

# 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 08-1 refers to the first Bulletin issued in calendar year 2008; Bulletin 09-1 refers to the first Bulletin issued in calendar year 2009. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 09-1 refers to January 2009; Volume No. 09-2 refers to February 2009; and so forth. Example: The Bulletin published in January 2009 is cited as Volume 09-1. The December 2008 Bulletin is cited as Volume 08-12.*

## **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.*

***Internet Access** - The Administrative Code and Administrative Bulletin are available on the Internet at the following address: <http://adm.idaho.gov/adminrules/>*

## **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 Rule Making 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 "-", (38-0501-0901). 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. 38-0501-0901"

"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).

"0901" denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rulemaking action published in calendar year 2009. A subsequent rulemaking on this same rule chapter in calendar year 2009 would be designated as "0902". The docket number in this scenario would be 38-0501-0902.

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 these rules." OR "...in accordance with Subsection 201.06.c. of these rules."*

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**

<b>Vol. No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
09-1	January 2009	<b>*November 14, 2008</b>	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	<b>**August 28, 2009</b>	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**

<b>Vol. No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
10-1	January 2010	<b>*November 13, 2009</b>	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 24, 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	<b>**August 27, 2010</b>	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.***

<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS</b>	
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<b>IDAPA 47</b>	<b>Vocational Rehabilitation, Division of</b>
<b>IDAPA 37</b>	<b>Water Resources, Department of</b>
<b>IDAPA 42</b>	<b>Wheat Commission</b>

**IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY**

**01.01.01 - IDAHO ACCOUNTANCY RULES**

**DOCKET NO. 01-0101-0901**

**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 adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-204(1), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 23 through 25.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Barbara R. Porter, Executive Director, at 208-334-2490.

DATED this 13rd day of November, 2009.

Barbara R. Porter, Executive Director  
Idaho State Board of Accountancy  
3101 W. Main Street, Suite 210  
PO Box 83720  
Boise, Idaho 83720-0002  
Phone: 208-334-2490  
Fax: 208-334-2615  
E-mail: [barbara.porter@isba.idaho.gov](mailto:barbara.porter@isba.idaho.gov)

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**DOCKET NO. 01-0101-0901 - 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 09-10, October 7, 2009, Book 1, pages 23 through 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 02 - DEPARTMENT OF AGRICULTURE**

**02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE**

**DOCKET NO. 02-0419-0901**

**NOTICE OF RULEMAKING - VACATION OF PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Section 25-3704, Idaho Code.

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

An incorrect draft of the proposed rule was published in the October Bulletin. Section 67-5221 (d), Idaho Code, requires that public notice of proposed rulemaking include text of the proposed rule. A new public notice including the correct draft is necessary to provide the appropriate public notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation of proposed rulemaking, contact Dr. Bill Barton at (208) 332-8540.

DATED this 19th day of November, 2009.

Brian Oakey, Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road PO Box 7249  
Boise, ID 83707  
Phone 208-332-8500  
Fax 208-334-2170

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.05.01 - RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT PROGRAM

DOCKET NO. 02-0501-0901

#### 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 22-2718, Idaho Code.

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

These rule changes will address needed security changes, complete an update of the RCRDP loan program, and remove the RCRDP grant program that is now being covered by the WQPA rules. New application requirements, loan servicing improvements, and updates pertaining to the loan amounts granted to RCRDP program borrowers are addressed.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 62 through 71.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact David Saxey, AG Program Specialist at (208) 332-8650.

DATED this 2nd day of November, 2009.

Sara Schmidt  
Administrator  
Idaho Soil Conservation Commission  
2270 Old Penitentiary Road  
PO Box 790  
Boise, ID 83701  
Phone: (208) 332-8650  
Fax: (208) 334-2386

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#### DOCKET NO. 02-0501-0901 - 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 09-10, October 7, 2009, Book 1, pages 62 through 71.**

**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 02 - DEPARTMENT OF AGRICULTURE

### 02.06.09 - RULES GOVERNING INVASIVE SPECIES

DOCKET NO. 02-0609-0901

#### 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 67-5220(1) and 67-5220(2), Idaho Code.

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

These rules govern the designation of invasive species, inspection, permitting, decontamination, recordkeeping and enforcement of regulated invasive species.

Changes have been made to the text of the proposed rule. The pending rule text reflects changes in certain definitions. The purpose of these changes is to clarify the intent of the definitions and the rule. The pending rule provides for possession permits of listed invasive species. The pending rule exempts certain species from possession permit requirements. The purpose of these changes is to provide for species that are known to be present in portions of the state. The pending rule provides for transport permits. The purpose of this change is to allow for the movement of exempt species outside of known established distribution boundaries of the species. The pending rule includes an "Early Detection and Rapid Response Aquatic Invertebrate Species" category. The purpose of this category of species is to provide regulation of transport of contaminated conveyances and equipment, establish reporting requirements, establish inspection procedures, allow for hold orders, and provide for a decontamination protocol for EDRR AIIS contaminated conveyances. The section that allows for declaration of an invasive species was deleted. The section related to general permits and research permits was deleted. The "EDRR AIIS Containment List" was deleted. The section related to the pet industry was deleted. These sections were deleted due to redundancies that resulted from the above mentioned changes.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. There were significant changes to the proposed rule. Therefore, the entire rule is being published in this bulletin. The complete text of the proposed rule was published in the June 3, 2009 Idaho Administrative Bulletin, Vol. 09-6, pages 15 through 28.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Lloyd Knight, Plant Industries Administrator, at (208) 332-8620.

DATED this 13th day of November, 2009.

Brian J. Oakey  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road, Boise, ID 83712  
P.O. Box 790, Boise, ID 83701-0790  
Phone: (208) 322-8500  
Fax: (208) 332-4062

**DOCKET NO. 02-0609-0901 - ADOPTION OF PENDING RULE**

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

All sections have some changes, therefore, the entire docket is being reprinted.

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-6, June 3, 2009, pages 15 through 28.](#)

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.

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**THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 02-0609-0901**

**IDAPA 02**  
**TITLE 06**  
**CHAPTER 09**

**02.06.09 - RULES GOVERNING INVASIVE SPECIES**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Title 22, Chapter 19, Idaho Code, the "Idaho Invasive Species Act of 2008" and Title 22, Chapter 20, Idaho Code, the "Idaho Plant Pest Control Act of 2002." ( )

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.06.09, "Rules Governing Invasive Species." ( )

**02. Scope.** These rules govern the designation of invasive species, inspection, permitting, decontamination, recordkeeping and enforcement of regulated Invasive Species. It is anticipated that this rule will be promulgated in phases with the first phase addressing *aquatic invertebrate invasive species*. Subsequent phases of this rule will establish inspection, permitting, decontamination, recordkeeping and enforcement for all invasive species listed below. These rules are in addition to other existing laws and rules regulating non-native organisms harmful to Idaho agriculture or the environment. These rules do not supersede, replace, or otherwise diminish other existing federal, state or local laws and rules. The official citation of this chapter is IDAPA 02.06.09, et seq. For example, this citation for this section is IDAPA 02.06.09.001. ( )

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. ( )

**003. ADMINISTRATIVE APPEAL.**

There is no provision for administrative appeal before the Idaho State Department of Agriculture under this chapter. Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho

Code. ( )

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. ( )

**005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. ( )

**02. 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. ( )

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. ( )

**04. Telephone Number.** The telephone number for the Division of Plant Industries at the central office is (208) 332-8620. ( )

**05. Fax Number.** The fax number for the Division of Plant Industries at the central office is (208) 334-2283. ( )

**006. IDAHO PUBLIC RECORDS ACT.**

These rules are public records available for inspection and copying at the Department. ( )

**007. -- 009. (RESERVED).**

**010. DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this rule. ( )

**01. Acts.** Title 22, Chapter 19, Idaho Code, the “Idaho Invasive Species Act of 2008” and Title 22, Chapter 20, the “Idaho Plant Pest Act of 2002.” ( )

**02. Aquatic Invertebrate Invasive Species.** Those species listed in Section 800. ( )

**03. Control.** The abatement, suppression, or containment of an invasive species or pest population. ( )

**04. Conveyance.** A terrestrial or aquatic vehicle or a vehicle part that may carry or contain an invasive species or plant pest. A conveyance includes a motor vehicle, a vessel, a motorboat, a sailboat, a personal watercraft, a container, a trailer, or any other means or method of transportation. “Conveyance” also includes a live well or a bilge area. ( )

**05. Department.** The Idaho State Department of Agriculture. ( )

**06. Director.** The director of the Idaho State Department of Agriculture or his designee. ( )

**07. Dreissenia Infested Waterbody.** Body of water designated by the United States Geological Survey (<http://nas3.er.usgs.gov/taxgroup/mollusks/zebramussel/>) or the Director as having a population of any life stage of *Dreissenia* mussels. ( )

**08. Early Detection/Rapid Response.** Finding invasive species during the initial stages of colonization and then responding within ten (10) days. ( )

**09. Equipment.** An article, tool, implement, or device capable of carrying or containing: ( )

**a.** Water; or ( )

b. An invasive species. ( )

**10. Invasive Species.** Species not native to Idaho, including their seeds, eggs, spores, larvae or other biological material capable of propagation, that cause economic or environmental harm and are capable of spreading in the state. "Invasive species" does not include crops, improved forage grasses, domestic livestock, or other beneficial nonnative organisms. ( )

**11. Invasive Species Act.** The Idaho Invasive Species Act of 2008. ( )

**12. Plant Pest Act.** The Idaho Plant Pest Act of 2002. ( )

**13. Possession.** The act of cultivating, importing, exporting, shipping or transporting a listed invasive species in Idaho. Possession does not include the act of having, releasing or transporting a listed invasive species through circumstances beyond individual control, including but not limited to infestations in a water supply system, infestations resulting from natural spread of the species or some other acts of nature. ( )

**14. State.** The state of Idaho. ( )

**15. Transportation.** Any and all modes of personal and commercial Conveyance, including but not limited to automobiles, trucks, buses, boats, airplanes, helicopters, and trains. ( )

**16. Water Body.** Natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank and fountain. ( )

**17. Water Supply System.** A system used to treat, store, convey, or distribute water for irrigation, industrial, waste water treatment, residential, or culinary use. A Water Supply System includes a pump, canal, ditch, regulating impoundment, in-canal forebay, pipeline, or associated wetland and water quality improvement project, but does not include a Water Body as defined in Subsection 010.16. ( )

**011. APPLICABILITY.**

These rules apply to the possession, importation, shipping, Transportation, eradication, and Control of invasive species in Idaho. ( )

**012. ABBREVIATIONS.**

**01. AIIS.** Aquatic Invertebrate Invasive Species. ( )

**02. EDRR.** Early Detection/Rapid Response. ( )

**03. HACCP.** Hazard Analysis and Critical Control Points. ( )

**013. -- 100. (RESERVED).**

**101. PROHIBITION ON POSSESSION, IMPORTATION, SHIPPING OR TRANSPORTATION OF INVASIVE SPECIES.**

No person may possess, cultivate, import, ship, or transport any invasive species, into or through the state of Idaho following the effective date of this rule, unless the person possessing, importing, shipping or transporting has obtained a permit under Section 103, or unless otherwise exempt by this rule, as set forth in Section 104. Prohibited acts include but are not limited to: ( )

**01. Possession or Transportation.** Possessing, cultivating, importing, exporting, shipping, or transporting an invasive species into or through the state of Idaho. ( )

**02. Releasing.** Releasing, placing, planting, or causing to be released, an invasive species in a water body, facility, water supply system, field, garden, planted area, ecosystem, or otherwise into the environment within the state of Idaho. ( )



**03. Transporting From an Infested Environment.** Transporting a conveyance or equipment into or through the state of Idaho that has been in an infested environment without obtaining a Department-approved decontamination of the conveyance or equipment. ( )

**04. Transporting an Infested Article.** Transporting, importing or shipping any plant, animal, mode of transportation, conveyance, or article that is infested with an invasive species into or through the state of Idaho without obtaining a Department-approved decontamination of the object. ( )

**102. INTRODUCTION OF NEW SPECIES TO THE STATE.**

Following the effective date of this rule, no person may introduce or import a species not previously present in Idaho without first receiving a determination from the Department that the species is not an invasive species. ( )

**103. POSSESSION PERMITS.**

Possession of invasive species is authorized only if the person possessing the species obtains a possession permit. Persons who legally possess and transport bullfrogs pursuant to IDAPA 13.01.06 Classification and Protection of Wildlife and IDAPA 13.01.11 Rules Governing Fish and Idaho Code, Title 36 are exempted from obtaining a possession permit. ( )

**01. Application for Possession Permits.** Persons seeking a possession permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility where invasive species will be possessed. The application must include: ( )

**a.** The applicant's name, address (residence and mailing), and Employer or Tax Identification Number. ( )

**b.** Description of the proposed facility, including: ( )

**i.** A map identifying the location of the proposed facility; ( )

**ii.** The legal description of the real property for the proposed facility; ( )

**iii.** The approximate total area of the proposed facility; ( )

**iv.** A detailed diagram of proposed facility, ( )

**v.** A detailed confinement or HACCP Plan if applicable. ( )

**c.** Name and address of the owner(s) and/or operator(s) of the proposed facility, if different than the applicant. If the proposed facility will be leased, a written and notarized authorization by the property owner must be included. ( )

**d.** A copy of local zoning authority approval, if approval is required by the local zoning authority. ( )

**e.** Description of the invasive species to be possessed at the facility, including, to the extent possible, the genus, species, sex, life state, age, identification, and purpose for possessing each species. ( )

**f.** The date upon which the proposed facility will be available for inspection by the Department, which must be not less than seven (7) days prior to the time the invasive species are possessed at the proposed facility. ( )

**02. Application Process.** The Director will consider all information in the application and issue a written decision granting or denying the application. In reviewing the application, the Director will consider factors including but not limited to: ( )

**a.** Proximity of the facility to agricultural operations, and environmentally sensitive lands and waters.

- ( )
- b.* Potential for access to the facility by unauthorized persons. ( )
- c.* Potential for vandalism, adverse weather, or other events that compromise the security of the facility. ( )
- d.* Potential for the invasive species to escape or be released from the facility. ( )
- e.* Whether, based on the applicant's certification and any other evidence received by the Director in connection with the application or proposed facility, all federal, state, county and city laws applicable to the facility have been met. ( )
- f.* Whether the applicant has adequate knowledge, experience and training to ensure that the invasive species will not harm agriculture, the natural resources and environment of the state of Idaho. Such experience may be documented by a log book, employment records, education records or other means by which experience may be authenticated. ( )
- g.* Whether the facility is or will be adequately designed, constructed, and managed to protect agriculture, the natural resources and environment of the state of Idaho from escape of the invasive species. ( )
- h.* Prior to issuing a possession permit, the Director or his designee may perform an inspection of the facility to determine if its design, construction and proposed operation is consistent with the applicable provisions of Idaho law. ( )
- 03. Grant or Denial of the Permit.** Following review of the application and any other relevant information, the Director will either issue the possession permit or deny the application and notify the applicant. If the Director issues the permit, he may include any necessary conditions to prevent release or escape of the invasive species, and to prevent harm to Idaho's agriculture, natural resources, and the environment. ( )
- 04. Duration of Possession Permit.** A possession permit is valid until the permitted person no longer possesses the invasive species, or until the invasive species leaves the state. ( )
- 05. Permit Revocation.** Permits issued pursuant to this chapter may be revoked at any time if the director or his designee finds that the permit holder has violated any of the provisions of this chapter, the Invasive Species Act, the Plant Pest Act, or any of the conditions included in the permit. ( )
- 06. Disposition of Non-Permitted Invasive Species.** The director may order non-permitted or illegally imported invasive species to be removed from the state or destroyed. ( )
- 07. Annual Report.** All permit holders shall submit a report no later than January 1 of each calendar year, on forms provided by the Department. ( )
- 104. EXEMPT SPECIES.**  
The following species were present in portions of the state of Idaho prior to adoption of these Rules. However, they are not present throughout the state, and in accordance with the policy of the state of Idaho, as expressed in Idaho Code, Section 22-1902, the spread of these species should be prevented to the greatest extent possible. Therefore, the species listed below are exempt from the permit requirements of Sections 102 and 103, above. However, those seeking to transport the species listed in Section 104.01 outside the known established distribution area must obtain a transport permit in accordance with Section 104.03. ( )
- 01. Exempt Species List:** ( )
- a.* New Zealand Mud Snail, *Potamopyrgus antipodarum*; ( )
- b.* Asian Clam, *Corbicula fluminea*, ( )

**02. Location of Known Established Populations.** *Known established distributions of the New Zealand Mud Snail and Asian Clam are identified and mapped at <http://nas.er.usgs.gov/queries>.* ( )

**03. Transport Permits.** *Any person seeking to transport one of the species listed in Subsection 104.01 above outside of the known established distribution boundaries delineated in Subsection 104.02, above, must obtain a transport permit that will be valid for one year. For the purposes of this rule, transport of these exempt species is assumed when biological organisms and associated water from aquaculture facilities and hatcheries is moved from known infested areas in the state.* ( )

**04. Application for Transport Permits.** *Persons seeking a transport permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility from which invasive species will be transported. The application must include:* ( )

**a.** *The applicant's name, address (residence and mailing), and Employer or Tax Identification Number.* ( )

**b.** *Description of the facility of origin, including:* ( )

**i.** *A map identifying the location of the facility;* ( )

**ii.** *The legal description of the real property for the facility;* ( )

**iii.** *The approximate total area of the facility;* ( )

**iv.** *A detailed diagram of facility,* ( )

**v.** *A detailed HACCP Plan if applicable.* ( )

**c.** *Name and address of the owner(s) and/or operator(s) of the facility, if different than the applicant. If the proposed facility will be leased, a written and notarized authorization by the property owner must be included.* ( )

**d.** *Description of the invasive species to be transported from the facility, including the genus, species, sex, life state, age, and purpose for transporting the species.* ( )

**e.** *Description of self-contained areas needing draining or discharges of water during or after the transport of invasive species.* ( )

**f.** *Description of procedures to drain self contained areas after transport is complete, including:* ( )

**i.** *Into a municipal water treatment facility; or* ( )

**ii.** *Into an on-site waste treatment facility incorporating sand filtration and chlorination; or* ( )

**iii.** *As approved by the Department.* ( )

**105. -- 199. (RESERVED).**

**200. EARLY DETECTION AND RAPID RESPONSE AQUATIC INVERTEBRATE INVASIVE SPECIES.**

**01. Statewide EDRR AIIS List.** *If any of the species listed in the following table are found to occur in Idaho, they shall be reported to the Department immediately. Positive identification shall be made by the Department or other qualified authority as approved by the Director. Subsections 200.02 through 200.05 are applicable to EDRR AIIS only and not to other invasive species listed in Sections 800 through 808.*

Early Detection Rapid Response Aquatic Invertebrate Invasive Species (EDRR AIIS) List	
Common Name	Scientific Name
Quagga Mussel	<i>Dreissenia bugensis</i>
Zebra Mussel	<i>Dreissenia polymorpha</i>

( )

**02. Transporting EDRR AIIS Over Public Roads.** No person may transport Equipment or any Conveyance containing EDRR AIIS over public roads within the state of Idaho without first being decontaminated.

( )

**03. Contaminated Conveyances in Idaho Waters.** A person shall not place any EDRR AIIS contaminated Equipment or Conveyance into any Water Body or Water Supply System in the state of Idaho.

( )

**04. Firefighting Equipment.** Precautions should be taken to prevent the introduction and spread of EDRR AIIS through firefighting activities. All firefighting agencies moving equipment into the state of Idaho shall follow protocols similar to the United States Forest Service decontamination protocols set forth in "Preventing Spread of Aquatic Invasive Organisms Common to the Intermountain Region." Those protocols can be found at <http://www.fs.fed.us/r4/aquatic/guidelines/index.shtml>.

( )

**05. Construction and Road Building and Maintenance Equipment.** Construction and equipment used for road building and maintenance must be free of EDRR AIIS. If equipment that is being transported into the state of Idaho has been in an infested water body or water supply system within the preceding thirty (30) days, the equipment must be inspected in accordance with Section 201. The Department may require decontamination.

( )

## 201. REPORTING REQUIREMENTS.

**01. Discovery.** Any person who discovers an EDRR AIIS within the state or who has reason to believe that an invasive species may exist at a specific location shall immediately report the discovery to the Department.

( )

**02. Contents.** The report shall, to the best of the reporter's ability, contain the following information:

( )

**a.** Location of the invasive species;

( )

**b.** Date of discovery; and

( )

**c.** Identification of any conveyance, equipment, water body, or host in or upon which the invasive species may be found.

( )

**03. Methods of Reporting.** The report shall be made in person or in writing (which may include electronic mail) as follows:

( )

**a.** At any Department office or headquarters;

( )

**b.** To the Department's toll free hotline at 1-877-336-8687; or

( )

**c.** Via the Department's website at [www.agri.idaho.gov](http://www.agri.idaho.gov).

( )

**04. Hold Harmless.** Reporting parties will be held harmless from violations pursuant to this chapter regarding possession of EDRR AIS.

( )

**202. INSPECTIONS.**

**01. Qualified Inspectors.** Inspections to detect the presence of EDRR AIIS may be conducted by any authorized agent, private inspector or peace officer qualified and trained in accordance with the Department's requirements. ( )

**02. Conveyances That Have Been in Infested Waters.** All persons transporting a conveyance must receive documentation of an inspection prior to launching in any water of the state if the vessel has been in infested water within the last thirty (30) days. ( )

**03. All Other Conveyances.** All conveyances are subject to inspection. All compartments, equipment and containers that may hold water, including, but not limited to live wells and ballast and bilge areas shall be drained as part of all inspections. ( )

**04. Inspection Methods.** Inspectors will determine if EDRR AIIS are present by interviewing the person transporting the conveyance and using visual and/or tactile inspection methods, or such other methods as may be appropriate and using forms supplied by the Department. ( )

**05. Inspection Results.** Any authorized agent or private inspector or private decontaminator who, through the course of an inspection, determines that AIIS are present shall advise the operator that the conveyance is suspected of possessing EDRR AIIS and that it must be decontaminated according to Departmental procedures. ( )

**06. Decontamination.** Any conveyance found or reasonably believed to contain EDRR AIIS shall be decontaminated in accordance with Section 204. ( )

**203. HOLD ORDERS.**

**01. Hold Order.** If any person refuses to permit inspection or decontamination of his or her conveyance, that conveyance is subject to a hold order until the inspection and/or decontamination is complete. ( )

**02. Notification to Owner.** If the person in charge of the conveyance is not the registered owner, the registered owner shall be notified by mail, return receipt requested, within five (5) days of the Hold Order. Such notification must also include Department contact information. If the registered owner is present when the Hold Order is issued, then the same information shall be provided to the registered owner at the time the order is issued. ( )

**03. Release of Hold Order.** Decontamination and proof of decontamination, in accordance with Section 204, is necessary in order for the Hold Order to be released. The Hold Order must be released in writing, and may be released only by the Director or his designee. ( )

**204. EDRR AIIS DECONTAMINATION.**

**01. Decontamination Protocol.** All decontamination must be accomplished by Department-approved service providers, using Department protocol. All decontamination methods must be in accordance with all applicable laws, disposal methods, recommended safety precautions, and safety equipment and procedures. ( )

**02. Reinspection.** After decontamination, the Department or its authorized agent must re-inspect the conveyance to ensure complete decontamination prior to releasing the conveyance and any associated Hold Order. ( )

**03. Proof of Decontamination.** Proof of decontamination will consist of a completed post-decontamination inspection form and application of a tamper-proof seal to the conveyance. ( )

**205. -- 799. (RESERVED).**

800. INVASIVE SPECIES - AQUATIC - INVERTEBRATES.

- 01. Zebra Mussel, *Dreissenia polymorpha*. ( )
- 02. Quagga Mussel *Dreissenia bugensis*. ( )
- 03. New Zealand Mud Snail, *Potamopyrgus antipodarum*. ( )
- 04. Red Claw Crayfish, *Cherax quadricarinatus*. ( )
- 05. Yabby Crayfish, *Cherax albidus/C. destructor*. ( )
- 06. Marone Crayfish, *Cherax tenuimanus*. ( )
- 07. Marbled crayfish, (*Procambarus marmoratus*). ( )
- 08. Rusty Crayfish, *Orconectes rusticus*. ( )
- 09. Asian Clam, *Corbicula fluminea*. ( )
- 10. Spiny Waterflea, *Bythotrephes cederstroemi*. ( )
- 11. Fishhook Waterflea, *Cercopagis pengoi*. ( )
- 12. Marmoratus, *Procambarus sp.* ( )

801. INVASIVE SPECIES - FISH.

- 01. Green Sturgeon, *Acipenser medirostris*. ( )
- 02. Walking Catfish, *Claridae*. ( )
- 03. Bowfin, *Ania Calva*. ( )
- 04. Gar, *Lepiostidae*. ( )
- 05. Piranhas, *Serrasalmus spp., Rosseveltella spp., Pygocentrus spp.* ( )
- 06. Rudd, *Scardinius erythrophthalmus*. ( )
- 07. Ide, *Leuciscus idus*. ( )
- 08. Diploid Grass Carp, *Ctenopharyngodon idella*. ( )
- 09. Bighead Carp, *Hypophthalmichthys nobilis*. ( )
- 10. Silver Carp, *Hypophthalmichthys molitrix*. ( )
- 11. Black Carp, *Mylopharyngodon piceus*. ( )
- 12. Snakeheads, *Channa spp., Parachanna spp.* ( )
- 13. Round Goby, *Neogobius melanostomas*. ( )
- 14. Ruffe, *Gymnocephalus cernuus*. ( )

802. INVASIVE SPECIES - AMPHIBIANS.

01. Rough-skinned Newt, *Taricha granulose*. ( )
02. Bullfrog, *Lithobates catesbeianus*. ( )
803. INVASIVE SPECIES - REPTILES.
01. Red-eared Slider, *Trachemys scripta elegans*. ( )
02. Mediterranean Gecko, *Hemidactylus turcicus*. ( )
03. Common Wall Lizard, *Podarcis muralis*. ( )
04. Italian Wall Lizard, *Podarcis sicula*. ( )
05. Brahminy blindsnake, *Ramphotyphlops braminus*. ( )
06. Snapping Turtle, *Chelydra serpentina*. ( )
804. INVASIVE SPECIES - BIRDS.
01. Monk Parakeet, *Myiopsitta monachus*. ( )
805. INVASIVE SPECIES - MAMMALS.
01. Nutria, *Myocastor coypus*. ( )
806. INVASIVE SPECIES - INSECTS.
01. Asian Longhorned Beetle, *Anoplophora glabripennis*. ( )
02. Citrus Longhorned Beetle, *Anoplophora chinensis*. ( )
03. Emerald Ash Borer, *Agrilus planipennis*. ( )
04. Marmorated Stink Bug, *Halyomorpha halys*. ( )
05. European Woodwasp, *Sirex noctilio*. ( )
06. European Gypsy Moth, *Lymantria dispar*. ( )
07. Asian Gypsy Moth, *Lymantria dispar*. ( )
08. Soybean Aphid, *Aphis glycines*. ( )
09. Potato Tuber Moth, *Tecia solanivora*. ( )
10. Japanese Beetle, *Popilla japonica*. ( )
11. Mexican Bean Beetle, *Epilachna varivestis*. ( )
12. Kaphra beetle, *Trogoderma granarium*. ( )
13. Red Imported Fire Ant, *Solenopsis invicta*. ( )
14. Glassy-winged Sharpshooter, *Homalodisca coagulate*. ( )

15. Grape Phylloxera, *Daktulosphaira vitifoliae*. ( )
16. Vine Mealybug, *Planococcus ficus*. ( )
17. Summer Fruit Tortix, *Adoxophyes orana*. ( )
18. Silver Y Moth, *Autoographa gamma*. ( )
19. False Codling Moth, *Cyrtophlebia leucotreta*. ( )
20. Light Brown Apple Moth, *Epiphyas postvittana*. ( )
21. Apple Tortrix, *Archips fuscocupreanus*. ( )
22. Pine Shoot Beetle, *Tomicus piniperda*. ( )
23. Cherry Bark Tortrix, *Enarmonia formosana*. ( )
24. Apple Ermine Moth, *Ypomoneuta malinellus*. ( )
25. Cherry Ermine Moth, *Enarmonia formosana*. ( )
26. European Grape Vine Moth, *Lobesia botrana*. ( )
27. European Grape Berry Moth, *Eupoecilia ambiguella*. ( )
28. Plum Fruit Moth, *Cydia funebrana*. ( )
29. Plum Curculio, *Conotrachelus nenuphar*. ( )
30. Leek Moth, *Acrolepiopsis assectella*. ( )
31. Bee Mite, *Tropilaelaps cleareae*. ( )
32. Small Hive Beetle, *Aethina tumida*. ( )
33. Africanized Honey Bee, *Apis mellifera*. ( )
34. Black Currant Gall Mite, *Cecidophyopsis ribis*. ( )
35. Exotic Bark Beetles, (Scolytidae): ( )
  - a. *Scolytus mali*. ( )
  - b. *Xylosandrus crassiusculus*. ( )
  - c. *Xylosandrus germanus*. ( )
  - d. *Xyleborus californicus*. ( )
36. Sunni Bug, *Eurygaster intergriceps*. ( )
37. German Yellowjacket, *Vespula germanica*. ( )
38. European Paper Wasp, *Polistes dominulus*. ( )
39. European Elm Bark Beetle, *Scolytus multistriatus*. ( )



40. Banded Elm Bark Beetle, *Scolytus schevyrewi*. ( )
41. Wheat Blossom Midge, *Sitodiplosis mosellana*. ( )
42. Potato Tuberworm, *Phthorimeaea operculella*. ( )
43. Pink Hibiscus Mealybug, *Maconellicoccus hirsutus*. ( )
807. INVASIVE SPECIES - PLANT PATHOGENS AND PARASITIC NEMATODES.
01. Sudden Oak Death (Ramorum blight), *Phytophthora ramorum*. ( )
02. Karnal Bunt, *Tilletia indica*. ( )
03. Bean Common Mosaic Virus, (strain US-6). ( )
04. Bean Common Mosaic Necrosis Virus (strain NL-3 and NL-5). ( )
05. Potato Wart, *Synchytrium endobioticum*. ( )
06. Golden Nematode, *Globodera rostochiensis*. ( )
07. Soybean Cyst Nematode, *Heterodera glycines*. ( )
08. Bacterial Wilt of Alfalfa, *Clavibacter michiganensis* spp. *insidiosus*. ( )
09. Wheat Seed Gall Nematode, *Anguina tritici*. ( )
10. Pine Wilt Nematode, *Bursaphelenchus xylophilus*. ( )
11. Brown Rot of Potatoes, *Ralstonia solanacearum*, race 3, biovar 2 (alternate hosts include tomato, pepper, eggplant, and some greenhouse plants including geranium). ( )
12. Java Downy Mildew of Corn, *Peronosclerospora maydis*. ( )
13. Philippine Downy Mildew of Corn, *Peronosclerospora philippeninsis*. ( )
14. Asian Soybean Rust, *Phakopsora pachyrhizi*. ( )
15. Plum Pox Potyvirus. ( )
16. Cherry Leaf Roll Virus. ( )
17. Stewart's Wilt of Corn, *Pantoea stewartii*. ( )
18. Brown Stripe Downy Mildew of Corn, *Sclerophthora rayssiae* var. *zeae*. ( )
19. Potato Spindle Tuber Viroid. ( )
20. Pierce's Disease of Grapes, *Xylella fastidiosa*. ( )
21. Black Currant Reversion Disease. ( )
22. Powdery Mildew of Hops, *Sphaerotheca macularis* (s. *humuli*). ( )
23. Bacterial Brown Spot of Beans, *Pseudomonas syringae* pv *syringae*. ( )

24. Wheat Smut, *Tilletia tritici*. ( )
  25. Wheat Scab, *Fusarium graminearum*. ( )
  26. Potato Ring Rot, *Corynebacterium sepedonicum*. ( )
  27. Potato Late Blight, *Phytophthora infestans*. ( )
  28. Onion White Tot, *Sclerotium cepivorum*. ( )
  29. Sugar Beet Rhizomania (beet necrotic yellow vein virus (BNYVV) and transmitted by the soil fungus *Polymyxa betae*). ( )
  30. White Pine Blister Rust, *Cronartium ribicola*. ( )
  31. Cereal Cyst Nematode, *Heterodera avenae*. ( )
  32. Columbia Root Knot Nematode, *Meloidogyne chitwoodi*. ( )
  33. Onion Stem and Bulb Nematode, *Ditylenchus dipsaci* (onion race). ( )
  34. Iris Yellow Spot Virus - IYSV of onions. ( )
  35. Potato Mop Top Virus, PMTV. ( )
  36. Black Stem Rust, *Puccinia graminis*. ( )
808. INVASIVE SPECIES - INVASIVE MOLLUSKS (TERRESTRIAL SNAILS AND SLUGS).
01. Green or Burrowing Snail, *Cantareus apertus*. ( )
  02. Pulmonate Snail, *Helix pomatia*. ( )
  03. White Garden Snail, *Theba pisana*. ( )
  04. Giant African Snail, *Achatha fulica*. ( )
  05. Lactea Snail, *Otala lacteal*. ( )
  06. Maritime Garden Snail, *Cerneuella virgata*. ( )
  07. Brown Garden Snail, *Cryptomphalus aspersa*. ( )
  08. Wrinkled Snail, *Candidula intersecta*. ( )
  09. Chinese Mysterysnail, *Bellamyia chinensis*. ( )
  10. Japanese Mysterysnail, *Bellamyia japonica*. ( )
  11. Applesnail, *Pomacea* spp. ( )
  12. Marisa, *Marisa cornuarietis*. ( )
  13. Red-lipped Melania, *Melanoides tuberculata*. ( )
  14. Quilted Melania, *Tarebia granifera*. ( )

15. Decollate Snail, *Rumina decollate*. ( )
16. Faucet Snail, *Bithynia tentaculata*. ( )
809. -- 999. (RESERVED).

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.33 - ORGANIC FOOD PRODUCT RULES

DOCKET NO. 02-0633-0901

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5221(1), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 22-1103, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 85 through 87.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 22-1103, Idaho Code:

The pending rule will not impose or increase fees but rather discontinue the late fees of \$250 for certification and \$100 for registration.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending fee rule, contact Brandon Lamb, Agricultural Program Manager, at 208-332-8675.

DATED this 4th day of November, 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

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#### DOCKET NO. 02-0633-0901 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 09-10, October 7, 2009, Book 1, pages 85 through 87.

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 08 - STATE BOARD OF EDUCATION**

**08.01.04 - RULES GOVERNING RESIDENCY CLASSIFICATION**

**DOCKET NO. 08-0104-0901**

**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 Section 33-3717B, 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:

Adoption of this rule is to clarify criteria for establishment of a residency for tuition purposes.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 186 through 188.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dana Kelly, Student Affairs Program Manager, at (208)332-1574.

DATED this 13th day of November, 2009.

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

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**DOCKET NO. 08-0104-0901 - 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 09-10, October 7, 2009, Book 1, pages 186 through 188.](#)**

**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 08 - STATE BOARD OF EDUCATION

### 08.01.11 - REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS AND PROPRIETARY SCHOOLS

DOCKET NO. 08-0111-0901

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE AND AMENDMENT TO TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is August 20, 2009. This pending rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule and amended a temporary rule. The action is authorized pursuant to Sections 33-105, 33-2402, and 33-2403, Idaho Code.

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

Title 33, Chapter 1 and 24, Idaho Code were amended to clarify that postsecondary institutions need to register to ensure they are legitimate degree granting institutions and that proprietary schools are legitimate. Criteria for evaluating these institutions and schools are set forth in this rule. Criteria are essential for determining the legitimacy of the institution for degree granting purposes and the legitimacy of proprietary schools. Additionally, in order to provide protection for Idaho Citizens, the underfunded tuition recovery account has been replaced by the requirement of a surety bond.

The changes to the rule from proposed to pending are in the calculation of the surety bond. The purpose of the surety bond is to cover the amount of tuition that a student has paid into a program should the school go out of business prior to the completion of the program or course of study, allowing students to be refunded their costs. The amended formula better captures this amount.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the State Board of Education amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, page(s) 189 through 198.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. This fee or charge is being imposed pursuant to Section 33-2402 and 33-2403, Idaho Code. The following is a specific description of the fee or charge imposed or increased:

The current fee of one hundred dollars (\$100) per course or course of study has been changed to the amount of one-half of one percent of the gross Idaho tuition revenue of the institution or school during the previous registration year, but not less than one hundred dollars (\$100) and not to exceed five thousand dollars (\$5,000). Fees assessed are to be dedicated for use by the board in connection with its responsibilities under Section 33-2401, Idaho Code.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending fee rule, contact Harv Lyter, Proprietary Schools Registration Coordinator at (208)332-1587.

DATED this 13th Day of November, 2009.

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

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**DOCKET NO. 08-0111-0901 - ADOPTION OF PENDING FEE RULE  
AND AMENDMENT TO TEMPORARY RULE**

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

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

The text of the temporary/proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-10, October 7, 2009, Book 1, pages 189 through 198.](#)

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.

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**THE FOLLOWING IS THE AMENDED TEMPORARY RULE AND THE  
AMENDED PENDING RULE TEXT FOR DOCKET NO. 08-0111-0901**

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

If ~~PTE~~ the Board is unable to determine the nature and activities of a school on the basis of the information provided by the school under this rule, then ~~PTE~~ the Board may notify the school of additional information that it will be required to provide in connection with the application for registration. ~~(4-9-09)~~(8-20-09)T

**098. Surety Bond.** Each proprietary school shall comply with the provisions in Section 33-2406, Idaho Code, relating to a surety bond. (4-9-09)

***Subsection 302.08.a.***

***a.*** *The amount of the surety bond shall be equal to the total tuition and fees charged by the school during the previous registration year. If a school is just starting or expects a significant expansion during the next year, the surety bond must cover the expected total tuition and fees. The amount of the surety bond shall be not less than the total tuition and fees to be collected by the school from its students that covers the period from the beginning through completion of such students' instructional program at the school during the upcoming registration year. This amount shall be based upon the tuition and fees collected by the school from its students covering such period during the previous registration year, subject to modification in the event a school is beginning operations and has no previous revenue or satisfactorily demonstrates that it expects significant changes in tuition and fee revenue during the upcoming year. The Executive Director shall determine the appropriate format and method by which this bond value is to be calculated and reported.* ~~(8-20-09)~~(8-20-09)T



## IDAPA 08 - STATE BOARD OF EDUCATION

### 08.01.14 - RULES GOVERNING THE IDAHO RURAL PHYSICIANS PROGRAM

#### DOCKET NO. 08-0114-0901 (NEW CHAPTER)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 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 33-105, 33-3723, and 33-3725, 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:

Section 33-3723, Idaho Code requires the assessment of a fee from support funds provided by the state to students preparing to be physicians in the fields of medicine or osteopathic medicine pursuant to the interstate compact for a professional education program in those fields as defined by the compact to be deposited into the rural physician incentive fund established in Section 33-3724. This rule outlines the eligibility and criteria for disbursement of incentive payment from the fund toward education debts of rural physicians who practice primary care medicine in medically underserved rural areas of the state. The text of the proposed rule has been amended to clarify eligibility criteria and priority selection criteria.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 199 through 204.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Tracie Bent, Chief Planning & Policy Officer, at 332-1582.

DATED this 13th day of November, 2009.

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

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DOCKET NO. 08-0114-0901 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-10, October 7, 2009, Book 1, pages 199 through 204.](#)

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.

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THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 08-0114-0901

*Section 014 is being reprinted in its entirety.*

**014. ELIGIBILITY FOR A RURAL PHYSICIAN INCENTIVE PROGRAM AWARD.**

**01. Eligibility Requirements.** A physician who meets the following requirements is eligible to apply for a Rural Physician Incentive Program award: ( )

*a.* During the period covered by the award, the physician must be a rural physician providing primary care medicine in an eligible area. A physician may provide patient care services in primary care medicine in more than one (1) eligible area; ( )

*b.* The physician must be a Doctor of Medicine (M.D.) or Doctor of Osteopathic Medicine (D.O.) and have completed an Accreditation Council of Graduate Medical Education or American Osteopathic Association residency; ( )

*c.* The physician must be Idaho Medical Board certified/Board eligible, hold an unrestricted Idaho medical license, and be able to meet the medical staffing requirements of the sponsoring organization when applicable; and ( )

*d.* The physician must be eligible to care for Medicare and Medicaid patients within the scope of the physician's primary care medicine practice. ( )

**02. Ineligibility.** Notwithstanding Subsection 014.01 of these rules, a physician shall not be entitled to receive an award under this program if the physician is receiving payments for purposes of repaying qualified medical education debt from another state or from a federal debt repayment program. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

*Section 016 is being reprinted in its entirety.*

**016. SELECTION OF RURAL PHYSICIAN INCENTIVE FUND AWARD RECIPIENTS.**

**01. Selection of Recipients.** The selection of recipients of Rural Physician Incentive Program awards shall be based on ranking and priority of applicants in accordance with the following criteria: ( )

*a. Priority selection for physicians who were Idaho-resident students and were assessed the rural physician incentive fee and paid into the fund, followed by physicians who were Idaho-residents prior to completing medical school out of the state and who did not contribute to the fund, followed by physicians from other states who were not Idaho-residents;* ( )

*b. Demonstrated physician shortage in the eligible area to be benefitted;* ( )

*c. Demonstrated physician recruiting difficulties in the eligible area to be benefitted; and* ( )

*d. Support of the medical community and community leaders in the eligible area.* ( )

**02. Relevant Factors.** In reviewing and weighing these criteria, all relevant factors shall be considered. ( )

**03. Debt Payments Not Accepted.** If a physician selected for an award of debt payments does not accept the award in the manner provided in these rules, then the award shall be awarded to the next eligible applicant who has not received an award. ( )

# IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

## 08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0904

### 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 33-1254 and 33-1258, Idaho Code.

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

With the exponential growth of online course offerings throughout the state, a need to create a set of standards for those teaching in an online environment was identified. These standards will be the framework for creating a new endorsement to be added to teaching certificates. The endorsement will not be mandated immediately by the state in order to teach online, but many of our virtual schools are interested in making it a requirement for all of their teachers. The amended version of these standards is herein incorporated by reference into these rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 5, 2009 Idaho Administrative Bulletin, Vol. 09-8, pages 31 and 32.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Christina Linder at (208) 332-6886 or Katie Rhodenbaugh at (208) 332-6885.

DATED this 13th day of November, 2009.

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

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### DOCKET NO. 08-0202-0904 - 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 09-8, August 5, 2009, pages 31 and 32.](#)

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 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

## 08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0905

### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is November 9, 2009. This pending 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 33-105 and 33-107, Idaho Code.

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

The Idaho State Department of Education oversees Idaho Public Driver Education and Training programs. During the 2009 Idaho Legislative Session, private driver education businesses were moved out from under the State Department of Education, to the Division of Occupational Licensure. This move made it necessary to revise the Idaho Operating Procedures for Public Driver Education Programs document to address public driver education programs and their new relationship with private driver education programs. In addition to these needed changes we have worked to better align our standards with national standards for Driver Education and Training programs, specify policies that have been unclear before, and add a few new policies that improve the service we offer Idaho teens. Examples of improvements include clarifying reasons students may be dropped from a course, the duration of a course, hours per day students may be in class and in a car, requiring parent-teacher contact, reducing paperwork for teachers, and disallowing multiple D.U.I. offenders and felony offenders against children from becoming Driver Education and Training instructors.

Changes being made following the public comment period to the operating procedures that are incorporated by reference in this rule are directly related to Section 6.0, Public Schools Contracting with Private Driving Schools, of the Idaho Operating Procedures for Public Driver Education Programs. With the revisions, private driver education businesses will not have to meet public driver education instructor requirements to contract with a public school with the exception that they must have a current criminal history check on an official SDE fingerprint card on file at the Idaho State Department of Education. Instead, private driver education businesses will be able to use instructors that have met the Bureau of Occupational Licensure instructor requirement as outlined in the policies and procedures for private driver education businesses under the Bureau of Occupational Licensure. Other changes made include minor revisions that address questions of clarity and structure to the rule as it pertains to classroom duration, correspondence courses and reimbursement to school districts. The language that addressed reimbursement to school districts was eliminated due to the fact that it is addressed in statute and was considered redundant.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the August 5, 2009 Idaho Administrative Bulletin, Vol. 09-8, pages 33 through 35.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Brian Johns at (208) 332-6984.

DATED this 13th Day of November, 2009.

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

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**DOCKET NO. 08-0202-0905 - ADOPTION OF PENDING RULE  
AND AMENDMENT TO TEMPORARY RULE**

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

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

The text of the temporary/proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-8, August 5, 2009, pages 33 through 35.](#)

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.

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**THE FOLLOWING IS THE AMENDED TEMPORARY RULE AND THE  
AMENDED PENDING RULE TEXT FOR DOCKET NO. 08-0202-0905**

**004. INCORPORATION BY REFERENCE.**

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

(5-8-09)

***Subsection 004.05***

**05. Incorporated Document.** The Idaho ~~Standards~~ Operating Procedures for Public ~~School~~ Driver Education ~~and Training Programs~~ as approved on ~~August 13 June 18 November 9, 2004~~.

~~(4-6-05)(6-18-09)T(11-9-09)T~~

# IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

## 08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0906

### 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 33-105 and 33-1258, Idaho Code.

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

A professional development opportunity has been developed in a three (3) credit course called Mathematical Thinking for Instruction (MTI). The foundation for the course is to focus on Teaching for Understanding and building mathematical thinking for students. Instructors emphasize five underlying principles of the course and encourage teachers to carry them out back in their classrooms. They include: taking students ideas seriously, pressing students conceptually, encouraging multiple strategies, addressing misconceptions, and focusing on the structure of the mathematics. Participants in the course increase both their content knowledge and their pedagogical knowledge. Three MTI classes have been developed that are grade level specific including; K-3, 4-8, 6-12. Through this rule change, teachers and administrators will be required take one of the three courses developed that most closely aligns with their current assignment prior to September 1, 2014.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 211 and 212.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Christina Linder at (208) 332-6886 or Cindy Johnstone at (208) 332-6932.

DATED this 13th day of November, 2009.

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

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### DOCKET NO. 08-0202-0906 - 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 09-10, October 7, 2009, Book 1, pages 211 and 212.

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 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

## 08.02.02- RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-0907

### 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 33-105, 33-1201, 33-1204 and 33-1206, Idaho Code.

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

The Idaho Math Initiative is offering a professional development opportunity for math educators and administrators. Many teachers that have taken the Mathematical Thinking for Instruction (MTI) course during the first year of implementation have requested additional classes in this field of study. Research shows that in order for a professional development opportunity to be successfully implemented, follow up opportunities must be made available. As part of the math initiative, the follow up support includes working closely with regional math specialists and district instructional coaches. To ensure that qualified educators are conducting this additional follow up support, a mathematical consulting teacher endorsement has been developed. The MTI courses have already been developed and other courses will be developed in cooperation with all of the participating institutions of higher education and the State Department of Education. One primary goal of the endorsement program is to produce exemplar teachers, who will lead and build the knowledge of their colleagues throughout the state of Idaho.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol.09-10, pages 213 through 215.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Christina Linder at (208) 332-6886 or Cindy Johnstone at (208) 332-6932.

DATED this 13th day of November, 2009.

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

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### DOCKET NO. 08-0202-0907 - 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 09-10, October 7, 2009, Book 1, pages 213 through 215.](#)

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 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

## 08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0903

### 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 33-105, 33-107, 33-1612, Idaho Code.

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

The Middle Level Task Force was created in May 2007 to examine middle school issues as recommended by the High School Redesign efforts. Two goals of the task force were to ensure all students are prepared to be successful in high school and to increase academic engagement and student accountability for middle school students through a relevant and rigorous curriculum. Desired outcomes included ensuring all students are prepared to be successful in high school and beyond and to improve student preparation for high school and post-secondary education. To achieve these goals and work toward the desired outcomes, the Middle Level Task Force determined that students need to be introduced to the language and concept of a credit system before entering high school. This rule change would require each LEA (local education agency) or district to design and implement a credit system starting no later than the seventh grade.

Changes being made for the pending rule are to provide greater clarity and structure to the rule. Language has been added to the section on Alternate Mechanisms to require that each district forward their mechanism to the Department. The changes to the Limited English Proficient and Special Education sections emphasize that the respective teams make decisions on alternate requirements or accommodations for those students.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 5, 2009 Idaho Administrative Bulletin, Vol. 09-8, pages 36 and 37.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Rob Sauer at (208) 332-6934.

DATED this 13th day of November, 2009.

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

DOCKET NO. 08-0203-0903 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, **Volume 09-8, August 5, 2009, pages 36 and 37.**

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.

THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 08-0203-0903

*Section 107 is being reprinted in its entirety.*

**107. ~~(RESERVED)~~ MIDDLE LEVEL CREDIT SYSTEM.**

A school district or LEA must implement a credit system no later than grade seven (7) that includes components that address the credit requirements, credit recovery, alternate mechanisms and attendance. The local school district or LEA may establish credit requirements beyond the state minimum. ( )

**01. Credit Requirements.** Each district or LEA credit system shall require students to attain a minimum of eighty percent (80%) of the total credits attempted before the student will be eligible for promotion to the next grade level. Each district or LEA credit system shall require a student to attain, at a minimum, a portion of the total credits attempted in each area in which credits are attempted except for areas in which instruction is less than a school year before the student will be eligible for promotion to the next grade level. ( )

**02. Credit Recovery.** A student who does not meet the minimum requirements of the credit system shall be given an opportunity to recover credits or complete an alternate mechanism in order to become eligible for promotion to next grade level. ( )

**03. Alternate Mechanism.** A school district or LEA may establish an alternate mechanism to determine eligibility for grade level promotion. The alternate mechanism shall require a student to demonstrate proficiency of the appropriate content standards. All locally established mechanisms used to demonstrate proficiency will be forwarded to the State Department of Education. Alternate mechanisms must be re-submitted to the Department when changes are made to the mechanism. ( )

**04. Attendance.** Attendance shall be an element included in the credit system, alternate mechanism or both. ( )

**05. Special Education Students.** The Individualized Education Program (IEP) team for a student who is eligible for special education services under the Individuals with Disabilities Education Improvement Act may, establish alternate requirements or accommodations to credit requirements as are deemed necessary for the student to become eligible for promotion to the next grade level. ( )

**06. Limited English Proficient (LEP) students.** The Educational Learning Plan (ELP) team for a Limited English Proficient (LEP) students, as defined in Subsection 112.04.d.iv. may, establish alternate requirements or accommodations to credit requirements as deemed necessary for the student to become eligible for promotion to the next grade level. ( )

# IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

## 08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0905

### 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 33-105 and 33-1612, Idaho Code.

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

This revision to IDAPA 08.02.03.105 includes:

- The recommendation that the State Board of Education adopt a minimum of 60 hours of instruction per credit.
- The recommendation to establish a policy that allows students to earn credit by demonstrating mastery of a subject instead of only being allowed to earn credit through seat time.
- The recommendation to allow middle school students to complete high school courses before entering grade nine in all subject areas instead of just Math and Science.

Changes being made to the pending rule address concerns that were expressed with the mastery provision as well as inconsequential revisions that address questions of clarity and structure to the rule as it pertains to Humanities and Social Studies. In the mastery provision, we have eliminated the specific examples of mastery and will instead make those available through a Q and A document produced by the State Department of Education. The intent of this revision was always to allow local school districts to determine what constitutes mastery of a subject as is evident in the rule language, "as defined and approved by the local school district or LEA." The correction to the Humanities section includes the change from "world literature" and "world history" back to "literature" and "history" so as to not exclude courses that are based on United State literature and or United States History. The corrections to the Social Studies section reverts back to include the language "Current world affairs and geography will be integrated into all social studies instruction" since concerns were raised about its exclusion and continuing to include it in the rule does not cause any issues.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 218 through 222.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Nick Smith at (208) 332-6959.

DATED this 13th day of November, 2009.

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

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**DOCKET NO. 08-0203-0905 - ADOPTION OF PENDING RULE**

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

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 09-10, October 7, 2009, Book 1, pages 95 through 98.**

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

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**THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 08-0203-0905**

**105. HIGH SCHOOL GRADUATION REQUIREMENTS.**

A student must meet all of the requirements identified in this section before the student will be eligible to graduate from an Idaho high school. The local school district or LEA may establish graduation requirements beyond the state minimum. (5-8-09)

**01. Credit Requirements.** The State minimum graduation requirement for all Idaho public high schools is forty-two (42) ~~semester~~ credits. The forty-two (42) ~~semester~~ credits must include twenty-five (25) ~~semester~~ credits in core subjects as identified in Paragraphs 105.01.~~ac~~ through 105.01.~~ah~~. All credit-bearing classes must be aligned with state high school standards in the content areas for which standards exist. For all public school students who enter high school at the 9th grade level in Fall 2009 or later, the minimum graduation requirement will be forty-~~five six~~ (45~~6~~) ~~semester~~ credits and must include twenty-nine (29) ~~semester~~ credits in core subjects as identified in Paragraphs 105.01.~~ab~~ through 105.01.~~ag~~. (~~5-8-09~~)(    )

***Subsection 105.01.b.***

**b.** Mastery. Students may also achieve credits by demonstrating mastery of a subject's content standards as defined and approved by the local school district or LEA. (    )

***Subsections 105.01.b.i. through 105.01.b.iii. have been removed from the pending rule.***

***Subsection 105.01.g.***

**eg.** Humanities. Two (2) ~~semester~~ credits are required. Humanities courses include instruction in ~~interdisciplinary humanities~~, visual ~~and performing~~ arts, ~~music, theatre, dance~~, or world language aligned to the Idaho content standards for those subjects. Other courses such as literature, history, philosophy, architecture, or comparative world religions may satisfy the humanities standards if the course ~~syllabus is approved by the State Department of Education as being aligned with the~~ is aligned to the Idaho Interdisciplinary Humanities Content Standards. (5-8-09)(    )

# IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

## 08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0906

### 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 33-116, 33-2002, Idaho Code, and 20 U.S.C, Section 1412, Individuals with Disabilities Education Act (IDEA).

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

The proposed changes to this rule provide greater clarity to these rules and reduce confusion. It also removes references to things that Idaho does not or cannot recognize. It also defines and establishes the Idaho Special Education Manual as the official policies, procedures and criteria for special education in Idaho in accordance with federal law.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 223 through 229.

**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 Jacque Hyatt at (208) 332-6951.

DATED this 13th day of November, 2009.

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

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### DOCKET NO. 08-0203-0906 - 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 09-10, October 7, 2009, Book 1, pages 223 through 229.**

**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 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

## 08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-0907

### 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 33-105, Idaho Code.

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

In 2005, Idaho submitted assessment materials for review under the standards and assessment requirements of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB). External peer reviewers and U.S. Department of Education staff evaluated Idaho's submission and found it was not in compliance with certain regulatory and statutory requirements. During the 2005-2006 school year, Idaho addressed critical elements summarized in the report findings including that the achievement standards should be reviewed and reorganized to solve the problems and inconsistencies that were revealed and that they be renamed the Idaho Content Standards. Since then, the term "state achievement standards" has been updated in IDAPA 08.02.03.004 to read "Idaho Content Standards." However, the term was not changed elsewhere in rule. The rule change will update the term usage, as well as correct an incorrect citation.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 230 and 231.

**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 Luci Willits at (208) 332-6814.

DATED this 13th day of November, 2009.

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

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### DOCKET NO. 08-0203-0907 - 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 09-10, October 7, 2009, Book 1, pages 230 and 231.

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 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

## 08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1001

### NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is November 9, 2009.

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

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

In February 2009, the State Board of Education approved the changes to the Title III/Limited English Proficiency Accountability Plan. Following the approval, the State Board of Education submitted the revised Accountability Plan to the US Department of Education (USDOE) for their approval. The USDOE responded in a letter that the amendment requests would not be approved unless Idaho alter the requirements slightly in one of the four components. This rule change brings Idaho into compliance with the USDOE request.

Idaho requested to adopt the “n” size of 34 for Title III purposes, in order to maintain consistency with Title I. This would ensure that districts with less than 34 LEP students would not be held to the same IELA accountability targets as those districts with more than 34 students. However, the USDOE determined that districts that received Title III funding through a special consortia grant application, even if they had less than 34 students, must not be exempt and still held accountable.

The No Child Left Behind Act of 2001 mandates that all states must set achievement standards/cut scores for their assessments in order to determine the proficiency level and growth for every student each year. Idaho revised the achievement standards/cut scores for the IELA in July 2009.

A panel of 15 Idaho educators came together to determine new achievement standards/cut scores for the IELA. The panel members determined to minimally revise the standards/cut scores to be used. The raw cut scores were then translated into scale scores for the purpose of equating the IELA alternate year and grade level forms. The revised scale scores ensure consistent progression across grade spans, enabling educators to make decisions based on the students' IELA proficiency level. The most significant changes are in the Early Fluent and Fluent categories.

The impact of the adoption of the revised scale score tables for the IELA will enable LEP students to be tested and placed more appropriately in one of five proficiency levels: beginning, advanced beginning, intermediate, early fluent and fluent. This will help schools and districts to determine the appropriate services for each student and the information necessary to exit a student out of the LEP program.

The State Department of Education (SDE) conducted the Adequate Yearly Progress (AYP) appeals in summer 2009 due to the transition of the assessment program to SDE. In reviewing the appeals, it was noted that three clarifications needed to be made in order to more clearly guide the appeals process.

1. To clarify which public entity creates and provides AYP calculations to schools and districts.
2. To clarify affect of full expulsions on continuous enrollment status.
3. To clarify rules governing withdrawn status, specifically with regard to medical reasons, homebound status, and expulsions.

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

It is imperative that this rule be instituted at this time on a temporary basis so that these rule changes can be integrated into the next test administration and AYP appeals cycle. The test administration occurs in April and the AYP appeals occur in June. Thus, the rule must be adopted as temporary or would not be able to go into effect for this school year.



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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Scott Cook at (208) 332-6976.

DATED this 13th Day of November, 2009.

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

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**THE FOLLOWING IS THE TEMPORARY TEXT FOR DOCKET NO. 08-0203-1001**

**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated into this rule: (3-30-07)

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

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

**03. The Limited English Proficiency Program Annual Measurable Achievement Objectives (AMAOs) and Accountability Procedures.** The Limited English Proficiency Program Annual Measurable Achievement Objectives and Accountability Procedures as adopted by the State Board of Education on ~~August 10, 2006~~ November 11, 2009. Copies of the document can be found on the State ~~Board~~ Department of Education website at ~~<http://www.boardofed.idaho.gov>~~ <http://www.sde.idaho.gov/site/assessment/IELA/relatedDocs.htm>. (~~4-2-08~~)(11-9-09)T

**04. The Idaho English Language Assessment (IELA) Achievement Standards.** The Idaho English Language Assessment (IELA) Achievement Standards as adopted by the State Board of Education on ~~August 10, 2006~~ November 11, 2009. Copies of the document can be found on the State ~~Board~~ Department of Education website at ~~<http://www.boardofed.idaho.gov>~~ <http://www.sde.idaho.gov/site/assessment/IELA/relatedDocs.htm>. (~~4-2-08~~)(11-9-09)T

**05. The Idaho Standards Achievement Tests (ISAT) Achievement Standards.** Achievement Standards as adopted by the State Board of Education on May 30, 2007. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (4-2-08)

**06. The Idaho Extended Content Standards.** The Idaho Extended Content Standards as adopted by the State Board of Education on April 17, 2008. Copies of the document can be found at the State Board of Education

website at <http://www.boardofed.idaho.gov>.

(5-8-09)

**07. The Idaho Alternate Assessment Achievement Standards.** Alternate Assessment Achievement Standards as adopted by the State Board of Education on June 18, 2009. Copies of the document can be found on the State Board of Education website at <http://www.boardofed.idaho.gov>. (6-18-09)T

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

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

**(BREAK IN CONTINUITY OF SECTIONS)**

**112. ACCOUNTABILITY.**

The provisions in this section apply for the purposes of meeting the “No Child Left Behind” Act and the state of Idaho accountability requirements. (3-20-04)

**01. ISAT Student Achievement Levels.** There are four (4) levels of student achievement for the ISAT: Below Basic, Basic, Proficient, and Advanced. Definitions for these levels of student achievement are adopted by reference in Subsection 004.05. (4-2-08)

**02. IELA Language Proficiency Levels.** There are five (5) levels of language proficiency for students testing on the Idaho English Language Assessment: beginning, advanced beginning, intermediate, early fluent, and fluent. Definitions for these levels of language proficiency are adopted by reference in Subsections 004.02 and 004.04. (4-2-08)

**03. Adequate Yearly Progress (AYP).** (3-20-04)

**a.** Proficiency is defined as the number of students scoring proficient or advanced on the spring on-grade level ISAT. (3-20-04)

**b.** The State ~~Board~~ Department of Education will make AYP determinations for schools and districts each year. Results will be given to the districts at least one (1) month prior to the first day of school. ~~(4-2-08)~~(11-9-09)T

**c.** The baseline for AYP will be set by the Board and shall identify the amount of growth (percentage of students reaching proficiency) required for each intermediate period. (3-20-04)

**04. Adequate Yearly Progress (AYP) Definitions.** For purposes of calculating and reporting adequate yearly progress, the following definitions shall be applied. (3-20-04)

**a.** Full Academic Year (continuous enrollment). (3-20-04)

**i.** A student who is enrolled continuously in the same public school from the end of the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included in the calculation to determine if the school achieved AYP in proficiency. A student is continuously enrolled if he/she has not transferred or dropped-out of the public school. Students who are serving suspensions are still considered to be enrolled students. ~~Students who are expelled but return to another school in the same district are considered continuously enrolled to determine the district AYP.~~ (4-2-08)(11-9-09)T

ii. A student who is enrolled continuously in the school district from the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included when determining if the school district has achieved AYP. (4-2-08)

iii. A student who is enrolled continuously in a public school within Idaho from the end of the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included when determining if the state has achieved AYP. (4-2-08)

**b. Participation Rate.** (3-20-04)

i. Failure to include ninety-five percent (95%) of all students and ninety-five percent (95%) of students in designated subgroups automatically identifies the school as not having achieved AYP. The ninety-five percent (95%) determination is made by dividing the number of students assessed on the Spring ISAT by the number of students reported on the class roster file for the Spring ISAT. (3-20-04)

(1) If a school district does not meet the ninety-five percent (95%) participation target for the current year, the participation rate can be calculated by the most current three (3) year average of participation. (4-6-05)

(2) Students who are absent for the entire state-approved testing window because of ~~a significant~~ medical ~~emergency~~ reasons or are homebound are exempt from taking the ISAT if such circumstances prohibit them from participating. Students who drop out, withdraw, or are expelled prior to the beginning of the final makeup portion of the test window are considered exited from the school. (~~4-6-05~~)(11-9-09)T

ii. For groups of ten (10) or more students, absences for the state assessment may not exceed five percent (5%) of the current enrollment or two (2) students, whichever is greater. Groups of less than ten (10) students will not have a participation determination. (3-20-04)

**c. Schools.** (3-20-04)

i. An elementary school includes a grade configuration of grades Kindergarten (K) through six (6) inclusive, or any combination thereof. (3-20-04)

ii. A middle school is a school that does not meet the definition of an elementary school and contains grade eight (8) but does not contain grade twelve (12). (4-6-05)

iii. A high school is any school that contains grade twelve (12). (3-20-04)

iv. The accountability of public schools without grades assessed by this system (i.e., K-2 schools) will be based on the third grade test scores of the students who previously attended that feeder school. (3-20-04)

**d. Subgroups.** Scores on the ISAT must be disaggregated and reported by the following subgroups: (3-20-04)

i. Race/Ethnicity - Black/African American, Asian, Native Hawaiian/Pacific Islander, White, Hispanic/Latino Ethnicity, American Indian/Alaska Native. (3-20-04)

ii. Economically disadvantaged - identified through the free and reduced lunch program. (3-20-04)

iii. Students with disabilities - individuals who are eligible to receive special education services through the Individuals with Disabilities Education Act (IDEA). (3-20-04)

iv. Limited English Proficient - individuals who score in the low range on the state-approved language proficiency test and meet one of the following criteria: (4-6-05)

(1) Individuals whose native language is a language other than English; or (4-6-05)

(2) Individuals who come from environments where a language other than English is dominant; or (4-6-05)

(3) Individuals who are American Indian and Alaskan natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency, and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms, where the language of instruction is English. (4-6-05)

e. Graduation Rate. The State Board of Education will establish a target for graduation. All high schools must maintain or make progress toward the target each year. The graduation rate will be disaggregated by the subpopulations listed in Subsection 112.03.d. in the event the “safe harbor” is invoked by the school/district. By 2014, the schools/districts must meet the target. (3-20-04)

f. Additional Academic Indicator. The State Board of Education will establish a target for an additional academic indicator. All elementary and middle schools must maintain or make progress toward the additional academic indicator target each year. The additional academic indicator target will be disaggregated by the subpopulations listed in Subsection 112.03.d. in the event the “safe harbor” is invoked by the school/district. By 2014, the schools/districts must meet the target. (3-20-04)

**05. Annual Measurable Achievement Objectives (AMAOs).** Local school districts are responsible for ensuring district progress of Limited English Proficient (LEP) students in their acquisition of English. Progress and proficiency are measured by the IELA and determined based on three (3) AMAOs: (4-2-08)

a. Annual increases in the percent or number of LEP students making progress in acquiring English language proficiency; (4-2-08)

b. Annual increases in the percent or number of LEP students attaining English language proficiency by the end of the school year; and (4-2-08)

c. Each school district must make Adequate Yearly Progress for LEP students on the spring ISAT. (4-2-08)

## IDAPA 11 - IDAHO STATE POLICE

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

DOCKET NO. 11-1101-0901

#### 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 19-5107, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 252 through 255.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Trish Christy at (208) 884-7253.

DATED this 10th day of November, 2009.

Steve Raschke  
Interim Executive Director  
Idaho State Police/Peace Officer Standards and Training  
700 S. Stratford Dr., Meridian, ID 83642-6202  
(208) 884-7046/(208) 884-7295

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#### DOCKET NO. 11-1101-0901 - 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 09-10, October 7, 2009, Book 1, pages 252 through 255.](#)

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 11 - IDAHO STATE POLICE

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

DOCKET NO. 11-1101-0902

#### 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 19-5107, Idaho Code.

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

In response to suggestions from the Legislative Services Office, the following changes were made:

Language was added to Subsection 091.02. to specify the appointments that would make POST certification valid.

Language was amended in Subsections 098, 136, 150., 176, and 177 to clarify that officers may be eligible to challenge under certain circumstances rather than shall be eligible to challenge.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 256 through 263.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Trish Christy at (208) 884-7253.

DATED this 10th day of November, 2009.

Steve Raschke  
Interim Executive Director  
Idaho State Police/Peace Officer Standards and Training  
700 S. Stratford Dr., Meridian, ID 83642-6202  
(208) 884-7046/(208) 884-7295

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DOCKET NO. 11-1101-0902 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, **Volume 09-10, October 7, 2009, Book 1, pages 256 through 263.**

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.

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THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 11-1101-0902

091. INTRODUCTION.

*Subsection 091.02*

02. **Property.** Certificates and awards remain the property of the Council and are only valid as long as the officer *has not been decertified and* is appointed as an Idaho *peace, county detention, juvenile detention, or juvenile probation, correction, adult probation and parole, or misdemeanor probation* officer, *or an Idaho Department of Juvenile Corrections Direct Care Staff member.* (4-2-03)(\_\_\_\_)

(BREAK IN CONTINUITY OF SECTIONS)

*Section 098*

098. CHALLENGING THE BASIC PATROL ACADEMY.

Any peace officer presently appointed by a duly constituted Idaho law enforcement agency who, within the last five (5) years, has been employed and certified or commissioned by another state or the federal government as a peace officer or a student who has satisfactorily completed a Basic Police Academy equivalent to the Idaho POST Basic Patrol Academy within the last three (3) years *with may* be eligible for certification in the state of Idaho without attending the Basic Patrol Academy, provided the officer: (4-6-05)(\_\_\_\_)

(BREAK IN CONTINUITY OF SECTIONS)

136. CHALLENGING THE LEVEL I RESERVE CORE CURRICULUM.

*Subsection 136.02*

**02. Certified in Another State, Commissioned by the Federal Government, or a Graduate of a Basic Police Academy.** A reserve peace officer who has within the last three (3) years served as a full-time certified peace officer in another state or as a full-time commissioned peace officer of the federal government or a student who has satisfactorily completed a Basic Police Academy equivalent to the Idaho POST Basic Patrol Academy within the last three (3) years *shall may* be eligible for Level I Reserve certification in the state of Idaho without attending the Level I Reserve core curriculum, provided he: (4-2-03)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**150. CHALLENGING THE LEVEL I RESERVE MARINE DEPUTY CORE CURRICULUM.**

***Subsection 150.02***

**02. Certified in Another State, Commissioned by the Federal Government, or a Graduate of a Basic Police Academy.** A reserve marine deputy who has within the last three (3) years served as a full-time certified peace officer in another state or as a full-time commissioned peace officer of the federal government or a student who has satisfactorily completed a Basic Police Academy equivalent to the Idaho POST Basic Patrol Academy within the last three (3) years *shall may* be eligible for Level I Reserve Marine Deputy certification in the state of Idaho without attending the Level I Reserve Marine Deputy core curriculum, provided he: (4-2-03)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**176. THE LEVEL I CERTIFICATE.**

In addition to the requirements set forth in Section 173 of these rules, the requirements in Section 176 are necessary for award of the Level I Certificate. (4-2-03)

***Subsection 176.05***

**05. Patrol and Detention Vo-Tech Program Graduates.** An applicant who is appointed to a detention officer position from three (3) to five (5) years after satisfactorily completing both the patrol and detention officer training through an Idaho POST-certified law enforcement vo-tech program, *shall may* be eligible for detention officer certification in Idaho without attending the POST Basic Detention Academy, provided the officer: (4-2-08)(\_\_\_\_)

***Section 177***

**177. CHALLENGING THE BASIC DETENTION ACADEMY.**

Any county detention officer presently appointed by a duly constituted Idaho law enforcement agency who, within the last five (5) years, has been employed and certified or commissioned by another state or the federal government as a detention officer or a student who has satisfactorily completed a Basic Detention Academy equivalent to the Idaho POST Basic Detention Academy within the last three (3) years *will may* be eligible for certification in the state of Idaho without attending the Basic Detention Academy, provided the officer: (4-6-05)(\_\_\_\_)



## IDAPA 11 - IDAHO STATE POLICE

### 11.11.04 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR CORRECTION OFFICERS AND ADULT PROBATION AND PAROLE OFFICERS

DOCKET NO. 11-1104-0901

#### 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 19-5107, Idaho Code.

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

In response to suggestions from the Legislative Services Office, the following changes were made:

Language in Subsection 022.02 was amended to specify the appointments that would make POST certification valid.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 264 through 268.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Trish Christy at (208) 884-7253.

DATED this 10th day of November, 2009.

Steve Raschke  
Interim Executive Director  
Idaho State Police/Peace Officer Standards and Training  
700 S. Stratford Dr., Meridian, ID 83642-6202  
(208) 884-7046/(208) 884-7295

---

#### DOCKET NO. 11-1104-0901 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-10, October 7, 2009, Book 1, pages 264 through 268.](#)

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.

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THE FOLLOWING IS THE AMENDED PENDING RULE TEXT OF DOCKET NO. 11-1104-0901

022. GENERAL PROVISIONS.

*Subsection 022.02*

02. **Property.** Certificates and awards remain the property of the Council and are only valid as long as the officer has not been decertified and is appointed as an Idaho correction or adult probation and parole officer.

(4-11-06)(\_\_\_\_\_)

## 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 - 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 36-104(b), Idaho Code.

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

Define the duties of the Commission Chairman and Vice-Chairman, and delete obsolete rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 50 through 53.

**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 W. Dallas Burkhalter (208) 334-3715.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

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#### DOCKET NO. 13-0101-0901 - 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 09-9, September 2, 2009, pages 50 through 53.**

**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 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.03 - PUBLIC USE OF THE LANDS OWNED OR CONTROLLED BY THE IDAHO DEPARTMENT OF FISH AND GAME

DOCKET NO. 13-0103-0901

#### 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 Section 36-104(b), Idaho Code.

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

Allow the Director to delegate more authority to regional staff. Clarify several rules and definitions. Define 'designated roads and trails' and 'commercial use.' Prohibit certain unpermitted uses, such as: landing or launching aircraft, discharging paintball guns, placing geocaches, group events of over 15 people, and use of non-certified weed-seed-free hay. Prohibit leaving portable hunting blinds and tree stands over night.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 269 through 272.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dallas Burkhalter (208) 334-3715.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

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#### DOCKET NO. 13-0103-0901 - 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 09-10, October 7, 2009, Book 1, pages 269 through 272.](#)

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 13 - IDAHO FISH AND GAME COMMISSION**

**13.01.04 - RULES GOVERNING LICENSING**

**DOCKET NO. 13-0104-0901**

**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 36-104(b) and 36-408, Idaho Code.

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

Set the Nonresident Deer tag quotas per Commission adoption. Set outfitter deer set-aside tags. Reduce certain elk zone tags per Commission adoption, and delete obsolete elk zone tags. Set elk zone tags per Commission adoption.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 54 through 57.

**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 W. Dallas Burkhalter (208) 334-3715.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

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**DOCKET NO. 13-0104-0901 - 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 09-9, September 2, 2009, pages 54 through 57.**

**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 13 - IDAHO FISH AND GAME COMMISSION**

**13.01.04 - RULES GOVERNING LICENSING**

**DOCKET NO. 13-0104-0902**

**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 Sections 36-104(b), 36-401 and 36-408, 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.

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

The text has been amended to delete the term 'regulation' and replace with the term 'proclamation.'

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 58 through 61.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sharon Kiefer (208) 287-2780.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

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**DOCKET NO. 13-0104-0901 - ADOPTION OF PENDING RULE**

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-9, September 2, 2009, pages 58 through 61.](#)

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.

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THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 13-0104-0902

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

***Subsection 900.04***

**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~~ proclamation. ~~(3-8-07)~~(\_\_\_\_\_)

***Subsection 900.04.b.***

**b.** The special needs ~~permit~~ tag is valid in any open hunt, controlled or general, as provided by Commission ~~regulation~~ proclamation. ~~(3-8-07)~~(\_\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**901. DISABLED VETERANS SPECIAL BIG GAME TAG.**

***Subsection 901.04***

**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~~ proclamation. ~~(7-27-09)~~F(\_\_\_\_\_)

***Subsection 901.04.b.***

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

## 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 - 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 36-104(b) and 36-201, Idaho Code.

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

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 62 through 68.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sharon Kiefer (208) 287-2780.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

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#### DOCKET NO. 13-0106-0901 - 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 09-9, September 2, 2009, pages 62 through 68.**

**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 13 - IDAHO FISH AND GAME COMMISSION**

**13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS**

**DOCKET NO. 13-0108-0902**

**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 Sections 36-104(b) and 36-1101, Idaho Code.

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

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.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 69 through 84.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sharon Kiefer (208) 287-2780.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

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**DOCKET NO. 13-0108-0902 - 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 09-9, September 2, 2009, pages 69 through 84.**

**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 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 - 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 36-104(b), 36-408 and 36-1101, Idaho Code.

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

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 85 through 87.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sharon Kiefer (208) 287-2780.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

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#### DOCKET NO. 13-0109-0901 - 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 09-9, September 2, 2009, pages 85 through 87.**

**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 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 - 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 36-104(b), 36-501 and 36-504, 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:

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 88 and 89.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sharon Kiefer (208) 287-2780.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game  
600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

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**DOCKET NO. 13-0110-0901 - 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 09-9, September 2, 2009, pages 88 and 89.**

**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 13 - IDAHO FISH AND GAME COMMISSION

## 13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-0901

### 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 36-104(b) and 36-901, Idaho Code.

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

Biennial updating and correction of fishing rules, and addressing management and anglers' concerns. The proposed changes include:

1. Eliminating the definition of 'no bait';
2. Correct wording regarding the two pole permit;
3. Require a sliding sinker for sturgeon fishing;
4. Allow unlimited poles for boat fishing on Lake Pend Oreille in conjunction with the Angler Incentive Program;
5. Amend requirements for trapping or seining minnows or crayfish;
6. Eliminate statewide bag and possession limits to allow regional limits;
7. Require a maximum 5/8" hook gap for steelhead fishing; and
8. Correct wording regarding steelhead and salmon permits and recording of harvested fish.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 273 through 282.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sharon Kiefer (208) 287-2780.

DATED this 10th day of November, 2009.

W. Dallas Burkhalter  
Deputy Attorney General  
Natural Resources Division/Fish and Game

600 S. Walnut  
P.O. Box 25  
Boise, Idaho 83707

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### DOCKET NO. 13-0111-0901 - 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 09-10, October 7, 2009, Book 1, pages 273 through 282.**

**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 13 - IDAHO FISH AND GAME COMMISSION**

**13.01.14 - RULES GOVERNING FALCONRY**

**DOCKET NO. 13-0114-0901 (CHAPTER REPEAL)**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 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 36-104(b) and 36-1102(c), 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:

Repeal the chapter in preparation for replacement by new proposed rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009, Book 1 Idaho Administrative Bulletin, Vol. 09-10, page 283.

**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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Jeff Wolfe (208) 465-8470.

DATED this 10th day of November, 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

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**DOCKET NO. 13-0114-0901 - 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 09-10, October 7, 2009, Book 1, page 283.](#)**

**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 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.14 - RULES GOVERNING FALCONRY

#### DOCKET NO. 13-0114-0902 (NEW CHAPTER)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 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 36-104(b) and 36-1102(c), Idaho Code.

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

In 2008, the U.S. Fish and Wildlife Service implemented major revisions to federal falconry regulations designed to eliminate federal permitting requirements and increase state management authority/responsibility for regulating falconry. The State of Idaho has until 2014 to promulgate rules consistent with the new federal regulations.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009, Book 1 Idaho Administrative Bulletin, Vol. 09-10, pages 284 through 291.

**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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Jeff Wolfe (208) 465-8470.

DATED this 10th day of November, 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

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#### DOCKET NO. 13-0114-0902 - 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 09-10, October 7, 2009, Book 1, page 284 through 291.**

**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 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.15 - RULES GOVERNING THE USE OF DOGS

DOCKET NO. 13-0115-0901

#### 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 36-104(b) and 36-1101, Idaho Code.

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

Allow 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. Correct non-resident quota rule to reflect Commission action.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 90 through 93.

**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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Brad Compton (208) 287-2756.

DATED this 10th day of November, 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

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#### DOCKET NO. 13-0115-0901 - 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 09-9, September 2, 2009, page 90 through 93.**

**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 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 - 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 36-104(b) and 36-1101, Idaho Code.

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

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 94 and 95.

**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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Brad Compton (208) 287-2756.

DATED this 10th day of November, 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

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#### DOCKET NO. 13-0116-0901 - 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 09-9, September 2, 2009, page 94 and 95.**

**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 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 - 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 36-104(b) and 36-1101, Idaho Code.

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

Prohibit the use of salt for bear baiting. Amend language for removal of bait sites for consistency.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Vol. 09-9, pages 96 and 97.

**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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Brad Compton (208) 287-2756.

DATED this 10th day of November, 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

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#### DOCKET NO. 13-0117-0901 - 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 09-9, September 2, 2009, page 96 and 97.**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.02.02 - RULES OF THE EMERGENCY MEDICAL SERVICES (EMS) PHYSICIAN COMMISSION

DOCKET NO. 16-0202-0902

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is January 1, 2010. 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-1013A and 56-1023, Idaho Code, and Senate Bill 1108, 2009.

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

The "Incorporation by Reference" section of these rules was revised with the updated edition number of the EMS Physician Commission Standards Manual. This Standards Manual is a "scope of practice" manual that governs the medications, devices, and clinical interventions that EMS personnel can use to treat patients at emergency scenes and in ambulances. In addition, a link to the online version of the Standards Manual was added as recommended by Legislative Services.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions that have been made to the pending rule. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in Book 1 of the October 7, 2009, Idaho Administrative Bulletin, Vol. 09-10, pages 305 through 315.

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

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Dia Gainor at (208) 334-4000.

DATED this 18th day of November, 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

DOCKET NO. 16-0202-0902 - ADOPTION OF PENDING RULE

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

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

The text of the temporary/proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-10, October 7, 2009, Book 1, pages 305 through 315.](#)

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.

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THE FOLLOWING IS THE TEXT OF THE AMENDED TEMPORARY RULE AND THE  
TEXT OF THE AMENDED PENDING RULE FOR DOCKET NO. 16-0202-0902

*Section 004 is being reprinted in its entirety.*

**004. INCORPORATION BY REFERENCE.**

The Idaho Emergency Medical Services (EMS) Physician Commission has adopted the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 2007~~910-131~~, and hereby incorporates this Standards Manual by reference. Copies of the manual may be obtained *on the internet at: [www.emspc.dhw.idaho.gov](http://www.emspc.dhw.idaho.gov)* or from the EMS Bureau located at 590 W. Washington Street, Boise, Idaho, 83702, whose mailing address is P.O. 83720, Boise, Idaho 83720-0036. *(4-2-08)(10-1-09)T(1-1-10)T*

# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.02.10 - IDAHO REPORTABLE DISEASES

DOCKET NO. 16-0210-0901

### 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-605, 39-906, 39-1003, 39-1603, 54-1119, 56-1003, and 56-1005 Idaho Code.

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

The Department is amending the proposed rule based on comments received during the comment period to clarify: (1) Preventing spread of health hazards from dead human bodies; and (2) Reporting requirements for rabies - human, animal, and post-exposure prophylaxis (rPEP).

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 2, 2009, Idaho Administrative Bulletin, Vol. 09-9, pages 99 through 112.

**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.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Kathryn Turner at (208) 334-5939.

DATED this 19th day of November, 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

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DOCKET NO. 16-0210-0901 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-09, September 2, 2009, pages 99 through 112.](#)

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.

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THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 16-0210-0901

**068. PREVENTING SPREAD OF HEALTH HAZARDS FROM DEAD HUMAN BODIES.**

***Subsections 068.02 and 068.03***

**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. As required in Section 39-268, Idaho Code, all orders of cremation will be approved by the coroner and the coroner will be notified of prohibitions of cremation ordered by the Administrator or Director. ( )

**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 and indicate necessary precautions on a written notice to accompany the body. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**610. RABIES - HUMAN, ~~AND~~ ANIMAL, AND POST-EXPOSURE PROPHYLAXIS (rPEP).**

**01. Reporting Requirements.** (4-2-08)

***Paragraph 610.01.b.***

**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 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)( )

**02. Investigation.** (4-2-08)

***Paragraph 610.02.c.***

**b.c.** Each reported rPEP series initiation must be investigated to determine if additional individuals require rPEP and identify the source of possible rabies exposure. (4-2-08)(\_\_\_\_)

***Subsection 610.04 and Subparagraph 610.04.a.i.***

**04. Management of Exposure to Rabies.** All 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 *involved* 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. (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 - 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution of the legislature, this agency requests that the effective date of July 1, 2010, be inserted into the language of the concurrent resolution rather than have the rule become effective upon adoption of the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-906, 39-909, and 39-910, Idaho Code.

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

This rulemaking updated 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.

Based on comment to the rule by the Department, the legal authority section was revised. This rule chapter is under the authority of the Board of Health; however, based on statute, it is also under the authority of the Director of the Department of Health and Welfare. A reference to the Director's authority is being added to the legal authority section. Also, a legal term in the authority section is being changed to a more appropriate term. Finally, based on comment to the rule, the term "preventable diseases," was restored to reflect the currently codified text.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 2, 2009, Idaho Administrative Bulletin, Vol. 09-9, pages 113 through 119.

**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, either positive or negative, to the state general fund due to the approval of these rule changes.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Dieuwke Spencer at (208) 334-0670.

DATED this 19th day of November, 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

DOCKET NO. 16-0212-0901 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 09-9, September 2, 2009, pages 113 through 119.

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.

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THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 16-0212-0901

*Section 000*

**000. LEGAL AUTHORITY.**

The Idaho Legislature has given the Board of Health and Welfare ~~legislative power~~ and the Director of the Department authority to promulgate rules governing the testing of newborn infants for phenylketonuria and other preventable diseases and governing the instillation of an ophthalmic preparation in the eyes of the newborn to prevent Ophthalmia Neonatorum, ~~pursuant to~~ under Sections 39-906, 39-909, and 39-910 ~~and 39-911~~, Idaho Code.

(5-3-03)(\_\_\_\_\_)



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO**

**DOCKET NO. 16-0304-0903**

**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 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.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the Wednesday, September 2, 2009, Idaho Administrative Bulletin, Vol. 09-9, pages 121 through 138.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Darlene Rydalch at (208) 528-5811.

DATED this 6th day of November, 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

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**DOCKET NO. 16-0304-0903 - 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 09-9, September 2, 2009, pages 121 through 138.**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO**

**DOCKET NO. 16-0304-0904**

**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 56-203, Idaho Code, and 7 CFR 273.10(c)(2) re: determining income.

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

The method used in this rule to determine a full month of income for food stamp households was changed to align it with the method used by the Department's new eligibility system (IBES). The method is described under 7 CFR 273.10(c)(2).

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009, Idaho Administrative Bulletin, Vol. 09-10, pages 349 through 351.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Darlene Rydalch at (208) 528-5811.

DATED this 6th day of November, 2009.

Tamara Prisock  
DHW - Administrative Procedures Section  
450 W. State Street - 10th Floor  
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Boise, ID 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
dhwrules@dhw.idaho.gov e-mail

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**DOCKET NO. 16-0304-0904 - 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 09-10, October 7, 2009, Book 1, pages 349 through 351.**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE**

## **16.03.09 - MEDICAID BASIC PLAN BENEFITS**

**DOCKET NO. 16-0309-0901**

### **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 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code; also Executive Order No. 2008-05 and House Bill 322 (2009).

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

These rules were amended in response to the Governor's Executive Order No. 2008-05 that directed state agencies to hold back 4% of their state general fund budgets for State Fiscal Year 2009. This reduction was carried over for the Department's Division of Medicaid for State Fiscal Year 2010 under House Bill 322 (2009). Cost savings under these rule changes will be realized through reduction in reimbursement percentages to Medicaid providers of hospital services.

Medicaid reimbursement for hospitals is based on a percentage of customary charges. This rule change reduced the current maximum and minimum reimbursement percentages from 96.5% maximum and 81.5% minimum to new percentages of 91.7% maximum and 77.4% minimum. These percentages reflect a 5% decrease in the hospital reimbursement percentages, a reduction from the 10% decrease originally proposed.

The pending rule 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 54 through 57.

**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 projected fiscal impact is a total savings of \$11,045,900; this includes state funds and federal matching funds. The projected savings to the state general fund is approximately \$2,299,700.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sheila Pugatch at (208) 364-1817.

DATED this 25th day of November, 2009.

Tamara Prisock  
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P.O. Box 83720

Boise, ID 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
dhwrules@dhw.idaho.gov e-mail

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### **DOCKET NO. 16-0309-0901 - 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 54 through 57.**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-0903

### 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 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code.

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

These rules are being adopted as proposed with one revision to the guidelines for paraprofessionals. Based on comment to the rule and to ensure that best practices are followed for the supervision of paraprofessionals, a reference to the current American Speech-Language-Hearing Association (ASHA) guidelines for Medicaid Speech-Language Pathology Services is being added to the rule. This requirement has also been incorporated by reference.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in Book 1 of the October 7, 2009, Idaho Administrative Bulletin, Vol. 09-10, pages 353 through 361.

**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 pending rule, contact Lauren Ertz at (208) 287-1169.

DATED this 18th day of November, 2009.

Tamara Prisock  
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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

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DOCKET NO. 16-0309-0903 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, **Volume 09-10, October 7, 2009, Book 1, pages 353 through 361.**

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.

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THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 16-0309-0903

*Section 004 is being reprinted in its entirety.*

**004. INCORPORATION BY REFERENCE.**

The following are incorporated by reference in this chapter of rules: (3-30-07)

**01. 42 CFR Part 447.** 42 CFR Part 447, "Payment for Services," revised as of October 1, 2001, is available from CMS, 7500 Security Blvd, Baltimore, M.D., 21244-1850 or on the Code of Federal Regulations internet site at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>. (3-30-07)

**02. American Academy of Pediatrics (AAP) Periodicity Schedule.** This document is available on the internet at: <http://aappolicy.aappublications.org/cgi/reprint/pediatrics;105/3/645.pdf>. The schedule is also available at the Division of Medicaid, 3232 Elder Street, Boise, ID 83705. (3-30-07)

**03. American Speech-Language-Hearing Association (ASHA): Medicaid Guidance for Speech-Language Pathology Services.** *The American Speech-Language-Hearing Association (2004) Medicaid Guidance for Speech-Language Pathology Services: Addressing the "Under the Direction of" Rule technical report is available on the internet at: <http://www.asha.org/docs/html/TR2004-00142.html>. The report may also be obtained at the ASHA National Office, 2200 Research Boulevard, Rockville, MD 20850-3289, telephone (301) 296-5700.* ( )

**034. CDC Child and Teen BMI Calculator.** The Centers for Disease Control (CDC) Child and Teen Body Mass Index (BMI) Calculator is available on the internet at: <http://www.cdc.gov/nccdphp/dnpa/bmi/index.htm>. The Calculator is also available through the Division of Medicaid, 3232 Elder Street, Boise, ID 83705. (3-30-07)

**045. 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. (3-30-07)

**056. Estimated Useful Lives of Depreciable Hospital Assets, 2004 Revised Edition, Guidelines Lives.** This document may be obtained from American Hospital Publishing, Inc., 211 East Chicago Avenue, Chicago, IL, 60611. (3-30-07)

**067. Idaho Infant Toddler Program Implementation Manual (Revised September 1999).** The full text of the "Idaho Infant Toddler Program Implementation Manual," revised September 1999, is available at the

Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (3-30-07)

**078. Idaho Special Education Manual, September 2001.** The full text of the "Idaho Special Education Manual, September 2001" is available on the Internet at <http://www.sde.state.id.us/SpecialEd/manual/sped.asp>. A copy is also available at the Idaho Department of Education, 650 West State Street, P.O. Box 83720, Boise, Idaho 83720-0027. (3-30-07)

**089. Medicare Durable Medical Equipment (DME) Medicare Administrative Contractor (MAC) Jurisdiction D Supplier Manual 2007, As Amended.** Since the supplier manual is amended on a quarterly basis by CMS, the current year's manual is being incorporated by reference, as amended, to allow for the incorporation of the most recent amendments to the manual. The full text of the Medicare. DME MAC Jurisdiction D Supplier Manual is available via the Internet at: [www.noridianmedicare.com](http://www.noridianmedicare.com). (3-30-07)

**0910. Physician's Current Procedural Terminology (CPT® Manual).** This document may be obtained from the American Medical Association, P.O. Box 10950, Chicago, Illinois 60610, or online at: <http://www.ama-assn.org/ama/pub/category/3113.html>. (3-30-07)

**101. Provider Reimbursement Manual (PRM).** The Provider Reimbursement Manual (PRM), Part I and Part II (CMS Publication 15-1 and 15-2), is available on the CMS internet site at <http://www.cms.hhs.gov/Manuals/PBM/itemdetail.asp?filterType=none&filterByDID=-99&sortByDID=1&sortOrder=ascending&itemID=CMS021929> and <http://www.cms.hhs.gov/Manuals/PBM/itemdetail.asp?filterType=none&filterByDID=0&sortByDID=1&sortOrder=ascending&itemID=CMS021935>. (3-30-07)

**112. SIB-R Comprehensive Manual.** Scales of Independent Behavior - Revised Comprehensive Manual, 1996, Riverside Publishing Co, 425 Spring Lake Drive, Itasca, IL 60143-2079. A copy is available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho 83702. (3-30-07)

**123. Travel Policies and Procedures of the Idaho State Board of Examiners.** The text of "Idaho State Travel Policies and Procedures of the Idaho State Board of Examiners," Appendices A and B, June 13, 2000, is available at the Office of the State Controller, 700 W. State St., 5th Fl., Box 83720, Boise, Idaho 83720-0011 or on the Internet at <http://www.sco.idaho.gov>. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**854. SCHOOL-BASED SERVICE - PROVIDER QUALIFICATIONS AND DUTIES.**

In addition to the evaluations and maintenance of the plans, the following documentation must be maintained by the provider and retained for a period of six (6) years: (3-30-07)

**08. Paraprofessionals.** ~~Paraprofessionals, such as aides or therapy technicians, may be used by the school/Infant Toddler program~~ The schools and Infant Toddler Program may use paraprofessionals to provide developmental therapy; occupational therapy; physical therapy; and speech therapy if they are under the supervision of the appropriate professional. The services provided by paraprofessionals must be ~~within the scope of practice of an aide or therapy technician~~ delegated and supervised by a professional therapist as defined by the ~~scope of practice of the therapy professional~~ appropriate licensure and certification rules. The portions of the treatment plan which can be delegated to the paraprofessional must be identified in the IEP or IFSP. (3-30-07)(\_\_\_\_)

**Subsection 854.08.c.**

**bc.** ~~Monthly Orientation. The paraprofessional, on a monthly basis, must be given orientation and training on the program and procedures to be followed.~~ Speech-Language Pathology. Refer to IDAPA 24.23.01, "Rule of the Speech and Hearing Services Licensure Board," and the American Speech-Language-Hearing Association (ASHA) guidelines for supervision and service requirements for speech-language pathology. The guidelines have been incorporated by reference in Section 004 of these rules. (3-30-07)(\_\_\_\_)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.03.09 - MEDICAID BASIC PLAN BENEFITS**

**DOCKET NO. 16-0309-0904**

**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 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code.

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

The pending rule, that removes the cap for earned points to offset premiums and updates preventive health assistance services, is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009, Idaho Administrative Bulletin, Vol.09-10, Book 1, pages 362 through 365.

**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 anticipated fiscal impact for this rulemaking to the state general funds is minimal.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Robin Pewtress at (208) 364-1892.

DATED this 6th day of November, 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

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**DOCKET NO. 06-0309-0904 - 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 09-10, October 7, 2009, Book 1, pages 362 through 365.**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-0905

### 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 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code.

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

These rules were amended in response to the federal audit conducted by Centers for Medicare and Medicaid Services (CMS) for the period of July 1, 2006, through June 30, 2007, on the Personal Care Services (PCS) program. In order to comply with the recommendations from CMS, the Department changed the payment methodology for children receiving PCS in a PCS home and establishing rules specific to PCS for children.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009, Idaho Administrative Bulletin, Vol. 09-10, pages 366 through 373.

**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 projected fiscal impact is a total savings of \$445,700; this includes state funds and federal matching funds. The projected savings to the state general fund is approximately \$84,922.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Susan Choules at (208) 364-1891.

DATED this 25th day of November, 2009.

Tamara Prisock  
DHW - Administrative Procedures Section  
450 W. State Street - 10th Floor  
P.O. Box 83720

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dhwrules@dhw.idaho.gov e-mail

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### DOCKET NO. 16-0310-0905 - 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 09-10, October 7, 2009, Book 1, pages 366 through 373.**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.03.10 - MEDICAID ENHANCED PLAN BENEFITS**

**DOCKET NO. 16-0310-0906**

**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 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009, Idaho Administrative Bulletin, Vol. 09-10, pages 374 through 396.

**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 pending rule, contact Lauren Ertz at (208) 287-1169.

DATED this 18th day of November, 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

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**DOCKET NO. 16-0310-0906 - 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 09-10, October 7, 2009, Book 1, pages 353 through 361.](#)**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.03.13 - CONSUMER-DIRECTED SERVICES**

**DOCKET NO. 16-0313-0901R**

**NOTICE OF RULEMAKING - RESCISSION OF TEMPORARY RULE**

**EFFECTIVE DATE:** This temporary rule was to take effect on January 1, 2010, however, the temporary rule is being rescinded prior to the rule taking effect. This temporary rule is being replaced by a new temporary rule that is being published in this bulletin under Docket No. 16-0313-1001 that becomes effective January 1, 2010.

**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 pursuant to Sections 56-202, 56-203, and 56-250 through 257, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for rescinding the temporary rule.

The Department is rescinding these temporary rules that allowed for development of a uniform, state-wide financial management model for all Medicaid Programs. Through comments received from providers, advocates, and the self-directed population, extensive changes are required to the temporary rules. The Department determined it would be better for those individuals affected by these rules to have the temporary rules under this docket rescinded. Temporary rules are being promulgated and published to replace these rules under Docket 16-0313-1001 in this Bulletin.

**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.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the rescission of this temporary rule, contact Susan Scheuerer at (208) 287-1156.

DATED this 16th day of November, 2009.

Tamara Prisock  
DHW - Administrative Procedures Section  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
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## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.13 - CONSUMER-DIRECTED SERVICES

DOCKET NO. 16-0313-0901

#### 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 56-202, 56-203, and 56-250 through 257, Idaho Code.

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

Based on comments received during the public comment period, the Department is not pursuing the previously published proposed changes related to Home and Community-Based Services Waiver for the Aged and Disabled (HCBS A&D) services that appeared under this docket in the October 7, 2009, Administrative Bulletin. The Department will continue to work with stakeholders to develop self-direction options under the HCBS A&D waiver. The changes that appear in this pending rule are the sum of the changes under this docket going before the 2010 Legislature.

The Department is only proceeding with the changes to these rules that replace the requirement for a contract with a fiscal employer agent (FEA) with the requirement to use a provider agreement. As a result, the rules now contain the requirements for FEAs that were previously found only in the contract. These changes confer the benefit of expanding participant choice of FEA providers.

Amendments to Sections 009, 050, 101, 131-140, 160-169, 180, and 200 that were published in the proposed rule in the October Bulletin are not being made and have been removed from this pending rule. These sections are being reprinted following this notice as they are currently codified in the Administrative Code. Amendments made to Section 210 in the proposed rule have been removed also, however, new amendments have been made to the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. The temporary rule is being rescinded and repromulgated under Docket No. 16-0313-1001. The notice of adoption of the temporary rule is published in the Bulletin immediately following this pending rule docket.

All sections that published as proposed in the October Bulletin are being republished in this Bulletin to show the changes made to the pending rule. The complete text of the proposed rule was published in the October 7, 2009, Idaho Administrative Bulletin, Vol. 09-10, pages 416 through 447.

**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.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Paige Grooms at (208) 947-3364.

DATED this 16th day of November, 2009.

Tamara Prisock  
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**DOCKET NO. 16-0313-0901 - ADOPTION OF PENDING RULE**

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

**Numerous changes have been made to this docket, therefore, it is being reprinted in its entirety.**

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 09-10, October 7, 2009, Book 1, pages 416 through 447.**

**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.**

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**THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 16-0313-0901**

**001. TITLE AND SCOPE.**

**01. Title.** These title of these rules ~~will be cited as~~ is IDAPA 16.03.13, "Consumer-Directed Services."  
(3-30-07)(\_\_\_\_\_)

**02. Scope.** Self-Directed Community Supports (SDCS) is a flexible program option for participants eligible for the Home and Community Based Services - Developmental Disabilities (HCBS-DD) waiver. The SDCS option allows the eligible participant to: choose the type and frequency of supports he wants, negotiate the rate of payment, and hire the person or agency he prefers to provide those supports. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.**

**01. Compliance With Department Criminal History Check.** The fiscal employer agent must verify that each support broker and community support worker, whose criminal history check has not been waived by the participant, has complied with IDAPA 16.05.06, "Criminal History and Background Checks." When a participant chooses to waive the criminal history check requirement for a community support worker, the waiver must be completed in accordance with Section 150 of these rules. (3-30-07)

**02. Availability to Work or Provide Service.** Participants, at their discretion, may review the completed application and allow the community support worker to provide services on a provisional basis if no disqualifying offenses listed in IDAPA 16.05.06, "Criminal History and Background Checks," are disclosed.

(3-30-07)

**03. Additional Criminal Convictions.** Once criminal history clearances have been received, any additional criminal convictions must be immediately reported by the worker to the participant and by the participant to the Department.

(3-30-07)

**04. Notice of Pending Investigations or Charges.** Once criminal history clearances have been received, any charges or investigations for abuse, neglect or exploitation of any vulnerable adult or child, criminal charges, or substantiated adult protection or child protection complaints, must be immediately reported by the worker to the participant and by the participant to the Department.

(3-30-07)

**05. Providers Subject to Criminal History Check Requirements.** A community support worker, who has not had the requirement waived by the participant, and a support broker as defined in Section 010 of these rules.

(3-30-07)

**010. DEFINITIONS.**

**01. Circle of Supports.** People who encourage and care about the participant and provide unpaid supports.

(3-30-07)

**02. Community Support Worker.** An individual, agency, or vendor selected and paid by the participant to provide community support worker services.

(3-30-07)

**03. Community Support Worker Services.** Community support worker services are those identified supports listed in Section 110 of these rules.

(3-30-07)

**04. Financial Management Services (FMS).** Services provided by a fiscal employer agent that include:

~~(3-30-07)~~(\_\_\_\_)

**a.** Financial guidance and support to the participant by tracking individual expenditures and monitoring overall budgets;

(3-30-07)

**b.** Performing payroll services; and

(3-30-07)

**c.** Handling billing and employment related documentation responsibilities.

(3-30-07)

**05. Fiscal Employer Agent (FEA).** An agency that provides financial management services to participants who have chosen the SDCS option. The fiscal employer agent (FEA) is selected by the participant. The duties of the FEA are defined under Section 3504 of the Internal Revenue Code (26 USC 3504).

~~(3-30-07)~~(\_\_\_\_)

**06. Goods.** Tangible products or merchandise that are authorized on the support and spending plan.

(3-30-07)

**07. Guiding Principles for the SDCS Option.** Self-Directed Community Supports is based upon the concept of self-determination and has the following guiding principles:

(3-30-07)

**a.** Freedom for the participant to make choices and plan his own life;

(3-30-07)

**b.** Authority for the participant to control resources allocated to him to acquire needed supports;

(3-30-07)

**c.** Opportunity for the participant to choose his own supports;

(3-30-07)

**d.** Responsibility for the participant to make choices and take responsibility for the result of those

choices; and (3-30-07)

e. Shared responsibility between the participant and his community to help the participant become an involved and contributing member of that community. (3-30-07)

**08. Readiness Review.** A review conducted by the Department to ensure that each fiscal employer agent is prepared to enter into and comply with the requirements of the provider agreement and this chapter of rules. ( )

**09. Support and Spending Plan.** A support and spending plan is a document that functions as a participant's plan of care when the participant is eligible for and has chosen a self-directed service option. This document identifies the goods or services, or both, selected by a participant and the cost of each of the identified goods and services. The participant uses this document to manage his individualized budget. ( )

**010. Supports.** Services provided for a participant, or a person who provides a support service. A support service may be a paid service provided by a community support worker, or an unpaid service provided by a natural support, such as a family member, a friend, neighbor, or other volunteer. A person who provides a support service for pay is a paid support. A person who provides a volunteer support service is a natural support. (3-30-07)

**011. Support Broker.** An individual who advocates on behalf of the participant and who is hired by the participant to provide support broker Services. (3-30-07)

**102. Support Broker Services.** Services provided by a support broker to assist the participant with planning, negotiating, and budgeting. (3-30-07)

**13. Traditional HCBS DD Waiver Services.** A program option for participants eligible for the Home and Community-Based Services Developmental Disabilities (HCBS-DD) Waiver consisting of the specific Medicaid Enhanced Plan Benefits described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsections 703.01 through 703.12. ( )

**14. Waiver Services.** A collective term that refers to services provided under a Medicaid Waiver program. ( )

011. -- 099. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**101. ELIGIBILITY.**

**01. Determination of Medicaid and Home and Community Based Services - DD Requirements.** In order to choose the SDCS option, the participant must first be determined Medicaid-eligible and must be determined to meet existing (HCBS-DD) waiver program requirements as outlined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-30-07)

**02. Participant Agreement Form.** The participant, and his legal representative, if one exists, must agree in writing using a Department-approved form to the following: (3-30-07)

- a. Accept the guiding principles for the SDCS option, as defined in Section 010 of these rules; (3-30-07)
- b. Agree to meet the participant responsibilities outlined in Section 120 of these rules; (3-30-07)
- c. Take responsibility for and accept potential risks, and any resulting consequences, for their support choices. (3-30-07)

03. **Legal Representative Agreement.** The participant's legal representative, if one exists, must agree in writing to honor the choices of the participant as required by the guiding principles for the SDCS option.(3-30-07)

102. -- 109. (RESERVED).

**110. PAID SELF-DIRECTED COMMUNITY SUPPORTS.**

The participant must purchase Financial Management Services (*FMS*) and support broker services to participate in the SDCS option. The participant must purchase goods and community supports through the fiscal employer agent *who is providing the FMS.* (~~3-30-07~~)(\_\_\_\_)

01. ~~**Fiscal Financial Management Services.**~~ The Department will ~~contract with a~~ enter into a provider agreement with a qualified fiscal employer agent, as defined in Section 010 of these rules, to provide financial management services to a participant who chooses the self-directed option. (~~3-30-07~~)(\_\_\_\_)

02. **Support Broker.** Support broker services are provided by a qualified support broker. (3-30-07)

03. **Community Support Worker.** The community support worker provides identified supports to the participant. If the identified support requires specific licensing or certification within the state of Idaho, the identified community support worker must obtain the applicable license or certification. Identified supports include activities that address the participant's preference for: (3-30-07)

a. Job support to help the participant secure and maintain employment or attain job advancement; (3-30-07)

b. Personal support to help the participant maintain health, safety, and basic quality of life; (3-30-07)

c. Relationship support to help the participant establish and maintain positive relationships with immediate family members, friends, spouse, or others in order to build a natural support network and community; (3-30-07)

d. Emotional support to help the participant learn and practice behaviors consistent with his goals and wishes while minimizing interfering behaviors; (3-30-07)

e. Learning support to help the participant learn new skills or improve existing skills that relate to his identified goals; (3-30-07)

f. Transportation support to help the participant accomplish his identified goals; (3-30-07)

g. Adaptive equipment identified in the participant's plan that meets a medical or accessibility need and promotes his increased independence; and (3-30-07)

h. Skilled nursing support identified in the participant's plan that is within the scope of the Nurse Practice Act and is provided by a licensed professional (RN) nurse or licensed practical nurse (LPN) under the supervision of an RN, licensed to practice in Idaho. (3-30-07)

111. -- 119. (RESERVED).

**120. PARTICIPANT RESPONSIBILITIES.**

With the assistance of the support broker and the legal representative, if one exists, the participant is responsible for the following: (3-30-07)

01. **Guiding Principles.** Accepting and honoring the guiding principles for the SDCS option found in Section 010 of these rules. (3-30-07)

02. **Person-Centered Planning.** Participating in the person-centered planning process in order to identify and document support and service needs, wants, and preferences. (3-30-07)

**03. Rates.** Negotiating payment rates for all paid community supports he wants to purchase, ensuring rates negotiated for supports and services do not exceed the prevailing market rate, and including the details in the employment agreements. (3-30-07)

**04. Agreements.** Completing and implementing agreements for the fiscal employer agent, the support broker and community support workers and submitting the agreements to the fiscal employer agent. These agreements must be submitted on Department-approved forms. (3-30-07)

**05. Agreement Detail.** Ensuring that employment agreements specifically identify the type of support being purchased, the rate negotiated for the support, and the frequency and duration of the scheduled support or service. The participant is responsible for ensuring that each employment agreement: clearly identifies the qualifications needed to provide the support or service; includes a statement signed by the hired worker that he possesses the needed skills; and the signature of the participant that verifies the same. Additionally, each employment agreement will include statements that: the participant is the employer even though payment comes from a third party; employees are under the direction and control of the participant; and no employer-related claims will be filed against the Department. (3-30-07)

**06. Plan.** Developing a comprehensive support and spending plan based on the information gathered during the person-centered planning. (3-30-07)

**07. Time sSheets and Invoices.** Reviewing and verifying that supports being billed were provided and indicating that he approves of the bill by signing the timesheet or invoice. (~~3-30-07~~)(\_\_\_\_)

**08. Quality Assurance and Improvement.** Providing feedback to the best of his ability regarding his satisfaction with the supports he receives and the performance of his workers. (3-30-07)

**121. -- 129. (RESERVED).**

**130. FISCAL EMPLOYER AGENT REQUIREMENTS AND LIMITATIONS.**

**01. Requirements.** The fiscal employer agent must meet the requirements outlined in its ~~contract~~ provider agreement with the Department, and Section 3504 of the Internal Revenue Code (26 USC 3504). (~~3-30-07~~)(\_\_\_\_)

**02. Limitations.** The fiscal employer agent must not: (3-30-07)

**a.** Provide any other direct services to the participant, to ensure there is no conflict of interest; or (3-30-07)

**b.** Employ the guardian, parent, spouse, payee or conservator of the participant or have direct control over the participant's choice. (3-30-07)

**131. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES.**

The fiscal employer agent performs Financial Management Services for each participant. Prior to providing Financial Management Services the participant and the fiscal employer agent must enter into a written agreement. Financial Management Services include: (3-30-07)

**01. Payroll and Accounting.** Providing payroll and accounting supports to participants that have chosen the Self-Directed Community Supports option; (3-30-07)

**02. Financial Reporting.** Performing financial reporting for employees of each participant. (3-30-07)

**03. Information Packet.** Preparing and distributing a packet of information, including Department-approved forms for agreements, for the participant hiring his own staff. (3-30-07)

**04. Time Sheets and Invoices.** Processing and paying time sheets for community support workers and



support brokers, as authorized by the participant, according to the participant's Department-authorized support and spending plan. (3-30-07)

**05. Taxes.** Managing and processing payment of required state and federal employment taxes for the participant's community support worker and support broker. (3-30-07)

**06. Payments for Goods and Services.** Processing and paying invoices for goods and services, as authorized by the participant, according to the participant's support and spending plan. (3-30-07)

**07. Spending Information.** Providing each participant with reporting information that will assist the participant with managing the individualized budget. (3-30-07)

**08. Quality Assurance and Improvement.** Participating in Department quality assurance activities. (3-30-07)

**132. -- 134. (RESERVED).**

**135. SUPPORT BROKER REQUIREMENTS AND LIMITATIONS.**

**01. Initial Application to Become a Support Broker.** Individuals interested in becoming a support broker must complete the Department-approved application to document that he: (3-30-07)

**a.** Is eighteen (18) years of age or older; (3-30-07)

**b.** Has skills and knowledge typically gained by completing college courses or community classes or workshops that count toward a degree in the human services field; and (3-30-07)

**c.** Has at least two (2) years verifiable experience with the target population and knowledge of services and resources in the developmental disabilities field. (3-30-07)

**02. Application Exam.** Applicants that meet the minimum requirements outlined in this section will receive training materials and resources to prepare for the application exam. Applicants must earn a score of seventy percent (70%) or higher to pass. Applicants may take the exam up to three (3) times. After the third time, the applicant will not be allowed to retest for twelve (12) months from the date of the last exam. Applicants who pass the exam, and meet all other requirements outlined in these rules, will be eligible to enter into a provider agreement with the Department. (3-30-07)

**03. Required Ongoing Training.** All support brokers must document a minimum of twelve (12) hours per year of ongoing, relevant training in the provision of support broker services. Up to six (6) hours of the required twelve (12) hours may be obtained through independent self-study. The remaining hours must consist of classroom training. (3-30-07)

**04. Termination.** The Department may terminate the provider agreement when the support broker: (3-30-07)

**a.** Is no longer able to pass a criminal history background check as outlined in Section 009 of these rules. (3-30-07)

**b.** Puts the health or safety of the participant at risk by failing to perform job duties as outlined in the employment agreement. (3-30-07)

**c.** Does not receive and document the required ongoing training. (3-30-07)

**05. Limitations.** The support broker must not: (3-30-07)

**a.** Provide or be employed by an agency that provides paid community supports under Section 150 of these rules to the same participant; and (3-30-07)

b. Be the guardian, parent, spouse, payee, or conservator of the participant, or have direct control over the participant's choices. Additionally, the support broker must not be in a position to both influence a participant's decision making and receive undue financial benefit from the participant's decisions. (3-30-07)

**136. SUPPORT BROKER DUTIES AND RESPONSIBILITIES.**

**01. Support Broker Initial Documentation.** Prior to beginning employment for the participant, the support broker must complete the packet of information provided by the fiscal employer agent and submit it to the fiscal employer agent. This packet must include documentation of: (3-30-07)

a. Support broker application approval by the Department; (3-30-07)

b. A completed criminal history check, including clearance in accordance with IDAPA 16.05.06, "Criminal History and Background Checks"; and (3-30-07)

c. A completed employment agreement with the participant that identifies the specific tasks and services that are required of the support broker. The employment agreement must include the negotiated hourly rate for the support broker, and the type, frequency, and duration of services. The negotiated rate must not exceed the maximum hourly rate for support broker services established by the Department. (3-30-07)

**02. Required Support Broker Duties.** Support broker services may include only a few required tasks or may be provided as a comprehensive service package depending on the participant's needs and preferences. At a minimum, the support broker must: (3-30-07)

a. Participate in the person-centered planning process; (3-30-07)

b. Develop a written support and spending plan with the participant that includes the supports that the participant needs and wants, related risks identified with the participant's wants and preferences, and a comprehensive risk plan for each potential risk that includes at least three (3) backup plans should a support fail. This plan must be authorized by the Department; (3-30-07)

c. Assist the participant to monitor and review his budget; (3-30-07)

d. Submit documentation regarding the participant's satisfaction with identified supports as requested by the Department; (3-30-07)

e. Participate with Department quality assurance measures, as requested; (3-30-07)

f. Assist the participant to complete the annual re-determination process as needed, including updating the support and spending plan and submitting it to the Department for authorization; (3-30-07)

g. Assist the participant, as needed, to meet the participant responsibilities outlined in Section 120 of these rules and assist the participant, as needed, to protect his own health and safety; and (3-30-07)

h. Complete the Department-approved criminal history check waiver form when a participant chooses to waive the criminal history check requirement for a community support worker. Completion of this form requires that the support broker provide education and counseling to the participant and his circle of support regarding the risks of waiving a criminal history check and assist with detailing the rationale for waiving the criminal history check and how health and safety will be protected. (3-30-07)

**03. Additional Support Broker Duties.** In addition to the required support broker duties, each support broker must be able to provide the following services when requested by the participant: (3-30-07)

a. Assist the participant to develop and maintain a circle of support; (3-30-07)

b. Help the participant learn and implement the skills needed to recruit, hire, and monitor community

- supports; (3-30-07)
- c. Assist the participant to negotiate rates for paid community support workers; (3-30-07)
  - d. Maintain documentation of supports provided by each community support worker and participant's satisfaction with these supports; (3-30-07)
  - e. Assist the participant to monitor community supports; (3-30-07)
  - f. Assist the participant to resolve employment-related problems; and (3-30-07)
  - g. Assist the participant to identify and develop community resources to meet specific needs. (3-30-07)

**04. Termination of Support Broker Services.** If a support broker decides to end services with a participant, he must give the participant at least thirty (30) days' written notice prior to terminating services. The support broker must assist the participant to identify a new support broker and provide the participant and new support broker with a written service transition plan by the date of termination. The transition plan must include an updated support and spending plan that reflects current supports being received, details about the existing community support workers, and unmet needs. (3-30-07)

**137. -- 139. (RESERVED).**

**140. COMMUNITY SUPPORT WORKER LIMITATIONS.**

A paid community support worker must not be the spouse of the participant and must not have direct control over the participant's choices, must avoid any conflict of interest, and must not receive undue financial benefit from the participant's choices. A legal guardian can be a paid community support worker but must not be paid from the individualized budget for the following: (3-30-07)

**01. Participant Responsibilities.** The legal guardian must not be paid to perform or to assist the participant in meeting the participant responsibilities outlined in Section 120 of these rules. (3-30-07)

**02. Legal Guardian Obligations.** The legal guardian must not be paid to fulfill any obligations he is legally responsible to fulfill as outlined in the guardianship or conservator order from the court. (3-30-07)

**141. -- 149. (RESERVED).**

**150. PAID COMMUNITY SUPPORT WORKER DUTIES AND RESPONSIBILITIES.**

**01. Initial Documentation.** Prior to providing goods or services to the participant, the community support worker must complete the packet of information provided by the fiscal employer agent and submit it to the fiscal employer agent. When the community support worker will be providing services, this packet must include documentation of: (3-30-07)

**a.** A completed criminal history check, including clearance in accordance with IDAPA 16.05.06, "Criminal History and Background Checks," or documentation that this requirement has been waived by the participant. This documentation must be provided on a Department-approved form and must include the rationale for waiving the criminal history check and describe how health and safety will be assured in lieu of a completed criminal history check. Individuals listed on a state or federal provider exclusion list must not provide paid supports; (3-30-07)

**b.** A completed employment agreement with the participant that specifically defines the type of support being purchased, the negotiated rate, and the frequency and duration of the support to be provided. If the community support worker is provided through an agency, the employment agreement must include the specific individual who will provide the support and the agency's responsibility for tax-related obligations; (3-30-07)

**c.** Current state licensure or certification if identified support requires certification or licensure; and

(3-30-07)

- d. A statement of qualifications to provide supports identified in the employment agreement. (3-30-07)

**02. Employment Agreement.** The community support worker must deliver supports as defined in the employment agreement. (3-30-07)

**03. Documentation of Supports.** The community support worker must track and document the time required to perform the identified supports and accurately report the time on the time sheets provided by the participant's fiscal employer agent or complete an invoice that reflects the type of support provided, the date the support was provided, and the negotiated rate for the support provided, for submission to the participant's fiscal employer agent. (3-30-07)

**04. Time Sheets and Invoices.** The community support worker must obtain the signature of the participant or his legal representative on each completed timesheet or invoice prior to submitting the document to the fiscal employer agent for payment. Time sheets or invoices that are not signed by the community support worker and the participant or his legal representative will not be paid. (~~3-30-07~~)(\_\_\_\_)

**151. -- 159. (RESERVED).**

**160. SUPPORT AND SPENDING PLAN DEVELOPMENT.**

**01. Support and Spending Plan Requirements.** The participant, with the help of his support broker, must develop a comprehensive support and spending plan based on the information gathered during the person-centered planning. The support and spending plan is not valid until authorized by the Department and must include the following: (3-30-07)

- a. The participant's preferences and interests by identifying all the supports and services, both paid and non-paid, the participant wants and needs to live successfully in his community. (3-30-07)

- b. Paid or non-paid self-directed community supports that focus on the participant's wants, needs, and goals in the following areas: (3-30-07)

- i. Personal health and safety including quality of life preferences; (3-30-07)

- ii. Securing and maintaining employment; (3-30-07)

- iii. Establishing and maintaining relationships with family, friends and others to build the participant's circle of supports; (3-30-07)

- iv. Learning and practicing ways to recognize and minimize interfering behaviors; and (3-30-07)

- v. Learning new skills or improving existing ones to accomplish set goals. (3-30-07)

- c. Support needs such as: (3-30-07)

- i. Medical care and medicine; (3-30-07)

- ii. Skilled care including therapies or nursing needs; (3-30-07)

- iii. Community involvement; (3-30-07)

- iv. Preferred living arrangements including possible roommate(s); and (3-30-07)

- v. Response to emergencies including access to emergency assistance and care. This plan should reflect the wants, preferences, and needs of the whole person, regardless of payment source, if any. (3-30-07)

**d.** Risks or safety concerns in relation to the identified support needs on the participant's plan. The plan must specify the supports or services needed to address the risks for each issue listed, with at least three (3) backup plans for each identified risk to implement in case the need arises; (3-30-07)

**e.** Sources of payment for the listed supports and services, including the frequency, duration, and main task of the listed supports and services; and (3-30-07)

**f.** The budgeted amounts planned in relation to the participant's needed supports. Community support worker employment agreements submitted to the fiscal employer agent must identify the negotiated rates agreed upon with each community support worker along with the specific support being purchased, the frequency and duration that the support will be provided, and the payment increment; that is, hourly or daily. The fiscal employer agent will compare and match the employment agreements to the appropriate support categories identified on the initial spending plan prior to processing time sheets or invoices for payment. (3-30-07)

**02. Support and Spending Plan Limitations.** Support and spending plan limitations include: (3-30-07)

**a.** Traditional Medicaid waiver and traditional rehabilitative or habilitative services must not be purchased under the SDCS option. Because a participant cannot receive these traditional services and self-directed services at the same time, the participant, the support broker, and the Department must all work together to assure that there is no interruption of required services when moving between traditional services and the SDCS option; (3-30-07)

**b.** Paid community supports must not be provided in a group setting with recipients of traditional Medicaid waiver, rehabilitative or habilitative services. This limitation does not preclude a participant who has selected the self-directed option from choosing to live with recipients of traditional Medicaid services; (3-30-07)

**c.** All paid community supports must fit into one (1) or more types of community supports described in Section 110 of these rules. Community supports that are not medically necessary or that do not minimize the participant's need for institutionalization must only be listed as non-paid supports. Additionally, the support and spending plan must not include supports or services that are illegal, that adversely affect the health and safety of the participant, that do harm, or that violate or infringe on the rights of others; (3-30-07)

**d.** Support and spending plans that exceed the approved budget amount will not be authorized; and (3-30-07)

**e.** Time sheets or invoices that are submitted to the fiscal employer agent for payment that exceed the authorized support and spending plan amount will not be paid by the fiscal employer agent. (3-30-07)

**161. -- 169. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**180. CIRCLE OF SUPPORTS.**

The circle of support is a means of natural supports for the participant and consists of people who encourage and care about the participant. Work or duties the circle of supports performing on behalf of the participant are not paid. (3-30-07)( )

**01. Focus of the Circle of Support.** The participant's circle of support should be built and operate with the primary goal of working in the interest of the participant. The group's role is to give and get support for the participant and to develop a plan of action, along with and on behalf of the participant, to help the participant accomplish his personal goals. (3-30-07)

**02. Members of the Circle of Support.** A circle of support may include family members, friends, neighbors, co-workers, and other community members. When the participant's legal guardian is selected as a community support worker, the circle of support must include at least one (1) non-family member that is not the support broker. For the purposes of this chapter a family member is anyone related by blood or marriage to the participant or to the legal guardian. (3-30-07)

**03. Selection and Duties of the Circle of Support.** Members of the circle of support are selected by the participant and commit to work within the group to: (3-30-07)

**a.** Help promote and improve the life of the participant in accordance with the participant's choices and preferences; and (3-30-07)

**b.** Meet on a regular basis to assist the participant to accomplish his expressed goals. (3-30-07)

**04. Natural Supports.** A natural support may perform any duty of the support broker as long as the support broker still completes the required responsibilities listed in Subsection 136.02 of these rules. Additionally, any community support worker task may be performed by a qualified natural support person. Supports provided by a natural support person must be identified on the participant's support plan, but time worked does not need to be recorded or reported to the fiscal employer agent. (3-30-07)

**181. -- 189. (RESERVED).**

**190. INDIVIDUALIZED BUDGET.**

The Department sets an individualized budget for each participant according to an individualized measurement of the participant's functional abilities, behavioral limitations, medical needs, and other individual factors related to the participant's *disability assessed needs*. Using these specific participant factors, the budget-setting methodology will correlate a participant's characteristics with the participant's individualized budget amount, so participants with higher needs will be assigned a higher individualized budget amount. The participant must work within the identified budget and acknowledge that he understands the budget figure is a fixed amount. (3-30-07)(\_\_\_\_)

~~**01. Implementation of Budget Setting Methodology.** During the implementation phase of using the new individualized budget setting methodology, the budget calculation will include reviewing the participant's previous year's budget. When the calculated budget is less than five percent (5%) above or below the previous year's budget, the participant's set budget amount is the calculated budget amount. When the calculated budget is greater than five percent (5%) above or below the previous year's budget, the participant's set budget amount is the previous year's budget amount. The Department will collect information on discrepancies between the calculated budget and the previous year's budget as part of the ongoing assessment and improvement process of the budget setting methodology. (3-30-07)~~

**021. Budget Amount Notification and Request for Reconsideration.** The Department notifies each participant of his set budget amount. The notification will include how the participant may request reconsideration of the set budget amount. (3-30-07)

**032. Annual Re-Evaluation of Individualized Budgets.** Individualized budgets will be re-evaluated annually. At the request of the participant, the Department will also re-evaluate the set budget amount when there are documented changes in the participant's individualized needs and it is demonstrated that these additional needs cannot be supported by the current budget. (3-30-07)

**191. -- 199. (RESERVED).**

**200. QUALITY ASSURANCE.**

The Department will implement quality assurance processes to assure: access to self-directed services, participant direction of plans and services, participant choice and direction of providers, safe and effective environments, and participant satisfaction with services and outcomes. (3-30-07)

**01. Participant Experience Survey (PES).** Each participant will have the opportunity to provide feedback to the Department about his satisfaction with self-directed services utilizing the PES. (3-30-07)

**02. Participant Experience Outcomes.** Participant experience information will be gathered at least annually in an interview by the Department, and will address the following participant outcomes: (3-30-07)

- a. Access to care; (3-30-07)
- b. Choice and control; (3-30-07)
- c. Respect and dignity; (3-30-07)
- d. Community integration; and (3-30-07)
- e. Inclusion. (3-30-07)

**03. Fiscal Employer Agent Quality Assurance Activities.** The fiscal employer agent must participate in quality assurance activities identified by the Department such as readiness reviews, periodic audits, maintaining a list of criminal history check waivers, and timely reporting of accounting and satisfaction data. (3-30-07)

**04. Community Support Workers and Support Brokers Quality Assurance Activities.** Community support workers and support brokers must participate and comply with quality assurance activities identified by the Department including performance evaluations, satisfaction surveys, quarterly review of services provided by a legal guardian, if applicable, and spot audits of time sheets and billing records. (3-30-07)

**05. Participant Choice of Paid Community Support Worker.** Paid community support workers must be selected by the participant, or his chosen representative, and must meet the qualifications identified in Section 150 of this rule. (3-30-07)

**06. Complaint Reporting and Tracking Process.** The Department will maintain a complaint reporting and tracking process to ensure participants, workers, and other supports have the opportunity to readily report instances of abuse, neglect, exploitation, or other complaints regarding the HCBS program. (3-30-07)

**07. Quality Oversight Committee.** A Quality Oversight Committee consisting of participants, family members, community providers, and Department designees will review information and data collected from the quality assurance processes to formulate recommendations for program improvement. (3-30-07)

**08. Quarterly Quality Assurance Reviews.** On a quarterly basis, the Department will perform an enhanced review of services for those participants who have waived the criminal history check requirement for a community support worker or who have their legal guardian providing paid services. These reviews will assess ongoing participant health and safety and compliance with the approved support and spending plan. (3-30-07)

**201. -- 209. (RESERVED).**

**210. CONTINUATION OF THE SELF-DIRECTED COMMUNITY SUPPORTS (SDCS) OPTION.**

The following requirements must be met or the Department may require the participant to discontinue the SDCS option: (3-30-07)

**01. Required Supports.** The participant is willing to work with a support broker and a fiscal employer agent. (3-30-07)

**a.** The participant can only change FEA services by providing a written request to his current FEA provider at least sixty (60) days in advance, and this change must occur at the end of a fiscal quarter. The request must include the name of the new FEA chosen by the participant and provide the specific date the change will occur. ( )

**b.** When a participant provides a written request to his current FEA provider to change to a different FEA provider, the current FEA provider must notify the participant of the specific date that the last payroll run will occur at the end of the fiscal quarter. ( )

02. **Support and Spending Plan.** The participant's support and spending plan is being followed. (3-30-07)
03. **Risk and Safety Back-Up Plans.** Back-up plans to manage risks and safety are being followed. (3-30-07)
04. **Health and Safety Choices.** The participant's choices do not directly endanger his health, welfare and safety or endanger or harm others. (3-30-07)
211. -- ~~9299~~. (RESERVED).

**FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES**  
**(Sections 300 through 314)**

**300. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - DEFINITIONS.**

For purposes of Sections 300 through 314, the following definitions apply: ( )

01. **Employee.** A community support worker employed by a participant receiving services under the SDCS option. ( )
02. **Employer.** A participant receiving services under the SDCS option. ( )
03. **Provider.** The term "provider" specifically refers to the fiscal employer agent providing financial management services to individuals participating in self-direction. ( )
04. **SFTP.** Secure File Transfer Protocol. A secure means of transferring data that allows certain Department staff to access information regarding self-direction participants. ( )
05. **Vendor.** Provides goods and services rendered by agencies and independent contractors in accord with a participant's support and spending plan. ( )
06. **Medicaid Billing Report.** A report generated every payroll period by the provider; it provides a list and count of unduplicated *participants* and payroll expenditures by service code, based on the date of service time frame specified by the user. ( )

**301. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - SELF-DIRECTED COMMUNITY SUPPORTS.**

01. **Federal Tax ID Requirement.** The fiscal employer *agent must* obtain a separate Federal Employer Identification Number (FEIN) specifically to file tax forms and to make tax payments on behalf of program participants under Section 3504 of the Internal Revenue Code (26 USC 3504). In addition, the provider must: ( )
- a. **Maintain copies of the participant's FEIN, IRS FEIN notification letter, and Form SS-4 Request for FEIN in the participant's file.** ( )
- b. **Retire participant's FEIN when the participant is no longer an employer under *self-directed community supports (SDCS)*.** ( )
02. **Requirement to Report Irregular Activities or Practices.** The provider must report to the Department any facts regarding irregular activities or practices that may conflict with federal or state rules and regulations; ( )
03. **Procedures Restricting FMS to DD Waiver Participant.** The provider must not act as a fiscal



employer agent and provide fiscal management services to an HCBS DD waiver participant for whom it also provides any other services funded by the Department. ( )

**04. Policies and Procedures.** The provider must maintain a current manual containing comprehensive policies and procedures. The provider must submit the manual and any updates to the Department for approval. ( )

**05. Key Contact Person.** The provider must provide a key contact person and at least (2) two other people for backup who are responsible for answering calls and responding to e-mails from Department staff and ensure these individuals respond to the Department within one (1) business day. ( )

**06. Face-to-Face Transitional Participant Enrollment.** The provider must conduct face-to-face transitional participant enrollment sessions in group settings or with individual participants in their homes or other designated locations. The provider must work with the regional Department staff to coordinate and conduct enrollment sessions. ( )

**07. SFTP Site.** The provider must provide an SFTP site for the Department to access. The site must have the capability of allowing participants and their employees to access individual specific information such as time cards and account statements. The site must be user name and password protected. The provider must have the site accessible to the Department upon commencement of the readiness review. ( )

**08. Required IRS Forms.** The provider must prepare, submit, and revoke the following IRS forms in accordance with IRS requirements and must maintain relevant documentation in each participant's file including: ( )

**a.** IRS Form 2678; ( )

**b.** IRS Approval Letter; ( )

**c.** IRS Form 2678 revocation process; ( )

**d.** Initial IRS Form 2848; and ( )

**e.** Renewal IRS Form 2848. ( )

**09. Requirement to Obtain Power of Attorney.** The provider must obtain an Idaho State Tax Commission Power of Attorney (Form TC00110) from each participant it represents and must maintain the relevant documentation in each participant's file. ( )

**10. Requirement to Revoke Power of Attorney.** The provider must revoke the Idaho State Tax Commission Power of Attorney (Form TC00110) when the provider no longer represents the participant and must maintain the relevant documentation in the participant's file. ( )

**302. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - CUSTOMER SERVICE.**

**01. Customer Service System.** The provider must provide a customer service system to respond to all inquiries from participants, employees, agencies, and vendors. The provider must: ( )

**a.** Provide staff with customer service training with an emphasis on self-direction. ( )

**b.** Ensure staff are trained and have the skills to assist participants with enrollment and to help them understand their account statements. ( )

**c.** Ensure that fiscal employer agent personnel are available during regular business hours, 8 a.m. to 5 p.m. Mountain Time, Monday through Friday, excluding state holidays. ( )

**d.** Provide translation and interpreter services (i.e., American Sign Language and services for persons

with limited English proficiency). ( )

**e.** Provide prompt and consistent response to verbal and written communication. Specifically: ( )

**i.** All voice mail messages must be responded to within one (1) business day; and ( )

**ii.** All written and electronic correspondence must be responded to within five (5) business days. ( )

**f.** Maintain a toll-free phone line where callers speak to a live person during business hours and are provided the option to leave voice mail at any time, all day, every day. ( )

**g.** Maintain a toll-free fax line that is available all day, every day, exclusively for participants and their employees. ( )

**02.** **Complaint Resolution and Tracking System.** The provider is responsible for receiving, responding to, and tracking all complaints from any source under this agreement. A complaint is defined as a verbal or written expression of dissatisfaction about fiscal employer agent services. The provider must: ( )

**a.** Respond to all written and electronic correspondence within five (5) days. ( )

**b.** Respond to verbal complaints within one (1) business day. ( )

**c.** Maintain an electronic tracking system and log of complaints and resolutions. The electronic log of complaints and resolutions must be accessible for Department review through the SFTP site. ( )

**d.** Log and track complaints received from the Department pertaining to fiscal employer agent services. ( )

**e.** Compile a summary report and analyze complaints received on a quarterly basis to determine the quality of services to participants and to identify any corrective action necessary. ( )

**f.** Post the complaint to the SFTP site within twenty-four (24) hours *any day a complaint is received Monday through Friday.* Saturday and Sunday complaints must be posted to the SFTP site by close of business the following Monday. Failure to comply will result in a *fifty dollar (\$50)* penalty payable to Medicaid within ninety (90) days of incident. ( )

**303. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - PERSONAL AND CONFIDENTIAL INFORMATION.**

The provider must implement and enforce policies and procedures regarding documents that are mailed, faxed, or e-mailed to and from the provider to ensure documents are tracked and that confidential information is not compromised, is stored appropriately and not lost, and is traceable for historical research purposes. ( )

**304. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - ENROLLMENT PROCESS.**

**01. Submission of Participant Enrollment and Employee Packets for Department Approval.** The provider must submit the following for participant enrollment and employee packets to the Department for approval. ( )

**a.** The participant enrollment packet must include: ( )

**i.** Fiscal employer agent authorization form; ( )

**ii.** Employer Appointment of Agent - IRS Form; ( )

**iii.** Tax Information Form; and ( )

- iv. Employer information. The employer information must include: ( )
  - (1) Instructions for completing forms; ( )
  - (2) Payroll schedule, including deadlines for submission of time cards; ( )
  - (3) Sample employment agreements; ( )
  - (4) Sample Request for Vendor Payment form; ( )
  - (5) Sample independent provider agreement; and ( )
  - (6) Other sample employment agreements as needed. ( )
- b. The employee enrollment packet must contain: ( )
  - i. Employee Information Form; ( )
  - ii. I-9 Employment Eligibility Form; ( )
  - iii. W-4 Employee Withholding Allowance Certificate; ( )
  - iv. Pay selection agreement; ( )
  - v. Direct deposit authorization (optional); ( )
  - vi. Sample time sheets and instructions for completion; and ( )
  - vii. IRS Form W-5. ( )

**02. Distribution of Participant Enrollment and Employee Packets to Participant after Department Approval.** The provider must distribute Department-approved participant enrollment packets and employment packets to the participant within two (2) business days after the participant requests the packets. ( )

- a. To enroll a participant, the provider must: ( )
  - i. Enroll the participant within two (2) business days of receipt of completed paperwork; and ( )
  - ii. Log and maintain an electronic record of all enrollment paperwork, which includes participant support and spending plan cost and authorization sheets. ( )
- b. To enroll an employee, the provider must: ( )
  - i. Enroll the employee within two (2) business days of receipt of completed paperwork; and ( )
  - ii. Log and maintain an electronic record of all the employee's paperwork that includes the employment agreements. ( )

**305. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - PAYMENT PROCESS.**

**01. Process Payroll.** The provider must process payroll, including time sheets and taxes, in accordance with the participant's support and spending plan. The payroll process must include: ( )

- a. Payment of employer and withholding taxes to State Tax Commission and Internal Revenue Service. ( )
- b. Payment of invoices to vendors. ( )

- c. Management of participant budget funds as per authorized support and spending plan. ( )
- d. Garnishment of wages as per court orders. ( )
- e. Preparation of year-end federal and state tax forms. ( )
- f. Payment of worker's compensation insurance premiums. ( )

**02. Requirement to Track and Log Time Sheet Billing Errors.** The provider must track and log time sheet billing errors or time sheets that cannot be paid due to late arrival, missing, or erroneous information. The provider must notify the employee and participant within one (1) business day of when errors are identified on the time sheets. ( )

**03. Requirement to Track and Log Improperly Cashed or Improperly Issued Checks.** The provider must track and log occurrences of improperly cashed or improperly issued checks and must stop payment on checks when necessary. The provider must reissue lost, stolen, or improperly issued checks at no expense to the participant or the Department within *fourteen (14) calendar days* of when the error occurred. ( )

**04. Process Employee Payments.** The provider must verify employees' documentation and process employees' payments via check, direct deposit, or pay cards as per preference of employees. The employee payment process includes: ( )

- a. Receipt of time cards from employees via mail, fax, or website by specified due dates. ( )
- b. Review time cards for accuracy and verify that timecards contain the following information: ( )
  - i. Employer name and ID number. ( )
  - ii. Employee name and ID number. ( )
  - iii. Hours of work. ( )
  - iv. Code for service. ( )
- c. Match codes to employment agreement to verify rate of pay. ( )
- d. Verify that rate of pay multiplied by the hours worked per each pay period is equal to the gross pay. ( )
- e. Calculate all taxes and other withholding. ( )
- f. Pay employees every two (2) weeks or semi-monthly. ( )
- g. Contact participant and representative if there are problems with timecards or other documents in order to resolve issues prior to pay-date, if possible. ( )
- h. Maintain an electronic complaint log of payroll issues and resolutions. ( )
- i. The provider must verify there is money remaining in each participant's *budget* and specific service category prior to issuing a check. ( )

**05. Process Vendor Payments.** When participants submit requests for payment to vendors, the provider must: ( )

- a. Review, and maintain on file, the vendor payment request with attached voided vendor receipt

submitted by the participant. ( )

**b.** Ensure item or payment is authorized on the participant's support and spending plan. ( )

**c.** Issue a check made out to the vendor and mail to participant for distribution. Vendor payments are made on the same schedule as payroll. ( )

**06. Process Independent Contractor or Outside Agency Payments.** When the participant hires an independent contractor or outside agency, in accordance with the support and spending plan, the provider must: ( )

**a.** Obtain a W-9 from the contractor or agency. ( )

**b.** Review, and maintain on file, the independent contractor or agency agreement submitted by the participant. ( )

**c.** Review, and maintain on file, the independent contractor or agency invoice for services submitted by the participant. ( )

**d.** Ensure service or payment is authorized on the support and spending plan. ( )

**e.** Issue payment directly to the independent contractor or agency. ( )

**07. End-of-Year Processing.** For purposes of end-of-year processing, the provider must maintain relevant documentation and must: ( )

**a.** Refund over-collected *Federal Insurance Contributions Act tax (FICA)* to applicable employees, or to state government; ( )

**b.** Prepare, file, and distribute IRS Form W-2 for each employee; ( )

**c.** Prepare and file IRS Form W-3 for each participant represented; ( )

**d.** Prepare and file State Form 957 for state income taxes for each employer; ( )

**e.** Report and pay any Unclaimed Property per Idaho State Tax Commission rules; and ( )

**f.** Report and pay all state and federal unemployment insurance premiums. ( )

**08. Transition to New FEA.** *The following items must be addressed if a participant transitions to a new FEA provider. For the purposes of a smooth transition between FEA providers, the two providers must work closely with one another to transfer the participant from the services one is no longer providing to the services the other is providing. The following items must be transferred:* ( )

**a.** Participant's Federal Employer Identification Number (FEIN). ( )

**b.** Mailing address for FEIN. ( )

**c.** IRS Form 2678 Agent/Payer Authorization. ( )

**d.** Depositing taxes and filing report. This includes Federal and State tax withholdings and Federal Unemployment Tax Act tax (FUTA). ( )

**e.** Participant's FUTA Liability Status. ( )

**f.** FICA Exemption Status of Participant Employees. ( )

- g. FUTA Exemption Status of Participant Employees. ( )*
- h. Unemployment Insurance (U/I). ( )*
- i. Unemployment Insurance Experience Rate and Taxable Wage Base. ( )*
- j. Unemployment Insurance Taxable Wage Base. ( )*
- k. State Unemployment Insurance Liability Status of the Participant. ( )*
- l. State Unemployment Insurance Liability Status of Exempt Employees. ( )*
- m. Unemployment Insurance Filing and Depositing. ( )*
- n. State Income Tax - Account Number. ( )*
- o. State Income Tax - Agent Authorization. ( )*
- p. State Income Tax - Filing and Depositing. ( )*
- q. Budget Authorization - authorized services. ( )*
- r. Budget Authorization - spent and remaining. ( )*
- s. Budget Authorization - authorized providers. ( )*
- t. Budget Authorization - authorized provider rates. ( )*
- u. Participant's Demographic information. ( )*
- v. Participant's Representative demographic information. ( )*
- w. Participant's Employee and provider demographic information. ( )*
- x. Participant's Employee tax and other information. ( )*
- y. Participant's Independent contract and other information. ( )*
- z. Participant's Employee New Hire Reporting. ( )*
- aa. Participant's Employee Liens and Garnishments. ( )*

**306. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - ANNUAL PARTICIPANT SURVEY.**

**01. Requirement to Conduct Annual Participant Satisfaction Survey.** Starting October 1 of each calendar year, each provider who has been providing services for at least six (6) months must conduct an annual participant satisfaction survey. ( )

**a.** Three (3) weeks prior to the survey launch, the provider must present the questions to the Department staff for approval. ( )

**b.** Once the questions are approved by the Department, the provider can send out the survey. ( )

**c.** The provider must survey its participants who receive services under consumer-directed services, such as participants with disabilities, family members of participants, and participants whose primary language is

other than English. ( )

**d.** The provider must provide options for participants to respond to the surveys, other than by mail, for those participants who may not be able to respond by that method. ( )

**02.** **Requirement to Provide Results of Annual Participant Satisfaction Survey.** The provider must provide the results of the surveys to the Department in a comprehensive report, along with the completed surveys, by the 15th of December of each calendar year. ( )

**307. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - QUALITY ASSURANCE.**

**01.** **Required Elements of Quality Insurance Process.** The provider must provide a quality assurance process that includes: ( )

**a.** Implementation of a quality management plan; ( )

**b.** Preparation of a quarterly, quality management analysis report; ( )

**c.** Distribution, collection, and analysis of an annual participant satisfaction survey; and ( )

**d.** A review of the monthly complaint summary and resolutions, monitoring of standards, and implementation of program improvements as needed. ( )

**02.** **Requirement for Formal Quality Assurance Review.** Every two (2) years, the provider must participate in a formal quality assurance review conducted in collaboration with the Department. ( )

**308. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - DISASTER RECOVERY PLAN.**

**01.** **Disaster Recovery Plan.** The provider must develop and maintain a Disaster Recovery Plan for electronic and hard copy files that includes restoring software and data files, and hardware backup if management information systems are disabled or servers are inoperative. The results of the Disaster Recovery Plan *must* ensure the continuation of payroll and invoice payment systems. The provider must submit the Disaster Recovery Plan for Department approval during the readiness review. ( )

**02.** **Requirement to Report a Disaster.** The provider must report to the Department if management information systems are disabled or servers are inoperative within twenty-four (24) hours of the event. ( )

**309. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - TRANSITION PLAN.**

**01.** **Transition Plan Objectives.** The provider must provide a transition plan to the Department within ninety (90) days after successful completion of the readiness review. The objectives of the transition plan are to minimize the disruption of services and provide an orderly and controlled transition of the provider's responsibilities to a successor at the conclusion of the agreement period or for any other reason the provider cannot complete responsibilities described in this chapter of rules. ( )

**02.** **Transition Plan Requirements.** The transition plan must: ( )

**a.** Be updated at least ninety (90) days prior to termination of the provider agreement. ( )

**b.** Include tasks, and subtasks for transition, a schedule for transition, operational resource requirements, and training to be provided. ( )

**c.** Provide for transfer of data, documentation, files, and other records relevant to the agreement in an electronic format accepted by the Department. ( )

**d.** Provide for the transfer of any current, Idaho-specific policy and procedure manuals, brochures,

pamphlets, and all other written materials developed in support of agreement activity to the Department. ( )

**310. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - PERFORMANCE METRICS.**

**01. Readiness Review.** The provider must complete a readiness review conducted by the Department with the provider prior to providing fiscal employer agent services. ( )

**a. Required Level of Expectation:** The provider must complete one hundred percent (100%) of the readiness review. ( )

**b. Method of Monitoring:** The Department will access SFTP site for review of provider documents and conduct an onsite review. ( )

**02. Compliance with Tax Regulations and Labor Laws.** The provider must ensure each participant's compliance with regulations for both federal taxes and state taxes, as well as all applicable labor laws. ( )

**03. Fiscal Support and Financial Consultation.** ( )

**a. The provider must provide each participant with fiscal support and consultation.** ( )

**b. Required Level of Expectation:** The provider must respond to ninety-five percent (95%) of participant calls within two (2) business days and to e-mails within five (5) days. ( )

**04. Federal and State Forms Submitted.** The provider must ensure each participant's compliance with regulations for both federal taxes and state taxes, including preparation and submission of all federal and state forms for each participant and his employees. ( )

**05. Mandatory Reporting, Withholding, and Payment.** The provider must perform all mandatory reporting, withholding, and payment actions according to the compliance requirements of the state and federal agencies. ( )

**06. Payroll Checks.** The provider must issue payroll checks within the two (2) week or semi-monthly payroll cycle, after receipt of completed, approved time sheets. ( )

**07. Adherence to Support and Spending Plan.** The provider must distribute payments to each participant employee in accordance with participant's support and spending plan. ( )

**08. Record Activities.** The provider must record all activities in an individual file for each participant and his employees. ( )

**09. Records in Participant File.** The provider must maintain complete records in each participant's file. ( )

**10. Manage Phone, Fax, and E-mail for Fiscal and Financial Questions.** ( )

**a. The provider must manage toll-free telephone line, fax, and e-mail related to participant fiscal and financial questions.** ( )

**b. Required Level of Expectation:** The provider must respond to ninety-five percent (95%) of participant queries within two (2) business days. ( )

**11. Tracking of Complaints and Complaint Resolution.** ( )

**a. The provider must maintain a register of complaints from participants, participant employees, and others, with corrective action implemented by the provider within one (1) day of the complaint.** ( )

**b. Required Level of Expectation:** The provider must respond to ninety-five percent (95%) of



complaints within one (1) business day. ( )

**12. Web Access to Electronic Time Sheet Entry.** The provider must maintain web access to electronic time sheet entry for participants. ( )

**13. Participant Enrollment Packets and Employment Packets.** The provider must prepare and distribute participant enrollment packets and employment packets to each participant. ( )

**14. Payroll Spending Summaries.** The provider must provide each participant with payroll spending summaries and information about how to read the payroll spending summary each time payroll is executed. ( )

**15. Quarterly Reconciliation.** Each fiscal quarter after initiating service, the provider must reconcile its *Medicaid Billing Report* to a zero dollar (\$0) balance with the Medicaid Bureau of Financial Operations. The provider has ninety (90) days to comply with reconciling each participant's spending plan balance to a zero dollar (\$0) balance with Medicaid's reimbursements. ( )

**a. Required Level of Expectation:** The provider must have one hundred percent (100%) compliance with the required quarterly reconciliation of the *Medicaid Billing Report*. ( )

**b. Strategy for Correcting Noncompliance:** The provider *must* notify the Department immediately if an issue is identified that may result in the provider not reconciling the *Medicaid Billing Report*. The Department will notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to reconcile within ninety (90) days after the end of each quarter, the provider will be penalized fifty dollars (\$50) each week until the provider has reconciled with Medicaid to a zero dollar (\$0) balance. ( )

**16. Cash Management Plan.** Each provider's cash *management plan* must equal one point five (1.5) times the monthly payroll cycle amount. *The cash management plan can be forms of liquid cash and lines of credit.* For example, in the case that the a provider's current payroll minimum has averaged one hundred thousand dollars (\$100,000) per payroll cycle, the provider would be required to have *one* hundred fifty thousand dollars (\$150,000) in a cash management plan. *The Department must be listed on the notification list if any lines of credit are decreased in the amount accessible or terminated. The expectation is to provide a seamless payroll cycle to the participant, without loss of pay to their employees.* ( )

### **311. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - REPORTS.**

**01. Account Summary Statements.** This report provides an overview of each participant account and includes the services accessed and the remaining dollar amount in the budget. In addition to the provider providing this report each month, a participant may request this report for a specified timeframe. Each month, the provider must mail a hard copy of the report to each participant and must also make the report available on a secure website for those who prefer to access the information electronically. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. This SFTP site must have a user name and password protection. ( )

**a. Report Format:** The provider must provide the account summary statement in Microsoft Excel. ( )

**b. Report Due Date:** The provider must post the account summary statement by the 10th day of each month. ( )

**02. Medicaid Billing Report.** This report provides a detailed breakdown of *community support worker services rendered by service date per employee, per employer.* Each line on this report must provide, at a minimum, the following information: employee name, employee ID number, hours worked, period start, period end, pay rate, service date, check number, check date, participant's name, participant's date of birth, participant's ID number, service code, taxes, and billing amount. This report collects information based on the timeframe specified by the user. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. This SFTP site must have a user name and password protection. ( )

- a.** Report Format: The provider must provide the *Medicaid Billing Report* in Microsoft Excel. ( )
- b.** Report Due Date: The provider must post the *Medicaid Billing Report* by the 10th day of each month. ( )

**03. Demographic Report.** This report provides general client demographics in the region and the employee count per participant for each participant in the database. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. This SFTP site *must* have a user name and password protection. ( )

- a.** Report Format: The provider must provide the demographic report in Microsoft Excel. ( )
- b.** Report Due Date: The provider must post the demographic report by the 10th day of each month. ( )

**04. Criminal History Check Report.** This report provides a breakdown, by participant, of which employees the participant waived the background check, which employees passed or failed the background check, the criminal history reference number, and the date the background check was submitted. This report does not include support brokers. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. This SFTP site *must* have a user name and password protection. ( )

- a.** Report Format: The provider must provide the criminal history report in Microsoft Word, *Microsoft Excel, or PDF*. ( )
- b.** Report Due Date: The provider must post the criminal history report by the 10th day of each month. ( )

**05. Medicaid Billing Report.** This report provides a list and count of the unduplicated participants and expenditures by services code based on the time frame specified by the user. The provider must generate the report after every payroll and post it on a SFTP site. Additionally, the provider must provide a quarterly *Medicaid Billing Report* that can be reconciled quarterly and must work with the Department to reconcile the annual report. ( )

- a.** Report Format: The provider must provide the *Medicaid Billing Report* in Microsoft Excel. ( )
- b.** Report Due Date: The provider must post the *Medicaid Billing Report* by 10th day of each month. ( )

**06. Complaint and Resolution Summary Report.** The provider must analyze complaints received on a quarterly basis to determine the quality of services to participants and must identify any corrective actions and program improvements needed and implemented. The provider must post the report on a secure SFTP site for Department review. ( )

- a.** Report Format: The provider must provide the complaint and resolution summary report in Microsoft Word, *Microsoft Excel, or PDF*. ( )
- b.** Report Due Date: The provider must post the complaint and resolution summary report by the 10th day of the month following the end of each annual quarter. ( )

**07. Customer Satisfaction Survey Report.** The provider must provide a comprehensive report summarizing the results of the customer satisfaction survey completed by each participant. ( )

- a.** Report Format: The provider must provide the customer satisfaction survey report in Microsoft Word, *Microsoft Excel, or PDF*. ( )
- b.** Report Due Date: The provider must post the customer satisfaction survey report by December 1 of each year. ( )

**08. Quarterly Financial Statements.** The provider must provide the Department a quarterly balance sheet and income statement that shows the provider's quarterly *financial status and cash management plan* cash reserve. ( )

**a.** Report Format: The provider must provide the quarterly balance sheet and income statement in Microsoft Word, *Microsoft Excel, or PDF.* ( )

**b.** Report Due Date: The provider must provide the quarterly balance sheet and income statement on the 25th day of the month following the end of each annual quarter. ( )

**312. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES - PAYMENT REQUIREMENTS.**

**01. Requirement to Accept a Per Member Per Month (PMPM) Payment.** The Department will pay, and the provider must accept a per member per month (PMPM) payment that covers a comprehensive set of fiscal employer agent services. *The Department will set allowable reimbursement rates for PMPM based on a methodology approved by CMS in the DD HCBS Waiver.* The provider can only bill the PMPM rate for the months services are actually provided for participants. *The provider must provide transition, training, and closeout services during the active agreement, at no additional cost to the Department.* ( )

**02. PMPM Payment Process Requirements.** The payment (PMPM) *must* include all administrative costs, travel, transition, training, and closeout services. The Department will not pay for participants who do not have a support and spending plan. For the purposes of PMPM payment, one (1) month *must* include all payroll batch dates within that specific calendar month. ( )

**03. Requirement to Complete a Readiness Review.** The provider must complete a readiness review prior to billing for services. ( )

**313. TERMINATION OF FISCAL EMPLOYER AGENT PROVIDER AGREEMENTS.**

**01. Termination of the Provider Agreement.** *The following must occur in the event of termination of the provider agreement:* ( )

**a.** *The provider must ensure continuation of services to participants for the period in which a Per Member per Month (PMPM) payment has been made, and must submit the information, reports and records, including the Medicaid Billing Report (reconciliation) as specified in Section 310 of these rules.* ( )

**b.** *The provider must provide to the Department a written notice ninety (90) days in advance and the change notification must occur at the end of the next calendar quarter.* ( )

**02. Termination of Service to Participant.** *In the event of termination of the provider agreement, the provider must provide to the participant a written notice ninety (90) days in advance. The change notification must occur at the end of the next calendar quarter.* ( )

**314. REMEDIES TO NONPERFORMANCE OF A FISCAL EMPLOYER AGENT SERVICE PROVIDER.**

**01. Remedial Action.** If any of the services do not comply with the performance metrics under Section 310 of these rules, the Department will consult with the provider and may, at its sole discretion, require any of the following remedial actions, taking into account the scope and severity of the noncompliance, compliance history, the number of noncompliances, the integrity of the program, and the potential risk to participants. ( )

**a.** Require the provider to take corrective action to ensure that performance meets the performance metrics under Section 310 of these rules; ( )

**b.** Reduce payment to reflect the reduced value of services received; ( )



## **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

### **16.03.13 - CONSUMER-DIRECTED SERVICES**

**DOCKET NO. 16-0313-1001**

#### **NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is January 1, 2010. This temporary rule will expire upon the adoption of the final rule that is being promulgated under Docket No. 16-0313-0901 that is published in this Bulletin immediately preceding this docket. Pending rule Docket No. 16-0313-0901 will be submitted to the germane committees of the legislature for final review during the 2010 legislative session.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 56-202, 56-203, and 56-250 through 257, Idaho Code.

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

The Department is phasing out the use of contracts with fiscal employer agents (FEAs) and implementing a new, streamlined provider agreement. In order to have rules in place on January 1, 2010, that replace the requirement for a contract with an FEA with the requirement to use a provider agreement, the Department is adopting this temporary rule. And, in order to seamlessly implement the use of provider agreements with FEAs, this temporary rulemaking also adds the requirements for FEAs that were previously found only in the contract. These changes confer the benefit of expanding participant choice of FEA providers.

In accordance with Section 67-5226(4), Idaho Code, the text of this temporary rule is being published under Docket No. 16-0313-0901 immediately preceding this notice. Because the text of the temporary rule is the same as that being promulgated in the pending rule, the temporary text is not being reprinted following this notice.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate as it is necessary to protect the public health, safety, or welfare.

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

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

There is no anticipated fiscal impact to the state general fund as a result of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Susan Scheuerer at (208) 287-1156.

DATED this 4th day of December, 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

**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 - 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-3305, Idaho Code.

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

These rules are being amended from the proposed text based on comments received during the comment period and at the public hearing. Definitions for “call system” and “exploitation” have been clarified, an interim care plan has been added for both Department clients and private-pay residents, “non-sterile exam gloves” have been added to the list of basic supplies furnished by the facility, added that a call system must provide the resident’s right to privacy, amended that the facility must provide written notice of a fee change within five days of the fee change when a resident needs additional care and services.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 2, 2009, Idaho Administrative Bulletin, Vol. 09-9, pages 139 through 156.

**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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Randy May at (208) 334-5747.

DATED this 19th day of November, 2009.

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**DOCKET NO. 16-0322-0901 - ADOPTION OF PENDING RULE**

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-9, September 2, 2009, pages 139 through 156.](#)

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.

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THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 16-0322-0901

**010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.**

***Subsection 010.15***

**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. *The call system cannot be configured in such a way as to breach a resident's right to privacy at the facility, including but not limited to, the resident's living quarters, common areas, medical treatment and other services, written and telephonic communications, or in visits with family, friends, advocates, and resident groups.* (3-30-06)(\_\_\_\_)

***Subsection 010.29***

**29. Exploitation.** The misuse of a resident's funds, property, resources, identity or person for profit or advantage; *for example:* (3-30-06)(\_\_\_\_)

(BREAK IN CONTINUITY OF SECTIONS)

***Section 219***

**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 by the facility to ensure the resident is appropriate for placement in a residential care or assisted living facility. (\_\_\_\_)

**02. Interim Care Plan.** *The facility must develop an interim care plan to guide services until the Department's assessment outlined in Section 660 of these rules is complete. The Department will complete a resident assessment within twelve (12) business days of receiving notification that the participant is financially eligible for waiver services. 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. (\_\_\_\_)

**Subsection 220.01**

**220. REQUIREMENTS FOR ADMISSION AGREEMENTS FOR PRIVATE-PAY RESIDENTS.**

**01. Initial Resident Assessment and Care Plan.** Prior to or on the day of admission, each private-pay resident must be assessed by the facility to ensure the resident is appropriate for placement in their residential care or assisted living facility. The facility must develop an interim care plan to guide services until the facility can complete the resident assessment process outlined in Section 650 of these rules. The result of the assessment will determine the need for specific services and supports. ( )

**Paragraph 220.03.a. and Subparagraph 220.03.a.x.**

**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. Unless otherwise negotiated with the resident, the resident's legal guardian or conservator, basic services must, at a minimum, include:** ( )

**x. Routine housekeeping and maintenance of common areas; and** ( )

**Subsection 220.04**

**024. Staffing.** The facility must identify staffing patterns and qualification of staff on duty during a normal day. (3-30-06)( )

**Subsections 220.08 and 220.09**

**068. Resident Belongings Responsibility.** The agreement must identify ~~R~~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~~ The agreement must identify conditions under which emergency transfers will be made as provided in Section 152 of these rules. (3-30-06)( )

**Subsections 220.11, 220.14, and 220.18**

**0811. Resident Permission to Transfer Information.** The agreement must clarify ~~P~~permission to transfer information from the resident's records to any facility to which the resident transfers. (3-30-06)( )

**14. Advance Directive.** The agreement must identify ~~W~~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)( )



~~138.~~ **Other Information.** The agreement must identify ~~Other~~ information that the facility may deem appropriate. (3-30-06)(\_\_\_\_)

(BREAK IN CONTINUITY OF SECTIONS)

250. REQUIREMENTS FOR BUILDING CONSTRUCTION AND PHYSICAL STANDARDS.

**Subsection 250.15**

15. **Call System.** The facility must have a call system available for each resident to call for assistance and still be assured a resident's right to privacy at the facility, including but not limited to, the resident's living quarters, common areas, medical treatment and other services, written and telephonic communications, or in visits with family, friends, advocates, and resident groups. 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 Section 010 of these rules. (3-30-06)(\_\_\_\_)

(BREAK IN CONTINUITY OF SECTIONS)

**Subsections 430.01 and 430.02**

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)(\_\_\_\_)

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~~ (\_\_\_\_)

**Paragraph 430.05.d. through Subsection 430.06**

- d. Activities of daily living services; (\_\_\_\_)
- e. ~~s~~Supervision; (\_\_\_\_)
- f. First aid; (\_\_\_\_)
- g. Assistance with and monitoring of medications; (\_\_\_\_)
- h. Laundering of linens owned by the facility; (\_\_\_\_)
- i. Emergency interventions and coordination of outside services; ~~arrangement for emergency transportation, emergency interventions, first aid~~; (\_\_\_\_)

i. ~~Routine H~~housekeeping ~~services~~, and maintenance of common areas; ~~utilities~~, and ( )

k. ~~A~~ccess 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~~ non-sterile exam gloves, 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)( )

**(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)

***Subsection 550.23 through Paragraph 550.23.b.; Paragraph 550.23.c. is being deleted.***

**23. Fee Changes.** Each resident has the right to written notice of any fee *change* not less than thirty (30) days prior to the proposed effective date of the fee *change*, except: ( )

**a.** When a resident needs additional care, services, or supplies, the facility must provide to the resident, the resident's legal guardian, or conservator written notice within five (5) days of any fee change taking place; and ( )

**b.** The resident, the resident's legal guardian, or conservator must be given the opportunity to agree to an amended negotiated service agreement. If the two parties do not reach an agreement on the proposed fee change, the facility is entitled to charge the changed rate after five (5) days have elapsed from the date of the facility's written notice. ( )

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.04.04 - EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS

#### DOCKET NO. 16-0404-0901 (NEW CHAPTER)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. If the pending rule is approved, amended, or modified by concurrent resolution of the legislature, this agency requests that the effective date of July 1, 2010, be inserted into the language of the concurrent resolution rather than have the rule become effective upon adoption of the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections, 16-107(g) and 56-1007, Idaho Code, and the Individuals with Disabilities Education Act (IDEA), Part C, and CFR 34, Section 303.

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

The Department is amending the pending rules based on comments received. This new chapter provides for family cost participation in the Early Intervention Services for Infant and Toddlers program. Changes have been made in the definitions of family household and taxable income; services subject to family fees, calculation of family household income and family fee amount, and third-party payors. Changes include clarification and grammatical corrections.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 2, 2009, Idaho Administrative Bulletin, Vol. 09-9, pages 157 through 166.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-1007, Idaho Code:

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 negative 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.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending fee rule, contact Mary Jones at (208) 334-5523.

DATED this 18th day of November, 2009.

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**DOCKET NO. 16-0404-0901 - ADOPTION OF PENDING FEE RULE**

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

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-9, September 2, 2009, pages 157 through 166.](#)**

**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.**

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**THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 16-0404-0901**

**001. TITLE AND SCOPE.**

***Subsection 001.02***

**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, *and for determining and calculating family fee obligations.* ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS AND ABBREVIATIONS.**

For purposes of this chapter of rules, the following terms and abbreviations are used as defined. ( )

***Subsection 010.08***

**08. Family Household.** Persons in a family related by blood, marriage, or adoption. 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. ( )

***Subsection 010.20***

**20. Taxable Income.** Is the income that is subject to taxation according to the Internal Revenue Code, 26 USC 63, as amended. ( )

***(BREAK IN CONTINUITY OF SECTIONS)***

***Section 150 is being reprinted in its entirety.***

**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. Audiology.** ( )
- 02. Occupational Therapy.** ( )
- 03. Physical Therapy.** ( )
- 04. Psychological Services.** ( )
- 05. Special Instruction or Developmental Therapy.** ( )
- 06. Speech Language Pathology.** ( )

***(BREAK IN CONTINUITY OF SECTIONS)***

**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. ( )

***Subsection 200.01.b.***

**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 *full charge* of the service *provided*. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

***Section 350***

**350. THIRD-PARTY PAYORS.**

IDEA Part C funds can only be used after *available* third-party payments have been *applied*. ( )

**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: ( )

***Subsection 350.02.b.***

**b.** If a family has both Medicaid and private health insurance, *the Department* will bill a family's private insurance for reimbursement. Therefore, billing early intervention services to Medicaid *may* result in subsequent billing of private insurance. ( )

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.04.10 - RULES GOVERNING THE COMMUNITY SERVICES BLOCK GRANT PROGRAM

DOCKET NO. 16-0410-0902

#### 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 Sections 56-202 and 56-203, Idaho Code; the Community Services Block Grant Act, 42 USC 9901, et seq.; and the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111-5, Title VIII (3).

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009, Idaho Administrative Bulletin, Vol. 09-10, pages 449 through 455.

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

There is no anticipated fiscal impact to the state general fund related to the rulemaking. Community Services Block Grant (CSBG) Program monies are 100% federal.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Chris Baylis at (208) 334-5742.

DATED this 6th day of November, 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

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#### DOCKET NO. 16-0410-0901 - 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 09-10, October 7, 2009, Book 1, pages 449 through 455.](#)

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 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.04.11 - DEVELOPMENTAL DISABILITIES AGENCIES (DDA)**

**DOCKET NO. 16-0411-0901**

**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 39-4605, Idaho Code.

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

The pending rule, amending the renewal of certification for Developmental Disabilities Agencies to three (3) years and removing references to the Idaho State School and Hospital ISSH Waiver, is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009, Idaho Administrative Bulletin, Vol.09-9, pages 167 through 175.

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

This rulemaking will have little or no fiscal impact due to the change in renewal of certification from two to three years. The change for certification renewals will be implemented as each certification becomes due over a two year period.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Chad Cardwell at (208) 334-5536.

DATED this 19th day of November, 2009.

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**DOCKET NO. 16-0411-0901 - 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 09-9, September 2, 2009, pages 167 through 175.**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.04.14 - RULES GOVERNING THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

DOCKET NO. 16-0414-0901

#### 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 56-202, Idaho Code, and 42 U.S.C. Sections 8621 to 8629, also known as the Low Income Home Energy Assistance Act of 1981.

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

This rule changed the income eligibility for the Low Income Home Energy Assistance Program (LIHEAP) to 60% of Idaho's State Median Income and excludes child support income as countable income which aligns the LIHEAP program with the Community Services Block Grant Program and the U.S. Department of Energy's Weatherization Assistance Program.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 7, 2009, Idaho Administrative Bulletin, Vol. 09-10, pages 457 through 459.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking increases the LIHEAP eligibility income limits to 60% of the 2009 Idaho State Median Income and adds child support income to the list of income not counted. This will result in approximately 6,460 more families being eligible for LIHEAP, an increase of approximately 20%. Last year, approximately 45,000 families received LIHEAP benefits, with the average benefit for each family being \$386 annually. To accommodate the increased number of eligible families, the benefit amount for each case will be decreased by approximately \$50, to about \$336 annually. The LIHEAP program is 100% federally-funded and does not spend any state general funds.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Chris Baylis at (208) 334-5742.

DATED this 6th day of November, 2009.

Tamara Prisock  
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#### DOCKET NO. 16-0414-0901 - 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 09-10, October 7, 2009, Book 1, pages 457 through 459.](#)

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 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.05.06 - CRIMINAL HISTORY AND BACKGROUND CHECKS**

**DOCKET NO. 16-0506-0901**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 56-1004A, Idaho Code.

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

The pending rule, adding and updating the list of individuals and providers required to have criminal history and background checks and adding additional disqualifying crimes, 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 85 through 90.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-1004A, Idaho Code:

The fee amount for providing criminal history and background checks is based on costs incurred to complete these checks. This pending fee rule adds individuals and providers that are required to have these checks and pay for the cost at \$55 per check.

**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 Department estimates that the costs of these added checks will not impact the state general funds. The estimated 300 additional criminal history and background checks will impact the dedicated funds by a total of \$16,500. The remaining additional checks will increase federal fund expenditures through the Community Mental Health Block Grant by \$6545.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending fee rule, contact Steve Bellomy at (208) 334-0609.

DATED this 19th day of November, 2009.

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**DOCKET NO. 16-0506-0901 - ADOPTION OF PENDING FEE RULE**

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 09-7, July 1, 2009, pages 85 through 90.**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.06.01 - CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-0901

### 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 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).

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009, Idaho Administrative Bulletin, Vol. 09-9, pages 176 through 182.

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

There is no anticipated fiscal impact to the state general fund as a result of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Kathy Morris at (208) 334-5706 or Shirley Alexander at (208) 334-6618.

DATED this 19th day of November, 2009.

Tamara Prisock  
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### DOCKET NO. 16-0601-0901 - 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 09-9, September 2, pages 176 through 182.

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 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

DOCKET NO. 16-0602-0901

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. If the pending rule is approved, amended, or modified by concurrent resolution of the legislature, this agency requests that the effective date of July 1, 2010, be inserted into the language of the concurrent resolution rather than have the rule become effective upon adoption of the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005, Idaho Code.

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

The Department is amending the proposed rules based on written comments received and oral comments made during public hearings held around the state. Amendments and clarifications have been made to definitions, health and safety standards for firearms, fire extinguishers, fire exits, supervision, type of licenses, employee and child records requirements, and to align these rules with statutes. The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 2, 2009, Idaho Administrative Bulletin, Vol. 09-9, pages 183 through 214.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 39-1107, Idaho Code, that establishes 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.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending fee rule, contact Landis Rossi at (208) 334-5688.

DATED this 19th day of November, 2009.

Tamara Prisock  
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DOCKET NO. 16-0602-0901 - ADOPTION OF PENDING FEE RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-9, September 2, 2009, pages 183 through 214.](#)

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.

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THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 16-0602-0901

001. TITLE, SCOPE, ~~AND~~ POLICY, PURPOSE, AND EXCEPTIONS TO LICENSING.

*Subsection 001.05 through Paragraph 001.06.b.*

**05.** Exceptions to Daycare Licensing. *Under Section 39-1103, Idaho Code, 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 of 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; or ( )

**e.** The provision of care for children of a family within the second degree of relationship as defined in Section 011 of these rules. ( )

**06.** Exceptions to Child Care Licensing. *Under Sections 39-1213(b) and 39-1211, Idaho Code, the minimum standards and licensing requirements in these rules do not apply to:* ( )

**a.** Foster homes that have been approved by a licensed children's agency, provided the standards for approval by such agency are *no less restrictive than* the rules and standards established by the Board and that such agency is maintained, operated, and conforms with these rules and standards. ( )

**b.** 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. ( )

(BREAK IN CONTINUITY OF SECTIONS)

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

*Subsection 005.07*

07. Daycare Licensing Authority Location. The Department's daycare licensing authority for daycare centers, group daycare facilities, and family daycare homes is located at 450 West State Street, Boise, Idaho 83702; Phone (208) 334-5700. ( )

*Paragraphs 005.07.a. through 005.07.f. have been deleted.*

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS A THROUGH M.

For the purposes of these rules, the following terms apply. (7-1-09)

05. Child. ( )

*Paragraph 010.05.b.*

b. For requirements of Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, "child" means *an individual less than thirteen (13) years of age.* ( )

*Subsection 010.16*

~~156.~~ 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 on the premises. (3-30-01)( )

*Subsection 010.20*

~~1920.~~ 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 on the premises. (3-30-01)( )

*Subsection 010.24*

~~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 on the premises. (3-30-01)( )

**011. DEFINITIONS N THROUGH Z.**

For the purposes of these rules, the following terms apply. (7-1-09)

***New Subsection 011.03***

**03.** ***Operator.*** *An individual who operates a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility, children's agency, or children's therapeutic outdoor program licensed by the Department under Title 39, Chapters 11 or 12, Idaho Code.* ( )

**~~034.~~** **Organization.** A children's agency or a children's residential care facility. (3-30-01)

**~~045.~~** **Person.** Any individual, group of individuals, associations, partnerships or corporations. (3-30-01)

**~~056.~~** **Physical Intervention.** Physical restraint utilized to control the range and motion of an individual. (3-30-01)

**~~067.~~** **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)

***Subsection 011.08 and Subsection 011.09***

**~~078.~~** **Plan of Correction.** The detailed procedures and activities developed between the licensing authority and caregiver required to bring a *daycare center, group daycare facility, family daycare home voluntarily licensed by the Department,* foster family, *children's residential care* facility, or children's agency into conformity with these licensing rules. (~~3-30-01~~)( )

**~~09.~~** **Regularly on the Premises.** For the purposes of Sections 009 and 309 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. ( )

**~~0810.~~** **Relative.** Individuals related to a child by blood, marriage or adoption. (3-30-01)

**~~0911.~~** **Representative.** An employee of the Department of Health and Welfare. (3-30-01)

**~~102.~~** **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)

**~~113.~~** **Restraint.** Interventions to control the range and motion of a child. (3-30-01)

**~~124.~~** **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)

**15. 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. ( )

~~136.~~ **Secure.** A physically restrictive setting, as in a locked or guarded residential facility. (3-30-01)

~~147.~~ **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)

~~158.~~ **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)

~~169.~~ **Shelter Care.** The temporary or emergency out-of-home care of children in a foster home or residential facility. (3-30-01)

~~1720.~~ **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)

~~1821.~~ **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)

~~22.~~ **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. ( )

~~1923.~~ **Time-Out.** Separation of a child from group activity as a means of behavior management. (3-30-01)

~~204.~~ **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)

~~245.~~ **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)

~~226.~~ **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)

~~237.~~ **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)

**(BREAK IN CONTINUITY OF SECTIONS)**

***Section 301 is reprinted in its entirety (Subsection 301.04 is being deleted).***

**301. TYPES OF DAYCARE LICENSES.**

Subject to meeting all requirements under Title 39, Chapter 11, Idaho Code, and the rules and minimum standards in this chapter, the Department will determine the type of daycare license required by an owner or operator providing daycare by counting each child on the premises, regardless of relationship to the person or persons providing the care. The following types of daycare licenses may be issued by the Department. ( )



**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 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 person providing the care, where seven (7) to twelve (12) children, regardless of relationship to the person or persons providing the care, are 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 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. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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. ( )

**Subsection 320.02**

**02. Inspection Fees.** Fees for fire inspections and health and safety inspections are included in licensing 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. ( )

**Subsection 321.02**

**02. Licensing 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. ( )

**Subsection 321.10**

**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 within ninety (90) days, or not provided in the form requested by the Department, or both. ( )

**Reserved Section 322**

**322. -- 324. (RESERVED).**

**325. ISSUANCE OF LICENSE.**

*Subsection 325.02*

**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 *sixty (60) days* from the date the completed application is submitted issue one (1) of the following licenses: ( )

**326. -- 329. (RESERVED).**

*Section 330*

**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. The list must specify, at a minimum, the following: ( )

*Subsections 330.05 through 330.08*

**05. Verification of Criminal History and Background Check Clearance.** ( )

**06. Results of Juvenile Justice Records.** *The results of juvenile justice records, when applicable.* ( )

**07. Certification.** *Verification of Pediatric Rescue Breathing, Infant-Child CPR, and First Aid Treatment certification from a certified instructor, when applicable.* ( )

**08. Record of Hours.** *The times, dates, and records of hours on the premises each day.* ( )

*Section 331*

**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 on the premises covering the previous twelve-month period. The record must contain, at a minimum, the following: ( )

**05. Child's Health Information.** ( )

*Paragraph 331.05.a.*

**a.** *Immunization record or waiver of exemption form or statement.* ( )

*Subsection 331.06*

**06. Record of Attendance.** *The times, dates, and record of attendance 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: ( )

***Paragraphs 335.01.a. through 335.01.c.***

**a.** The maximum ratio of children to staff is determined by the age of the youngest child on the premises; ( )

**b.** Each child on the 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 adult employees providing direct supervision to the children are counted as staff for the purpose of computing the child-staff ratio; and ( )

**02. Computing the Maximum Group Size.** The Department will compute the maximum group size as follows: ( )

***Paragraph 335.02.a. through Paragraph 335.04.b.***

**a.** The maximum allowable group size is determined by the age of the youngest child on the premises. ( )

**b.** Each child, 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 two (2) years, the maximum group size is ten (10) children; or ( )

**ii.** If three (3) or more children are in attendance under the age of two (2) years 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:

<b><u>CHILD-STAFF RATIOS AND MAXIMUM GROUP SIZE</u></b>		
<b><u>Based on Age of Youngest Child</u></b>		
<b><u>TABLE 335.03</u></b>		
<b><u>Ages and Counts Based on Age of Youngest Child</u></b>	<b><u>Child:Staff Ratio</u></b>	<b><u>Maximum Group Size</u></b>
<u>1 child under the age of 2 years</u>	<u>6:1 or 12:2</u>	<u>12</u>
<u>2 children under the age of 2 years</u>	<u>6:1 or 10:2</u>	<u>10</u>
<u>3 or more children under the age of 2 years</u>	<u>6:1 or 9:2</u>	<u>9</u>
<u>All children at least 2 years of age but less than 3 years of age</u>	<u>8:1 or 16:2</u>	<u>16</u>

<b>CHILD-STAFF RATIOS AND MAXIMUM GROUP SIZE</b>		
<b>Based on Age of Youngest Child</b>		
<b>TABLE 335.03</b>		
<b><u>Ages and Counts Based on Age of Youngest Child</u></b>	<b><u>Child:Staff Ratio</u></b>	<b><u>Maximum Group Size</u></b>
All children at least 3 years of age but less than 4 years of age	10:1 or 20:2	20
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.** *The owner or operator and all employees are responsible for the direct care, protection, supervision, and guidance of children through active involvement or direct observation. 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 employee is:*

( )

**a.** *Awake and on duty on the premises at all times during regular business hours or when children are present, and*

( )

**b.** *Currently certified in pediatric rescue breathing, infant-child CPR, and first-aid treatment.*

( )

**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.

( )

**Subsection 340.03**

**03. Pediatric Rescue Breathing, Infant-Child CPR, and First Aid Treatment Training.** *Pediatric rescue breathing, infant-child CPR, and first aid treatment training will not count towards the required four (4) hours of annual training.*

( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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.

( )

**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.

( )

***New Subsection 350.02.f. through Section 351***

f. Where children are located on a story above the level of exit discharge, there must be two (2) exits, one (1) of which must open directly to the outside and be in compliance with building codes. ( )

**351. FACILITY CAPACITY AND DETERMINING OCCUPANT LOAD.**

Occupant load is determined by the local fire official or designee. ( )

**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. ( )

***Subsections 352.01 through 352.03***

**01. Portable Fire Extinguisher.** There must be an approved 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.** An approved fire extinguisher must be present or a hood-type fire suppression system must be installed in the kitchen area. ( )

**03. Fire Extinguishers.** Approved fire extinguishers must be maintained properly. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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. ( )

**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. ( )

***Paragraph 360.02.a.***

**a.** Frozen food must be thawed in the refrigerator, under cold running water, or as part of the cooking process. Food must be cooked to proper temperatures according to IDAPA 16.02.19, "The Idaho Food Code." ( )

***Subsection 360.03***

**03. Food Temperatures.** Potentially hazardous foods must be kept refrigerated at forty-one degrees Fahrenheit (41°F) or below, held hot at one hundred thirty-five degrees Fahrenheit (135°F) or more, and reheated or cooled at safe temperatures according to IDAPA 16.02.19, "The Idaho Food Code.". Refrigerators must be equipped with an accurate thermometer. ( )

***Subsection 360.08***

**08. Garbage.** Garbage must be kept covered *or* inaccessible to children. ( )

**13. Water Supply.** The facility's water supply must meet one (1) of the following requirements:( )

**Paragraphs 360.13.a. through 360.13.c.**

**a.** Be from a *public water system which is maintained* 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.** *Be from a private well that must be tested annually for bacteria and nitrate, and approved by the Department.* ( )

**c.** Water used for consumption at a daycare facility must be from an acceptable source. *Temporary use of bottled water or boiled water may be allowed for a period specified by the Department.* ( )

**Section 361 is reprinted in its entirety.**

**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 *must* apply: ( )

**a.** The telephone *number* used to meet this standard 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. ( )

**02. 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. ( )

**03. Portable Heating Devices.** Portable heating devices *must* be limited and approved for use and location by the Fire Inspector prior to use within a facility. ( )

**04. Storage of Weapons, Firearms, and Ammunition.** Firearms *or other weapons which are stored at a daycare facility must be kept in a locked cabinet or other container that is inaccessible to children, including a locked gun safe, while children are in attendance on the premises.* ( )

**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. ( )

**05. 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. ( )

**06. 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. ( )

**06. Water Hazards.** Pools, hot tubs, ponds, and other bodies of water that are on the daycare facility premises must provide the following safeguards: ( )

**Paragraph 365.06.d.**

**d.** Children must be under direct supervision of an employee who is certified in *pediatric rescue breathing, infant-child CPR, and first aid treatment* while using a bath tub, pool, hot tub, pond, or other body of water. ( )

(BREAK IN CONTINUITY OF SECTIONS)

*Section 395 is reprinted in its entirety.*

**395. FAILURE TO COMPLY.**

**01. Misdemeanor to Operate Without a License.** It is a misdemeanor to operate a daycare center or group daycare facility *within this state* without first obtaining a daycare license from the Department or to *operate a daycare center or group daycare facility without posting the license in a place easily seen by a parent or the general public.* ( )

**a.** 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. ( )

**b.** The operator or owner must agree to begin the application process as described in Section 321 of these rules within one (1) business day. ( )

**02. Misdemeanor to Operate a Family Daycare Home for Four or More Children Without Obtaining a Criminal History Check.** It is a misdemeanor to operate a family daycare home caring for four (4) or more children without obtaining the required criminal history check in Section 39-1105, Idaho Code. In the event of an initial citation for violation of the provisions of Section 39-1115, if a person makes the applications required within twenty (20) days, the complaint will be dismissed. Operating a family daycare home for four (4) or more children after failure to pass the required criminal history check is a misdemeanor. ( )

**03. Misdemeanor to Provide Daycare if Guilty of Certain Offenses.** It is a misdemeanor to provide daycare services if found guilty of any offenses listed in Section 39-1113, Idaho Code. ( )

**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 - 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 on May 1, 2010, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-305, 39-306, 39-307, 39-311, 56-1003, and 56-1007, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009, Idaho Administrative Bulletin, Vol. 09-9, page 215.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sherry L. Johnson at (208) 334-5934.

DATED this 19th day of November, 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

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**DOCKET NO. 16-0603-0901 - 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 09-9, September 2, 2009, page 215.**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.07.01 - BEHAVIORAL HEALTH SLIDING FEE SCHEDULES**

**DOCKET NO. 16-0701-0901**

**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 16-2433, 19-2524, 20-520(i), 20-511A, 39-309, and 39-3137, Idaho Code.

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

This rulemaking changed 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.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009, Idaho Administrative Bulletin, Vol. 09-9, pages 216 through 218.

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

There is no anticipated fiscal impact to the state general fund as a result of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Chuck Halligan at (208) 334-6559.

DATED this 19th day of November, 2009.

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**DOCKET NO. 16-0701-0901 - 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 09-9, September 2, 2009, pages 216 through 218.**

**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 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)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. If the pending rule is approved, amended, or modified by concurrent resolution of the legislature, this agency requests that the effective date of May 1, 2010, be inserted into the language of the concurrent resolution rather than have the rule become effective upon adoption of the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 39-305, 39-306, 39-307, 39-311, 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code.

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

This chapter was published as a proposed new rule chapter that updated the approval process for substance use disorder facilities and programs. Based on comments received from providers, interested persons, and Department staff, during the comment period, the following substantive changes are being made to the proposed rule:

1. New definitions were added to clarify the rule.
2. Language was added stating that a private treatment facility may apply for approval on a voluntary basis.
3. The Commission on Accreditation of Rehabilitation Facilities (CARF) was added to the rule as acceptable for approval along with the Joint Commission.
4. Requirements for CPR and First Aid training were clarified.
5. Supervisory staff qualifications were modified as well as the qualifications for a Qualified Substance Use Disorders Professional and student/interns.
6. Clinical case management service requirements were added to the rule and "Basic and Intensive" case management services were modified.
7. Other smaller changes were made in the areas of "clients rights," "admission polices," "infection control," "criminal offenses," and "services for women."

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 2, 2009, Idaho Administrative Bulletin, Vol. 09-9, pages 219 through 296.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-1007, Idaho Code:

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 these 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.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending fee rule, contact Sherry L. Johnson at (208) 334-5934.

DATED this 20th day of November, 2009.

Tamara Prisock  
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**DOCKET NO. 16-0720-0901 - ADOPTION OF PENDING FEE RULE**

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

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-9, September 7, 2009, pages 219 through 296.](#)**

**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.**

THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 16-0720-0901

*Section 010 is being reprinted in its entirety.*

**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). ( )

***New Subsection 010.04***

**04. Admission.** *The point in an applicant's relationship with a state-approved substance use disorders treatment program or recovery support services program when the screening and assessment process has been completed and the applicant has been found eligible by the Department to receive the services of the program.* ( )

**05. Adult.** An individual eighteen (18) years of age or older. ( )

**06. 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. ( )

**07. 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. ( )

**08. Alcohol and Drug Testing.** The collection and initial screening of urine, hair, or oral fluid samples for screening and detecting alcohol and substance use. ( )

**09. 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. ( )

**10. 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. ( )

**11. 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." ( )

**12. 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." ( )

**13. 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. ( )

**14. 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. ( )

**15. Behavioral Health Services.** Services offered by the Department to treat behavioral health issues or alcohol and substance use disorders. ( )

**16. 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. ( )

**17. CARF.** The Commission on Accreditation of Rehabilitation Facilities. ( )

**18. 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. ( )

**19. 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. ( )

### ***New Subsections 010.20 and 010.21***

**20. Case Management Supervision.** *Case management supervision includes planning, directing, monitoring, and evaluating the work of a case manager by an individual who meets the qualifications of a case manager supervisor. A clinical supervisor of a treatment agency may fulfill this role and may incorporate case management supervision into clinical supervision activities.* ( )

**21. Case Management Supervisor.** *The program staff member responsible for oversight of all case management aspects of the case management services provided. A clinical supervisor of a treatment agency may also fulfill this role.* ( )

**22. 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. ( )

### ***New Subsection 010.23***

**23. Certified Home Inspection.** *An inspection of a residential dwelling conducted by a registered, licensed, or certified home inspector to determine the quality, safety, and overall condition of the dwelling.* ( )

**24. Child.** An individual under the age of fourteen (14). ( )

**25. 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." ( )

**26. Client Record.** All documentation of individual client treatment and related services. ( )

**27. 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. ( )

**28. 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. ( )

**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. Clinical Supervisor.** The program staff member responsible for oversight of all clinical aspects of the treatment services provided. ( )

**31. 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. ( )

**32. 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. ( )

**33. 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. ( )

**34. College of Professional Psychology.** Professional certification entity of the American Psychological Association Practice Organization. ( )

**35. 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. ( )

**36. Compliance.** Demonstration that these rules, policies and procedures, and applicable federal and state statutes and regulations are observed. Compliance is determined by the Department. ( )

**37. 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. ( )

**38. 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. ( )

**39. 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. ( )

***New Subsection 010.40***

**40. Contractor.** A person or company that performs work, provide supplies, or deliver services for another under a written agreement. ( )

**41. 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. ( )

***Subsection 010.42***

**42. Co-Occurring Capable.** The ability of a treatment provider to recognize the signs and symptoms of a co-occurring disorder and make a referral to an appropriate mental health facility. ( )

**43. Co-Occurring Disorders (COD).** The co-occurring diagnoses of mental health and substance use disorders. ( )

**44. Criminogenic Need.** A client attribute shown by research to be correlated with criminal behavior and to be an appropriate target for treatment intervention. ( )

***Section 011 is being reprinted in its entirety.***

**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. ( )

***New Subsection 011.03***

**03. Direct Client Access.** Direct client access means an employee, contractor, or volunteer who has accessibility to a client. ( )

**04. Director.** The Director of the Department of Health and Welfare or his designee. ( )

**05. 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. ( )

**06. 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. ( )

**07. 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. ( )
- 08. 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. ( )
- 09. 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. ( )
- 10. Early Intervention Services.** Services that are designed to explore and address problems that appear to be related to substance use. ( )
- 11. Education.** Strategies that teach people critical information about alcohol and other drugs and the physical, emotional, and social consequences of their use. ( )
- 12. 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.” ( )
- 13. 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. ( )
- 14. 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.( )
- 15. Group Counseling.** The application of formal counseling techniques involving interaction among members of a group of clients. ( )
- 16. 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. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**



**013. DEFINITIONS - Q THROUGH Z.**

For the purposes of these rules, the following terms are used. ( )

***Subsection 013.15; Paragraphs 013.15.a. through 013.05.f. have been deleted.***

**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. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

***Section 100 is being reprinted in its entirety.***

**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. ( )

***New Subsection 100.02***

**02. Certificate of Approval for Private Treatment Facilities Voluntarily Approved.** Under Sections 39-302(3) 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 private treatment facility voluntarily approved. ( )

**03. 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. ( )

**04. 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. ( )

**05. 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. ( )

***Subsection 101.02***

**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 or private treatment facility. ( )

***Section 102 is being reprinted in its entirety.***

**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 *or private* treatment facility in the state of Idaho. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

***Section 130 is being reprinted in its entirety.***

**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. ( )

***Subsection 130.01***

**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 *with the application for approval*: ( )

- 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. ( )

***Subparagraph 130.01.h.iv.***

- iv.** Joint Commission *or* CARF 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; ( )

***Original Subparagraphs 130.01.j.iv. and 130.01.j.v. have been deleted.***

- iv.** The program's plans to secure additional funding; ( )
- v.** A description of the fiscal and information management systems the applicant plans to use; and ( )
- vi.** The applicant's plan for measuring and reporting outcomes and results. ( )

***Original Paragraph 130.01.k. has been deleted.***

- k.** 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. ( )

***Original Paragraph 130.01.m. has been deleted.***

- l.** Other information that may be requested by the Department for the proper administration and enforcement of these rules. ( )

***Subsection 130.02 through 130.04***

- 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 *provided to the Department prior to final approval and before any clients are admitted for services.* ( )

**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 *must be provided with the application.* ( )

**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 *to the Department prior to final approval* 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. ( )

***New Subsection 130.05***

**05. Copy of the Lease.** *A copy of the lease must be provided prior to final approval, if the real property in which the program is located is leased.* ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

***Section 138***

**138. JOINT COMMISSION OR CARF ACCREDITATION.**

The Department may approve programs or renew a program's certificate of approval based upon Joint Commission or CARF accreditation under the following conditions: ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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: ( )

***Subparagraph 150.01.a.vii.***

**vii.** Has been convicted of a *felony or misdemeanor drug or alcohol offense* within the past five (5) years, other than a minor traffic violation or infraction; or ( )

***Subsection 150.03***

**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: ( )

***Subparagraphs 150.03.b.ii. and 150.03.b.iii.***

**b.** The owner, applicant, or the person proposed as the Executive Director as defined in Section 011 of these rules: ( )

**ii.** Has been found guilty of 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 the commission of any felony; ( )

***Subparagraph 150.03.b.vi.***

**vi.** Has been found guilty of federal or state tax violations; or ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**160. DISCLOSURE OF OWNERSHIP, ADMINISTRATION, GOVERNING BODY.**

***Subsections 160.03 and 160.04***

**03. Change in Ownership or Lease of Real Property.** The program must notify the Department in writing within ten (10) days of any change in ownership or any amended lease of the real property in which the treatment activities or recovery support services are provided. ( )

**04. Changes in Administration.** The program must notify the Department of any change in administration. The Department may request a hearing to determine if a new application is required when the Department determines that any change in 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. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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: ( )

***Subsection 170.03***

**03. Authority of the Executive Director.** The governing body bylaws *or* 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. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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. ( )

***Paragraph 210.01.1.***

**1.** The personnel policies and procedures must establish the requirement for CPR training and basic first aid training. *A minimum of one (1) CPR and First Aid trained staff must be onsite during business hours.* 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. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

***Section 216 is being reprinted in its entirety.***

**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 ( )

***Paragraph 216.01.d.***

**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 *or have a Clinical Supervisor designation from the Idaho Bureau of Occupational Licenses;* 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: ( )

***Original Paragraph 216.02.a. has been deleted.***

a. 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 *or have a Clinical Supervisor designation from the Idaho Board of Occupational Licensure.* This experience must be relevant for child and adolescent treatment if supervising treatment in child and adolescent treatment programs; ( )

***New Paragraph 216.02.b.***

b. *IBCADCC Certified Clinical Supervisor;* ( )

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. *The Clinical Supervision training must be completed within one hundred eighty (180) days of date of hire or date of designation as clinical supervisor.* ( )

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. ( )

***(BREAK IN CONTINUITY OF SECTIONS)***

***Section 218 is being reprinted in its entirety.***

**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); ( )

***Paragraphs 218.01.f. and 218.01.g.***

f. “Licensed Clinical Social Worker” (LCSW) or a “Licensed Masters Social Worker” (LMSW) licensed under Title 54, Chapter 32, Idaho Code, who holds one (1) of the certifications under Subsections 218.01.a. through 218.01.e. of this rule or has 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; ( )

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, who holds one (1) of the certifications under Subsections 218.01.a. through 218.01.e. of this rule or has 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; ( )

***Original Paragraph 218.01.h. has been deleted.***

h. “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; ( )

i. “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; ( )

j. “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; ( )

***Paragraph 218.01.k.***

k. “Licensed Professional Counselor” (LPC) or a “Licensed Clinical Professional Counselor” (LCPC) licensed under Title 54, Chapter 34, Idaho Code, who holds one (1) of the certifications under Subsections 218.01.a. through 218.01.e. of this rule or has 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;*

( )

**Paragraph 218.01.1.**

**l.** “Psychologist,” or a “Psychologist Extender” 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 *who holds one (1) of the certifications under Subsections 218.01.a. through 218.01.e. of this rule or has 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;*

( )

**m.** “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;

( )

**n.** “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.

( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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.

( )

**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:

( )

**Paragraph 223.08.e. through 223.08.m.**

**e.** “Licensed Clinical Social Worker” (LCSW) or a “Licensed Masters Social Worker” (LMSW) licensed under Title 54, Chapter 32, Idaho Code, *with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment;*

( )

**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, *with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment;* ( )

**g.** “Nurse Practitioner” licensed under Title 54, Chapter 14, Idaho Code, with documentation *that he is currently engaged in 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 documentation *that he is currently engaged in 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 documentation *that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment;* ( )

**j.** “Licensed Professional Counselor” (LPC) *or a “Licensed Clinical Professional Counselor” (LCPC)* licensed under Title 54, Chapter 34, Idaho Code, *with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment;* ( )

**k.** “Psychologist” *or a “Psychologist Extender”* licensed under Title 54, Chapter 23, Idaho Code, *with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment;* ( )

**l.** “Physician” licensed under Title 54, Chapter 18, Idaho Code, with documentation *that he is currently engaged in 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, *with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment.* ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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. ( )

**02. Personal Privacy.** Each client's personal privacy must be assured and protected within the constraints of the individual treatment plan. ( )

***Paragraphs 350.02.c. through 350.02.e.***

**c.** Clients *in residential settings* must be allowed to send and receive mail without hindrance, unless clinically contraindicated. ( )

**d.** Clients *in residential settings* must be allowed to conduct private telephone conversations with family and friends, unless clinically contraindicated. ( )

**e.** If individual therapeutic indications *in residential settings* 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. ( )

***Subsection 350.03***

**03. Visitation.** There must be written procedures designed to protect clients' rights and privacy with respect to visitors *in outpatient and residential programs*. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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. ( )

***Subsection 360.02***

**02. Screening.** *Screening* must be based on the needs of clients as identified as follows: ( )

***Paragraph 360.02.b.***

**b.** The screening *must be interpreted* by a qualified substance use disorders professional; and ( )

***Subsection 360.06***

**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. *Reasonable precautions are those that are fair, proper, or moderate under the circumstances.* ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**380. INDIVIDUALIZED TREATMENT PLAN.**

***Subsection 380.02***

**02. Treatment Plan Based on a Biopsychosocial Assessment.** The treatment plan must be based on a *Department-approved* biopsychosocial assessment of the client's alcohol or substance use disorders treatment needs, and contributions provided by the informal support system. ( )

***Paragraph 380.05.h.***

**05. Content of the Treatment Plan.** The individualized treatment plan must include the following: ( )

**h.** A plan for including the family or *other social supports*. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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. ( )

***Subsection 392.03***

**03. CPR and Basic First Aid Training.** *One (1) CPR/First Aid trained staff person must be onsite at all times. Staff responsible for CPR and First Aid 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 he remains current at all times.* ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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. ( )

***Subsection 397.02***

**02. Clients' Personal Articles.** Clients' personal care and grooming supplies, clothing and shoes must not be allowed to accumulate on the floor, impeding proper housekeeping measures. ( )

***Paragraph 398.01.b.***

**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. ( )

**b.** A process for implementing procedures to control the spread or eliminate the cause(s) of the infection *must be described in the policies and procedures.* ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

***Section 453***

**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 *speciality status* to provide services to women with dependent children. ( )

***Subsection 453.02***

**02. Written Agreements.** Alcohol and substance use treatment or recovery support services programs that do not directly provide one (1) 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. ( )

***Original Section 454 has been deleted and is now reserved.***

**454. (RESERVED).**

***New Section 455***

**455. CLINICAL CASE MANAGEMENT SERVICES.**

*Clinical case management is the process in which a clinician is responsible for the direct care of a client and for coordinating other services needed by the client. 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 service program seeking approval as a clinical case management facility must meet the requirements in this rule. Clinical case management services include the following services.* ( )

**01. Clinical Case Management Services.** ( )

**a.** *Services must include a full biopsychosocial assessment, utilizing a Department-approved assessment tool, and 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.** *The facility must have policies and procedures for ensuring that multiple services are delivered in a coordinated and therapeutic manner to meet the goals of treatment outcomes.* ( )

**c.** *Clinical case management services must not duplicate case management, substance use disorder treatment, or service coordination services currently being provided under any other state-funded program.* ( )

**d.** *Clinical case management services provided must not exceed the clinician's scope of practice as defined by the individual licensing boards.* ( )

**02. Eligibility Criteria.** *To be eligible for clinical case management, the client must meet the following criteria:* ( )

**a.** *Meet ASAM criteria for a substance use disorder and be unstable in two (2) or more of ASAM dimensions 1, 2, 5, or 6;* ( )

**b.** *Have a diagnosis of serious mental illness (SMI) as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, Text Revision (DSM-IV-TR): schizophrenia; paranoia and other psychotic disorders; bipolar disorders (mixed, manic and depressive); major depressive disorders (single episode or recurrent); schizoaffective disorders; and obsessive-compulsive disorders; and* ( )

**c.** *Be at risk for institutionalization.* ( )

**03. Clinical Case Manager Qualifications.** ( )

**a.** *A clinical case manager must be a Masters-level licensed clinician and be a qualified substance use disorders professional as defined in Section 013 of these rules.* ( )

**b.** *A clinical case manager may not hold trainee status.* ( )

**04. Caseload.** *A clinical case manager's total caseload must not be so large that it cannot assure quality service delivery and client satisfaction. For clinical 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.* ( )

**05. Clinical Supervision.** *The clinical case management program must provide and document at least one (1) hour of clinical supervision per month for each clinical case manager.* ( )

**06. Limitations on Reimbursement.** ( )

**a.** *Clinical case managers will not be reimbursed for more than one (1) contact during a single fifteen (15) minute time period.* ( )

**b.** *Clinical case managers may not bill the substance use disorders system for mental health services they provide.* ( )

**456. -- 499. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. RESIDENTIAL SOCIAL DETOXIFICATION FACILITY.**

Each alcohol and substance use disorders treatment program seeking approval as a residential social detoxification facility must meet the requiresection 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.** ( )

***Paragraph 500.01.f.***

**f.** *Clients must be under direct observation by trained personnel who meet training requirements established in this section.* ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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.** ( )

***Paragraph 540.01.b.***

**b.** *Treatment and adjunct services may be provided on-site or arranged for by the program. If the program chooses to provide treatment services on-site, it must also meet the requirements in Section 600 of these rules.* ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**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. ( )

***Paragraph 630.02.a.***

**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 *may* include outpatient for clients who have completed Level III.5, Section 520, and lack supportive recovery environments. ( )

***Subsection 630.03***

**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 745 of these rules. ( )

***(BREAK IN CONTINUITY OF SECTIONS)***

**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. ( )

***Subsection 640.02***

**02. Case Management in Child and Adolescent Level .5.** Case Management may be provided as set forth in Section 745 of these rules. ( )

***(BREAK IN CONTINUITY OF SECTIONS)***

**650. LEVEL .5 - EARLY INTERVENTION SERVICES FOR ADULTS.** Early intervention is a brief intensive service that is delivered in an approved treatment facility. ( )

***Subsection 650.01***

**01. Case Management in Adult Level .5.** Case Management may be provided as set forth in Section 745 of these rules. ( )

***(BREAK IN CONTINUITY OF SECTIONS)***

**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. *Alcohol and drug testing is defined in Section 010 of these rules.* ( )

**741. -- 744. (RESERVED).**

***New Section 745***

**745. BASIC AND INTENSIVE CASE MANAGEMENT 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 as a Basic or Intensive case management facility must meet the requirements in Section 745 of these rules. Basic and Intensive case management services include:* ( )

**01. Basic and Intensive 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 date the agency first sees the client. 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.* ( )

**03. Case Manager Contact and Availability.** ( )

**a.** *Basic Case Management. 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.** *Intensive Case Management. 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.* ( )

**04. Case Manager Qualifications.** *A case manager must have completed training in the essentials of case management as identified by the Department. A case manager providing basic or intensive case management must:* ( )

**a.** *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.** *Have a bachelor's degree in a human services field from a nationally-accredited university or college and at least six (6) months, or one thousand forty (1,040) hours, of supervised experience working with the substance use disorders population; and* ( )

**c.** *Have a case management certificate issued by the Department after training is completed within six (6) months of hire.* ( )

**05. 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. ( )

**06. Staffing.** A case manager's total caseload must not be so large that it cannot assure quality service delivery and client satisfaction. ( )

**07. 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: ( )

i. Be a qualified substance use disorders professional with a Master's degree in a human services field; or ( )

ii. Have a Master's degree in a human services field and one (1) year treatment experience with at least six (6) months, or one thousand forty (1,040) hours being supervised while working 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. ( )

**08. 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. ( )

**746. -- 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 - 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 16-2404, 16-2406, 16-2423, 16-2433, 56-202(b), 56-203B, 56-204A, 56-1003, 56-1004, and 56-1004A, Idaho Code.

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

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 were 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.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 2, 2009, Idaho Administrative Bulletin, Vol. 09-9, pages 297 and 298.

**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 Chuck Halligan at (208) 334-6559.

DATED this 18th day of November, 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

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### DOCKET NO. 16-0737-0901 - 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 09-9, September 2, 2009, pages 297 and 298.**

**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 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.07.39 - APPOINTMENT OF DESIGNATED EXAMINERS AND DESIGNATED DISPOSITIONERS

#### DOCKET NO. 16-0739-0801 (NEW CHAPTER)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the amendments to the temporary rule is January 1, 2009. This pending 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 16-2403, 66-317, 56-1003, and 56-1004, Idaho Code.

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

In this new chapter of rules, the Department has defined the qualifications, appointment requirements, and appointment process for designated examiners and designated dispositioners. This will better ensure these professionals have the education, training, and experience needed to perform reliably and effectively the duties required by these roles.

The amendments to the temporary rule clarify the criminal history and background check requirement for individuals seeking reappointment as designated examiners and designated dispositioners, or both. Also, the term "board certified psychiatrist" was removed from the rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the Wednesday, January 7, 2009, Idaho Administrative Bulletin, Vol. 09-1, pages 366 through 374.

**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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Scott Tiffany at (208) 332-7243.

DATED this 6th day of November, 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

DOCKET NO. 16-0739-0801 - ADOPTION OF PENDING RULE  
AND AMENDMENT TO TEMPORARY RULE

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

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

The text of the temporary/proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-1, January 7, 2009, pages 366 through 374.](#)

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.

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THE FOLLOWING IS THE AMENDED TEMPORARY RULE AND THE  
AMENDED PENDING RULE TEXT FOR DOCKET NO. 16-0739-0801

**Section 009**

**009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.**

~~All current Department employees, contract employees, and others~~ *Each individual who works* directly with children or vulnerable adults as described in Section 39-5302, Idaho Code, *and who are is* seeking appointment as a designated examiner or designated dispositioner, or both, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (1-1-09)F(1-1-09)T

**01. Criminal History And Background Check Requirement -- Initial Appointment.** *The criminal history and background check requirements for applicants seeking consideration for an initial appointment as a designated examiner, designated dispositioner, or both, are found under Subsection 400.02 of these rules.* (1-1-09)T

**02. Criminal History And Background Check Requirement -- Reappointment.** *The criminal history and background check requirements for applicants seeking consideration for reappointment as a designated examiner, designated dispositioner, or both, are found under Subsection 600.02 of these rules.* (1-1-09)T

**010. DEFINITIONS.**

For the purposes of these rules, the following terms are used as defined below: (1-1-09)T

**Subsection 010.15.**

~~15. Psychiatrist, Board Certified. An individual licensed to practice medicine under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery" who is certified by the American Board of Psychiatry and Neurology in psychiatry.~~ (1-1-09)T

**165. Psychologist, Licensed.** An individual licensed to practice psychology in Idaho under Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (1-1-09)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. MINIMUM QUALIFICATIONS AND REQUIREMENTS FOR APPOINTMENT AS A DESIGNATED EXAMINER.**

To be appointed and practice as a designated examiner in Idaho, an applicant must meet the following minimum qualifications and requirements: (1-1-09)T

**01. Required License.** Each applicant must maintain his professional licensure for the duration of his appointment and be one (1) of the following: (1-1-09)T

a. Licensed Physician; (1-1-09)T

***Subsection 200.01.b. is being deleted and renumbered through 200.01.i.***

~~**b.** Board-certified Psychiatrist; (~~1-1-09~~)T~~

**eb.** Licensed Psychologist; (1-1-09)T

**dc.** Licensed Clinical Nurse Specialist; (1-1-09)T

**ed.** Licensed Nurse Practitioner; (1-1-09)T

**fe.** Licensed Clinical Professional Counselor (LCPC); (1-1-09)T

**gf.** Licensed Professional Counselor (LPC); (1-1-09)T

**hg.** Licensed Clinical Social Worker (LCSW); (1-1-09)T

**ih.** Licensed Masters Social Worker (LMSW) with a supervision plan approved by the licensing board in accordance with IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners," Subsection 201.02; (1-1-09)T

**ji.** Licensed Marriage and Family Therapist (LMFT). (1-1-09)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**600. PROCESS AND PROCEDURE FOR APPLICANTS SEEKING CONSIDERATION FOR REAPPOINTMENT AS A DESIGNATED EXAMINER OR DESIGNATED DISPOSITIONER, OR BOTH.**

Each applicant seeking reappointment as a designated examiner or designated dispositioner, or both, must submit the following information to the Regional Behavioral Health Program Manager of the region where he intends to practice or the State Hospital Administrative Director of the hospital at which he intends to practice. (1-1-09)T

***Subsection 600.01***

**01. Complete an Application.** Each applicant *for reappointment* must complete and sign an application using Department form HW-0790. (~~1-1-09~~)T(1-1-09)T

**Subsection 600.02**

**02.** Criminal History and Background Check Requirement for Individuals Appointed as a Designated Examiner or Designated Dispositioner Prior to January 1, 2009. Each individual appointed as a designated examiner or designated dispositioner, or both, prior to January 1, 2009, must show documentation of a criminal history and background check clearance completed within ninety (90) days prior to the date of his application for reappointment. (1-1-09)T

**023.** Regional or Hospital Recommendation. (1-1-09)T

**Subsections 600.03.a. and 600.03.b.**

**a.** To be eligible for consideration and reappointment as a designated examiner or designated dispositioner, or both, each applicant must receive a favorable recommendation from the Regional Behavioral Health Program Manager of the region where he intends to practice or the State Hospital Administrative Director of the hospital at which he intends to practice. (1-1-09)T(1-1-09)T

**b.** Within thirty (30) days of the receipt of a completed and signed application, the Regional Behavioral Health Program Manager or the State Hospital Administrative Director will review the applicant's qualifications and, if satisfied, sign the application and forward it to the Division along with all the information provided by the applicant as required under Subsection 400.02 of this rule a copy of the applicant's current license. (1-1-09)T(1-1-09)T

**034.** Final Decision on Reappointment. (1-1-09)T

**a.** The request for reappointment must be received by the Division at least sixty (60) days prior to the expiration date of the previous appointment of the designated examiner or designated dispositioner. (1-1-09)T

**b.** The Division will notify each applicant in writing of the Department's decision within sixty (60) days of the date the application for reappointment was received by the Division. Written notification of the Department's decision will also be sent to the Regional Behavioral Health Program Manager or State Hospital Administrative Director that submitted the request for reappointment. (1-1-09)T

**c.** If a designated examiner or designated dispositioner allows his appointment to expire, the applicant must reapply in accordance with the initial appointment requirements under Section 400 of this rule. (1-1-09)T

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.07.50 - RULES AND MINIMUM STANDARDS GOVERNING NONHOSPITAL, MEDICALLY-MONITORED DETOXIFICATION/MENTAL HEALTH DIVERSION UNITS

#### DOCKET NO. 16-0750-0902 (NEW CHAPTER)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE AND AMENDMENT TO TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is March 30, 2009. This pending rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule and amended a temporary rule. The action is authorized pursuant to Sections 39-304, 39-305, 39-311, 56-1003, 56-1004A, 56-1007, and 56-1009 Idaho Code.

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

Through informal negotiations with stakeholders, contractors, and individuals interested in the Detox/Mental Health Diversion Units, the Department is amending the pending rule. The changes include:

1. Defining and changing the term to "lead nurse" in place of "director of nursing" and also the term "charge nurse" to "on-duty nurse;"
2. Allowing a facility with both detoxification and mental health diversion units to divide an employee's time between the two units;
3. Amending the medical and general liability insurance to allow for an equivalent insurance;
4. Amending visitation policies;
5. Amending provisions of meals; and
6. Amending that beds are in good repair.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the proposed rule was published in Book 1 of the October 7, 2009, Idaho Administrative Bulletin, Vol. 09-10, pages 472 through 533.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-1007, Idaho Code:

The fees being imposed in this rule are necessary to avoid immediate danger to those individuals being served in a nonhospital, medically-monitored detoxification/mental health diversion unit.

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

The fiscal impact to the state general fund due to this rulemaking is \$4500 for an architectural review of building plans and on-site inspection once construction is completed on the facility.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending fee rule and the amendment to temporary rule, contact Scott Tiffany at (208) 332-7243.

DATED this 18th day of November, 2009.

Tamara Prisock  
DHW - Administrative Procedures Section  
450 W. State Street - 10th Floor  
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DOCKET NO. 16-0750-0902 - ADOPTION OF PENDING FEE RULE  
AND AMENDMENT TO TEMPORARY RULE

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

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

The text of the temporary/proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-10, October 7, 2009, Book 1, pages 472 through 533.](#)

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.

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THE FOLLOWING IS THE AMENDED TEMPORARY RULE AND THE  
AMENDED PENDING RULE TEXT FOR DOCKET NO. 16-0301-0801

**010. DEFINITIONS AND ABBREVIATIONS A THROUGH K.**

For the purposes of this chapter of rules, the following definitions apply.

(3-30-09)T

***Subsection 010.01***

**01. Administrator.** The person delegated the responsibility for the day-to-day operation and management of a detox/mental health diversion unit by the governing body. The administrator, owner, medical director, ~~director of nursing lead nurse~~, or mental health program director may be the same individual. The term “administrator” is synonymous with the term “chief executive officer (CEO).” ~~(3-30-09)F(3-30-09)T~~

***Subsection 010.09***

**09. Chief Executive Officer (CEO).** The individual delegated the responsibility for the day-to-day operation and management of a detox/mental health diversion unit by the governing body. The chief executive officer, owner, medical director, ~~director of nursing lead nurse~~, or mental health program director may be the same individual. The term “chief executive officer (CEO)” is synonymous with the term “administrator.”



~~(3-30-09)T~~(3-30-09)T

### Subsection 010.13

~~13. **Director of Nursing Services.** A qualified professional nurse (R.N.), licensed by the Idaho State Board of Nursing under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," who is so designated by the governing body. The director of nursing, administrator, or mental health program director may be the same individual. The director of nursing is responsible for nursing care provided to clients and for supervising the nursing care and services provided by staff.~~ (3-30-09)T

**143. Full Accreditation Certificate of Approval.** A certificate of approval issued for a period of one (1) year to a facility that is in substantial compliance with these rules and minimum standards. (3-30-09)T

**154. Governing Body.** The individual or individuals, board of directors, group, agency, or entity that has ultimate authority and responsibility for the overall conduct and operation of the facility, and for full compliance with these rules and minimum standards. (3-30-09)T

**165. Governmental Unit.** The state of Idaho, any county, municipality, or other political subdivision, or any department, division, board, or other agency thereof. (3-30-09)T

**011. DEFINITIONS AND ABBREVIATIONS L THROUGH Z.**  
For the purposes of this chapter of rules, the following definitions apply. (3-30-09)T

### Subsection 011.01

~~01. **Lead Nurse.** A qualified professional nurse (R.N.) licensed by the Idaho State Board of Nursing under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," who is so designated by the governing body. The lead nurse, administrator, or mental health program director may be the same individual. The lead nurse is responsible for nursing care provided to clients and for supervising the nursing care and services provided by staff.~~ (3-30-09)T

**042. Level of Care Utilization System ("LOCUS").** A clinical level of care placement tool for psychiatric and addictions services, developed by the American Association of Community Psychiatrists. (3-30-09)T

**023. Licensed Clinical Social Worker (LCSW).** A clinical social worker licensed by the Idaho State Board of Social Work Examiners under Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the Board of Social Work Examiners." (3-30-09)T

**034. Licensed Marriage and Family Therapist (LMFT).** A person licensed to practice marriage and family therapy by the Idaho State Board of Professional Counselors and Marriage and Family Therapists, under Title 54, Chapter 34, Idaho Code, and IDAPA 24.14.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." (3-30-09)T

**045. Licensed Master's Level Social Worker (LMSW).** A master's level social worker licensed by the Idaho State Board of Social Work Examiners under Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the Board of Social Work Examiners." (3-30-09)T

**056. Licensed Practical Nurse (L.P.N.).** A practical nurse licensed by the Idaho State Board of Nursing under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (3-30-09)T

**067. Licensed Professional Counselor (LPC).** A professional counselor licensed by the Idaho State Board of Professional Counselors and Marriage and Family Therapists, under Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." (3-30-09)T

**078. Licensed Professional Nurse (R.N. or Registered Nurse).** A professional nurse licensed by the Idaho State Board of Nursing under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho

Board of Nursing.” (3-30-09)T

**089. Mechanical Restraint.** Any apparatus that physically prevents a client from doing what he might do voluntarily on his own, including “safety belts.” The term “mechanical restraint” is synonymous with the term “physical restraint.” (3-30-09)T

**0910. Medical Director.** A qualified physician licensed by the Idaho State Board of Medicine in accordance with 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,” who is so designated by the governing body. The medical director is responsible for providing medical care to clients and for supervising all of the medical care, services, and treatment provided by the medical staff. (3-30-09)T

**101. Medical Staff.** Professional medical personnel employed, full-time or part-time, who are licensed under Title 54 or Title 56, Idaho Code, to provide medical care and services to clients in a Detox/Mental Health Diversion Unit. (3-30-09)T

**142. Mental Health Clinical Staff.** Professional mental health personnel employed, full-time or part-time, who are licensed under Title 54, Idaho Code, to provide mental health counseling, treatment, and services to clients in a Detox/Mental Health Diversion Unit. (3-30-09)T

### ***Subsection 011.13***

**123. Mental Health Program Director.** A qualified psychiatrist, psychologist, licensed professional nurse, licensed clinical professional counselor, licensed clinical social worker, licensed professional counselor, licensed master's level social worker, or licensed marriage and family therapist, who is so designated by the governing body. The mental health program director is responsible for providing mental health counseling, treatment, and services provided to clients and for supervising mental health counseling, treatment, and services provided by mental health clinical staff. The mental health program director, administrator, ~~director of nursing~~ lead nurse, and medical director may be the same individual. ~~(3-30-09)T~~ (3-30-09)T

**134. MIS.** The Department's computerized management information system designed to collect individual demographics and service information on persons who are suffering from a subacute psychiatric or alcohol/drug crisis. (3-30-09)T

**145. Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Unit.** A facility referred to in this rule as a “detox/mental health diversion unit,” means a freestanding residential treatment facility, approved by the Department of Health and Welfare under these rules and minimum standards. Facilities owned, operated, or under the custody, control, or jurisdiction of the Department of Correction, Department of Juvenile Corrections, or state, city, or county law enforcement are excluded from this definition and are not required to meet these rules and minimum standards. (3-30-09)T

**156. On-Call.** The scheduled state of availability to return to duty, work ready, within a specified period of time. (3-30-09)T

**167. On-Duty.** Being awake, and actively carrying out assigned duties in the facility. (3-30-09)T

**178. Owner.** An individual, firm, partnership, association, corporation, or governmental unit, acting separately or jointly, having legal ownership of the facility as an operating business, regardless of who owns the real property. (3-30-09)T

**189. Physical Restraint.** An apparatus that physically prevents a client from doing what he might do voluntarily on his own including “safety belts.” The term “physical restraint” is synonymous with the term “mechanical restraint.” (3-30-09)T

**1920. 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.” (3-30-09)T

**241. Provisional Certificate of Approval.** Pending satisfactory correction of all deficiencies, a certificate of approval issued for a period not to exceed six (6) months to a facility that is not in substantial compliance with 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. (3-30-09)T

**242. Psychiatrist.** An individual licensed by the Idaho State Board of Medicine to practice medicine under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery," who is certified by the American Board of Psychiatry and Neurology in psychiatry. (3-30-09)T

**243. Psychologist.** An individual licensed by the Idaho State Board of Psychology to practice psychology in Idaho under Title 54, Chapter 23, Idaho Code, and IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (3-30-09)T

**244. Serious Mental Illness (SMI).** Means any of the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, Text Revision (DSM-IV-TR): (3-30-09)T

- a. Schizophrenia. (3-30-09)T
- b. Paranoia and other psychotic disorders. (3-30-09)T
- c. Bipolar disorders (mixed, manic and depressive). (3-30-09)T
- d. Major depressive disorders (single episode or recurrent). (3-30-09)T
- e. Schizoaffective disorders. (3-30-09)T
- f. Obsessive-compulsive disorders. (3-30-09)T

**245. Serious and Persistent Mental Illness (SPMI).** A primary diagnosis under DSM-IV-TR of Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Psychotic Disorder Not Otherwise Specified (NOS) for a maximum of one hundred twenty (120) days without a conclusive diagnosis. The psychiatric disorder must be of sufficient severity to cause a substantial disturbance in role performance or coping skills in at least two (2) of the following functional areas in the last six (6) months: (3-30-09)T

- a. Vocational or education, or both. (3-30-09)T
- b. Financial. (3-30-09)T
- c. Social relationships or support, or both. (3-30-09)T
- d. Family. (3-30-09)T
- e. Basic daily living skills. (3-30-09)T
- f. Housing. (3-30-09)T
- g. Community or legal, or both. (3-30-09)T
- h. Health or medical, or both. (3-30-09)T

**246. Social Worker.** An individual licensed by the Idaho State Board of Social Work Examiners to practice social work in Idaho under Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the Idaho State Board of Social Worker Examiners." (3-30-09)T

**267. Substantial Compliance.** Substantial compliance means complying with the minimum standards and requirements of these rules, and the absence of any state or condition that could endanger the health, safety, or welfare of any client, employee, contractor, occupant, or volunteer. (3-30-09)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**105. AGREEMENTS REQUIRED FOR CERTIFICATE OF APPROVAL FOR A DETOX/MENTAL HEALTH DIVERSION UNIT FACILITY.**

Each detox/mental health diversion unit must have and maintain at all times formal written agreements as provided in Subsections 105.01 through 105.05 of this rule before a certificate of approval can be issued. An individual filling more than one (1) of the following positions, must meet the qualifications under these rules for each position being filled by the individual. (3-30-09)T

**Subsection 105.04**

**04. Agreement with Director of Nursing Services Lead Nurse.** A formal written agreement must be maintained at all times with a qualified R.N. licensed in Idaho, who is employed or contracted to serve as the director of nursing lead nurse. The director of nursing lead nurse is responsible for nursing care provided to clients and for supervising the nursing care, and services provided by staff. ~~(3-30-09)T~~(3-30-09)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**110. APPLICATION FOR CERTIFICATE OF APPROVAL.**

**Subsections 110.03 and 110.04**

**03. Statement to Comply.** The applicant must provide a written statement that the applicant, owner, operator, proposed CEO or administrator, proposed medical director, proposed director of nursing services lead nurse, and proposed mental health program director have thoroughly read, reviewed, and are prepared to comply with the provisions in IDAPA 16.07.50, "Minimum Standards for Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units." ~~(3-30-09)T~~(3-30-09)T

**04. Statement Disclosing Revocation or Disciplinary Actions.** The applicant must provide a written statement regarding the applicant, owner, proposed CEO or administrator, proposed medical director, proposed director of nursing services lead nurse, and proposed mental health program director that either: ~~(3-30-09)T~~(3-30-09)T

**Subsection 110.10**

**10. Proof of Insurance.** The applicant must provide proof of insurance. Each facility must maintain medical liability insurance at a minimum of one million dollars/three million dollars (\$1,000,000/\$3,000,000), and general liability insurance at a minimum of one million/three million dollars (\$1,000,000/\$3,000,000) or equivalent insurance. Copies of the declarations policy face-sheet must be included with the application. ~~(3-30-09)T~~(3-30-09)T

**Subsection 110.13**

**13. Identification of CEO or Administrator, Medical Director, Director of Nursing Services Lead Nurse, and Mental Health Program Director.** The applicant must provide a written statement that identifies the CEO or administrator, medical director, director of nursing services lead nurse, and mental health program director along with documentation that establishes compliance with Sections 271 through 273, and 275 of these rules.

~~(3-30-09)F(3-30-09)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**130. CHANGES REQUIRING NOTIFICATION TO THE DEPARTMENT.**

A detox/mental health diversion unit must notify the Department if any of the following changes in Subsections 130.01 through 130.05 of this rule occurs. (3-30-09)T

***Subsections 130.03 and 130.03.c.***

**03. Change of CEO or Administrator, Medical Director, or ~~Director of Nursing Services~~ Lead Nurse.** Any facility issued a certificate of approval must notify the Department in writing as soon as practicable prior to any the following changes in Subsections 130.03.a. through 130.03.c of this rule, to permit the Department to determine whether any changes in certification status are necessary: ~~(3-30-09)F(3-30-09)T~~

- a. Change in CEO or administrator; (3-30-09)T
- b. Change in medical director; (3-30-09)T
- c. Change in ~~director of nursing services~~ lead nurse; or ~~(3-30-09)F(3-30-09)T~~
- d. Change in mental health program director. (3-30-09)T

**131. NOTIFICATION BY THE DEPARTMENT FOR PROPOSED CHANGES SUBMITTED BY THE FACILITY.**

***Subsection 131.03.c.***

**03. Notification of Changes in Operations.** The Department will notify the owner or operator within thirty (30) days of its determination with respect to any of the following proposed changes: (3-30-09)T

- a. Change of CEO or administrator; (3-30-09)T
- b. Change of medical director; (3-30-09)T
- c. Change of ~~director of nursing services~~ lead nurse; ~~(3-30-09)F(3-30-09)T~~
- d. Change of mental health program director; and (3-30-09)T
- e. Material change in services or program classifications. (3-30-09)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**150. DENIAL OF CERTIFICATE OF APPROVAL.**

***Subsection 150.02***

**02. Denial of a Certificate of Approval Related to Key Individuals.** The Department may deny a certificate of approval when persuaded by a preponderance of the evidence that any of the following individuals: applicant, owner, operator, CEO or administrator, medical director, ~~director of nursing services~~ lead nurse, or mental health program director has: ~~(3-30-09)F(3-30-09)T~~

### ***Subsection 150.03***

**03. Denial of a Certificate of Approval for an Act Adversely Affecting Welfare of Client, Employee, Contractor, or Volunteer.** The Department may deny a certificate of approval when persuaded by a preponderance of the evidence that 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, operator, CEO or administrator, medical director, ~~director of nursing services lead nurse~~, or mental health program director. Such acts or omissions include neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights or exploitation of vulnerable adults. ~~(3-30-09)F(3-30-09)T~~

### ***(BREAK IN CONTINUITY OF SECTIONS)***

### **160. ENFORCEMENT ACTION FOR SUSPENSION OR REVOCATION OF A CERTIFICATE AND LIMIT ON ADMISSIONS WITH NOTICE.**

The Department may suspend or revoke a certificate of approval, terminate or limit admissions, with or without a referral of clients, when persuaded by a preponderance of the evidence, that the facility is not in substantial compliance with these rules and minimum standards. Additional causes for suspension or revocation of a certificate of approval, for terminating or limiting admissions, with or without a referral of clients, may be issued for any of the reasons listed in this section of rule. (3-30-09)T

### ***Subsection 160.01***

**01. Act Adversely Affecting Welfare of Client.** 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, operator, CEO or administrator, medical director, ~~director of nursing services lead nurse~~, or mental health program director. Such acts or omissions may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights or exploitation of vulnerable adults. ~~(3-30-09)F(3-30-09)T~~

### ***Subsections 160.03 and 160.04***

**03. Misrepresentation or Omission On Application.** The applicant, owner, operator, CEO or administrator, medical director, ~~director of nursing services lead nurse~~, or mental health program director has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining or renewing a license. ~~(3-30-09)F(3-30-09)T~~

**04. Lack of Sound Judgment in Operation or Management.** The applicant, owner, operator, CEO or administrator, medical director, ~~director of nursing services lead nurse~~, or mental health program director has demonstrated a lack of sound judgment in the operation or management of the facility. ~~(3-30-09)F(3-30-09)T~~

### ***Subsection 160.07***

**07. Acts of Key Individuals.** The facility, applicant, owner, CEO or administrator, medical director, ~~director of nursing services lead nurse~~, or mental health program director: ~~(3-30-09)F(3-30-09)T~~

### ***Subsection 160.08***

**08. Violation of Client Confidentiality.** The applicant, owner, operator, CEO or administrator, medical director, ~~director of nursing services lead nurse~~, mental health program director, or any employees, transfers, reinstated former employees, student interns, contractors, volunteers, or any other persons who provide care or services or have access to clients, violate client confidentiality. ~~(3-30-09)F(3-30-09)T~~

(BREAK IN CONTINUITY OF SECTIONS)

185. INSPECTIONS, INVESTIGATIONS, AND CONSULTATIONS.

**Subsection 185.07**

**07. Authority to Interview.** The Department or its designee has the authority to interview any individual associated with the facility or the provision of care, including persons or governmental units named in the certificate, the complainant, CEO or administrator, medical director, ~~director of nursing services~~ *lead nurse*, mental health program director, chemical dependency counselor, staff, clients, clients' families, service providers, authorized provider or physician or other legally responsible person. Interviews are confidential and conducted privately unless otherwise specified by the Department or its designee. ~~(3-30-09)F~~(3-30-09)T

(BREAK IN CONTINUITY OF SECTIONS)

235. MEDICATION POLICIES AND PROCEDURES.

Each detox/mental health diversion unit must have written policies and procedures that govern the safe storage, dispensing, and administration of medication. Written policies and procedures must include at a minimum the following requirements in Subsection 235.01 through 235.07 of this rule. (3-30-09)T

**Subsection 235.02.f**

**02. Administration of Medication.** Medications can only be provided to a client by licensed nursing staff in accordance with written policies and procedures established by the governing body, which must include at least the following: (3-30-09)T

- a. Administered in accordance with a physician's, dentists', nurse practitioner's, or physician assistant's written orders; (3-30-09)T
- b. The client is identified prior to administering the medication; (3-30-09)T
- c. Medications are administered as soon as possible after preparation; (3-30-09)T
- d. Medications are administered only if properly identified; (3-30-09)T
- e. Medications are administered by the person preparing the medication for delivery to the client; (3-30-09)T
- f. Clients are observed for reactions to medications and if a reaction occurs, it is immediately reported to the ~~charge on-duty~~ nurse and ~~director of nursing~~ *lead nurse*; and ~~(3-30-09)F~~(3-30-09)T
- g. Each client's medication is properly recorded on his individual medication record. (3-30-09)T

(BREAK IN CONTINUITY OF SECTIONS)

250. FOOD AND NUTRITIONAL CARE POLICIES AND PROCEDURES.

Each detox/mental health diversion unit must develop written policies and procedures for providing proper nutritional care for each client that includes procedures to follow if a client refuses food or to follow the prescribed diet. The acquisition, preparation, storage, and serving of all food and drink in a facility must comply with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments." (3-30-09)T

### ***Subsection 250.01***

**01. Three Nutritious Meals Per Day.** At least three nutritious meals per day and nutritional snacks, must be provided to each client present at meal times in the detoxification or mental health diversion units. No more than fourteen (14) hours may elapse between the end of an evening meal and the beginning of the morning meal. Physician approved special diets must be provided upon request by a client. Under no circumstances may food be withheld for disciplinary reasons. Menus must be reviewed and approved in advance by a registered dietitian in Idaho in accordance with the Idaho Diet Manual from the Idaho Dietetic Association. Nourishments must be made available to a client in a sobering station. ~~(3-30-09)F~~(3-30-09)T

### **(BREAK IN CONTINUITY OF SECTIONS)**

### **260. CLIENT RECORDS POLICIES AND PROCEDURES.**

Each detox/mental health diversion unit must develop written policies and procedures to assure accurate and authentic records are maintained for each client in the facility. (3-30-09)T

### ***Subsection 260.03.i.vi.***

**03. Individual Client Record.** An individual record must be maintained for each admission with all entries kept current, dated, and signed. Client records must, at a minimum, contain the following: (3-30-09)T

- i.** Nurses' entries must include the following information: (3-30-09)T
  - i.** Date, time and mode of admission; documentation of the client's general physical and emotional condition as well as mental attitude on admission. (3-30-09)T
  - ii.** Medication administration record. (3-30-09)T
  - iii.** Date and times of all treatments. (3-30-09)T
  - iv.** Any change in the client's physical or mental status. (3-30-09)T
  - v.** Any incident or accident occurring while the client is in the facility. (3-30-09)T
  - vi.** The signature of the charge on-duty nurse for each shift indicating the assumption of responsibility for all entries made by nonprofessional nursing personnel. ~~(3-30-09)F~~(3-30-09)T

### **(BREAK IN CONTINUITY OF SECTIONS)**

### ***Section 270***

### **270. MINIMUM STAFFING POLICIES AND PROCEDURES.**

Each detox/mental health diversion unit must develop, implement, and comply with written staffing policies and procedures based on the number of beds, number of clients, client needs, services provided, and configuration of the facility as described in Subsections 270.01 through 270.06 of this rule. In a facility with both detoxification and mental health diversion units, the facility may divide a staff member's time to provide direct care in both units provided the staffing ratios for each unit are met. ~~(3-30-09)F~~(3-30-09)T

### ***Subsection 270.02***



02. **Direct Care Staff.** The facility must have adequate nursing personnel and direct care staff in sufficient numbers to plan, administer, and provide client bedside care. At a minimum, two (2) staff, one of whom must be an R.N. or L.P.N., must be on duty twenty-four (24) hours per day, seven (7) days per week. In the absence of the ~~director of nursing lead nurse~~, an R.N. or L.P.N. must be designated to assume the ~~director of nursing's lead nurse's~~ duties. No person may be assigned nursing duties, including aides and orderlies, who has been on duty in the facility during the preceding twelve (12) hours, except in an emergency. ~~(3-30-09)F(3-30-09)T~~

(BREAK IN CONTINUITY OF SECTIONS)

*Section 273 is being reprinted in its entirety.*

273. **QUALIFICATIONS AND RESPONSIBILITIES FOR ~~DIRECTOR OF NURSING SERVICES LEAD NURSE~~.**

01. **~~Director of Nursing Services Lead Nurse~~.** Each detox/mental health diversion unit must maintain at all times, through employment or contract, an R.N. licensed in Idaho to serve as the ~~director of nursing services lead nurse~~. This individual must have the qualifications required in Subsections 273.03 and 273.04 of this rule at the time of hire and throughout the duration of employment or contract. ~~(3-30-09)F(3-30-09)T~~

02. **~~Director of Nursing Services Lead Nurse's Responsibilities~~.** The ~~director of nursing services lead nurse~~ is responsible for all nursing services provided to clients and for supervising all of the nursing services provided by staff. The ~~director of nursing services's lead nurse's~~ responsibilities include, at a minimum, the following: ~~(3-30-09)F(3-30-09)T~~

- a. To organize, coordinate, and evaluate nursing service functions and staff; (3-30-09)T
- b. To be responsible for development and implementation of client care policies and procedures; (3-30-09)T
- c. To select, supervise, direct, promote, and terminate nursing staff; (3-30-09)T
- d. To establish procedures to insure that staff licenses are valid and current; and (3-30-09)T
- e. To participate with the CEO or administrator and medical director in planning and budgeting for nursing care. (3-30-09)T

03. **Required License.** Each ~~director of nursing services lead nurse~~ must be an R.N. licensed by the Idaho Board of Nursing at the time of hire or contract and throughout the duration of employment or contract. ~~(3-30-09)F(3-30-09)T~~

04. **Required Experience and Abilities.** Each ~~director of nursing services lead nurse~~ must, at a minimum, have and demonstrate the following experience and abilities at the time of hire or contract: ~~(3-30-09)F(3-30-09)T~~

- a. At least two (2) years of paid full-time experience in the field of alcoholism, substance use disorders, and mental health. (3-30-09)T
- b. At least one (1) of the two (2) years' full-time experience must be in a clinical mental health setting. (3-30-09)T
- c. At least one (1) of the two (2) years' full-time experience must be in an administrative capacity that includes: (3-30-09)T

i. Knowledge and experience demonstrating competence in planning and budgeting, fiscal management, supervision, personnel management, employee performance assessment, data collection, and reporting; and (3-30-09)T

ii. An understanding of and adherence to the ethical standards of the respective license adopted by the governing board for licensure. (3-30-09)T

**05.** Availability of ~~Director of Nursing Services~~ Lead Nurse. The facility's ~~director of nursing services~~ lead nurse must, at a minimum, be full-time forty (40) hours per week. ~~(3-30-09)F(3-30-09)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**275. QUALIFICATIONS AND RESPONSIBILITIES FOR MENTAL HEALTH PROGRAM DIRECTOR.**

**Subsection 275.03**

**03. Required License or Certification.** Each mental health program director must, at a minimum, have one (1) of the following Idaho licensures at the time of hire or contract and throughout the duration of employment or contract: ~~(3-30-09)F(3-30-09)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**Section 281**

**281. VISITING HOURS.**

Each detox/mental health diversion unit, must establish and post daily visiting hours that are readily observable by the public. ~~(3-30-09)T~~

~~01. Clergy Members. A facility must allow clergy members to visit at any hour.~~ ~~(3-30-09)T~~

~~02. Critically Ill Clients. Relatives or guardians must be allowed to visit critically ill clients at any time.~~ ~~(3-30-09)T~~

~~03. Privacy Available for Visitations.~~ The facility must have places or rooms available to clients for privacy for client visits with relatives, friends, clergy, social workers, and guardians during the established and posted visiting hours. ~~(3-30-09)F(3-30-09)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**Section 301**

**301. REQUIRED MINIMUM STAFFING STANDARDS APPLICABLE TO DETOXIFICATION UNITS.** Each detoxification unit must develop and implement policies and procedures to provide necessary and qualified staff in sufficient numbers to assure the health and safety of clients. The program's policies must define the types and numbers of clinical, direct care, and managerial staff needed to provide clients with treatment services in a safe and therapeutic environment. Each detoxification unit must, at a minimum, meet the following standards for staffing in

the detoxification unit for direct care staff.

~~(3-30-09)F(3-30-09)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**320. REQUIRED MINIMUM ADMISSION CRITERIA TO DETOXIFICATION UNITS.**

According to physician-approved written admission criteria, policies, and procedures, each detoxification unit must develop and implement written admission criteria that are uniformly applied to all clients. (3-30-09)T

***Subsection 320.04***

**04. Notification of Admission of Opiate/Methadone Client.** The ~~director of nursing lead nurse~~ must be notified that an opiate/methadone client was admitted to the detoxification unit. The name of the clinic where the client received the methadone must be documented in the client's record. ~~(3-30-09)F(3-30-09)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**420. REQUIRED MINIMUM INTAKE CRITERIA APPLICABLE TO SOBERING STATIONS.**

Each detox/mental health diversion unit that maintains or operates a sobering station must develop and implement physician-approved written intake criteria, policies, and procedures that are uniformly applied to all clients. (3-30-09)T

***Subsection 420.03.a. through 420.03.d.***

**03. Monitoring Clients in Sobering Station.** A client admitted to a sobering station must be closely monitored. (3-30-09)T

**a.** ~~Qualified staff must check each client's vital signs upon entry and throughout the client's stay in the sobering station according to the written policies and procedures approved and signed by the medical director.~~ ~~(3-30-09)F(3-30-09)T~~

**b.** The ~~director of nursing lead nurse~~ must be notified that an opiate/methadone client was admitted to the sobering station. ~~(3-30-09)T~~

~~e.~~ ~~Documentation of and~~ the name of the clinic where the client received the methadone ~~must be documented.~~ ~~(3-30-09)F(3-30-09)T~~

~~d.~~ ~~The R.N. or L.P.N. on duty will determine when it is safe to remove the client from the fifteen (15) minute checks. If removed, the client must be checked every thirty (30) minutes for the remainder of his stay in the sobering station.~~ ~~(3-30-09)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

***Section 501 is being reprinted in its entirety.***

**501. REQUIRED MINIMUM STAFFING APPLICABLE TO MENTAL HEALTH DIVERSION UNITS.**

Each mental health diversion unit must develop and implement policies and procedures to provide necessary and qualified staff in sufficient numbers to assure the health and safety of clients. The program's policies must define the types and numbers of clinical, direct care, and managerial staff needed to provide clients with treatment services in a

safe and therapeutic environment. Each mental health diversion unit must, at a minimum, meet the following standards for staffing in the mental health diversion unit for direct care staff. ~~(3-30-09)T~~(3-30-09)T

- 01. Nurse.** At least one (1) R.N. or L.P.N. must be on duty twenty-four (24) hours per day, seven (7) days per week. (3-30-09)T
- 02. Direct Care Staff.** At least one (1) direct care staff must be assigned direct-care responsibility for every four (4) clients. (3-30-09)T
- 03. Psychiatrist.** At least one (1) psychiatrist must be on call twenty-four (24) hours per day, seven (7) days per week. The psychiatrist must make daily rounds. Back up coverage for a psychiatrist may be a physician who must consult with the psychiatrist. (3-30-09)T
- 04. Physician Supervision.** The treatment of each client must be under the supervision of a physician. (3-30-09)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**620. BEDS AND SLEEPING AREAS FOR MEDICALLY-MONITORED RESIDENTIAL DETOXIFICATION UNIT.**

Each medically-monitored residential detoxification unit must be in compliance with Subsections 620.01 through 620.11 of this rule. (3-30-09)T

***Subsection 620.01.a.***

**01. Number of Approved Beds for Detoxification Unit.** The number of approved beds for detoxification is limited to the number stated on the certificate of approval. (3-30-09)T

**a.** Each approved bed for detoxification must have, at a minimum, a comfortable single bed mattress in good repair with moisture-proof cover, sheets, blankets, bedspread, pillow and pillow cases. ~~(3-30-09)T~~(3-30-09)T

**b.** Roll-away type beds, cots, bunk-beds, and folding beds cannot be used and will not be approved. (3-30-09)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**630. BEDS AND BEDROOMS FOR MENTAL HEALTH DIVERSION UNIT.**

Each mental health diversion unit must be in compliance with the following Subsections 630.01 through 630.14 of this rule. (3-30-09)T

***Subsection 630.01.a.***

**01. Number of Approved Beds for Mental Health Diversion Unit.** The number of approved beds for mental health diversion is limited to the number stated on the certificate of approval. (3-30-09)T

**a.** Each approved bed for mental health diversion treatment must have, at a minimum, a comfortable single bed mattress in good repair with moisture-proof cover, sheets, blankets, bedspread, pillow and pillowcases. ~~(3-30-09)T~~(3-30-09)T

**b.** Roll away type beds, cots, bunk beds, and folding beds cannot be used and will not be approved. (3-30-09)T

## IDAPA 17 - INDUSTRIAL COMMISSION

### 17.02.03 - SECURITY FOR COMPENSATION

DOCKET NO. 17-0203-0901

#### 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 adoption. 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 72-508, 72-720, 72-721, 72-722, 72-723, and 72-803, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 18 through 28.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Scott McDougall, (208) 334-6063.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

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#### DOCKET NO. 17-0203-0901 - 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 09-10, October 7, 2009, Book 2, pages 18 through 28.](#)**

**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 17 - INDUSTRIAL COMMISSION

### 17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-0902

#### 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 adoption. 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 72-508, 72-720, 72-721, 72-722, 72-723, and 72-803, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 29 through 32.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Scott McDougall, (208) 334-6063.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

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#### DOCKET NO. 17-0208-0902 - 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 09-10, October 7, 2009, Book 2, pages 29 through 32.](#)

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 17 - INDUSTRIAL COMMISSION

### 17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-0903

#### 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 adoption. 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 72-508, 72-720, 72-721, 72-722, 72-723, and 72-803, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 33 through 36.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Patti Vaughn, (208) 334-6084.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

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#### DOCKET NO. 17-0208-0903 - 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 09-10, October 7, 2009, Book 2, pages 33 through 36.](#)

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 17 - INDUSTRIAL COMMISSION**

### **17.06.01 - BOILER AND PRESSURE VESSEL SAFETY RULES - GENERAL**

#### **DOCKET NO. 17-0601-0901 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final adoption. 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 72-508, Idaho Code.

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

The pending rule is being adopted as proposed. This is a Chapter Repeal. The notice of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, page 37.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alvin Caine, Division of Building Safety, (208) 332-7153.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

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#### **DOCKET NO. 17-0601-0901 - 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 09-10, October 7, 2009, Book 2, page 37.](#)**

**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 17 - INDUSTRIAL COMMISSION**

### **17.06.02 - BOILER AND PRESSURE VESSEL SAFETY RULES - ADMINISTRATION**

#### **DOCKET NO. 17-0602-0901 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final adoption. 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 72-508, Idaho Code.

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

The pending rule is being adopted as proposed. This is a Chapter Repeal. The notice of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, page 38.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alvin Caine, Division of Building Safety, (208) 332-7153.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

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#### **DOCKET NO. 17-0602-0901 - 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 09-10, October 7, 2009, Book 2, page 38.](#)**

**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 17 - INDUSTRIAL COMMISSION**

### **17.06.03 - BOILER AND PRESSURE VESSEL SAFETY RULES - INSPECTIONS**

#### **DOCKET NO. 17-0603-0901 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final adoption. 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 72-508, Idaho Code.

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

The pending rule is being adopted as proposed. This is a Chapter Repeal. The notice of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, page 39.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alvin Caine, Division of Building Safety, (208) 332-7153.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

---

#### **DOCKET NO. 17-0603-0901 - 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 09-10, October 7, 2009, Book 2, page 39.](#)**

**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 17 - INDUSTRIAL COMMISSION

### 17.06.04 - BOILER AND PRESSURE VESSEL SAFETY RULES - REPAIRS AND ALTERATIONS

#### DOCKET NO. 17-0604-0901 (CHAPTER REPEAL)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final adoption. 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 72-508, Idaho Code.

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

The pending rule is being adopted as proposed. This is a Chapter Repeal. The notice of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, page 40.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alvin Caine, Division of Building Safety, (208) 332-7153.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

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#### DOCKET NO. 17-0604-0901 - 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 09-10, October 7, 2009, Book 2, page 40.](#)

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 17 - INDUSTRIAL COMMISSION

### 17.06.05 - BOILER AND PRESSURE VESSEL SAFETY RULES - BOILER ATTENDANTS

#### DOCKET NO. 17-0605-0901 (CHAPTER REPEAL)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final adoption. 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 72-508, Idaho Code.

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

The pending rule is being adopted as proposed. This is a Chapter Repeal. The notice of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, page 41.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alvin Caine, Division of Building Safety, (208) 332-7153.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

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#### DOCKET NO. 17-0605-0901 - 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 09-10, October 7, 2009, Book 2, page 41](#).

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 17 - INDUSTRIAL COMMISSION

### 17.08.01 - IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - GENERAL PROVISIONS

DOCKET NO. 17-0801-0901

#### 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 adoption. 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 72-508, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 42 through 46.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Keys, Division of Building Safety, (208) 332-8986.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

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#### DOCKET NO. 17-0801-0901 - 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 09-10, October 7, 2009, Book 2, pages 42 through 46.](#)

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 17 - INDUSTRIAL COMMISSION

### 17.08.02 - IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - HEALTH, SAFETY, AND SANITATION

DOCKET NO. 17-0802-0901

#### 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 adoption. 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 72-508, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 47 through 53.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Keys, Division of Building Safety, (208) 332-8986.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

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#### DOCKET NO. 17-0802-0901 - 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 09-10, October 7, 2009, Book 2, pages 47 through 53.](#)

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 17 - INDUSTRIAL COMMISSION

### 17.08.03 - IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - EXPLOSIVES AND BLASTING

DOCKET NO. 17-0803-0901

#### 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 adoption. 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 72-508, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 54 and 55.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Keys, Division of Building Safety, (208) 332-8986.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

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#### DOCKET NO. 17-0803-0901 - 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 09-10, October 7, 2009, Book 2, pages 54 and 55.](#)

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 17 - INDUSTRIAL COMMISSION

### 17.08.05 - IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - SIGNAL AND SIGNAL SYSTEMS

DOCKET NO. 17-0805-0901

#### 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 adoption. 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 72-508, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 56 and 57.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Keys, Division of Building Safety, (208) 332-8986.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

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#### DOCKET NO. 17-0805-0901 - 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 09-10, October 7, 2009, Book 2, pages 56 and 57.

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 17 - INDUSTRIAL COMMISSION**

**17.08.08 - IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING  
- FALLING AND BUCKING**

**DOCKET NO. 17-0808-0901**

**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 adoption. 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 72-508, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 58 through 63.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Keys, Division of Building Safety, (208) 332-8986.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

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**DOCKET NO. 17-0808-0901 - 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 09-10, October 7, 2009, Book 2, pages 58 through 63.](#)**

**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 17 - INDUSTRIAL COMMISSION

### 17.08.09 - IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - RIGGING, LINES, BLOCKS, AND SHACKLES

DOCKET NO. 17-0809-0901

#### 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 adoption. 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 72-508, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 64 through 67.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Keys, Division of Building Safety, (208) 332-8986.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

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#### DOCKET NO. 17-0808-0901 - 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 09-10, October 7, 2009, Book 2, pages 64 through 67.](#)

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 17 - INDUSTRIAL COMMISSION

### 17.08.10 - IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - CANOPY AND CANOPY CONSTRUCTION FOR LOGGING EQUIPMENT

DOCKET NO. 17-0810-0901

#### 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 adoption. 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 72-508, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 68 and 69.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Keys, Division of Building Safety, (208) 332-8986.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

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#### DOCKET NO. 17-0810-0901 - 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 09-10, October 7, 2009, Book 2, pages 68 and 69.](#)

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 17 - INDUSTRIAL COMMISSION

### 17.08.16 - IDAHO MINIMUM SAFETY STANDARDS AND PRACTICES FOR LOGGING - RECOMMENDED SAFETY PROGRAM

DOCKET NO. 17-0816-0901

#### 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 adoption. 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 72-508, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 70 through 76.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Keys, Division of Building Safety, (208) 332-8986.

DATED this 10th day of November, 2009.

Mindy Montgomery, Director  
Industrial Commission  
700 South Clearwater Lane  
PO Box 83720  
Boise, ID 83720-0041  
Phone: (208) 334-6000  
Fax: (208) 334-2321

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#### DOCKET NO. 17-0816-0901 - 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 09-10, October 7, 2009, Book 2, pages 70 through 76.](#)

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 18 - DEPARTMENT OF INSURANCE**

### **18.01.13 - LIFE SETTLEMENTS**

#### **DOCKET NO. 18-0113-0901 (NEW CHAPTER)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the amendments to the temporary rule is January 1, 2010. This pending 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 Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and is also amending a temporary rule. The action is authorized pursuant to Sections 41-211 and 41-1965, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule:

The pending rule pertaining to Life Settlements incorporates changes that were made as a result of written comments received during the promulgation process. The following changes were made:

1. Section 010.03 of the rule has been changed to correct a reference to the Idaho Code.
2. Section 012.02.e of the rule has been changed to clarify the prohibition on advertising designed to encourage the purchase of life insurance for the purpose of transferring the insurance to investors.
3. Section 016.03 has been changed to require insurers to provide notice in writing when a request for verification is determined by the insurer to be incomplete.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions that have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the August 5, 2009, Idaho Administrative Bulletin, Vol. 09-8, pages 83 to 97.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Shad Priest, at 208/334-4250.

DATED this 10th day of November, 2009.

William W. Deal  
Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise ID 83720-0043  
Phone: 208/334-4250  
Fax: 208/334-4398

DOCKET NO. 18-0113-0901 - ADOPTION OF PENDING RULE  
AND AMENDMENT TO TEMPORARY RULE

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

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

The text of the temporary/proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-8, August 5, 2009, pages 83 through 97.](#)

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.

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THE FOLLOWING IS THE AMENDED TEMPORARY RULE AND THE  
AMENDED PENDING RULE TEXT FOR DOCKET NO. 18-0113-0901

010. DEFINITIONS.

*Subsection 010.03*

03. **Broker.** A life settlement broker as defined at section 41-1951(~~7~~), Idaho Code. ~~(8-1-09)F(1-1-10)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

012. FILING OF FORMS.

02. **Filing of Advertising Materials.** No person shall use advertising materials promoting or advertising the availability of life settlements or life settlement services in Idaho unless the materials are first filed with the Department. If the advertising is not in written form, a written script shall be filed. All advertising relating to the business of life settlements shall have a unique identifying form number in the lower left hand corner of the advertising piece and shall comply the following standards: (8-1-09)T

*Paragraph 012.02.e.*

e. Advertising materials shall not be designed to encourage or promote the purchase of life insurance for the purpose of transferring ownership ~~through a life settlement contract~~ to third party investors who lack an insurable interest in the in the life of the insured. ~~(8-1-09)F(1-1-10)T~~

(BREAK IN CONTINUITY OF SECTIONS)

016. ADDITIONAL REQUIREMENTS.

03. Life Settlements Occurring Within Two (2) Years of Policy Origination. (8-1-09)T

*Paragraph 016.03.c.*

c. The sworn statement and copies of all supporting documentation shall be provided to the insurer at the time a request for verification of coverage is submitted to the insurer. A request for verification of coverage relating to a policy or certificate that has been in effect for two (2) years or less will be considered incomplete if it is not accompanied by the owner's sworn statement and supporting documentation, ~~and the insurer shall promptly inform the provider or broker submitting the request for verification form that the form will not be considered complete until the sworn statement or other necessary supporting documentation is received. An insurer that determines a request for verification of coverage is incomplete shall, without undue delay, inform the broker or provider in writing that the verification is incomplete and identify all items needed to complete the request.~~

~~(8-1-09)T(1-1-10)T~~

## **IDAPA 18 - DEPARTMENT OF INSURANCE**

### **18.01.44 - SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES**

**DOCKET NO. 18-0144-0902**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is January 1, 2010. This pending rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule and is also amending a temporary rule. The action is authorized pursuant to Sections 41-211, 41-401, and 41-5911(6), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule:

The pending rule has been changed to remove redundant language. The changes to the pending rule do not affect the substance of the rule or the amount of any fees imposed by the rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions that have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in Book 2 of the October 7, 2009, Idaho Administrative Bulletin, Vol. 09-10, pages 77 through 79.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. This fee or charge is being imposed pursuant to Sections 41-401 and 41-5911(6), Idaho Code. The following is a specific description of the fee or charge imposed or increased:

The fee is part of the implementation of House Bill 192, which creates a right to independent review of certain types of health claim denials. Independent review organizations applying to handle reviews will be required to pay an initial application for approval fee of \$500 and a biennial reapproval fee of \$300. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending fee rule and the amendment to temporary rule, contact Shad Priest at 208/334-4250.

DATED this 10th day of November, 2009.

William W. Deal, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 8372,  
Boise ID 83720-0043  
Phone: 208/334-4250  
Fax: 208/334-4398



DOCKET NO. 18-0144-0902 - ADOPTION OF PENDING FEE RULE  
AND AMENDMENT TO TEMPORARY RULE

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

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

The text of the temporary/proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-10, October 7, 2009, Book 2, pages 77 through 79.](#)

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.

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THE FOLLOWING IS THE AMENDED TEMPORARY RULE AND THE  
AMENDED PENDING RULE TEXT FOR DOCKET NO. 18-0144-0902

**030. PRODUCER AND MISCELLANEOUS LICENSING FEES.**

**01. Original License Application.** The following fees are due and must be paid with the filing application for original license, which fees include the issuance of a license, if issued: (3-13-02)

***Paragraph 030.01.i.***

**i.** Independent review organization (*biennial*) -- five hundred dollars (\$500) *for initial approval and three hundred dollars (\$300) for reapproval.* ~~(1-1-09)F(1-1-10)T~~

**04. License Renewal.** The following fees are due and must be paid for each license in order to renew or continue each and every license: (3-13-02)

***Paragraph 030.04.g.***

**g.** Independent review organization (*biennial*) -- *five hundred dollars (\$500) for initial application for approval and three hundred dollars (\$300) for reapproval.* ~~(1-1-09)F(1-1-10)T~~

**IDAPA 19 - STATE BOARD OF DENTISTRY**  
**19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY**  
**DOCKET NO. 19-0101-0901**  
**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 54-912, 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:

No changes have been made to the pending rule from the proposed rule. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol.09-10, pages 86 through 89.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact: Arthur R. Sacks, 208-334-2369

Dated this 9th day of November, 2009.

Arthur R. Sacks  
Executive Director  
Idaho State Board of Dentistry  
350 North 9<sup>th</sup> Street, Suite M-100, Boise, ID 83702  
P. O. Box 83720, Boise, ID 83720-0021  
Phone: 208-334-2369  
Fax: 208-334-3247

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**DOCKET NO. 19-0101-0901 - 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 09-10, October 7, 2009, Book 2, pages 86 through 89.](#)**

**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 20 - DEPARTMENT OF LANDS

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

DOCKET NO. 20-0304-0901

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, and IDAPA 20.01.01, Rules of Practice and Procedure Before the State Board of Land Commissioners ("Board"), Sections 830 through 835, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 58-104(6), Idaho Code.

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

This rulemaking clarifies and corrects some of the rule changes approved in 2008. The issues addressed by this rulemaking include, but are not limited to, removing the actual fee amounts from the rules and allowing the Board to set the fees subject to the maximum fee amounts in Section 58-1307, Idaho Code, clarifying several definitions and encroachment standards, allowing some boat lifts to be approved with an abbreviated permitting process, and providing for lake specific encroachment standards to assist with implementation of lake management plans. These rules are being promulgated in conjunction with changes to IDAPA 20.03.17, Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands.

Some changes were made to the pending rules after the close of comments on October 28, 2009. These changes are in response to comments received from the public and department personnel. Parking requirements at commercial marinas will be one parking space per moorage only for privately owned slips with designated parking spaces. All other parking requirements will be one parking space per two moorages, as the rule currently states. The construction standards for covered slips was changed to specifically prohibit extra piling or hard covers due to the impacts on the near shore area. The process of inspecting float home sanitation, and bringing all float homes up to the sanitation standards, was modified to be less ambiguous. The permitting procedure for certain kinds of boat lifts was also modified to correct an error in the printing of the Proposed Rule. Pursuant to Section 67-5228, Idaho Code, typographical, transcriptional, and/or clerical corrections have also been made to the rule and are being published with this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 90 through 106.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 58-1307, Idaho Code:

The actual fee amounts would be removed from the rules and would be set by the Board subject to the maximum amounts in statute. This would allow, for instance, the Board to reduce the fees down to the approximate cost of processing applications for small waterlines. As a nonnavigational encroachment they are currently assessed a fee, required by the Rules, that often exceeds the department's costs.

**FISCAL IMPACT:** This is a general fund program. The department does not anticipate any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending fee rule, contact Eric Wilson, (208) 334-0261 or ewilson@idl.idaho.gov. More information is also at <http://www.idl.idaho.gov/adminrule/rulemaking.html>.

DATED this 13th day of November, 2009.

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

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**DOCKET NO. 20-0304-0901 - ADOPTION OF PENDING FEE RULE**

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, **Volume 09-10, October 7, 2009, Book 2, pages 90 through 106.**

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.

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**THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 20-0304-0901**

**015. ENCROACHMENT STANDARDS.**

**03. Commercial Marina. (4-2-08)**

***Paragraph 015.03.c.***

**c.** If local city or county ordinances governing parking requirements for marinas have not been adopted, commercial marinas shall must provide a minimum of upland vehicle parking equivalent to one (1) parking space per two (2) public watercraft or float home moorages, and. If private moorage is tied to specific parking spaces or designated parking areas, then one (1) parking space per ~~two (2) float home moorages~~ one (1)

private watercraft or float home moorage shall be provided. In the event of conflict, the local ordinances shall prevail. Local city or county ordinances governing parking requirements for marinas will apply if such have been enacted.  
(4-2-08)( )

04. Covered Slip. (4-2-08)

***New Paragraph 015.04.c.; Paragraphs 015.04.d. and 015.04.e. are renumbered.***

c. Covered slips may not be supported by extra piling nor constructed with hard roofs. ( )

ed. Covered slips Slip covers with permanent roofs and up to three (3) walls may be maintained or replaced at their current size if they were previously permitted or if they were constructed prior to January 1, 1975. These structures may not be expanded nor converted to boat garages.  
(4-2-08)( )

eg. Fabric covered slips must be constructed as canopies without sides unless the following standards are followed:  
(4-2-08)

10. Float Homes. (4-2-08)

***Paragraph 015.10.e.***

e. All float homes that are hooked to upland sewer or septic systems must be inspected and certified every year by a professional plumber licensed in the state of Idaho. Permittees or their designee are responsible for providing this documentation to the department. All float homes in Idaho that connect with upland sewer or septic systems must implement the following standards by December 31, 2012:  
(4-2-08)( )

***Paragraph 015.10.f.***

f. All float home permittees will have their float homes inspected by a professional plumber licensed in the state of Idaho by December 31, 2012. The inspection will be documented with a report prepared by the inspector. The report will document whether or not the float homes meet the standards in Paragraph 015.10.e. of these rules, and will be provided to the department before the above date.  
( )

***New Paragraph 015.10.g.***

g. A float home permittee must request an extension, and give cause for the extension, if their float home does not meet the standards in paragraph 015.01.e. of these rules by December 31, 2012. Extensions beyond December 31, 2016 will not be allowed. A permittee's failure to either request the extension, if needed, or to meet the December 31, 2016 deadline will be a violation subject to the provisions of Section 080 of these rules.  
( )

***Paragraph 015.10.h. has been renumbered.***

h. Construction or remodel work on a float home that costs fifty percent (50%) or more of its assessed value will require an encroachment application and construction drawings stamped by an engineer licensed in the state of Idaho.  
( )

13. General Encroachment Standards. (4-2-08)

b. Boat Lifts and Jet Ski Lifts. (4-2-08)

*Subparagraph 015.13.b.iii.*

iii. A boat lift or jet ski lift within lines drawn perpendicular from the shore to the outside dock edges will not require a separate permit if the lift is outside the ten (10) foot adjacent littoral owner setback, the lift does not extend beyond the line of navigability, and the lift does not count toward the square footage of the dock as outlined in Subparagraphs 015.13.b.i. and 015.13.b.ii. The permittee shall send a revised permit drawing with the lift location as an application to the department. If the lift meets the above conditions, the application shall be approved as submitted. Future applications shall include the lifts. ( )

## IDAPA 20 - DEPARTMENT OF LANDS

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

DOCKET NO. 20-0317-0901

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, and IDAPA 20.01.01, "Rules of Practice and Procedure Before the State Board of Land Commissioners," Sections 830 through 835, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 58-104(6), Idaho Code.

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

No changes have been made to the pending rule. The proposed rule clarified and corrected some of the rule changes approved in 2008. The issues addressed in the proposed rule included, but were not limited to, removing the actual fee amounts from the rules and allowing the Board to set the fees, and clarifying the rights granted, how rental rates are determined, and the lease modification process.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 107 to 111.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. The fee or charge is being imposed pursuant to Sections 58-304 through 58-312, Idaho Code: The actual fee amounts would be removed from the rules and would be set by the Board subject to the maximum amounts in statute.

**FISCAL IMPACT:** This is a general fund program. The department does not anticipate any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending fee rule, contact Eric Wilson, (208) 334-0261 or [ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov). More information is also at <http://www.idl.idaho.gov/adminrule/rulemaking.html>.

DATED this 13th day of November, 2009.

Eric Wilson  
Navigable Waters/Minerals Program Manager  
Idaho Department of Lands

PO Box 83720, Boise, Idaho 83720  
(208) 334-0261/ Fax (208) 334-3698  
[ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov)

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#### DOCKET NO. 20-0317-0901 - ADOPTION OF PENDING FEE RULE

**No substantive changes have been made to the pending rule.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 09-10, October 7, 2009, Book 2, pages 107 through 111.**

**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

### 24.05.01 - RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS

DOCKET NO. 24-0501-0901

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2406, Idaho Code.

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

The proposed rule updates the Board's web address as it has changed. The rule reduces the fees for endorsement, original license, and the license renewal to reduce the Board's cash balance. The rule also creates, defines, and sets forth the qualifications for a Class 1 Restricted license and Very Small Wastewater System license. The Very Small Wastewater license is based upon DEQ rule changes that now allow for a very small wastewater facility license. The Class 1 Restricted license is designed to assist facilities with part-time operators and staff to allow more flexible qualifications for a license to run a specific facility. This rule will also clarify an ambiguity in the qualifications for a land application license. Changes from the proposed rule are being made in section 300.02.c. to the required courses. Courses required along with experience are an approved six-hour pumps and motors course and an approved six-hour lagoon operation and maintenance course or an approved six-hour large soil absorption system course for a combined total of one hundred twelve (112) hours.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in Book 2 of the October 7, 2009 Administrative Bulletin, Vol. 09-10, pages 118 through 125.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-2407, Idaho Code:

Idaho Code 54-2407 allows the Board to establish fees. The changes would reduce the amount of fees collected for the dedicated funds of the Board of Drinking and Wastewater Professionals by approximately \$38,190 per year based on 3461 licensees and 358 applicants.

**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 general funds.

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

DATED this 8th day of December, 2009.

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



**DOCKET NO. 24-0501-0901 - ADOPTION OF PENDING FEE RULE**

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, **Volume 09-10, October 7, 2009, Book 2, pages 118 through 125.**

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.

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**THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 24-0501-0901**

**300. REQUIREMENTS FOR LICENSE (RULE 300).**

Applicants shall submit an application together with the required fees and such documentation as is required. (3-24-05)

**02. Education and Experience Requirements.** Only actual verified on-site operating experience at a treatment, distribution or collection system will be acceptable. (3-24-05)

***Paragraph 300.02.c.***

**c.** To qualify for a Very Small Wastewater System license, an operator must have a high school diploma or GED and fifty (50) hours of acceptable operator-in-training experience at a wastewater collection system and fifty (50) hours of acceptable operator-in-training experience at a wastewater treatment system and complete an approved six-hour pumps and motors course; and an approved six-hour lagoon operation and maintenance course; or an approved six-hour large soil absorption system course for a combined total of one hundred twelve (112) hours.

( )

## IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

### 24.23.01 - RULES OF THE SPEECH AND HEARING SERVICES LICENSURE BOARD

DOCKET NO. 24-2301-0901

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2910, Idaho Code.

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

The Board of Speech and Hearing Services is updating the web address for the Board as it has changed. This rule increases the renewal fee by \$25, and clarifies that exam fees for unexcused applicants are non refundable. To ensure competency, it clarifies the need for continuing education when reinstating a license. It adds provision to carry over continuing education and adds a special exemption for continuing education for the benefit of licensees. It clarifies when a provisional permit can be issued and how many permit holders can be supervised at a time. It clarifies what records must be maintained by the supervisor of a hearing aid dealer and fitter. It clarifies the quarterly report for audiology and hearing aid dealer and fitter and what needs to be included. It changes the text submitted as a proposed rule in Section 175.02 by deleting the reference to endorsement fee and deletes proposed section 310 as endorsement requirements are not provided in Title 54, Chapter 29, Idaho Code.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in Book 2 of the October 7, 2009 Administrative Bulletin, Vol. 09-10, pages 192 through 195.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-2921, Idaho Code:

Rule 175 increases the renewal fees from \$100 to \$125.

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

There is no impact on general funds.

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

DATED this 8th day of December, 2009.

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

**DOCKET NO. 24-2301-0901 - ADOPTION OF PENDING FEE RULE**

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, **Volume 09-10, October 7, 2009, Book 2, pages 191 through 195.**

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.

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**THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 24-2301-0901**

**175. FEES (RULE 175).**

Applications should not be filed unless the applicant can meet all requirements. (3-30-06)

*Subsection 175.02 is reverting back to original text.*

**02. Original License Fee.** The original license fee is one hundred dollars (\$100) to be accompanied by the completed application. (3-30-06)

**(BREAK IN CONTINUITY OF SECTIONS)**

*Reserved Sections 301 through 349 are reverting back to original text; new Section 310 and proposed Reserved Sections 311 through 349 are being deleted.*

**301. -- 349. (RESERVED).**

## IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION

### 26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-0901

#### 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 67-5221, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-4249, Idaho Code.

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

This amended rule clarifies that no person may endanger the life of any person or creature on Department administered lands and that no person may indiscriminately discharge a firearm on state park property, except when such use is for legal hunting as authorized by Board rule, or for exhibition or at designated ranges as authorized by the Director.

The pending rule 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 106 and 107.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Nancy Merrill, 208.514.2250; Nancy.Merrill@idpr.idaho.gov.

DATED this November 13, 2009.

Nancy Merrill, Director  
Idaho Department of Parks and Recreation  
5657 Warm Springs Avenue, Boise ID 83716  
PO Box 83720, Boise ID 83720-0065  
Phone: 208.334.4199 / FAX: 208.334.3741

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#### DOCKET NO. 26-0120-0901 - 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 106 and 107.](#)

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 26 - DEPARTMENT OF PARKS AND RECREATION

### 26.01.31 - RULES GOVERNING THE ADMINISTRATION OF IDAHO DEPARTMENT OF PARKS AND RECREATION STATE AND FEDERAL GRANT FUNDS

DOCKET NO. 26-0131-0901

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5221(1), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 67-4223, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 7, 2009, Idaho Administrative Bulletin, Vol. 09-10, page 227 through 229.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 67-7126, Idaho Code:

The 2009 Legislature amended Section 67-7126, Idaho Code, to increase the price of an off-highway vehicle registration sticker by one dollar (\$1) to fund County Sheriff's to enforce off-highway vehicle related law enforcement.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending fee rule, contact Nancy Merrill, 514-2250; Nancy.Merrill@idpr.idaho.gov.

DATED this 13th day of November, 2009.

Nancy Merrill, Director  
Idaho Department of Parks and Recreation  
5657 Warm Springs Avenue, Boise ID 83716  
PO Box 83720, Boise ID 83720-0065  
Phone: 208.334.4199 / FAX: 208.334.3741

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#### DOCKET NO. 26-0131-0901 - ADOPTION OF PENDING FEE RULE

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-10, October 7, 2009, Book 2, pages 227 through 229.](#)

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 27 - BOARD OF PHARMACY**

### **27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY**

#### **DOCKET NO. 27-0101-0904**

#### **NOTICE OF EXTENSION OF WRITTEN COMMENT PERIOD**

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has extended the period of public comment. The action is authorized pursuant to Section 54-1717, Idaho Code.

**DESCRIPTIVE SUMMARY:** The summary of this action and the text of the proposed rule can be found in Idaho Administrative Bulletin Vol. 09-10, dated October 7, 2009, pages 247 through 250.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this rulemaking, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

**SUBMISSION OF WRITTEN COMMENTS:** The comment period for this rulemaking has been extended from October 28, 2009 through January 14, 2010. Comments submitted after October 28, 2009 and before the date of this Notice do not need to be resubmitted. Anyone may submit written comments regarding this rulemaking.

All written comments must be directed to the undersigned and must be delivered on or before January 14, 2010. Written comments may be sent via e-mail to the undersigned at this address: mark.johnston@bop.idaho.gov.

DATED this 9th day of December, 2009.

Mark Johnston, R.Ph.  
Executive Director  
Board of Pharmacy  
3380 Americana Terrace, Ste. 320  
P. O. Box 83720  
Boise, ID 83720-0067  
Phone: (208) 334-2356  
Fax: (208) 334-3536  
E-mail: mark.johnston@bop.idaho.gov

## IDAPA 28 - DEPARTMENT OF COMMERCE

### 28.02.03 - RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM

#### DOCKET NO. 28-0203-0901 (CHAPTER REPEAL)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 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 67-4715, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, page 265.

**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 Cathy Bourner, Grant Analyst, (208) 334-2470, ext. 2153.

DATED this 29th day of October 2009.

Karen Ballard  
Division of Tourism Administrator  
Idaho Department of Commerce  
700 W. State St.  
P. O. Box 83720  
Boise, ID 83720-0093  
Phone: (208) 334-2470, ext. 2100  
Fax: (208) 334-2631

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#### DOCKET NO. 28-0203-0901 - 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 09-10, October 7, Book 2, 2009, page 265.](#)**

**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 28 - DEPARTMENT OF COMMERCE

### 28.02.03 - RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM

#### DOCKET NO. 28-0203-0902 (CHAPTER REWRITE)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is August 1, 2009. This pending 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 67-4715, Idaho Code.

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

The change in text is necessary to clarify the language in two sections of the rule. The phrase "contract period" more accurately describes the duration of the grant cycle; and the word "obligated" was deleted because it doesn't describe the nature of the grant process.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes different from the proposed text are printed in this bulletin. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 266 through 272.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Karen Ballard, (208) 334-2470, ext. 2100.

DATED this 29th day of October 2009.

Karen Ballard  
Division of Tourism Administrator  
Idaho Department of Commerce  
700 W. State St.  
P. O. Box 83720  
Boise, ID 83720-0093  
Phone: (208) 334-2470, ext. 2100  
Fax: (208) 334-2631

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**DOCKET NO. 28-0203-0902 - ADOPTION OF PENDING RULE  
AND AMENDMENT TO TEMPORARY RULE**



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

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

The text of the temporary/proposed rule was published in the Idaho Administrative Bulletin, [Volume 09-10, October 7, 2009, Book 2, pages 266 through 272.](#)

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.

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THE FOLLOWING IS THE AMENDED TEMPORARY RULE AND THE  
AMENDED PENDING RULE TEXT FOR DOCKET NO. 28-0203-0902

012. GRANT AWARD SCHEDULE.

*Subsection 012.03*

03. Grant Cycle. Grant ~~cycle is approximately~~ contract period is fourteen (14) months, beginning with the ITC's grant award date and ending on September 30 of the following year. Funded activities should be completed within the fourteen (14) month cycle. ~~(8-1-09)T~~(8-1-09)T

(BREAK IN CONTINUITY OF SECTIONS)

*Proposed Section 024 is being moved to Section 223; Reserved Section 024 created*

~~0254.~~ -- 199. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

222. GRANT AWARD.

The ITC is responsible for the selection of applications to be awarded ITC Grants. Once the ITC has selected plans to be funded, the Department will notify all applicants, by letter, of their funding status. (8-1-09)T

*Subsection 222.03*

03. Effective Date. The grant will take effect upon the date of award. Grant monies cannot be ~~obligated or~~ expended until that date. ~~(8-1-09)T~~(8-1-09)T

*Section 024 has been moved to Section 223; Sections 224 and 225 have been renumbered*

**~~024~~223. AUDIT REQUIREMENT.**

Grantees who receive one hundred thousand dollars (\$100,000) or more in grant funds must have an audit. The audit must be performed by a Certified Public Accountant and submitted to the Department within sixty (60) days following the close of the grant cycle. The Council may also require an audit for grants less than one hundred thousand dollars (\$100,000). Estimated audit costs must be included in the grant application. Audits are exempt from match requirements. (8-1-09)T

**~~223~~4. EXTENSIONS AND AMENDMENTS.**

Extensions and amendments to ITC approved grants are discouraged. However, if the grantee can offer a compelling reason why more time is needed to complete the approved plan, or if a suitable opportunity requiring a change to the scope of work becomes available, an extension of the grant year or amendment to the approved plan or budget may be requested. (8-1-09)T

**01. Extensions.** An extension of up to three (3) months may be obtained from the grant manager with the Division of Tourism. However, if the grantee requires additional time to complete approved projects, beyond the three (3) months, the request will be reviewed by the ITC and must receive a majority vote of the members in order for the extension to be allowed. (8-1-09)T

**02. Amendments.** If the scope of any element changes or a budget shift in excess of limits set by the Council in the guidelines is requested, it will be reviewed by the ITC and must receive a majority vote of the members in order for the amendment to be allowed. (8-1-09)T

**~~224~~5. GRANT TERMINATION.**

**01. Plan, Project or Organization Loses Viability.** If at any time a travel and convention promotion plan or project loses its viability, or the organization awarded the grant ceases to actively function, the grant may be terminated. This determination will be made by the ITC, the Division of Tourism staff, and may include the grantee. If such a decision is made, the Department will terminate the plan or project and the funds will be reverted to the regional pool for the next cycle grant awards. (8-1-09)T

**02. Conflict of Interest.** If at any time the Council becomes aware of an apparent or potential conflict of interest between a grantee and a private entity which may influence grant funds, the Council may request a meeting with the grantee's representatives. The Council may, at that meeting, terminate the grant if an inappropriate conflict of interest is found. (8-1-09)T

**03. Inappropriate Use of Funds.** If at any time the Council becomes aware of a grantee's inappropriate or illegal use of grant funds, or inappropriate request for reimbursement, the Council may request a meeting with the grantee's representatives. The Council may, at that meeting, terminate the grant if impropriety is found. (8-1-09)T

*Reserved Section 226 has been renumbered.*

**~~225~~6. -- 999. (RESERVED).**

## IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

### 31.41.01 - CUSTOMER RELATIONS RULES FOR TELEPHONE CORPORATIONS PROVIDING LOCAL EXCHANGE OR INTRASTATE MTS/WATS SERVICE IN IDAHO SUBJECT TO CUSTOMER SERVICE REGULATION BY THE IDAHO PUBLIC UTILITIES COMMISSION UNDER THE PUBLIC UTILITIES LAW OR THE TELECOMMUNICATIONS ACT OF 1988 (THE TELEPHONE CUSTOMER RELATIONS RULES)

DOCKET NO. 31-4101-0901

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the Public Utilities Commission and is now pending review by the 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Public Utilities Commission has adopted a pending rule. The action is authorized pursuant to Section 61-507, Idaho Code.

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

The Commission is amending the text of Rules 005, 102, 201, 303, 304, 308, 309, and 604 in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this Bulletin and all other proposed rules are being adopted as pending rules. The complete text of all the proposed rules was published in the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 273 through 300.

Based upon the written comments filed with the Commission, the Commission made several clarifying changes to the proposed rules. Rule 5 was changed to make the rule consistent with statutory definition of small business service. The word "cash" was removed from Rule 102 to recognize that electronic payments are possible, and Rules 303 and 304 were clarified to allow for electronic forms of payment and notice. Rule 201 was changed to allow customers to choose to pay by automatic charges to checking accounts or credit cards, and also agree to terms that do not require a payment date on billing statements when choosing automatic payment methods. Rule 604 reduces notice to customers from thirty (30) days to ten (10) days, as is required by statute, and language is added to clarify the notice requirement applies to rate increases. After reviewing the comments on Rule 309, Restrictions on Termination of Local Exchange Service, the Commission determined to leave the existing rule (Rule 311) unchanged and encourage suggestions for refinement of the rule next year.

**FISCAL IMPACT:** There is no fiscal impact on the state general fund resulting from this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Weldon B. Stutzman, Deputy Attorney General, at (208) 334-0318.

DATED this 13th day of November, 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

DOCKET NO. 31-4101-0901 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, **Volume 09-10, October 7, 2009, Book 2, pages 273 through 300.**

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.

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THE FOLLOWING IS THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 31-4101-0901

**005. DEFINITIONS (RULE 5).**

The following definitions are used in this title and chapter:

(7-1-93)

***Subsection 005.06***

**406. Small Business ~~Telephone~~ Service.** "Small business ~~telephone~~ service" means telecommunication service furnished to a business or institutional entity, whether an individual, partnership, corporation, association or other business or institutional form, for occupational, professional, or institutional purposes, to customers who do not subscribe to more than five (5) local access lines ~~within a building which are billed to a single billing location~~, i.e., service provided to small business customers as defined in Section 62-603(11), Idaho Code. ~~(7-1-99)( )~~

**(BREAK IN CONTINUITY OF SECTIONS)**

***Section 102***

**1042. ~~WRITTEN~~ EXPLANATION FOR DENIAL OF SERVICE OR REQUIREMENT OF DEPOSIT -- LECS (RULE 1042).**

~~Upon request of the applicant or customer, if the local exchange company must requires a deposit as a condition of providing service, then it shall immediately provide an written explanation to the ~~applicant or~~ customer stating the precise reasons why ~~it requires~~ a deposit ~~or denies service~~ is required. The ~~applicant or~~ customer shall be given an opportunity to rebut these reasons. ~~The applicant or customer must be orally notified of the right to a written explanation.~~ In the event of a dispute, the customer must be advised that an informal or formal complaint may be filed with the Commission. ~~(7-1-93)( )~~~~

**(BREAK IN CONTINUITY OF SECTIONS)**

201. ISSUANCE OF BILLING STATEMENTS -- CONTENTS OF BILLS -- RESIDENTIAL AND SMALL BUSINESS SERVICE (RULE 201).

01. **Local Exchange Service.** Billing statements for residential and small business local exchange service ~~shall~~ must be issued on a regular basis. ~~Bills~~ and must contain the following information: (7-1-93)( )

*Subsection 201.01.c.*

c. The due date ~~of the bill~~ by which payment must be received, unless the customer has authorized automatic monthly payment. If automatic payment is authorized, the customer must be informed in writing when funds will be withdrawn from a bank account or charged to a credit card account. In addition, the billing statement must state the actual or earliest possible date that funds will be withdrawn or the credit card charged unless the customer consents otherwise in writing at the time automatic payment is authorized; (7-1-93)( )

(BREAK IN CONTINUITY OF SECTIONS)

3043. REQUIREMENTS FOR NOTICE BEFORE TERMINATION OF LOCAL EXCHANGE SERVICE (RULE 3043).

*Subsection 303.01*

01. **~~Seven-Day~~ Initial Notice.** If the telephone company intends to terminate local exchange service under Rule 3021, it must send to the customer written notice of termination mailed at least seven (7) calendar days before the proposed date of termination. Written notice may be provided by electronic mail (i.e. e-mail) if the customer is billed electronically and separately consents in writing to receiving electronic notification. This written notice must contain the information required by Rule 3064. (3-30-01)( )

*Subsection 303.03*

03. **Additional Notice.** If the telephone company has not terminated service within twenty-one (21) days after the proposed termination date as specified in a ~~written~~ notice, the telephone company must again provide notice under Rules 3043.01 and 3043.02 if it still intends to terminate service. (3-30-01)( )

(BREAK IN CONTINUITY OF SECTIONS)

3064. CONTENTS OF NOTICE OF INTENT TO TERMINATE LOCAL EXCHANGE SERVICE (RULE 3064).

*Subsection 304.01*

01. **Contents of Notice.** The written, electronic or oral notice of intent to terminate local exchange service required by Rule 3043 must state: (1-5-95)( )

(BREAK IN CONTINUITY OF SECTIONS)

3408. INSUFFICIENT GROUNDS FOR TERMINATION OF LOCAL EXCHANGE SERVICE (RULE 3408).

**Subsections 308.01 and 308.01.a.**

**01. Termination Prohibited.** No customer shall be given notice of termination of local exchange services nor shall the customer's local exchange service be terminated if the unpaid bill for local exchange service cited as grounds for termination is: (1-1-95)( )

~~01a. Less Than Fifty Dollars.~~ *The customer's unpaid bill cited as grounds for termination is* ~~Less than fifty thirty (\$530)~~ dollars.; (7-1-99)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**Section 309 is being reprinted in its entirety.**

**~~3409.~~ RESTRICTIONS ON TERMINATION OF LOCAL EXCHANGE SERVICE -- OPPORTUNITY TO AVOID TERMINATION OF LOCAL EXCHANGE SERVICE (RULE ~~3409~~).**

**01. When Termination Not Allowed.** Unless the customer affected has consented in writing, local exchange service shall not be terminated on any Friday after twelve noon or on any Saturday, Sunday, legal holidays recognized by the state of Idaho, or after twelve noon on any day immediately before any legal holiday, or at any time when the telephone company's business offices are not open for business, except as authorized by Rules 3032.01 and 3032.02, or for non-residential customers, as authorized by any Subsection of Rule 3032. Local exchange services may be terminated only between the hours of 8 a.m. and 4 p.m., except as authorized by Rules 3032.01 and 3032.02. (1-1-95)( )

**02. Personnel to Authorize Reconnection.** Each telephone company providing local exchange service shall have personnel available after the time of termination who are authorized to reconnect service if the conditions cited as grounds for termination are corrected to the telephone company's satisfaction. Customers may be asked to pay reconnection fees before restoration of service. (1-1-95)

**03. Service to Persons Not Customers.** If local exchange service is provided to a residence and the account is in the name of one who does not reside there, the telephone company, prior to termination, shall notify the person(s) receiving service and afford the person(s) a reasonable opportunity to negotiate directly with the telephone company to purchase service in the resident's(s') own name(s). (1-1-95)

**04. No Termination While Complaint Pending.** Except as authorized by order of the Commission or of the Judiciary, local exchange service shall not be terminated for failure to pay amounts in dispute while a complaint over that telephone service filed pursuant to Rule 4021 is pending before this Commission or while a case placing at issue payment for that telephone service is pending before a court in the state of Idaho. (1-1-95)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**Section 604**

**604. PUBLIC NOTICE (RULE 604).**

Telephone companies must give "public notice" of all proposed changes in rates as required by Section 62-606, Idaho Code. Public notice must be reasonably designed to call affected customers' attention to the proposed changes in rates. Legal advertisements alone will not be considered adequate public notice. Individual notice to all customers affected will always constitute public notice. Notices of rate increases must be provided to individual customers at least ten (10) days before change is effective. ( )

## IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

### 31.41.02 - INFORMATION TO CUSTOMERS OF TELEPHONE COMPANIES

#### DOCKET NO. 31-4102-0901 (CHAPTER REPEAL)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the Public Utilities Commission and is now pending review by the 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has adopted a pending rule. The action is authorized pursuant to Section 61-507, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule to repeal the chapter was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, page 301.

**FISCAL IMPACT:** There is no fiscal impact on the state general fund resulting from this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the repeal of this chapter, contact Weldon B. Stutzman, Deputy Attorney General, at (208) 334-0318.

DATED this 13th day of November, 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

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#### DOCKET NO. 31-4102-0901 - 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 09-10, October 7, 2009, Book 2, page 301.](#)**

**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

### 31.42.01 - THE IDAHO PUBLIC UTILITIES COMMISSION RULES FOR TELEPHONE CORPORATIONS SUBJECT TO THE RULES OF THE IDAHO PUBLIC UTILITIES COMMISSION UNDER THE TELECOMMUNICATIONS ACT OF 1988 (THE TITLE 62 TELEPHONE CORPORATION RULES)

DOCKET NO. 31-4201-0901 (CHAPTER REPEAL)

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the Public Utilities Commission and is now pending review by the 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Idaho Public Utilities Commission has adopted a pending rule. The action is authorized pursuant to Section 61-507, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule to repeal the chapter was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, page 302.

**FISCAL IMPACT:** There is no fiscal impact on the state general fund resulting from this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the repeal of this chapter, contact Weldon B. Stutzman, Deputy Attorney General, at (208) 334-0318.

DATED this 13th day of November, 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

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#### DOCKET NO. 31-4201-0901 - 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 09-10, October 7, 2009, Book 2, page 302.](#)

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 35 - IDAHO STATE TAX COMMISSION**

**35.01.01 - IDAHO INCOME TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0101-0901**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules was published in Book 2 of the October 7, 2009, Idaho Administrative Bulletin, Volume 09-10, pages 315 through 341.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Janice Boyd at (208) 334-7544.

DATED this 13th day of November 2009.

Janice Boyd  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36, Boise, ID 83722-0410

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**DOCKET NO. 35-0101-0901 - 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 09-10, October 7, 2009, Book 2, pages 315 through 341.**

**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 35 - IDAHO STATE TAX COMMISSION**

**35.01.02 - SALES TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0102-0901**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rules. The action is authorized pursuant to Sections 63-105, 63-3624, 63-3635 and 63-3039 Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules was published in Book 2 of the October 7, 2009, Idaho Administrative Bulletin, Volume 09-10, pages 342 through 358.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rules, contact Jim Husted (208) 334-7544.

DATED this 13th day of November 2009.

Jim Husted  
Tax Policy Specialist  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7530

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**DOCKET NO. 35-0102-0901 - 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 09-10, October 7, 2009, Book 2, pages 342 through 358.](#)**

**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 35 - IDAHO STATE TAX COMMISSION**

**35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0103-0902**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rules. The action is authorized pursuant to Sections 63-105 and 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules was published in Book 2 of the October 7, 2009, Idaho Administrative Bulletin, Volume 09-10, pages 359 through 387.

**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 these pending rules, contact Alan Dornfest (208) 334-7544.

DATED this 13th day of November, 2009.

Alan Dornfest  
Tax Policy Specialist  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7530

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**DOCKET NO. 35-0103-0902 - 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 09-10, October 7, 2009, Book 2, pages 359 through 387.](#)**

**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 35 - IDAHO STATE TAX COMMISSION**

**35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0103-0903**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rules. The action is authorized pursuant to Sections 63-105 and 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules was published in Book 2 of the October 7, 2009, Idaho Administrative Bulletin, Volume 09-10, pages 388 through 394.

**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 these pending rules, contact Alan Dornfest (208) 334-7544.

DATED this 13th day of November, 2009.

Alan Dornfest  
Tax Policy Specialist  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7530

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**DOCKET NO. 35-0103-0903 - 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 09-10, October 7, 2009, Book 2, pages 388 through 394.](#)**

**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 35 - IDAHO STATE TAX COMMISSION**  
**35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0105-0901**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rules. The action is authorized pursuant to Section 63-105, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 5, 2009, Idaho Administrative Bulletin, Volume 09-8, pages 129 through 131.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact Randy Nilson at (208) 334-7544.

DATED this 13th day of November, 2009.

Randy Nilson  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36, Boise, ID 83722-0410

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**DOCKET NO. 35-0105-0901 - 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 09-8, August 5, 2009, pages 129 through 131.](#)**

**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 35 - IDAHO STATE TAX COMMISSION**  
**35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0105-0902**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rules. The action is authorized pursuant to Section 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules was published in Book 2 of the October 7, 2009, Idaho Administrative Bulletin, Volume 09-10, pages 395 through 401.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rules, contact Randy Nilson at (208) 334-7544.

DATED this 13th day of November, 2009.

Randy Nilson  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36, Boise, ID 83722-0410

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**DOCKET NO. 35-0105-0902 - 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 09-10, October 7, 2009, Book 2, pages 395 through 401.](#)**

**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 35 - IDAHO STATE TAX COMMISSION**

### **35.01.09 - IDAHO COUNTY OPTION KITCHEN AND TABLE WINE ADMINISTRATIVE RULES**

**DOCKET NO. 35-0109-0901**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 63-105, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 7, 2009, Idaho Administrative Bulletin, Volume 09-10, pages 402 through 404.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Jim Husted at (208) 334-7544.

DATED this 13th day of November, 2009.

Jim Husted  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36, Boise, ID 83722-0410

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#### **DOCKET NO. 35-0109-0901 - 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 09-10, October 7, 2009, Book 2, pages 402 through 404.](#)**

**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 35 - IDAHO STATE TAX COMMISSION**

**35.01.12 - IDAHO BEER TAX RULES**

**DOCKET NO. 35-0112-0901**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 63-105, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 7, 2009, Idaho Administrative Bulletin, Volume 09-10, pages 405 through 407.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Jim Husted at (208) 334-7544.

DATED this 13th day of November, 2009.

Jim Husted  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36, Boise, ID 83722-0410

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**DOCKET NO. 35-0112-0901 - 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 09-10, October 7, 2009, Book 2, pages 405 through 407.](#)**

**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 35 - IDAHO STATE TAX COMMISSION**

### **35.02.01 - IDAHO TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES**

**DOCKET NO. 35-0201-0901**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules was published in Book 2 of the October 7, 2009, Idaho Administrative Bulletin, Volume 09-10, pages 408 through 419.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Janice Boyd at (208) 334-7530.

DATED this 13th day of November, 2009.

Janice Boyd  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36, Boise, ID 83722-0410  
(208) 334-7530

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#### **DOCKET NO. 35-0201-0901 - 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 09-10, October 7, 2009, Book 2, pages 408 through 419.](#)**

**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 35 - IDAHO STATE TAX COMMISSION**

### **35.02.01 - IDAHO TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES**

**DOCKET NO. 35-0201-0902**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section 63-105, Idaho Code.

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

The pending rule 501 is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 7, 2009, Idaho Administrative Bulletin, Volume 09-10, pages 420 through 422.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Janice Boyd at (208) 334-7544.

DATED this 13th day of November, 2009.

Janice Boyd  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36, Boise, ID 83722-0410  
(208) 334-7530

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#### **DOCKET NO. 35-0201-0902 - 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 09-10, October 7, 2009, Book 2, pages 420 through 422.](#)**

**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 39 - IDAHO TRANSPORTATION DEPARTMENT

## 39.03.16 - RULES GOVERNING OVERSIZE PERMITS

DOCKET NO. 39-0316-0901

### 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 49-201, Idaho Code.

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

As written, the current restriction applies to loads exceeding four feet overhang at the front of flatbed trailers, between the trailer and the tractor of the vehicle combination. Staff partnered with industry to research, and determined that seven feet of front trailer overhang can be safely accommodated for night operations on two-lane, two-way highways. An overhang which exceeds seven feet will be restricted to daylight only travel when operating on two-lane, two-way highways.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 455 and 456.

**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 Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 6th day of November, 2009.

Linda L. Emry, Administrative Rules Coordinator  
Office of Governmental Affairs  
Idaho Transportation Department

3311 West State Street  
P O Box 7129, Boise ID 83707-1129  
Phone -- 208-334-8810 / FAX -- 208-332-4107

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### DOCKET NO. 39-0316-0901 - 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 09-10, October 7, 2009, Book 2, pages 455 and 456.](#)

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 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 - 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 40-312, Idaho Code.

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

The rule-making 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 Vehicles Services Section and the District Offices.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Volume 09-09, pages 320 through 322.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 6th day of November, 2009.

Linda L. Emry, Administrative Rules Coordinator  
Office of Governmental Affairs  
Idaho Transportation Department

3311 West State Street  
P O Box 7129, Boise ID 83707-1129  
Phone -- 208-334-8810 / FAX -- 208-332-4107

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**DOCKET NO. 39-0317-0901 - 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 09-9, September 2, 2009, pages 320 and 322.](#)

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 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 - 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 40-312, Idaho Code.

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

This rule-making 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 rule-making 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."

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 2, 2009 Idaho Administrative Bulletin, Volume 09-09, pages 323 and 324.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 6th day of November, 2009.

Linda L. Emry, Administrative Rules Coordinator  
Office of Governmental Affairs  
Idaho Transportation Department

3311 West State Street  
P O Box 7129, Boise ID 83707-1129  
Phone -- 208-334-8810 / FAX -- 208-332-4107

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#### DOCKET NO. 39-0317-0901 - 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 09-9, September 2, 2009, pages 323 and 324.](#)

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 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.41 - RULES GOVERNING TRAFFIC CONTROL DEVICES

DOCKET NO. 39-0341-0901

#### 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 May 1, 2010, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-313 and 49-201(3), Idaho Code.

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

This rule-making adopts the most recent edition of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), the 2003 edition including revisions #1 and #2, published December 21, 2007. It also adds conforming additions to the manual, as adopted by the Idaho Transportation Board and approved by FHWA/Idaho, allowing the optional use of the IdaShield object marker for additional delineation of non-signalized at-grade railroad/road crossings of public roads. Studies show driver awareness and compliance with traffic rules at these crossings increases 20%-25% with the use of IdaShield, which results in increased public safety and a decrease in the number of vehicular accidents.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 457 through 463.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Brent Jennings, Highway Operations and Safety Engineer, 334-8557.

DATED this 6th day of November, 2009.

Linda L. Emry, Administrative Rules Coordinator  
Office of Governmental Affairs  
Idaho Transportation Department

3311 West State Street  
P O Box 7129, Boise ID 83707-1129  
Phone -- 208-334-8810 / FAX -- 208-332-4107

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#### DOCKET NO. 39-0341-0901 - 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 09-10, October 7, 2009, pages 457 and 463.

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 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.04.05 - RULES GOVERNING AIRCRAFT REGISTRATION

DOCKET NO. 39-0405-0901

#### 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 Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 21-111 and 21-114, Idaho Code.

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

The rule currently cites Section 63-1203, Idaho Code, which has been repealed by the legislature and replaced with Section 63-301, Idaho Code, with equivalent wording. Minor wording changes were included in the rulemaking to clarify intent and other language was added as prescribed by the Office of Administrative Rules.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 464 and 465.

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact John DeThomas, Aeronautics Division Administrator, 334-8788.

DATED this 6th day of November, 2009.

Linda L. Emry, Administrative Rules Coordinator  
Office of Governmental Affairs  
Idaho Transportation Department

3311 West State Street  
P O Box 7129, Boise ID 83707-1129  
Phone -- 208-334-8810 / FAX -- 208-332-4107

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#### DOCKET NO. 39-0405-0901 - 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 09-10, October 7, 2009, Book 2, pages 464 and 465.**

**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 47 - DIVISION OF VOCATIONAL REHABILITATION**

### **47.01.01 - RULES OF THE IDAHO DIVISION OF VOCATIONAL REHABILITATION**

**DOCKET NO. 47-0101-0901**

#### **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 33-105 and 33-2303, Idaho Code.

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

Adoption of this rule provides consistency with appeals process in rule as well as in the Field Service Manual incorporated by reference in 2008.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 489 through 492.

**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 Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582.

DATED this 13th Day of November, 2009.

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

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#### **DOCKET NO. 47-0101-0901 - 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 09-10, October 7, 2009, Book 2, pages 489 through 492.**

**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.**



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# LEGAL NOTICE

## Summary of Proposed Rulemakings

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### **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.

**There are no proposed rules being promulgated or published in this month's Bulletin.**

Please refer to the Idaho Administrative Bulletin, **January 6, 2010, Volume 10-1**, 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/](http://adm.idaho.gov/adminrules/) or call (208) 332-1820 or write the Dept. of Administration, Office of the Administrative Rules Coordinator, 650 W. State St., Room 100, Boise, ID 83720-0306.



**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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