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2010 Idaho State Legislature for final adoption.

IDAPA 30 - IDAHO COMMISSION FOR LIBRARIES

30.01.01 - RULES OF THE IDAHO COMMISSION FOR LIBRARIES GOVERNING THE USE OF COMMISSION SERVICES

DOCKET NO. 30-0101-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 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 33-2503, Idaho Code.

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

There are no changes to the pending rule, therefore, it is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009 Idaho Administrative Bulletin, Vol. 09-7, pages 125 through 127.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ann Joslin, State Librarian, (208) 334-2150.

DATED this 30th day of July, 2009.

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

DOCKET NO. 30-0101-0902 - 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 09-7, July 1, 2009, pages 125 through 127.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2010 Idaho State Legislature for final adoption.

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-1101-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 61-515, 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 September 16, 2009.

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 Commission's address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission's Safety and Accident Reporting Rules currently adopt by reference several national safety codes and federal safety regulations. In particular, Rules 202 and 203 currently adopt by incorporation the 2006 Editions of the International Fuel Gas Code and the International Mechanical Code, respectively. The Commission is proposing to update its Rules 202 and 203 by adoption of the 2009 Editions. Revisions in the 2009 International Fuel Gas Code include: Section 303.6 (gas-fired appliances installed outdoors); Section 306 (access to gas appliances); Section 310 (electrical bonding for corrugated stainless steel tubing); Table 402.4(13) (sizing for corrugated stainless steel tubing); Section 404 (prohibited locations for gas piping); Section 409.5 (appliance shut-off valves); Section 411.13 (maximum length, minimum size and prohibited locations of appliance connectors); Section 503.7-.8 (venting requirements); and Sections 623.7 and 627 (clearances for gas-fired cook tops and air conditioners). Revisions to the 2009 International Mechanical Code include: Sections 303.5 and 304.4 (restrictions on gas appliance locations); Section 306 (access to gas appliances); Section 403 and Table 403.3 (mechanical ventilation rates); Section 501 (exhaust systems); and Section 504 (gas clothes dryer exhaust requirement).

The Commission is also proposing to amend Rule 201 to adopt certain provisions of the 2009 Code of Federal Regulations (CFRs) dealing with pipeline safety regulations found at 18 C.F.R. Section 260.9 and 49 C.F.R. Parts 191-193, 195 and 199. Changes from the 2007 CFRs include: operating certain gas transmission pipelines at higher pressures, 73 Fed.Reg. 62148 (Oct. 17, 2008); design factors and pressure limits for natural gas pipelines made from new Polyamide-11 thermoplastic pipe, 72 Fed.Reg. 79002 (Dec. 24, 2008); and updated administrative procedures from the Pipeline Inspection, Protection, Enforcement, and Safety (PIPES) Act of 2006, 73 Fed.Reg. 16526 (March 28, 2008).

The Commission is also proposing changes to Rules 301 and 302 that would require utilities to submit written accident reports within twenty-one (21) days when they sustain damage to their facilities in excess of \$200,000 or when a member of the public incurs property damage in excess of \$200,000 as a result of contact with utility operating property. Damage resulting from motor vehicle accidents is exempt from the damage reporting rule. Finally, the Commission is proposing to make several housekeeping corrections to its Safety and Accident Reporting Rules regarding street addresses, telephone numbers, e-mail addresses, and citations to other authorities.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this proposed rule adopts updated national safety codes and federal regulations necessary for the safety of utility employees and the public during the installation, operation, or maintenance of natural gas pipelines, fuel gas systems and natural gas-fired appliances.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before September 23, 2009. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 21st day of July, 2009.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:
472 W Washington
Boise, Idaho 83702-5918

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 31-1101-0901

000. LEGAL AUTHORITY (RULE 0).

These rules adopt~~ing~~ by reference national safety codes and require~~ing~~ the reporting of certain accidents ~~are adopted~~ under the general authority of the Public Utilities Law, Chapters 1 through 7, Title 61, Idaho Code, and under the specific authority of Sections 61-515 and 61-517, Idaho Code. ~~(4-1-98)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

004. PUBLIC RECORDS ACT COMPLIANCE (RULE 4).

Notes of telephone reports required by Rule 301 and written reports required by Rule 302 are public records subject to inspection, examination and copying. Further investigative reports by the Commission or the Commission Staff are investigatory records exempt from disclosure. See Sections 9-337~~(46)~~ and 9-340B, Idaho Code. Reports required by these rules and the results of further investigations by the Commission are by statute prohibited from admission into evidence in any action for damages based on or arising out of the loss of life or injury to the person or property. See Section 61-517, Idaho Code. ~~(4-5-00)~~(____)

005. DEFINITIONS (RULE 5).

01. Utilities. The terms “electrical corporation,” “gas corporation,” “pipeline corporation,” “telephone corporation,” and “water corporation” have the meanings given to them by statute in Chapter 1, Title 61, Idaho Code; orders of the Idaho Public Utilities Commission; and decisions of the Idaho Supreme Court ~~of Idaho~~ construing these statutes. ~~(4-2-08)~~(____)

02. Serious Damage. Damage to natural gas facilities caused by a natural disaster or terrorism that results in a loss of or reduction in pipeline throughput or storage deliverability. (4-2-08)

03. Serious Interruption of Service. Interruptions of natural gas pipeline service to communities, major governmental installations, and large industrial plants outside of communities or any other interruption that is significant in the judgment of the natural gas pipeline. Interruptions of less than three (3) hours or planned maintenance outages need not be reported. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

201. FEDERAL NATURAL GAS SAFETY REGULATIONS (RULE 201).

The Commission incorporates by reference Part 260.9, Title 18 (April 1, 2007~~9~~) and Parts 191, 192, 193, 195, and 199, Title 49, the Code of Federal Regulations (October 1, 2007~~9~~), except that federal accident reporting requirements contained in the rules adopted by reference in Rule 201 are replaced for state reporting purposes by orders of the Commission or rules of the Commission. These regulations are found in the Code of Federal Regulations, available from the U.S. Government Printing Office, Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. The incorporated CFR Parts are also available in electronic format at www.gpoaccess.gov/nara. All gas and pipeline corporations subject to the Commission's jurisdiction are required to abide by applicable provisions of these federal regulations adopted by reference. (4-2-08)(____)

202. INTERNATIONAL FUEL GAS CODE (IFGAC) (RULE 202).

01. Incorporation by Reference. The Commission incorporates by reference the International Fuel Gas Code, 2006~~9~~ Edition except for Part 2 of Chapter 1. The International Fuel Gas Code is published by the International Code Council, ~~3~~500 New Jersey Avenue, NW, 6th Floor, Washington D.C. 20001-2070. The Code is available from the Code Council and may be ordered online at www.iccsafe.org. Telephone orders may be placed by calling toll-free 800-786-4452. (4-2-08)(____)

02. Utility Compliance. All gas corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the International Fuel Gas Code and to connect for service and light only those installations that: (3-20-04)

- a. Have been inspected and approved by authorized agencies; or (4-1-98)
- b. When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the International Fuel Gas Code as a condition of receiving service or continuing to receive service. (3-20-04)

203. INTERNATIONAL MECHANICAL CODE (IMC) (RULE 203).

01. Incorporation by Reference. The Commission incorporates by reference those portions of the 2006~~9~~ International Mechanical Code explicitly referring to gas or gas-burning appliances except Part 2 of Chapter 1. The International Mechanical Code is published by the International Code Council, ~~3~~500 New Jersey Avenue, NW, 6th Floor, Washington D.C. 20001-2070 and may be ordered by calling toll-free 800-786-4452 or online at www.iccsafe.org. (4-2-08)(____)

02. Utility Compliance. Gas corporations subject to the jurisdiction of this Commission are required to abide by applicable provisions of the International Mechanical Code and to connect for service and light only those installations that: (3-20-04)

- a. Have been inspected and approved by authorized agencies; or (4-1-98)
- b. When inspecting agencies do not exist, to require their customers to abide by applicable provisions of the International Mechanical Code as a condition of receiving service or continuing to receive service. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

301. IMMEDIATE REPORTING OF FATALITIES AND CERTAIN ACCIDENTS AND MAJOR NATURAL GAS INTERRUPTIONS (RULE 301).

01. Fatality and ~~Accident~~ Hospitalization Reporting. Whenever any employee of an electrical corporation, gas corporation, pipeline corporation, telephone corporation, or water corporation or any member of the public dies or requires in-patient hospitalization as a result of contact with or proximity to utility operating property, the utility must notify the Commission by telephone of the fatality or hospitalization no later than the first business day following discovery of the fatality or reporting of the hospitalization, except as provided in Subsection 31.11.01.301.02. Reports should be made to the Commission Secretary at (208) 334-0338. (4-2-08)()

02. Property Accident Reporting. Whenever an electrical corporation, gas corporation, pipeline corporation, telephone corporation, or water corporation or any member of the public suffers property damage in excess of two hundred thousand dollars (\$200,000) as a result of contact with or proximity to utility operating property, the utility shall file a written report with the Commission, except as provided in Subsection 31.11.01.301.03. Reports shall be made to the Commission Secretary at (208) 334-0338. ()

023. Operating Property -- ~~Automobile~~ Motor Vehicle Accident Exception. As used in this rule, operating property means electric plant as defined in Section 61-118, Idaho Code, gas plant as defined in Section 61-116, Idaho Code, pipelines as defined in Section 61-114, Idaho Code, telephone line as defined in Section 61-120, Idaho Code, or water systems as defined in Section 61-124, Idaho Code. This reporting rule does not apply to fatalities, hospitalization, and property damage arising out of ~~automobile~~ motor vehicle accidents, even if the ~~automobile~~ motor vehicle later comes into contact with utility plant. Office buildings or portions of office buildings not associated with the physical delivery of utility services or commodities are not considered operating property. (4-1-98)()

034. Major Service Interruptions or Damage to Natural Gas Pipelines. The Commission incorporates by reference Section 260.9, Title 18, the Code of Federal Regulations (April 1, 2007). Every natural gas corporation must report serious damage to natural gas facilities and serious interruptions of service to the Commission. Natural gas corporations should also report other serious damage not caused by natural disaster or terrorism if such damages create the potential for serious delivery problems on its own system or the pipeline grid. (4-2-08)

302. WRITTEN REPORTING OF ACCIDENTS AND NATURAL GAS INTERRUPTIONS (RULE 302).

01. Reporting Required. In addition to any telephone reporting required under Rule 301, a written report shall be submitted for: (4-2-08)

a. Every accident involving an employee of the utility or member of the public that results in a fatality or in-patient hospitalization; (4-2-08)

b. Any other accident the utility finds significant; or (4-2-08)

c. Property damage to utility plant or non-utility property in excess of two hundred thousand dollars \$200,000; or ()

ed. Serious damage or service interruption of natural gas pipelines. (4-2-08)

02. Submitting the Written Report. All written reports ~~must~~ shall be submitted to the Commission within twenty one (21) days after the fatality, ~~or injury~~ hospitalization or damage is discovered. Reports regarding serious damage or service interruption shall be submitted at the earliest feasible time. Reports should be mailed to:

COMMISSION SECRETARY
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, ID 83720-0074

Street Address for Express Mail:
472 W. WASHINGTON ST.
BOISE, ID 83702-598318

(4-2-08)()

Copies of such reports may also be provided by facsimile at (208) 334-3762 or by electronic mail to secretary@puc.state.id.usidaho.gov. (5-3-03)()

03. Contents of Written Accident Report. There is no standard form for written reports prescribed by this rule. Gas companies may file copies of reports submitted to federal regulators under 49 C.F.R. Part 191. All reports submitted ~~must~~ shall contain the following information: (4-2-08)()

- a. Name of person(s) involved in the accident; (7-1-93)
- b. Status of persons involved in the accident (e.g., employees, children, contractors, etc.); (7-1-93)
- c. Time of day, day of the week and month, and location of the accident or discovery of the accident; (4-2-08)
- and* d. Description of the accident, the extent of property damage, and events leading up to the accident; (4-2-08)()
- e. The scope of service interruption, if any, and the duration of service interruption; and ()
- official. ef. The company name, contact person, e-mail address and direct telephone number of the reporting (4-2-08)()

04. Contents of Written Report Involving Damage or Interruption to Natural Gas Facilities. All written reports shall provide the following information: (4-2-08)

- a. The location and cause of the service interruption or damage to natural gas pipeline or storage facilities; (4-2-08)
- b. The nature of the serious damage to pipeline or storage facility; (4-2-08)
- c. The specific identification and location of any facilities damaged; (4-2-08)
- d. The time the service interruption or damage to facilities occurred; (4-2-08)
- e. The customers affected by the interruption of service or damage to facilities; (4-2-08)
- f. A brief description of emergency actions taken to maintain service; (4-2-08)
- g. An estimate of the time (if available) when pipeline throughput or storage deliverables are expected to be restored; and (4-2-08)
- official. h. The company name, contact person, e-mail address and direct telephone number of the reporting (4-2-08)()

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.21.01 - CUSTOMER RELATIONS RULES FOR GAS, ELECTRIC AND WATER PUBLIC UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION (THE UTILITY CUSTOMER RELATIONS RULES)

DOCKET NO. 31-2101-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 61-507, 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 September 16, 2009.

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 Commission's address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The Commission proposes to relocate three (3) rules from IDAPA 31.21.02 to IDAPA 31.21.01. The rules to be relocated are:

1. IDAPA 31.21.02.101 to IDAPA 31.21.01.702;
2. IDAPA 31.21.02.103 to IDAPA 31.21.01.201.04; and
3. IDAPA 31.21.02.104 to IDAPA 31.21.01.208.

The Commission also proposes in Rule 31.21.01.201.04.b that water utilities with more than five thousand (5,000) customers provide consumption data on each customer's bill comparing actual consumption in the current billing period with the corresponding billing period in the previous year. After the transfer of the rules is complete, the Commission proposes to repeal IDAPA 31.21.02. Relocating these rules will streamline the Commission's utility rules.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before September 23, 2009.

DATED at Boise, Idaho this 21st day of July, 2009.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:

472 W Washington
Boise, Idaho 83702-5918

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 31-2101-0901

IDAPA 31
TITLE 21
CHAPTER 01

31.21.01 - CUSTOMER RELATIONS RULES FOR GAS, ELECTRIC, AND WATER
PUBLIC UTILITIES ~~REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION~~
(THE UTILITY CUSTOMER RELATIONS RULES)

(BREAK IN CONTINUITY OF SECTIONS)

001. TITLE AND SCOPE (RULE 1).

The name of this chapter is "Customer Relations Rules for Gas, Electric and Water Public Utilities ~~Regulated by the Idaho Public Utilities Commission~~ (the Utility Customer Relations Rules)." This chapter has the following scope: These rules provide a set of fair, just, reasonable, and non-discriminatory rules ~~to address recurring areas of disagreement between utilities and customers~~ with regard to deposits, guarantees, billing, application for service, denial of service, termination of service and complaints to utilities. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

201. ISSUANCE OF BILLS -- CONTENTS OF BILLS (RULE 201).

Bills shall be issued on a regular basis. Bills must contain the following information: (3-30-01)

01. The Billing Date. (7-1-93)

02. The Time Period Covered by the Bill. (7-1-93)

03. Metered Service Billing. If metered service is the basis for billing, the beginning and ending meter readings, where the bill is based on actual readings, or a clearly marked statement that the bill is estimated, if the meter was not actually read, and the quantity of service provided, when applicable. (7-1-93)

04. ~~Billing Comparisons of Consumption Data. Comparisons of current and previous consumptions, when required by IDAPA 31.21.02.103.~~ (7-1-93)()

a. ~~Each gas and electric utility shall compare on each customer's regular billing the customer's actual consumption of gas or electricity with the customer's actual consumption of gas or electricity for the corresponding billing period in the previous year. If the billing periods being compared contain a different number of days, the utility shall adjust the data to take into account the different length of the billing periods and show the comparison as an absolute change in therm use or kilowatt hour use per day.~~ ()

b. ~~Each water utility with more than five thousand (5,000) customers shall compare on each customer's regular billing the customer's actual consumption of water with the customer's actual consumption of water for the corresponding billing period in the previous year. The usage comparison shall be expressed in gallons or cubic feet based upon total consumption for each billing period or average consumption per day during each billing period.~~ ()

05. **The Due Date of the Bill.** (7-1-93)
06. **Itemization of All Charges.** An itemization of all charges, both recurring and nonrecurring. (7-1-93)
07. **Any Amount Transferred From Another Account.** (7-1-93)
08. **Any Amounts Past Due.** (7-1-93)
09. **Payments or Credits.** Any payments or credits applied to the customer's account since the last bill. (7-1-93)
10. **The Total Amount Due.** (7-1-93)
11. **Address and Telephone Number.** The mailing address and toll-free telephone number(s) available to customers in the service territory for answering billing inquiries. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

208. DEGREE-DAY INFORMATION (RULE 208).

Upon request, each gas and electric utility shall make degree-day adjusted data available to customers for comparisons of the kind made in Rule 201.04. ()

~~208~~. -- 299. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

702. EXPLANATION OF RATE SCHEDULE (RULE 702).

Each gas, electric, and water utility shall transmit annually to each of its customers and give to each new customer at the time of initiation of service a clear and concise explanation of the existing rate schedule for the class of services selected by that customer. ()

~~702~~. -- 999. (RESERVED).

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.21.02 - INFORMATION TO CUSTOMERS OF GAS, ELECTRIC, AND WATER PUBLIC UTILITIES

DOCKET NO. 31-2102-0901 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Idaho Public Utilities Commission proposes to repeal its Utility Customer Information Rules. This action is authorized pursuant to Section 61-507, 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 September 16, 2009.

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 Commission's address below.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for repealing the chapter:

The transfer of these rules is proposed in Docket No. 31-2101-0901. After the transfer of the rules is complete, the Commission proposes to repeal IDAPA 31.21.02. Consolidating these rules will streamline the Commission's utility rules.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

FISCAL IMPACT: There is no fiscal impact on the state general fund resulting from this rulemaking.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the rescission of these rules, contact Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the Commission Secretary and must be delivered on or before September 23, 2009.

DATED this 21st day of July, 2009.

Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
Telephone: (208) 334-0338
Facsimile: (208) 334-3762

Street address for express delivery:

472 W Washington
Boise, Idaho 83702-5918

IDAPA 31.21.02 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.17 - RULES GOVERNING PERMITS FOR MANUFACTURED HOMES, MODULAR BUILDINGS, AND OFFICE TRAILERS

DOCKET NO. 39-0317-0901

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 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 Section 40-312, 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 September 16, 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:

This rulemaking will allow the manufactured housing industry to obtain permits to transport houses larger than the current limitation of sixteen feet at the base, on a case-by-case basis, as approved by the Commercial Vehicle Services Section and the District Offices.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This rulemaking is conferring a benefit on the manufactured home industry, by establishing a provision to permit wider units to be transported.

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 The only fiscal impact is the cost to promulgate the rule.

NEGOTIATED RULEMAKING: In compliance with Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the rulemaking is in response to industry request and will confer a benefit by providing for reduced restrictions.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, ITD Division of Motor Vehicles, 334-8418.

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 September 23, 2009.

DATED this 3rd day of July, 2009.

Linda L. Emry, Administrative Rules Coordinator
Office of Governmental Affairs
Idaho Transportation Department

3311 West State Street
PO Box 7129, Boise ID 83707-1129
Phone - 208-334-8810 / FAX - 208-332-4107

THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT FOR DOCKET NO. 39-0317-0901

000. LEGAL AUTHORITY.

This rule, governing the movement of manufactured homes, modular buildings, and office trailers in excess of the sizes allowed by Sections 49-1004 and 49-1010, Idaho Code, is adopted under the authority of Sections ~~40-312 and 49-1004~~, Idaho Code. ~~(8-25-94)~~(7-1-09)T

(BREAK IN CONTINUITY OF SECTIONS)

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise, ID 83707-1129. (4-11-06)

02. Office Hours. Daily office hours are 7:00 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays. ~~(4-11-06)~~(7-1-09)T

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 208-334-8419. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

200. MANUFACTURED HOMES AND OFFICE TRAILERS BEING TOWED.

01. Connection Device. Shall meet the requirements of Federal Motor Carrier Safety Regulations, 49 CFR part 393. (4-2-08)

02. Length. Not in excess of eighty (80) feet including tongue. (10-2-89)

03. Width. Shall be limited to a maximum of sixteen (16) feet at the base and shall not exceed eighteen (18) feet overall width including the eaves, except on a case-by-case basis as approved by the department. All movements with a base width in excess of sixteen (16) feet and an overall width in excess of eighteen (18) feet must submit a written request for movement of these units prior to being manufactured and a traffic control plan may also be required with the submission. Prior approval for the movement must be granted before an overlegal permit is issued.

** Determination of manufactured home or office trailer width shall be exclusive of such appurtenances as clearance lights, door handles, window fasteners, door and window trim, moldings and load securement devices up to but not in excess of three (3) inches on each side of load. ~~(3-23-98)~~(7-1-09)T

04. Eaves. No restrictions on eaves as long as the eighteen (18) feet maximum overall width limitation is not exceeded, or for those movements approved by the department on a case-by-case basis. ~~(4-11-06)~~(7-1-09)T

05. Weight. The maximum allowable load for any vehicle tire operated on any public highway shall be in accordance with Code of Federal Regulations, Title 24, Chapter 20, Office of Assistant Secretary for Housing - Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280, Subpart J, (CFR Title 24). (3-23-98)

06. Running Gear Assembly -- General. The entire system (frame, drawbar, and coupling

mechanism, running gear assembly including brake systems, axles and lights) shall be in accordance with CFR Title 24, for the year the manufactured home was built. In addition thereto, all tires used in transportation of manufactured homes under this category shall be in accordance with Federal Motor Carrier Safety Regulations, part 393. (3-23-98)

07. Construction. Construction shall be in accordance with CFR Title 24, for the year the manufactured home was built. (3-23-98)

08. Axles. All axles shall be in accordance with CFR Title 24, for the year the manufactured home was built, except that sixteen (16) foot wide (at the base) manufactured homes shall be required to have a minimum of four (4) axles. (3-23-98)

09. Brakes. Brakes shall be in accordance with CFR Title 24, for the year the manufactured home was built, except that sixteen (16) foot wide (at the base) manufactured homes shall be required to have brakes on a minimum of three (3) axles. (3-23-98)

10. Lights. The unit shall have stop lights, turn signals and tail lights that meet the requirements of Federal Motor Carrier Safety Regulations, part 393. (3-23-98)

11. Safety Chains. Two (2) safety chains shall be used, one (1) each on right and left sides of, but separate from, the coupling mechanism connecting the tow vehicle and the manufactured home while in transit. Chain shall be three-eighths (3/8) inch diameter steel. Chains shall be strongly fastened at each end to connect the tow vehicle and manufactured home and assure that in the event of a coupling failure the manufactured home will track behind the tow vehicle. (3-23-98)

(BREAK IN CONTINUITY OF SECTIONS)

300. MANUFACTURED HOME, MODULAR BUILDING, OR OFFICES BEING HAULED.

01. Length. Not in excess of eighty (80) feet. (10-2-89)

02. Width. Not in excess of sixteen (16) feet at the base and eighteen (18) feet overall, except on a case-by-case basis as approved by the department. All movements with a base width in excess of sixteen (16) feet and an overall width in excess of eighteen (18) feet must submit a written request for movement of these units prior to being manufactured and a traffic control plan may also be required with the submission. Prior approval for the movement must be granted before an overlegal permit is issued. (~~3-23-98~~)(7-1-09)T

03. Eaves. No restrictions on eaves as long as the eighteen (18) foot maximum overall width limitation is not exceeded, or for those movements approved by the department on a case-by-case basis. (~~4-11-06~~)(7-1-09)T

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.18 - RULES GOVERNING OVERLEGAL PERMITS FOR RELOCATION OF BUILDINGS OR HOUSES

DOCKET NO. 39-0318-0901

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 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 Section 40-312, 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 September 16, 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:

This rulemaking will allow the manufactured housing industry to obtain permits to transport houses larger than the current limitation of sixteen feet at the base, on a case-by-case basis, as approved by the Commercial Vehicle Services Section and the district Offices. This rulemaking is being promulgated, concurrently, to maintain consistency with changes to IDAPA 39.03.17, "Rules Governing Permits for Manufactured Homes, Modular Buildings, and Office Trailers."

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: This rulemaking, in conjunction with Docket 39-0317-0901, is conferring a benefit on the manufactured home industry, by establishing a provision to permit wider units to be transported.

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. The only fiscal impact is the cost to promulgate the rule.

NEGOTIATED RULEMAKING: In compliance with Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the rulemaking is in response to industry request and will confer a benefit by providing for reduced restrictions.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, ITD Division of Motor Vehicles, 334-8418. 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 September 23, 2009.

DATED this 3rd day of July, 2009.

Linda L. Emry, Administrative Rules Coordinator
Office of Governmental Affairs
Idaho Transportation Department

3311 West State Street
PO Box 7129, Boise ID 83707-1129
Phone - 208-334-8810 / FAX - 208-332-4107

THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT FOR DOCKET NO. 39-0318-0901

000. LEGAL AUTHORITY.

This rule, governing the movement of vehicles or loads which are in excess of the sizes or weights allowed by 49-1001, 49-1002, ~~49-1004~~, or 49-1010, is adopted under the authority of Sections 40-312 ~~and 49-1004~~, Idaho Code.
(~~10-2-89~~)(7-1-09)T

(BREAK IN CONTINUITY OF SECTIONS)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. (7-1-09)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (7-1-09)T

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (7-1-09)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of PO Box 7129, Boise, ID 83707-1129. (7-1-09)T

02. Office Hours. Daily office hours are 7:30 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (7-1-09)T

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 334-8419. (7-1-09)T

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (7-1-09)T

0029. -- 009. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

100. GENERAL REQUIREMENTS.

01. Buildings Exceeding Sixteen Feet Wide. Overlegal permits for the transportation of buildings or houses having a basic width in excess of sixteen (16) feet shall be limited to the relocation of previously used buildings. The transportation of new, centrally manufactured houses, buildings, building sections, mobile or modular homes, etc., ~~shall~~ may be denied overlegal permits if the width at the base is in excess of sixteen (16) feet.
(~~4-5-00~~)(7-1-09)T

02. Requirements for Permit. The requirements of each permit for relocation of a used building or house shall depend on the dimensions of the load as well as a consideration of the width and alignment of the roadway, passing opportunity for the traveling public, vertical or horizontal clearance of bridges or other structures along the route of travel, and traffic volumes. (10-2-89)

IDAPA 41 - PUBLIC HEALTH DISTRICTS

41.04.02 - RULES FOR COMMUNITY SUBSURFACE SEWAGE DISPOSAL SYSTEMS

DOCKET NO. 41-0402-0901 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-416(1), 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule was made effective on July 1, 1993 and applied only to Public Health District 4. On October 17, 2007, all seven public health districts were delegated certain responsibilities for regulation of subsurface sewage disposal by the Idaho Department of Environmental Quality, pursuant to IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." This request is to repeal IDAPA 41.04.02 because the standards provided in IDAPA 58.01.03 promote more consistent and effective statewide regulation of subsurface sewage disposal.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, negotiated rulemaking was not conducted because the nature of the rulemaking is to repeal the chapter.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Russell A. Duke at 327-8501.

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 September 23, 2009.

DATED this 21st day of July, 2009.

Russell A. Duke
Director
Central District Health Department
707 N. Armstrong Pl.,
Boise, Idaho 83704-0825
Ph: 327-8501, Fax: 327-8500

IDAPA 41.04.02 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 41 - PUBLIC HEALTH DISTRICTS

41.04.03 - RULES FOR ON-SITE SEWAGE TREATMENT SYSTEMS

DOCKET NO. 41-0403-0901 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-416(1), 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 September 16, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule was made effective on May 6, 1990 and applied only to Public Health District 4. On October 17, 2007, all seven public health districts were delegated certain responsibilities for regulation of subsurface sewage disposal by the Idaho Department of Environmental Quality, pursuant to IDAPA 58.01.03 Individual/Subsurface Sewage Disposal Rules. This request is to repeal IDAPA 41.04.03 because the standards provided in IDAPA 58.01.03 promote more consistent and effective statewide regulation of subsurface sewage disposal.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the nature of the rulemaking is to repeal the chapter.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Russell A. Duke at 327-8501.

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 September 23, 2009.

DATED this 21st day of July, 2009.

Russell A. Duke
Director
Central District Health Department
707 N. Armstrong Pl.,
Boise, Idaho 83704-0825
Ph: 327-8501, Fax: 327-8500

IDAPA 41.04.03 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 48 - IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

48.01.01 - RULES OF THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

DOCKET NO. 48-0101-0901

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 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 Section 54-3605(15), 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 September 16, 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 Commission will offer grants in furtherance of its mission to protect the public and promote the Idaho grape and wine industry. The rules will establish the framework of the grant program.

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:

The proposed rules will confer a benefit by immediately implementing the grant program.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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:

The Commission has been accepting gifts and donations to fund grants and may supplement such funds as its budget permits.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Moya Shatz, Executive Director, (208) 455-8354.

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 September 23, 2009.

DATED this 30th day of July, 2009.

Moya Shatz, Executive Director
Idaho Grape Growers and Wine Producers Commission
117 9th Ave., Ste. 2
P. O. Box 1218, Caldwell, ID 83606
Telephone: (208) 455-8354
Facsimile: (208) 455-8364

THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT FOR DOCKET NO. 48-0101-0901

010. DEFINITIONS.

The definitions set forth in Title 54, Chapter 36, Idaho Code, shall apply to this chapter. In addition, the following terms shall have the meanings set forth below: ~~(3-19-07)~~(7-1-09)T

01. Applicant. An individual or organization who has submitted a written request for grant funds. (7-1-09)T

02. Program. The Grape and Wine Promotion, Education and Research Grant Program established by Section 021 of these rules. (7-1-09)T

03. Recipient. An individual or organization who has been awarded a grant under the Program. (7-1-09)T

(BREAK IN CONTINUITY OF SECTIONS)

021. GRAPE AND WINE PROMOTION, EDUCATION, AND RESEARCH GRANT PROGRAM.

01. Program Objective. The objective of the Program is to promote the development of markets for Idaho grapes and grape by-products, provide research concerning grapes and grape by-products, and encourage the education of individuals, organizations, and the community concerning the production of grapes and grape by-products in Idaho. (7-1-09)T

02. Eligible Applicants. Individuals, organizations, and educational entities may submit applications for funding from the Program. No official, officer, or employee of the Commission, or any child, parent, sibling, or household member of an official, officer, or employee of the Commission is eligible to submit an application for funding from the Program. A grower or producer not otherwise ineligible may apply for funding from the Program if such funding satisfies the Program objectives and does not primarily promote the interests of the Applicant. (7-1-09)T

03. Eligible Activities and Costs. Eligible costs for the use of Program funds are limited to: (7-1-09)T

a. Tuition and fees for education or training; (7-1-09)T

b. Acquisition of supplies, materials, and equipment for promotion, research, education, or training activities; (7-1-09)T

c. Speaking fees or honoraria for promotion, education, or training activities; (7-1-09)T

d. Fees for use of a facility or equipment necessary to conduct research, promotion, education, or training activities; (7-1-09)T

e. Advertising and printing costs directly related to promotion, research, education, or training activities; and (7-1-09)T

f. Matching funds for other state, federal, or foundation grants satisfying the objectives of the Program. (7-1-09)T

04. Ineligible Activities and Costs. Grant funds shall not be used for: (7-1-09)T

- a.** Political, lobbying, religious, or illegal activities; or (7-1-09)T
- b.** Payroll and administrative costs routinely incurred by a Recipient. (7-1-09)T

05. Application, Review, and Award.

a. Applications for Program grants may be submitted at any time. Applicants shall submit a grant proposal in the format required by the Commission. Copies of the application format requirements and the list of supporting information may be obtained by contacting the Commission at the address set forth in Section 005 of these rules. (7-1-09)T

b. Commission staff review proposals for completeness and compliance with these rules and make recommendations for funding to the Commission. The Commission may establish review committees consisting of Commission staff, Commission members, growers and producers, or other individuals. (7-1-09)T

c. The Commission, in its sole discretion, makes all Program grant awards. The Commission may establish conditions or requirements for the expenditure of grant funds in a written agreement between the Commission and the Recipient. Conditions and requirements may include the submission of reports and receipts, acknowledgement of the grant in written materials, the provision of matching funds from the Recipient, or the repayment of grant funds upon specified events. (7-1-09)T

06. Compliance with Law. All Recipients shall comply with applicable law in the conduct of activities funded by the Program. Public entities and employees receiving or administering Program funds shall comply with the ethics, personnel, bidding, and accounting requirements generally applicable to the entity or individual. (7-1-09)T

07. Termination of Funding. The Commission may terminate Program grants at any time for: (7-1-09)T

- a.** Use of funds in violation of these rules; (7-1-09)T
- b.** Violation of the terms of the grant; or (7-1-09)T
- c.** Violation of any applicable law. (7-1-09)T

08. Receipt of Written Notice of Termination. Upon receipt of a written notice of termination, the Recipient shall immediately cease all expenditures of Program funds and return all unspent Program funds. The Commission may require a written accounting of the use of Program funds upon the termination of funding and may deny payment of costs yet to be paid and not substantiated by written documentation. (7-1-09)T

~~0242.~~ -- 999. (RESERVED).

IDAPA 51 - IDAHO BEEF COUNCIL

51.01.01 - IDAHO BEEF COUNCIL RULES

DOCKET NO. 51-0101-0901 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 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 Section 25-2906, 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 September 16, 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 Idaho Beef Council was created in 1967 by the Idaho Legislature to promote the Idaho cattle industry and to support a national beef marketing effort. Idaho's initial checkoff was ten cents (\$.10) per head. It increased to twenty-five cents (\$.25) per head in 1981, and again in 1984 to fifty cents (\$.50). The collection rate was raised to one dollar (\$1)-per-head with the passage of the 1985 Farm Bill.

The Beef Checkoff Program is a self-help program aimed at building consumer demand for beef. This is accomplished through a combination of initiatives, including consumer advertising, research, public relations, and promotional program activities. Since 1986, the Beef Checkoff has been assessed at one dollar (\$1) per head in the state of Idaho. We have faced diminished buying power as a result of inflation. We have seen a large increase in our operating costs, media expenses, postage, printing, etc., the past 20 years. In addition, our checkoff collections have decreased 20% since 2001. The increase to one dollar and fifty cents (\$1.50) per head was needed in order to counter the effects of inflation and provide needed funding to maintain our consumer demand building programs and sustain growth in the beef industry. The proposed rule changes reflect the increase in the amount of the checkoff assessment from one dollar (\$1) per head to one dollar and fifty cents (\$1.50) per head effective July 1, 2009. The rule changes will also provide refund information on the Idaho state assessment, up to fifty cents (\$.50) per head.

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:

2009 House Bill No. 101 authorized the Council to increase, to one dollar and fifty cents (\$1.50) per head, the assessment on cattle sold in this state. The increase is needed immediately in order to counter the effects of inflation and provide needed funding so that the Council can maintain its marketing efforts and sustain growth in the beef industry.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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:

Pursuant to Section 25-2907, Idaho Code, the increase to one dollar and fifty cents (\$1.50) per head is needed in order to counter the effects of inflation and provide needed funding to maintain our consumer demand building programs and sustain growth in the beef industry.

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 need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Traci O'Donnell, Executive Director, (208) 376-6004.

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 September 23, 2009.

DATED this 30th day of July, 2009.

Traci O'Donnell
Executive Director
Idaho Beef Council
2118 Airport Way
Boise, ID 83705
Telephone: (208) 376-6004
Facsimile: (208) 376-6002

THE FOLLOWING IS THE TEMPORARY AND PROPOSED TEXT FOR DOCKET NO. 51-0101-0901

001. TITLE AND SCOPE.

These rules shall be cited in full as IDAPA 51.01.01, "Idaho Beef Council Rules," Title 01, Chapter 01. These rules provide for a coordinated federal and state program of beef promotion and research funded by a one dollar and fifty cents (\$1.50) assessment on each head of cattle marketed in the state of Idaho. ~~(7-1-93)~~(7-1-09)T

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

The Idaho Beef Council operates under the rules and regulations of the National Beef Promotion and Research Order. 7 CFR 1260 (Federal Register July 18, 1986). (7-1-09)T

~~0045.~~ -- 006. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~010. DEFINITIONS.~~

As used in these rules, unless the context requires otherwise:

~~(7-1-93)~~

01- Assessment. *An amount of money levied upon the sale of each head of cattle. This amount shall be one dollar (\$1) in conformity with the National Beef Promotion and Research Order.* (7-1-93)

02- Checkoff. *The one dollar (\$1) assessment collected by the Brand Inspector, upon the sale of each head of cattle, which is remitted to the Idaho Beef Council in accordance with the National Beef Promotion and Research Order.* (7-1-93)

~~03. **Collection Fee.** The amount of money paid to the State Brand Inspector for reasonable and necessary expenses incurred in collecting the one dollar (\$1) per head assessment. (7-1-93)~~

~~04. **Idaho Credit.** That portion of the one dollar (\$1) that shall be administered by the Idaho Beef Council. That portion shall be fifty cents (\$.50). The remaining portion shall be remitted to the Cattlemen's Beef Promotion and Research Board in accordance with the National Beef Promotion and Research Order. (7-1-93)~~

~~0140. -- 099. (RESERVED).~~

100. INCOME FUNDING.

~~01. **National Beef Promotion and Research Order.** The Idaho Beef Council will operate under the rules and regulations of the National Beef Promotion and Research Order issued July 18, 1986, from the U.S. Department of Agriculture, as long as that order is in effect. The regulations governing assessments and exemptions will be as stated in that order. In Idaho that order will be interpreted as follows: (7-1-93)~~

~~021. **Assessments.** (7-1-93)~~

~~a. In conformity with the National Beef Promotion and Research Order, each producer shall pay an assessment of one dollar and fifty cents (\$1.50) per head of cattle at the time the cattle are sold. The assessment shall be collected by the State Brand Inspector or his agent. Assessments collected will be remitted to the Idaho Beef Council, a qualified state council, together with a remittance report. This assessment consists of: (7-1-93)(7-1-09)T~~

~~i. One dollar (\$1) required by the National Beef Promotion and Research Order, and (7-1-09)T~~

~~ii. Fifty cents (\$.50) authorized by Section 25-2907(1), Idaho Code. (7-1-09)T~~

~~b. Producers selling or marketing cattle in interstate commerce will pay only one (1) assessment per individual sale of cattle. When cattle leave Idaho for the purpose of sale or slaughter, the assessment will be made at the time of brand inspection. When cattle leave Idaho for feeding or pasture where no change of ownership occurs, the promotion assessment will not be made. (7-1-93)~~

~~c. When cattle enter Idaho for sale or slaughter, the assessment will be made only if the assessment has not been paid when the cattle left their state of origin. These cattle will be assessed by the Idaho Brand Inspector, but they will be considered cattle from their state of origin. All assessments will be remitted to the Idaho Beef Council, with these cattle indicated by their state of origin. The Idaho Beef Council will pay to the originating state the assessments due them in a timely manner after payment has been received from the State Brand Inspector. (7-1-93)~~

~~d. Importers of cattle, beef, and beef products into the United States shall pay an assessment to the Cattlemen's Beef Promotion and Research Board through the U.S. Customs Service. (Federal Register, July 18, 1986, 7 CFR 1260.172) (7-1-93)~~

~~ed. The assessment implemented by this rule does not apply to the seller of cattle if the seller certifies that the seller's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee or other service fee; or if the seller certifies that he acquired ownership of cattle to facilitate the transfer of ownership of such cattle to a third party, establishes that such cattle are being resold not later than ten (10) days from the date on which the person acquired ownership and certifies that the assessment was collected from the seller when the person acquired ownership. A completed certificate of "non-producer status" must be given to the brand inspector or his agent at the time of inspection. If no certificate is produced the assessment will be levied. (7-1-93)~~

~~f02. **Collection.** The State Brand Inspector shall collect the assessment in addition to and at the same time and manner as the fee charged for state brand inspection. ~~Checkoff dollars collected~~ The assessment will be submitted each month to the Beef Council, less collection fee. In addition, the State Brand Inspector will submit monthly, a written accounting of total number of head marketed, number of cattle assessed and not assessed (along with copies of the appropriate non-producer exemption forms), total collections, and state of origin documentation.~~

~~(7-1-93)~~(7-1-09)T

03. Refunds. (7-1-09)T

a. Any person from whom an assessment is collected has the right to request a refund of not more than fifty cents (\$.50) per head (Section 25-2907, Idaho Code). Refund requests must be mailed to the Idaho Beef Council within ninety (90) calendar days of payment of the assessment. The refund request must include the: (7-1-09)T

i. Name and address of the producer; (7-1-09)T

ii. Name and address of the entity collecting the assessment (brand inspector or livestock market); (7-1-09)T

iii. Number of head on which a refund is requested; (7-1-09)T

iv. Total amount of refund requested; (7-1-09)T

v. Date of assessment; (7-1-09)T

vi. Producer's signature; and (7-1-09)T

vii. Proof of payment of the assessment (such as the brand inspection slip). (7-1-09)T

b. The Idaho Beef Council will process the requested refunds on a calendar quarterly basis. Any refund request that is received by the Idaho Beef Council less than fifteen (15) days from the end of the calendar quarter shall be paid at the end of the next quarter. (7-1-09)T

101. -- 199. (RESERVED).

200. DISBURSEMENTS.

01. Collection Fee, Brand Inspector. The Idaho Beef Council shall reimburse the State Brand Inspector for the reasonable and necessary expenses incurred in the collection of the assessment in an amount determined by the Beef Council and the State Brand Inspector, not to exceed five percent (5%) of gross collections. (7-1-93)

02. National Beef Promotion and Research Board. ~~Of the one dollar (\$1) national assessment, the~~ Idaho Beef Council ~~will receive~~ shall forward fifty cents (\$.50) credit per head of cattle assessed. ~~The remaining fifty cents (\$.50) will be forwarded~~ to the Cattlemen's Beef Promotion and Research Board. ~~(Federal Register, July 18, 1986, 7 CFR 1260).~~ (7-1-93)(7-1-09)T

03. National Idaho Beef Promotion Program Council. ~~A total of at least twenty percent (20%) of the Idaho credit shall be paid by the Idaho Beef Council to a national beef promotion program for use in promotion, research and educational activities.~~ Assessment funds remaining after payment of collection fee and disbursement to the National Beef Promotion and Research Board shall be retained by the Idaho Beef Council and used to fund its activities and operations. (4-6-05)(7-1-09)T

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-0905

NOTICE OF FINAL DECISION ON THE LOWER SALMON RIVER AND HELLS CANYON TRIBUTARIES TMDL (HUC 17060209 & 17060101)

AUTHORITY: In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Lower Salmon River and Hells Canyon Tributaries Total Maximum Daily Load (TMDL).

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Lower Salmon River and Hells Canyon Tributaries TMDLs. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Lower Salmon River and Hells Canyon Tributaries TMDLs (Hydrologic Unit Codes 17060209 & 17060101) addresses eight (8) assessment units (AUs)/pollutant combinations on Idaho's 2008 Section 303(d) list. Fifteen (15) AUs/pollutant combinations were impaired but unlisted and TMDLs were written to meet water quality standards. DEQ has submitted this HUC TMDL to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

AVAILABILITY OF THE TMDL: Electronic copy of the TMDL can be obtained at http://www.deq.idaho.gov/water/data_reports/surface_water/tmdls/salmon_river_lower_hells_canyon/salmon_river_lower_hells_canyon.cfm or by contacting Marti Bridges, TMDL Program Manager, 208-373-0382, marti.bridges@deq.idaho.gov.

Dated this 23rd day of July, 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

58.01.02 - WATER QUALITY STANDARDS

DOCKET NO. 58-0102-0801

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 2010 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the Second Regular Session of the Sixtieth Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, May 6, 2009, Vol. 09-5, pages 23 through 33. 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/water/58_0102_0801_pending.cfm or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: The standards included in this rule are not broader in scope, nor more stringent, than federal regulations and do regulate an activity regulated by the federal government. Furthermore, the standards are less stringent than those recommended by EPA. If this rule is not successfully adopted by the Board of Environmental Quality and approved by the Idaho Legislature, EPA may be compelled to take action by promulgating water quality standards for Idaho that would be more stringent than the standards included in this proposed rule.

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 Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

Dated this 30th day of July, 2009.

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. 58-0102-0801 - 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 09-5, May 6, 2009, pages 23 through 33.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2010 Idaho State Legislature for final adoption.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.23 - RULES OF ADMINISTRATIVE PROCEDURE BEFORE THE BOARD OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0123-0901

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 67-5206, Idaho Code.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided at the end of this notice.

MEETING SCHEDULE: The negotiated rulemaking meeting will be held as follows. Additional meetings may be scheduled if necessary. For information regarding participation by telephone or scheduling of additional meetings, contact the undersigned. Requests to participate by telephone must be made by September 21, 2009.

WEDNESDAY - SEPTEMBER 23, 2009 - 9 a.m. to 12 Noon

**DEPARTMENT OF ENVIRONMENTAL QUALITY
Conference Room D
1410 N. Hilton, Boise, Idaho**

PRELIMINARY DRAFT: By September 2, 2009, a preliminary draft of the rule can be obtained at http://www.deq.idaho.gov/rules/admin/58_0123_0901_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: This rulemaking has been initiated to make revisions to the Rules of Administrative Procedure Before the Board of Environmental Quality for clarification purposes and for consistency with the Idaho Administrative Procedure Act (APA) and the Environmental Protection and Health Act. The text of the rule will be drafted by the Department of Environmental Quality (DEQ) in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. The preliminary draft rule will include the following proposed revisions:

1. Section 052. Revisions made for consistency with Section 67-5273, Idaho Code.
2. Section 303. Revisions made to provide flexibility that would allow potential parties to enter into a tolling agreement.
3. Sections 353 through 355. Revisions made for clarity and to provide a time limit within which an intervenor, once granted permission to intervene, may file its response to the petition for contested case.
4. Section 720. Revisions made for clarity, to streamline the process, for consistency with Section 730, and for consistency with Sections 67-5244 and 67-5273, Idaho Code.
5. Section 730. Revisions made for clarity, to streamline the process, for consistency with Section 720, and for consistency with Sections 67-5245 and 67-5273, Idaho Code. Revisions made to this section remove the Board's discretion to hear petitions for review of preliminary orders. The APA does not provide discretion as to whether or not an agency will hear a petition for review.
6. Sections 740, 750, and 801. Revisions made for consistency with Section 67-5273, Idaho Code.
7. Section 790. Revisions made for consistency with Section 67-5270, Idaho Code.
8. Section 791. Revisions made for clarity and for consistency with Sections 39-107(6) and 67-5273, Idaho Code.
9. Section 860. Revisions made for clarity and for consistency with Section 39-107(6), Idaho Code.

This rulemaking docket may also include other revisions identified during the negotiated rulemaking process as necessary for maintaining consistency within the rule chapter.

Citizens of the state of Idaho and representatives of regulated industry having an interest in the procedures for obtaining Board review of an action of DEQ may be interested in participating in this rulemaking. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in December 2009 or January 2010 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in 2010. If adopted by the Board, the pending rule will be reviewed by the 2011 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

For those who cannot participate by attending the scheduled meeting, written comments may be submitted by mail, fax or e-mail at the address below. Written comments on the preliminary draft rule must be received by September 25, 2009. For information regarding submission of written comments on subsequent drafts of the negotiated rule, to receive copies of submitted written comments, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 10th day of August, 2009.

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

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LEGAL NOTICE

Summary of Proposed Rulemakings

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

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

*The written comment submission deadline is September 23, 2009 unless otherwise listed.
(Temp & Prop) indicates the rule is both temporary and proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 02 - DEPARTMENT OF AGRICULTURE PO Box 790, Boise, ID 83701-0790

02-0303-0901, Rules Governing Pesticide and Chemigation Use and Application. Adds 7 additional seed crops to list of crops exempt from the need for a pesticide tolerance allowing these crops to have additional pesticide products registered for use to control pests and adds restrictions on seed screenings disposal and the use of treated plant parts as feed.

IDAPA 09 - DEPARTMENT OF LABOR 317 W. Main St., Boise, ID 83735

09-0130-0902, Unemployment Insurance Benefits Administration Rules. (Temp & Prop) Change to Idaho Code provides that a claimant who establishes that a majority of the weeks worked in the base period was for less than full-time work may be eligible for unemployment insurance benefits.

IDAPA 11 - IDAHO STATE POLICE 700 S. Stratford Drive, Meridian, ID 83643

11-0701-0901, Rules Governing Motor Vehicles - General Rules. Updates the standards and specifications applicable to Idaho equipment Code in Title 49, Chapter 9, to current standards and specifications in federal guidelines.

11-1301-0901, Rules Governing Motor Carriers. Adds definitions for “commercial motor vehicle” and “hazardous material” to be consistent with current federal regulations.

IDAPA 12 - DEPARTMENT OF FINANCE PO Box 83720, Boise, ID 83720-0031

12-0110-0901, Rules Pursuant to the Idaho Residential Mortgage Practices Act. (Temp & Prop) Changes conform to rewrite of the Act and establishes requirements for providers of residential mortgage loans and loan modification services and continuing education requirements for licensees; and authorizes Director to limit fees and charges imposed by providers of residential mortgage loan modification services.

IDAPA 13 - IDAHO FISH AND GAME COMMISSION PO Box 25, Boise, ID 83707

13-0101-0901, Rules of Practice and Procedure of the Idaho Fish and Game Commission. Defines the duties of the Commission Chairman and Vice-Chairman and deletes obsolete rules.

13.01.04 - Rules Governing Licensing

13-0104-0901, Sets the nonresident deer tag quotas, outfitter deer set-aside tags, and elk zone tags; reduces certain elk zone tags and deletes obsolete tags.

13-0104-0902, (Temp & Prop) Implements SB 1008 by creating a disabled veterans special big game tag.

13-0106-0901, Rules Governing Classification and Protection of Wildlife. Reclassifies Yellowstone grizzly bears as a big game animal and the bald eagle and peregrine falcon as protected nongame species.

13-0108-0902, Rules Governing the Taking of Big Game Animals in the State of Idaho. Adds gray wolves to these rules for season setting; authorizes over-the-counter sale of certain leftover controlled hunt tags based on the dates of the hunt; allows certain handguns to be used in short-range weapon hunts; corrects terminology for landowner permission controlled hunt applications, and mandatory check and report requirements; deletes obsolete references.

13-0109-0901, Rules Governing the Taking of Game Birds in the State of Idaho. Allows senior and disabled hunters to apply for leftover youth-only controlled hunt turkey tags on a first come, first served basis.

13-0110-0901, Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife. Allows the possession and sale of bones from lawfully-harvested or naturally-dying big game animals; deletes obsolete reference to an antler pick-up season in Eastern Idaho.

13-0115-0901, Rules Governing the Use of Dogs. Allows use of 1 blood-trailing dog controlled by leash during lawful hunting hours and for tracking a wounded animal within 72 hours of hitting the animal to aid in recovery; corrects non-resident quota rule.

13-0116-0901, The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals. Allows other forms of official import documentation to suffice as an export tag for possession of lawfully obtained pelts in Idaho; corrects an obsolete reference to the vendor fee.

13-0117-0901, Rules Governing the Use of Bait for Taking Big Game Animals. Prohibits the use of salt for bear baiting; amends language for removal of bait sites.

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
PO Box 83720, Boise, ID 83720-0036**

16-0210-0901, Idaho Reportable Diseases. Adds requirements for disposition of potentially hazardous dead human bodies; clarifies reporting requirements and restrictions for these diseases: cryptosporidiosis, hemolytic-uremic syndrome (HUS), mumps, rabies, prion diseases, and West Nile virus; adds reporting requirements for cases of novel influenza A virus; updates the authority, scope, definitions, and incorporation by reference sections of rules.

16-0212-0901, Rules Governing Procedures and Testing to Be Performed on Newborn Infants. Updates incorporation by reference section; outlines acceptable uses and storage of newborn screening specimens; adds required sections.

16-0304-0903, Rules Governing the Food Stamp Program in Idaho. (Temp & Prop) Simplifies reporting requirements for households with all elderly or disabled members; updates meals deduction for attendants of elderly or disabled Food Stamp participants; adds a telephone utility allowance; redefines Farm Bill; adds citation to the CFR for the formula used for prorating Food Stamps benefits.

***16-0322-0901, Residential Care or Assisted Living Facilities in Idaho.** (*PH) Requires that a facility disclose to private pays residents certain information prior to admission including how needed services are assessed, the rate and fee structures, how fee increases are handled, and procedures for discharge or transfer due to change in resident's condition; adds Licensing and Certification Unit contact information and web address.

***16-0404-0901, Early Intervention Services for Infants and Toddlers.** (*PH) New chapter establishes a family cost participation sliding fee system for services not covered by private insurance; provides policies and procedures to administer this system for fees and payment of co-pays, to set income thresholds for assessing payment obligations, and to verify income. Comment by: 10-2-09

16-0411-0901, Developmental Disabilities Agencies. Amends certification renewal for Developmental Disabilities Agencies from 2 years to 3 years to align with the Commission on Accreditation of Rehabilitative Facilities (CARF) certification period; deletes references to the expired ISSH Waiver.

16-0601-0901, Child and Family Services. Renames service of “professional foster care” to “treatment foster care”; clarifies and resolve reimbursement issues related to contract payments to foster parents for additional services beyond regular or specialized foster care that will improve accountability and services; updates adoption rules to increase regional efficiencies and to align rules with changes to federal law.

***16-0602-0901, Rules Governing Standards for Child Care Licensing.** (*PH) Implements SB 1112 by providing requirements related to daycare licensing including fees, criminal history checks, safety and health standards, licensure requirements, suspension, denial, and revocation of licenses.

***16-0603-0901, Rules and Minimum Standards Governing Alcohol/Drug Abuse Prevention and Treatment Program.** (*PH) Chapter repeal. Comment by: 10-5-09

16-0701-0901, Behavioral Health Sliding Fee Schedules. Redefines family household to include all household members and their income except for persons on supplemental security income, disability income, or non-dependent adult siblings and to provide a consistent methodology for counting household members and their income when applying the sliding fee schedule.

***16-0720-0901, Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs.** (*PH) New chapter requires a criminal background check for programs serving adults; expands services for treatment of substance abuse under Medicaid; adds licensing requirements. Comment by: 10-5-09

16-0737-0901, Children's Mental Health Services. Aligns rules pertaining to treatment foster care with the “Child and Family Services” rules to reduce confusion for providers, improve provider training, increase the stability of placements for children and youth, and improve outcomes for children and youth in treatment foster care.

IDAPA 18 - DEPARTMENT OF INSURANCE

PO Box 83720, Boise, ID 83720-0043

18-0155-0901, Fire Safety Standards for Day Care. (Temp & Prop) Chapter repeal per SB1112.

IDAPA 21 - DIVISION OF VETERANS SERVICES

320 Collins Rd, Boise, ID 83702

21-0101-0901, Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure. (Temp & Prop) Conforms to federal regulations by removing references to specific time periods and payment rates for residents admitted to a hospital and desiring to retain their residence at a state veterans home; requires that upon admission residents are informed of bed hold policies and charges, and any change to them.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

1109 Main St., Suite 220, Boise, ID 83702

24-0401-0901, Rules of the Idaho Board of Cosmetology. (Temp & Prop) Implements SB1073 by adding “practice” to the permit and a deadline for application submission; designates the Bureau as the permit issuing agent when objective requirements are met; establishes sanitation requirements.

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

PO Box 83720, Boise, ID 83720-0074

31-1101-0901, Safety and Accident Reporting Rules For Utilities Regulated by the Idaho PUC. Updates documents incorporated by reference; requires utilities to submit written accident reports within 21 days when either they sustain damage to their facilities or a member of the public incurs property damage in excess of \$200,000 as a result of contact with utility operating property.

31-2101-0901, Customer Relations Rules for Gas, Electric and Water Public Utilities Regulated by the IPUC. Consolidates rules from 31.21.02 into this chapter; water utilities with more than 5,000 customers must provide consumption data on each customer's bill comparing actual consumption in the current billing period with the corresponding previous year's billing period.

31-2102-0901, Information to Customers of Gas, Electric, and Water Public Utilities. Chapter repeal.

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
PO Box 7129, Boise ID 83707-1129**

39-0317-0901, Rules Governing Permits for Manufactured Homes, Modular Buildings, and Office Trailers. (Temp & Prop)

39-0318-0901, Rules Governing Overlegal Permits for Relocation of Buildings or Houses. (Temp & Prop)
Changes to both chapters allow issuance of permits to transport houses larger than currently allowed, on a case-by-case basis, as approved by the Commercial Vehicle Services Section and the District Offices.

**IDAPA 41 - PUBLIC HEALTH DISTRICTS
707 N. Armstrong Pl., Boise, ID 83704-0825**

41-0402-0901, Rules for Community Subsurface Sewage Disposal Systems. Repeal of obsolete chapter.

41-0403-0901, Rules for On-Site Sewage Treatment Systems. Repeal of obsolete chapter.

**IDAPA 48 - IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION
PO Box 1218, Caldwell, ID 83606**

48-0101-0901, Rules of the Idaho Grape Growers and Wine Producers Commission. (Temp & Prop) Establishes the framework for the Grape and Wine Promotion, Education and Research Grant Program.

**IDAPA 51 - IDAHO BEEF COUNCIL
2118 Airport Way, Boise, ID 83705**

51-0101-0901, Idaho Beef Council Rules. (Temp & Prop) Increases checkoff assessment amount to \$1.50 per head effective 7-1-09; provides refund information on the assessment, up to \$.50 per head.

NOTICE OF NEGOTIATED RULEMAKINGS

Dept. of Agriculture

02-0105-0901, Rules Governing Certificates of Free Sale

Dept. of Environmental Quality

58-0123-0901, Rules of Administrative Procedure Before the Board of Environmental Quality

Please refer to the Idaho Administrative Bulletin, **September 2, 2009, Volume 09-9**, for all rulemaking notices and for the text of temporary, proposed and final rules, public hearings and negotiated rulemaking meeting 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.

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

**FOR THE ABOVE LINK TO WORK,
YOU MUST BE CONNECTED TO THE INTERNET.**

**This index tracks the history of all agency rulemakings from 1993 to the present.
It includes all rulemaking activities on each chapter of rules
and includes negotiated, temporary, proposed, pending
and final rules, public hearing notices
and vacated rulemaking notices.**

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