

IDAHO ADMINISTRATIVE BULLETIN

January 5, 2011 -- Volume 11-1

Idaho Department of Administration
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IDAHO ADMINISTRATIVE BULLETIN

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Preface

The Idaho Administrative Bulletin is a monthly publication of the Office of the Administrative Rules Coordinator, Department of Administration, pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all administrative rulemaking documents in Idaho. All official rulemaking notices, official rule text, executive orders of the Governor, all legislative documents affecting rules, and any other documents required by law are published in the Bulletin.

State agencies are required to provide public notice of all proposed rulemaking actions and must invite public input once proposed rulemaking has been initiated. The public receives notice of proposed rulemaking actions through the Idaho Administrative Bulletin and a Public Notice (legal notice) that publishes in specific newspapers throughout the state. The legal notice provides reasonable opportunity for the public to participate when a proposed rule publishes in the Bulletin. Interested parties can submit written comments to the agency or request public hearings of the agency if none have been scheduled. Such submissions or requests must be presented to the agency within the time and manner specified in the individual "Notice of Rulemaking" for each proposed rule that is published in the Bulletin. After the comment period closes, the agency considers fully all information submitted regarding the proposed rule. Comment periods and public hearings are not provided for when the agency adopts a temporary or pending rule.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin **09-1** refers to the first Bulletin issued in calendar year **2009**; Bulletin **10-1** refers to the first Bulletin issued in calendar year **2010**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **10-1** refers to January 2010; Volume No. **10-2** refers to February 2010; and so forth. Example: The Bulletin published in January 2010 is cited as Volume **10-1**. The December 2009 Bulletin is cited as Volume **09-12**.

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.

THE DIFFERENT RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

Idaho's 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 - Negotiated Rulemaking” in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed or temporary rule, or both.

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 Rulemaking - Proposed Rule” 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) a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective; provided, however, that notwithstanding Section 67-5231, Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or enforceability of the rule.
- d) the text of the proposed rule prepared in legislative format;
- e) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;
- f) 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;
- g) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and
- h) the deadline for public (written) comments on the proposed rule.

All proposed rulemakings that are submitted for publication in the Bulletin that would impose a fee or charge must be accompanied by a cost/benefit analysis that is prepared by the agency. This cost/benefit analysis must estimate, as reasonably as possible, the costs to the agency to implement the rule and the estimated costs that would be borne by citizens or the private sector. This analysis is filed with the Director of LSO who then forwards it to the appropriate germane joint subcommittee assigned to review the promulgating agency’s proposed rules.

When incorporating by reference, the notice of proposed rulemaking must include a brief synopsis detailing the need to incorporate by reference any additional materials into the rule. The agency must also provide information regarding access to the incorporated materials. At a minimum, and when available, the agency must provide an electronic link to the documents that can be accessed on a website or post this information on its own website, or both. This link can be placed into the rule and activated once it is posted on the Coordinator’s website.

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 (terminate) a rulemaking after the publication of a proposed rule if it decides, for whatever reason, not to proceed further to finalize the rulemaking. The publication of a “Notice of Vacation of Proposed Rulemaking” in the Bulletin officially 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 one or more of the above legal criteria and the governor finds it is necessary that a rule become effective before it has been submitted to the legislature for review and approval and without allowing for any public input, the agency may proceed and adopt a temporary rule. The law allows that agency to make a temporary rule immediately effective upon adoption. 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 extended by concurrent resolution, is replaced by a final rule, or expires under its own terms.

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, will 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 Rulemaking Pending Rule." 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 and a statement that the pending rule may be rejected, amended or modified by concurrent resolution of the legislature;
- d) an identification of any portion of the rule imposing or increasing a fee or charge and a statement that this portion of the rule shall not become final and effective unless affirmatively approved by concurrent resolution of the legislature;
- (e) the specific statutory authority for the rulemaking including a citation to the specific section of the Idaho Code that has occasioned the rulemaking, or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking; and
- (f) a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective; provided however, that notwithstanding section 67-5231, Idaho Code, the absence or

accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or the enforceability of the rule.

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

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, 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 Code - annual subscription on CD-ROM. The Code is an annual compilation of all final administrative rules and all enforceable temporary rules and also includes all executive orders of the Governor that have published in the Bulletin, all legislative documents affecting rules, a table of contents, reference guides, and a subject index.

The Idaho Administrative Bulletin - annual subscription available on individual CD-ROM sent out monthly. The Bulletin is an official monthly publication of the State of Idaho and is available for purchase on CD-ROM only. Yearly subscriptions or individual CD-ROM's are available for purchase.

Internet Access - The Administrative Code and Administrative Bulletin, and many other rules-related documents 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 “-”, (**38-0501-1001**). 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. 38-0501-1001”

“**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**).

“**1001**” 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 2010**. A subsequent rulemaking on this same rule chapter in calendar year 2010 would be designated as “**1002**”. The docket number in this scenario would be 38-0501-**1002**.

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 2010

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

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2011

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
11-1	January 2011	*November 19, 2010	January 5, 2011	January 26, 2011
11-2	February 2011	January 14, 2011	February 2, 2011	February 23, 2011
11-3	March 2011	February 11, 2011	March 2, 2011	March 23, 2011
11-4	April 2011	March 4, 2011	April 6, 2011	April 27, 2011
11-5	May 2011	April 8, 2011	May 4, 2011	May 25, 2011
11-6	June 2011	May 6, 2011	June 1, 2011	June 22, 2011
11-7	July 2011	June 3, 2011	July 6, 2011	July 27, 2011
11-8	August 2011	July 8, 2011	August 3, 2011	August 24, 2011
11-9	September 2011	August 5, 2011	September 7, 2011	September 28, 2011
11-10	October 2011	**August 31, 2011	October 5, 2011	October 26, 2011
11-11	November 2011	October 7, 2011	November 2, 2011	November 23, 2011
11-12	December 2011	November 4, 2011	December 7, 2011	December 28, 2011

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

*****Last day to submit a proposed rule in order to have the rulemaking completed and submitted for review by legislature.***

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IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.08 - RULES GOVERNING GRADE A MILK AND MILK PRODUCTS

DOCKET NO. 02-0408-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 37-332f, 37-405, 37-516, 37-708, and 37-803, 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.

This rulemaking will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, Rules Governing Methods of Making Sanitation Ratings of Milk Shippers; IDAPA 02.04.10, Rules Governing Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers; and IDAPA 02.04.11, "Rules Governing the Evaluation of Milk Laboratories, will be consolidated into IDAPA 02.04.08, Rules Governing Grade A Milk and Milk Products. IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08.

To adopt the most current requirements of the U.S. Department of Health and Human Services, Public Health Service, and Food and Drug Administration for interstate shipments of Grade A milk and milk products, this rulemaking will also incorporate the most current version of the documents currently incorporated by reference in IDAPA 02.04.08, IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11. The latest version of the following documents will be incorporated by reference into IDAPA 02.04.08: 1) Grade "A" Pasteurized Milk Ordinance, 2) Methods of Making Sanitation Ratings of Milk Shippers, 3) Evaluation of Milk Laboratories, and 4) Procedures Governing the Cooperative State Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments.

The bacteria plate count and the somatic cell count standards of raw milk for pasteurization set forth in the Pasteurized Milk Ordinance will not be incorporated by reference in the proposed rule. Idaho Code § 37-314 requires that the bacteria plate count standard will be set at 80,000 per mL, and this will be the standard set forth in IDAPA 02.04.08. As for the somatic cell count standard, the Idaho Dairymen's Association ("IDA") requested that the Idaho State Department of Agriculture amend the existing somatic cell count standard in an effort to meet standards for international trade, as well as reduce risk of residues and potential pathogens, and enhance quality standards of milk and dairy products. The IDA requested that the somatic cell count standard be set at 500,000 per mL, which is closer to the international standard of 400,000 per mL. The new somatic cell count standard will be more stringent than the current standard of 750,000 per mL.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [August 4, 2010 Idaho Administrative Bulletin, Vol. 10-8, pages 18 through 20.](#)

FISCAL IMPACT: The following is a specific 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 Marv Patten, Bureau Chief Dairy and CAFO Programs, 208-332-8550 or marv.patten@agri.idaho.gov.

DATED this 8th day of November, 2010.

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) 332-8500
Fax: (208) 334-4062

DOCKET NO. 02-0408-1001 - 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 10-8, August 4, 2010, pages 18 through 20.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2011 Idaho State Legislature for final adoption.**

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.09 - RULES GOVERNING METHODS OF MAKING SANITATION RATINGS OF MILK SHIPPERS

DOCKET NO. 02-0409-1001 (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 2011 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 37-332f, 37-405, 37-516, 37-708, and 37-803, 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. This rulemaking will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, Rules Governing Methods of Making Sanitation Ratings of Milk Shippers; IDAPA 02.04.10, Rules Governing Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers; and IDAPA 02.04.11, Rules Governing the Evaluation of Milk Laboratories, will be consolidated into IDAPA 02.04.08, Rules Governing Grade A Milk and Milk Products. IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08. Consequently, IDAPA 02.04.09 will be repealed.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [August 4, 2010 Idaho Administrative Bulletin, Vol. 10-9, page 21](#).

FISCAL IMPACT: The following is a specific 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 Marv Patten, Bureau Chief, Dairy and CAFO Programs, 208-332-8550 or marv.patten@agri.idaho.gov.

DATED this 8th day of November 2010.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, ID 83712
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DOCKET NO. 02-0409-1001 - 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 10-8, August 4, 2010, page 21.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.10 - GOVERNING THE COOPERATIVE STATE-PUBLIC HEALTH SERVICE/FOOD AND DRUG ADMINISTRATION PROGRAM FOR CERTIFICATION OF INTERSTATE MILK SHIPPERS

DOCKET NO. 02-0410-1001 (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 2011 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 37-332f, 37-405, 37-516, 37-708, and 37-803, 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.

This rulemaking will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, Rules Governing Methods of Making Sanitation Ratings of Milk Shippers; IDAPA 02.04.10, Rules Governing Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers; and IDAPA 02.04.11, Rules Governing the Evaluation of Milk Laboratories, will be consolidated into IDAPA 02.04.08, Rules Governing Grade A Milk and Milk Products. IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08. Consequently, IDAPA 02.04.10 will be repealed.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [August 4, 2010 Idaho Administrative Bulletin, Vol. 10-8, pages 22 and 23](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Marv Patten, Bureau Chief, Dairy and CAFO Programs, 208-332-8550 or marv.patten@agri.idaho.gov.

DATED this 8th day of November 2010.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture

2270 Old Penitentiary Road, Boise, ID 83712
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DOCKET NO. 02-0410-1001 - 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 10-8, August 4, 2010, pages 22 and 23.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.11 - RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING THE EVALUATION OF MILK LABORATORIES

DOCKET NO. 02-0411-1001 (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 2011 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 37-332f, 37-405, 37-516, 37-708, and 37-803, 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. This rulemaking will consolidate four rules that each address an aspect of Grade A milk into one rule. IDAPA 02.04.09, Rules Governing Methods of Making Sanitation Ratings of Milk Shippers; IDAPA 02.04.10, Rules Governing Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers; and IDAPA 02.04.11, Rules Governing the Evaluation of Milk Laboratories, will be consolidated into IDAPA 02.04.08, Rules Governing Grade A Milk and Milk Products. IDAPA 02.04.09, IDAPA 02.04.10, and IDAPA 02.04.11 each incorporate by reference a different document, and the incorporated document is the entire substance of each rule. The rules will be consolidated by incorporating by reference all the documents into IDAPA 02.04.08. Consequently, IDAPA 02.04.11 will be repealed.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [August 4, 2010 Idaho Administrative Bulletin, Vol. 10-8, page 24.](#)

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Marv Patten, Bureau Chief, Dairy and CAFO Programs, 208-332-8550 or marv.patten@agri.idaho.gov.

DATED this 8th day of November 2010.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture

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DOCKET NO. 02-0411-1001 - 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 10-8, August 4, 2010, page 24.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2011 Idaho State Legislature for final adoption.**

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.13 - RULES GOVERNING RAW MILK

DOCKET NO. 02-0413-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 37-332f, 37-405, 37-516, 37-708, 37-803, and 37-1101, 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.

This rule has been modified to require either the words “not pasteurized” or “unpasteurized” in addition to the word “raw” on raw milk or raw milk product containers. This was a request from the Department of Health & Welfare to help ensure that the procurers of the raw milk product are aware that the raw milk or the raw milk products have not been pasteurized.

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 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 17 through 26](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Marv Patten, Bureau Chief, Dairy and CAFO Programs, 208-332-8550 or marv.patten@agri.idaho.gov.

DATED this 8th day of November 2010.

Brian J. Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, ID 83712
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(208) 332-8500
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DOCKET NO. 02-0413-1001 - ADOPTION OF PENDING RULE

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

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 10-9, September 1, 2010, pages 17 through 26.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 02-0413-1001

03011. LABELING.

Subsection 011.02.a.

042. Requirements. All raw milk and raw milk products must have Department-approved labeling. All bottles, containers, and packages enclosing raw milk or raw milk products ~~shall~~ must be conspicuously marked with the following: ()

a. The words ~~“raw,”~~ “not pasteurized,” or “unpasteurized” in addition to “raw” must precede the name of the product; ()

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE

DOCKET NO. 02-0419-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-207, Idaho Code.

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

The changes are to clarify the collection of the annual per head fee on domestic Cervidae and to propose ranch management plans as a method of administering the domestic Cervidae program more efficiently and provide cost savings to the domestic Cervidae producer.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 25 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: N/A

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

DATED this 23rd day of November, 2010.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
PO Box 790
Boise, Idaho 83701-0790
(209) 332-8500, Fax (208) 334-4062

DOCKET NO. 02-0419-1001 - 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 10-10, October 6, 2010, pages 25 through 32.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 02 - DEPARTMENT OF AGRICULTURE
02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS
DOCKET NO. 02-0421-1002
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 25-207, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. Proposed changes to IDAPA 02.04.29 Rules Governing Trichomoniasis require changes to IDAPA 02.04.21 Rules Governing the Importation of Animals to maintain consistency among the rules. Proposed changes related to trichomoniasis include lowering the age of virgin bulls for import into Idaho from twenty four (24) months of age or less to less than twelve (12) months of age. The exemption for testing of rodeo bulls is clarified. A testing exemption has been included for bulls imported for exhibition purposes. The age of rodeo stock required to be tested for tuberculosis prior to import is clarified.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, 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: N/A

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

DATED this 8th day of November, 2010.

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

DOCKET NO. 02-0421-1002 - 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 10-10, October 6, 2010, 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 2011 Idaho State Legislature for final adoption.**

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.29 - RULES GOVERNING TRICHOMONIASIS

DOCKET NO. 02-0429-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 25-207, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. Changes include lowering the age of a virgin bull for import purposes from 24 months of age or less to less than 12 months of age, requiring a hot iron T brand be applied to test positive animals rather than an orange paint T brand, removing the allowance for rodeo producers to purchase non-tested bulls that were intended to be sold to slaughter only and requiring culture positive animals to be confirmed positive by Polymerase Chain Reaction.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 37 through 43](#).

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

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

DATED this 8th day of November, 2010.

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

DOCKET NO. 02-0429-1001 - 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 10-10, October 6, 2010, pages 37 through 43.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 05 - IDAHO DEPARTMENT OF JUVENILE CORRECTIONS

05.01.05 - RULES FOR REINTEGRATION PROVIDERS

DOCKET NO. 05-0105-1001

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 December 1, 2010. This pending rule has been adopted by the agency and is now pending review by the 2011 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 20-504(9) and 20-504(11), 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 department has determined that the welfare of the community and juveniles in its custody make adoption of the pending rule and the amendments to the temporary rule appropriate. Amendments to temporary rules are necessary to correct references to Idaho Code and rules.

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 [November 3, 2010 Idaho Administrative Bulletin, Vol. 10-11, pages 36 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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Nancy S. Bishop, Deputy Attorney General, Idaho Department of Juvenile Corrections (208)334-5100 x.421.

DATED this 1st day of December, 2010.

Nancy S. Bishop
Idaho Department of
Juvenile Corrections
954 W. Jefferson
PO Box 83720
Boise, Idaho 83720-0285
(208) 334-5100
Fax: (208) 334-5120

DOCKET NO. 05-0105-1001 - 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 ~~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 complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 10-11, November 3, 2010, pages 36 and 76.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF THE TEMPORARY RULE AND
THE TEXT OF THE PENDING RULE OF DOCKET NO. 05-0105-1001

000. LEGAL AUTHORITY.

Subsection 000.03

~~03. Section 20-545(1), Idaho Code. Pursuant to Section 20-545(1), Idaho Code, the department shall have the power to adopt rules for the state juvenile corrections centers as may be required by the Juvenile Corrections Act. (12-1-10)T~~

043. Interstate Compact on Juveniles. By the provisions of Sections 16-1901, et seq., Idaho Code, the "Interstate Compact on Juveniles," the department is authorized to promulgate rules and regulations to carry out more effectively the terms of the compact. (12-1-10)T

Section 100

100. INITIATION OF SERVICES.

Juveniles are committed to the department under the provisions of the Juvenile Corrections Act (Sections 20-501 through 20-547⁹, Idaho Code) and the Interstate Compact on Juveniles (Sections 16-1901 through 16-1910, Idaho Code). ~~(12-1-10)T~~ (12-1-10)T

205. JUVENILE RECORDS.

02. Confidentiality. (12-1-10)T

Subsection 205.02.a.

a. Sections 20-525 and 9-340~~B(2)(b)~~, Idaho Code, and Idaho Court Administrative Rule 32 require confidentiality, under certain conditions, of records that contain information about juvenile offenders, which the provider is to observe. ~~(12-1-10)T~~(12-1-10)T

Subsection 205.02.c.

c. Restricted clinical information, as defined, and education and medical records, if required to be kept by the provider ~~under Subsection 010.52,~~ must each be filed separately and stored in a secured area. These file folders must be stamped “confidential” on the cover or outside folder. ~~(12-1-10)T~~(12-1-10)T

IDAPA 08 - STATE BOARD OF EDUCATION

08.01.11 - REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS AND PROPRIETARY SCHOOLS

DOCKET NO. 08-0111-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 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 a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 118 through 128.](#)

FISCAL IMPACT: The following is a specific 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, Policy, & HR Officer, (208)332-1582.

DATED this November 18, 2010.

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

DOCKET NO. 08-0111-1001 - 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 10-10, October 6, 2010, pages 118 and 128.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2011 Idaho State Legislature for final adoption.**

IDAPA 08 - STATE BOARD OF AND DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1001

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 33-1258, Idaho Code.

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

The changes made in this docket were also made in Docket 08-0202-1003; therefore, this docket is redundant and being vacated.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Camille Wells at (208) 332-6812.

DATED this 2nd Day of December, 2010.

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

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1002

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 33-105, 33-107, and 33-1614, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, 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 this pending rule, contact Tracie Bent, Chief Planning, Policy, & HR Officer, (208)332-1582.

DATED this November 18, 2010.

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

DOCKET NO. 08-0202-1002 - 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 10-10, October 6, 2010, pages 129 and 131.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1003

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

004.01 - The Professional Standards Commission follows a Strategic Plan of annually reviewing twenty percent (20%) of the Idaho Standards for Initial Certification of Professional School Personnel. Standards were reviewed and approved for the following areas: Idaho K-12 Mathematics Content, Elementary Education Teachers, Pre-service Technology, Foundation Standards for Science Teachers and the Enhancement Standards (Biology, Chemistry, Earth and Space Science, Natural Science, Physical Science, and Physics), Foundation Standards for Social Studies Teachers and the Enhancement Standards (Economics, Geography, Government and Civics, and History), Idaho School Social Work, Foundation Standards for Visual and Performing Arts Teachers and the Enhancement Standards. Standards are incorporated by reference.

004.03 - The proposed Operating Procedures for the Idaho Public Driver Education Programs manual are better aligned with national standards for Driver Education and Training programs. The documents clarifies procedures and identifies the responsibilities of School Districts that contract with a commercial driver education company to provide driver education services to their students.

018.04 - Currently, there is no requirement for a K-8 certified teacher to hold any type of endorsement or have content competency in another subject area outside of the Elementary core content. In most cases, this means that a K-8 certified teacher can only teach a self-contained elementary school class through 6th grade; which contradicts the purpose for Idaho continuing to support the K-8 certificate. Under the current federal requirements, holding only an elementary certificate does not give rural school districts the flexibility for which the K-8 certificate was designed. In addition, in hard to fill positions, there are often not enough 6-12 certificated teachers to meet the needs of middle schools. Unfortunately, at this time K-8 certified teachers are not properly prepared to teach single subject classrooms. This change will assist districts in moving teachers between elementary and middle school as necessary by requiring an area of expertise that can be used in the middle grades. It will also provide newly prepared teachers with more options and greater flexibility.

022.03 - The Professional Standards Commission follows a Strategic Plan of annually reviewing twenty percent (20%) of the Idaho Standards for Initial Certification of Professional School Personnel along with the corresponding rubrics, endorsement requirements and Praxis exams. In 2010 the Idaho Foundation Standards for Visual and Performing Arts Teachers and the Enhancement Standards (Visual Art, Drama, and Music) with the corresponding endorsement requirements were reviewed by a committee of content experts. The endorsement requirements were revised to better align with national standards and best practices, and then presented to the Professional Standards Commission for review. The Professional Standards Commission has recommended for approval the committee's proposed revisions of the endorsements.

This rule clarification better articulates the intent of the endorsement language. There were no substantive changes made to the endorsement.

023.10 - At the request of school districts and superintendents throughout the State, the Professional Standards Commission has researched and is recommending that a Kindergarten through Twelfth grade (K-12) option be added

to the current Health (6-12) endorsement. The addition of the (K-12) option would allow for more flexibility in teaching assignments, especially for those teachers who already hold a Physical Education (K-12) endorsement.

In order to obtain the (K-12) endorsement, teachers must satisfy the requirements of the (6-12) endorsement and additionally complete coursework in Elementary Education methods and health content. The proposed revision of the standards reflects the intent of the proposed revision to the endorsement.

024.04 and 24.05 - This rule clarification is in response to the need for a more clearly stated intent of the endorsement language. There were no substantive changes made to the endorsement.

027.02 - This endorsement was reviewed and revised by a panel of experts in December of 2007 at which time they recommended that all candidates seeking the School Psychologist Endorsement undergo a minimum twelve hundred (1,200) clock-hour internship with a school district under the supervision of the training institution and with direct supervision of a certificated school psychologist regardless of which of the three optional routes they choose.

The manner in which the endorsement language is unclear and allows for interpretation that only candidates seeking "Option C" of the endorsement are required to serve a 1,200 clock-hour internship. All Idaho institutions offering the School Psychologist Endorsement currently require every candidate to serve the 1,200 clock-hour internship in accordance with the endorsement. By making this revision to the endorsement language, the intent of the review panel and current and best practices will be more accurately reflected.

028.03 - Currently, the state is experiencing a shortage of special education teachers that hold the appropriate certification to teach in preschools. While the early childhood/blended certificate is meeting some of the need, districts have requested other options for certifying teachers, particularly to meet the needs of rural districts where university programs are not accessible.

University faculty of early childhood/blended certification programs were asked to provide solutions to the shortage, and are progressing toward making their traditional programs more accessible. However, after over two years of study, the Professional Standards Commission is recommending the addition of this endorsement to meet the stated need.

033 - The unprecedented demand for online teachers prompted the state to first create standards for those who teach online and have an optional endorsement.

230- Last year the State Board of Education approved the revised Operating Procedures for Idaho Public Driver Education Programs. These changes were taken to public comment and revised before resubmitting to the State Board of Education for final approval. The Idaho Legislature did not approve the revisions resulting in the State Department of Education resubmitting these rules for approval at this time. The primary purpose cited for the Legislature not approving the Operating Procedures for Idaho Public Driver Education Programs was due to unclear guidelines relating to the relationship between commercial driving schools and the State Department of Education. The current draft of the Operating Procedures for Idaho Public Driver Education Programs addresses those concerns.

The Idaho State Board of Education approved this docket on November 17, 2010.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 132 through 145.](#)

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

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

IDAPA 08.02.02.004 incorporates Content Standards and Certification Standards into this rule. Copies of the Content Standards can be found at <http://www.boardofed.idaho.gov>.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Camille Wells at 208-332-6812.

DATED this 18th day of November, 2010

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

DOCKET NO. 08-0202-1003 - 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 complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 10-10, October 6, 2010, pages 132 and 145.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 08-0202-1003

Section 004 is Being Reprinted in its Entirety

004. INCORPORATION BY REFERENCE.

The State Board of Education adopts and incorporates by reference into its rules: (5-8-09)

01. ~~Incorporated Document~~ The Idaho Standards for the Initial Certification of Professional School Personnel as approved on ~~June 18, 2009~~ November 17, 2010. (~~3-29-10~~)

~~02. Document Availability~~ Copies of this document can be found on the Office of the State Board of Education website at <http://www.boardofed.idaho.gov>. (~~3-29-10~~)()

~~032.~~ ~~*Incorporated Document.*~~ ~~The Standards for Idaho School Buses and Operations as approved on November 7, 2008.~~ ~~(5-8-09)~~

~~04.~~ ~~*Document Availability.*~~ The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise Idaho, 83702 and can also be accessed electronically at <http://www.sde.idaho.gov>. ~~(5-8-09)~~()

~~053.~~ ~~*Incorporated Document.*~~ ~~The Idaho Standards for Public School Driver Education and Training Operating Procedures for Idaho Public Driver Education Programs as approved on August 1, 2004 November 17, 2010.~~ ~~(4-6-05)~~

~~06.~~ ~~*Document Availability.*~~ The ~~Idaho Standards for Public School Driver Education and Training Operating Procedures for Idaho Public Driver Education Programs~~ are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702 and can also be accessed electronically at http://www.sde.idaho.gov/site/driver_edu/public_docs/Public%20Driver%20Education.pdf. ~~(5-3-03)~~()

~~07.~~ ~~*Incorporated Document.*~~ ~~The Idaho Standards for Commercial Driving Schools as approved on March 10, 2005.~~ ~~(4-11-06)~~

~~08.~~ ~~*Document Availability.*~~ ~~The Idaho Standards for Commercial Driving Schools is available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702.~~ ~~(3-14-05)~~

IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1004

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-1201 and 33-1258, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 146 through 148.](#)

FISCAL IMPACT: The following is a specific 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 paying for credits associated with the MTI course would save the state roughly \$700,000 per year.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Camille Wells at 208-332-6812.

DATED this 18th day of November, 2010.

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

DOCKET NO. 08-0202-1004 - 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 10-10, October 6, 2010, pages 146 and 148.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 08- STATE BOARD OF AND DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1001

NOTICE OF RULEMAKING

ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2010. This pending rule has been adopted by the agency and is now pending review by the 2011 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 333-105, Idaho Code.

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

The changes to this rule include additions of a definition for “new school” and “graduation rate” when calculating Adequate Yearly Progress (AYP). This will help inform local district decision making regarding school consolidation and geographic boundaries and clarify possible ramifications of such actions on AYP status, including school improvement.

The current graduation rate formula in Idaho is the National Center for Education Statistics (NCES) formula. In April 2010, the US Department of Education (USDOE) conducted a peer review of Idaho’s graduation rate and target. Review findings indicated that Idaho would be allowed for the 2010-2011 school year to maintain the target of 90%. However, the USDOE clearly stated that Idaho would not be able to allow districts to use the alternate mechanism of “maintaining the target” from their previous year. The USDOE indicated that Idaho must amend its current graduation rules to require a school that did not meet the 90% target to make a “continuous and substantial improvement” from year to year. This continuous and substantial improvement is defined as at least 2%. Therefore, Idaho is changing the IDAPA language to reflect this change, so that schools must increase their graduation rate by at least 2% each year when they do not meet the target of 90%.

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 of Education amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, page\(s\) 149 through 154](#). The text of the temporary rules was published in [January 6, 2010, Idaho Administrative Bulletin, pages 56 through 60](#).

FISCAL IMPACT: The following is a specific description, if applicable, of 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 rule and the amendment to temporary rule, contact Carissa Miller at (208) 332-6901.

DATED this 3rd Day of December, 2010.

Tom Luna
Superintendent of Public Instruction
State Department of Education
650 West State St, 2nd Floor

PO Box 83720
Boise, ID 83720-0027
(208) 332-6812; Fax (208) 334-2228

DOCKET NO. 08-0203-1001 - 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 rule was published in the Idaho Administrative Bulletin,
[Volume 10-1, January 6, 2010, pages 56 through 60.](#)

The text of the proposed rule was published in the Idaho Administrative Bulletin,
[Volume 10-10, October 6, 2010, pages 149 through 154.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0203-1001

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)

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

c. Schools. (3-20-04)

Subsection 112.04.c.v.

v. A “new school” for purposes of accountability is a wholly new entity receiving AYP determinations for the first time, or a school with a significant student population change as a result of schools being combined or geographic boundaries changing, or a result of successful school restructuring sanctioned by the Office of the State Board of Education. (7-1-10)T

Subsection 112.04.e.

e. Graduation Rate. The State Board of Education will establish a target for graduation. All high schools must ~~maintain~~ *meet the target* or make *sufficient* progress toward the target each year *as determined by the State Board of Education*. 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)(7-1-10)T

IDAPA 08 - STATE BOARD OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1002

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 33-105, and 33-107, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 155 through 158.](#)

FISCAL IMPACT: The following is a specific 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, Policy, & HR Officer, (208)332-1582.

DATED this November 18, 2010.

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

DOCKET NO. 08-0203-1002 - 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 10-10, October 6, 2010, pages 155 and 158.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1003

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 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 changes made to Sections 160 and 161 in the Proposed Rule have been removed from the Pending Rule. These Sections will remain as currently codified in the rule with no changes.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 159 through 165](#).

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

Common Core standards in math and English language arts will require professional development and supplemental materials.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Camille Wells at 208-332-6812.

DATED this 18th day of November, 2010.

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

DOCKET NO. 08-0203-1003 - ADOPTION OF PENDING RULE

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

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 10-10, October 6, 2010, pages 159 through 165.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 08-0203-1003

The changes made to Sections 160 and 161 in the Proposed Rule have been removed from the Pending Rule. These Sections will remain as currently codified in the rule with no changes.

161. -- 169. (RESERVED).

IDAPA 08 - STATE BOARD AND DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1004

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

EFFECTIVE DATE: The effective date of the temporary rule is November 17, 2010. This rule has been adopted by the agency and is now pending review by the 2011 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(s) 33-1612, 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:

105.06 - Graduation Requirements. Changes to this subsection remove passing of the 10th grade Science Idaho Standards Achievement Test (ISAT) from the state's graduation requirements. The science ISAT functions in a much different fashion than the reading, language usage or mathematics sections of the ISAT. The ISAT series includes integrated content, which in reading and mathematics works well because the concepts build on each other and are less course specific. However, in science, particularly at the high school level, courses do not directly build on one another. Thus the current cumulative approach presents a disadvantage to 10th grade students who, for example, may have taken biology two years previously or may not have had biology yet due to a different scope and sequence within a district. Compounding this problem are gaps in assessment which necessarily occur because science is only assessed at grades 5, 7, and 10. Students will be required to take the science ISAT in 10th grade but will not be required to pass it as a graduation requirement.

109 - The change to this subsection more closely aligns Idaho rules to federal regulations, and would allow more time for initial evaluation and determination of need for special education and related services, as well as to develop and implement an individualized education program (IEP) for a student. This proposed and temporary rule change is effective August 1 in order to ensure one consistent timeline for all students starting this school year.

Currently Idaho allows less time than is allowed under federal law to conduct the evaluation and eligibility process. Idaho allows 60 calendar days for student evaluation, determination of eligibility for special education, development of an IEP and implementation of that IEP. Federal regulation allows 60 calendar days for student evaluation and determination of eligibility for special education and subsequent to determination of eligibility, 30 days to develop an IEP which is to be implemented as soon as possible after development. The change would allow Idaho schools up to 60 calendar days for student evaluation and determination of eligibility for special education and 30 days for development of an IEP and implementation of that IEP. School districts have requested this change to ensure thorough and proper evaluation, eligibility determination and IEP development. The evaluation process includes a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent. Both eligibility determination and IEP development must be conducted with a team. Flexibility provided in this rule change would help ensure that all relevant and necessary team members can be included in these essential processes, and that multiple meetings or additional assessment could be scheduled if necessary or beneficial to determine eligibility or develop an IEP.

111 - Changes to this subsection require Idaho School Districts to send assessment results and related communication to parents within three (3) weeks of receiving the results from the state. The three-week timeline for districts to send assessment results and communication to parents will ensure that parents receive the information they need in a timely manner, as required by the US Department of Education.

117 - Master Advancement Pilot Program. This new section of Idaho Administrative Rule is a direct result of House Bill 493 passed by the 2010 Idaho Legislature. House Bill 493 details a six-year pilot program for the Mastery Advancement Program. The program as outlined in section 33-1620 - 1624, Idaho code establishes the pilot project permitting certain student in certain public schools to proceed through school curriculum at their own pace, defines program participants, assessments and directs the State Department of Education to promulgate rules to further explicate the process for implementation of the pilot program.

The Idaho State Board of Education approved this docket on November 17, 2010.

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 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 differ from the proposed text are printed in this bulletin.

The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 166 through 186](#).

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

The removal of the science ISAT is a new rule that will remove the Science ISAT as a graduation requirement. This will need to go into effect immediately, as the 10th graders this year (2010-2011) taking the ISAT would be the class of 2013 that would need the waiver.

The assessment timeline is a new rule that will ensure that assessment related correspondence is sent out from districts within 3 weeks. A recent federal review indicated that the Idaho State Department of Education must ensure that districts send notifications to parents in a timely manner.

MAAP is part of House Bill No. 493 detailing a six-year pilot program. Statute was passed as part of the 2010 legislative session and rules were required immediately as part of the program.

The Special Education IEP rule changes more closely aligns Idaho rules to federal regulations, and would allow more time for initial evaluation and determination of need for special education and related services as well as to develop and implement an individualized education program (IEP) for a student. This temporary and proposed rule change is effective August 1 in order to ensure one consistent timeline for all students starting this school year.

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

For the MAPP rule, there are a number of potential fiscal impacts. First, there is the potential for an increased number of students to graduate early from Idaho high schools. Second, there will be financial rules necessary for these early graduates and the respective schools and districts. The early graduates would be eligible for a scholarship which is 35% of the statewide Average Daily Attendance. The school would also then get 35% of that amount for the student and 30% would be kept in the general fund. The third impact will be the need for participating districts to develop and administer the assessments necessary to determine if students can pass out of a class. Districts and charter schools may require students to pay for the mastery exam. Districts and charter schools may also incur a cost if the development and administration of the mastery exams are created and administered within the district.

For the removal of passage of the science ISAT for graduation: Annual costs for fall and spring retesting of 11th and 12th graders just for science will cost at a minimum \$159,000 in fiscal year 2011, and to match the ISAT matrix and allow for a spring science test in grade 9, an additional \$60,000 is needed. These annual estimated costs of \$220,000 would be required additional costs to the ISAT contract for as long as the current Idaho Code governing state graduation requirements remains in place. There is also an undetermined cost for remediation at the district level.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Camille Wells at 208-332-6812.

DATED this 18th day of November, 2010.

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

**DOCKET NO. 08-0203-1004 - 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 10-10, October 6, 2010, pages 166 through 186.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 08-0203-1004

The changes made to Sections 007 and 008 in the Temporary and Proposed Rule have been removed from the Amended Temporary and Pending Rule. These Sections will revert back to previously codified text in the rule with no changes.

Section 117 is Being Reprinted in Its Entirety

117. MASTER ADVANCEMENT PILOT PROGRAM (MAPP).

01. Definitions. *The following definitions apply only to Section 117 of these rules. (11-17-10)T*

a. Challenge Exam. *A test that is rigorous and covers the full depth and breadth of knowledge of a*

specific course. A challenge exam is more difficult than an End of Course exam which typically is counted only for a portion of a student's final grade and covers only a sampling of the course content. (11-17-10)T

b. Elementary. School grades K-6 (11-17-10)T

c. Local Education Agency (LEA). A school district or a charter school that operates independently of any district and reports to the Idaho Public Charter School Commission. (11-17-10)T

d. Secondary. School grades 7-12 (11-17-10)T

f. Alternate pathways. An alternate method for a student to receive a high school diploma early. The methods may include but are not limited to: portfolios, accelerated classes, online and independent study. (11-17-10)T

012. LEA Participation. (8-11-10)T

a. LEAs must apply for the MAPP program no later than September 2010. LEAs will not be allowed to participate in the program after the initial sign up period. (8-11-10)T

b. LEAs may request from the State Department of Education in writing of the intent to opt out of the program during the six (6) year pilot. (8-11-10)T

c. The State Department of Education will create and review LEA application submissions. (8-11-10)T

d. LEAs may choose to include all or as few as one (1) school within the district. (8-11-10)T

e. LEAs may participate in the secondary pilot or the elementary pilot or both. (8-11-10)T

f. LEAs must include in the application a plan for public involvement and parental notification of the program (8-11-10)T

023. Secondary Pilot Program. (8-11-10)T

a. To be eligible for the secondary pilot program LEAs must meet the following criteria: (8-11-10)T

i. LEAs will provide a detailed plan for implementing the program. This plan will include at a minimum: a process for students to request a Challenge Exam, review of the exam scores and providing advice on course or grade advancement. (8-11-10)T

ii. A district must have had a Challenge Exam or equivalent exam equivalent to an exam that would demonstrate full course mastery in place for a minimum of two school years prior to participating in MAPP. Participating districts shall use and apply the "Standards for Educational and Psychological Testing" (AERA, 1999) if creating district challenge exams. (8-11-10)T(11-17-10)T

iii. Participating districts must be able to demonstrate the reliability and validity of the chosen measure in ensuring strong enough course knowledge to be successful in the next course in the series. For example, a district must have evidence that a student who passes an Algebra I measure has a reasonable chance of success in Algebra II. LEAs may choose to incorporate scores from national standardized test approved by the State Department of Education. The State Department of Education shall create and make public a list of approved tests. (8-11-10)T(11-17-10)T

iv. LEAs may chose to incorporate scores from national standardized tests such as the ACT, SAT, CLEP exams as the measure. These measures will be accepted by the State Department of Education as already having the validity and reliability necessary. (8-11-10)T

v. The State Department of Education, in cooperation with the vendors of the national standardized

~~tests, will provide a list recommending the course of mastery and the standard (score) at which students would be successful in the next course. (8-11-10)T~~

~~b. LEAs may require students to reimburse the LEA for any of the assessments administered. Costs could include the standardized test fee or the administration costs incurred by the district. Requests for reimbursement may not exceed the actual costs incurred by the district. The State Department of Education, in cooperation with the vendors of the national standardized tests, will provide a list recommending the course of mastery and the standard (score) at which students would be successful in the next course. (8-11-10)T(11-17-10)T~~

~~c. LEAs may require students to reimburse the LEA for any of the assessments administered. Costs could include the standardized test fee or the administration costs incurred by the district. Requests for reimbursement may not exceed the actual costs incurred by the district. (11-17-10)T~~

~~d. LEAs may provide alternate pathways to students for early graduation. (11-17-10)T~~

~~034. Elementary Pilot Program. (8-11-10)T~~

~~a. To be eligible for the elementary pilot program LEAs must meet the following criteria: (8-11-10)T~~

~~i. Elementary school participation in MAPP allows for schools to use measures other than assessments. LEAs must submit a plan including how students will be measured and advanced either to the next grade or class. (8-11-10)T~~

~~ii. The State Department of Education will review the plans and provide direction or suggestions. (8-11-10)T~~

~~iii. The State Department of Education will provide information on two research-based advancement programs for elementary schools as suggested models. LEAs may submit a plan that is different from the suggested models. (8-11-10)T~~

~~b. LEAs may require students to reimburse the LEA for any of the assessments administered. Costs could include the standardized test fee or the administration costs incurred by the district. Requests for reimbursement may not exceed the actual costs incurred by the district. (8-11-10)T~~

~~045. Reporting. LEAs are required to submit to the State Department of Education, no later than June 10, the following data for all schools within the district regardless of whether the school is a site for MAPP: (8-11-10)T~~

~~a. Comprehensive list of all students who participated in MAPP, including the students who graduated early and the number of years that each student graduated early. (8-11-10)T~~

~~b. Detailed information on the performance of participating students on Challenge Exams or other measures used. (8-11-10)T~~

~~c. The number of requests for Challenge Exams or advancement and the requests granted. (8-11-10)T~~

~~d. School and District disciplinary and/or behavioral incidents. (8-11-10)T~~

~~e. School and District graduation and dropout rates. (8-11-10)T~~

~~f. Number of students in each school and for the LEA participating in advanced placement concurrent enrollment, or college courses while still students in the LEA. (8-11-10)T~~

~~056. Early Graduation Eligibility. (8-11-10)T~~

~~a. Students must have attended an Idaho public school for four full school years, as defined in IDAPA 08.02.01, "Rules Governing Administration, State Board of Education Rules, Subsection 250.01, immediately prior~~

to graduation to be eligible for a Mastery Scholarship. (8-11-10)T

b. Students must have completed all LEA and State graduation requirements within eleven (11) full school years or nine thousand nine hundred (9,900) hours to be eligible for a one (1) year mastery scholarship, within ten (10) full school years or eight thousand nine hundred ten (8,910) hours to be eligible for a two (2) year mastery scholarship or within nine (9) full school years or seven thousand nine hundred twenty (7,920) hours to be eligible for a three (3) year mastery scholarship. (8-11-10)T

c. Students must attend an Idaho public college or university for the entirety of the scholarship period in order to receive the scholarship payment. (8-11-10)T

d. Students are eligible for a maximum of three (3) years of mastery scholarship. (8-11-10)T

e. Students must enroll at an Idaho public college or university immediately within two (2) years following early graduation in order to receive scholarship funds. (8-11-10)T

067. ADA and Scholarship Funding. (8-11-10)T

a. Guidelines: (8-11-10)T

i. The statewide average daily attendance-driven funding per enrolled pupil shall be calculated by adding the previous fiscal year's statewide distributions for salary-based apportionment, benefit apportionment and discretionary funds, and dividing the total by the previous year's statewide public school enrollment for all grades. (8-11-10)T

ii. The statewide average daily attendance-driven funding per enrolled pupil shall be re-calculated each fiscal year. (8-11-10)T

iii. All benefits paid for scholarships and to LEAs shall be based on the statewide average daily attendance-driven funding per enrolled pupil figure for the fiscal year in which the benefit is paid. (8-11-10)T

b. Payments to Idaho Colleges and Universities. (8-11-10)T

i. Annual scholarship payments will be made in two (2) equal installments, one (1) each at the beginning of each semester. (8-11-10)T

ii. Proof of enrollment in an Idaho public college or university must be obtained before any scholarship payments are made. This proof must be obtained for each semester in which scholarship payments are made. (8-11-10)T

iii. Students may apply to the State Department of Education to receive a multi-year scholarship over fewer years if the student will graduate from an Idaho public college or university in less than the number of scholarship years. (8-11-10)T

iv. The State Department of Education will be responsible for making payments to the Idaho public colleges and universities attended by eligible students. The payments must be made no later than August 15 for the first semester and January 15 for the second semester. (8-11-10)T

c. Payments to LEAs (8-11-10)T

i. The State Department of Education will make a single annual payment to eligible LEAs by no later than October 1 of each year for all early graduates who are not attending the LEA that school year as a result of early graduation. (8-11-10)T

ii. Payments will not be made to LEAs who fail to meet the reporting requirements. (8-11-10)T

IDAPA 11 - IDAHO STATE POLICE

11.05.01 - RULES GOVERNING ALCOHOL BEVERAGE CONTROL

DOCKET NO. 11-0501-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-2901 and 23-901, 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.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [November 3, 2010 Idaho Administrative Bulletin, Vol. 10-11, pages 81 and 82.](#)

FISCAL IMPACT: The following is a specific 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 Lt. Bob Clements, (208) 884-7060, or robert.clements@isp.idaho.gov.

DATED this 19th day of November, 2010.

Colonel G. Jerry Russell
Idaho State Police
700 S. Stratford Dr.
Meridian, ID 83642
Phone: (208) 884-7003
Facsimile: (208) 884-7090

DOCKET NO. 11-0501-1001 - 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 10-11, November 3, 2010, pages 81 and 82.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 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. 11-1101-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 193 and 194.](#)

FISCAL IMPACT: The following is a specific 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 9th day of November, 2010.

Col. G. Jerry Russell, Director
Idaho State Police
700 S. Stratford Dr.
Meridian, ID 83642-6202
Phone: (208) 884-7003
Facsimile: (208) 884-7090

DOCKET NO. 11-1101-1001 - 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 10-10, October 6, 2010, pages 193 and 194.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 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. 11-1101-1002

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 195 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 Trish Christy at (208) 884-7253.

DATED this 9th day of November, 2010.

William L. Flink
Division Administrator
Idaho State Police
Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642-6202
Phone: (208) 884-7251
Facsimile: (208) 884-7295

DOCKET NO. 11-1101-1002 - 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 10-10, October 6, 2010, pages 195 through 215.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 11 - IDAHO STATE POLICE

11.11.02 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR JUVENILE DETENTION OFFICERS

DOCKET NO. 11-1102-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 216 and 217](#).

FISCAL IMPACT: The following is a specific 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 9th day of November, 2010.

William L. Flink
Division Administrator
Idaho State Police
Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642-6202
Phone: (208) 884-7251
Facsimile: (208) 884-7295

DOCKET NO. 11-1102-1001 - 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 10-10, October 6, 2010, pages 216 and 217](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 11 - IDAHO STATE POLICE

11.11.03 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR JUVENILE PROBATION OFFICERS

DOCKET NO. 11-1103-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 218 through 221](#).

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

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

DATED this 9th day of November, 2010.

William L. Flink
Division Administrator
Idaho State Police
Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642-6202
Phone: (208) 884-7251
Facsimile: (208) 884-7295

DOCKET NO. 11-1103-1001 - 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 10-10, October 6, 2010, pages 218 through 221](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

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. 11-1104-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 222 through 225](#).

FISCAL IMPACT: The following is a specific 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 9th day of November, 2010.

William L. Flink
Division Administrator
Idaho State Police
Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642-6202
Phone: (208) 884-7251
Facsimile: (208) 884-7295

DOCKET NO. 11-1104-1001 - 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 10-10, October 6, 2010, pages 222 through 225](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 11 - IDAHO STATE POLICE

11.11.05 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR IDAHO DEPARTMENT OF JUVENILE CORRECTIONS DIRECT CARE STAFF

DOCKET NO. 11-1105-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 226 and 227](#).

FISCAL IMPACT: The following is a specific 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 9th day of November, 2010.

William L. Flink
Division Administrator
Idaho State Police
Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642-6202
Phone: (208) 884-7251
Facsimile: (208) 884-7295

DOCKET NO. 11-1105-1001 - 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 10-10, October 6, 2010, pages 226 and 227](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 11 - IDAHO STATE POLICE

11.11.06 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR MISDEMEANOR PROBATION OFFICERS

DOCKET NO. 11-1106-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 228 through 232.](#)

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

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

DATED this 9th day of November, 2010.

William L. Flink
Division Administrator
Idaho State Police
Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642-6202
Phone: (208) 884-7251
Facsimile: (208) 884-7295

DOCKET NO. 11-1106-1001 - 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 10-10, October 6, 2010, pages 228 through 232.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.02 - RULES GOVERNING PUBLIC SAFETY

DOCKET NO. 13-0102-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 36-411, 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.

Implement Senate Bill 1283 which allows hunter education certification from other countries.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 27 and 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 this pending rule, contact W. Dallas Burkhalter (208) 334-3715.

DATED this 9th day of November, 2010.

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

DOCKET NO. 13-0102-1001 - 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 10-9, September 1, 2010, pages 27 and 28.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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), 36-301, 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.

Implement rule changes to the Landowner Appreciation Program (LAP) recommended by the Fish and Game Advisory Committee and the Idaho Sportsmen Caucus Advisory Council. Redefine eligibility requirements for the LAP, and restrict commercialization of LAP tags.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 29 through 33](#).

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

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

DATED this 9th day of November, 2010.

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

DOCKET NO. 13-0104-1001 - 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 10-9, September 1, 2010, pages 29 through 33.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-1002

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-301, Idaho Code.

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

Update rules to reflect previous legislative action (SB 1141a – 2009) and Commission actions, including the elimination of controlled hunt permits, adjustments in elk zone tag quotas, and allowance for rain checks.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 34 through 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: N/A

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

DATED this 9th day of November, 2010.

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

DOCKET NO. 13-0104-1002 - 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 10-9, September 1, 2010, pages 34 through 40.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

13.01.06 - RULES GOVERNING CLASSIFICATION AND PROTECTION OF WILDLIFE

DOCKET NO. 13-0106-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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.

Implement Senate Bill 1266 which classifies raccoons as predatory wildlife, and correct a statutory reference.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 41 through 43.](#)

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

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

DATED this 9th day of November, 2010.

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

DOCKET NO. 13-0106-1001 - 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 10-9, September 1, 2010, pages 41 through 43.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 13 - IDAHO FISH AND GAME COMISSION

13.01.07 - RULES GOVERNING THE TAKING OF UPLAND GAME ANIMALS

DOCKET NO. 13-0107-1001P

NOTICE OF PROCLAMATION

AUTHORITY: In compliance with Section 36105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2010 - 2012 Upland Game Animal Seasons establishing seasons and limits for rabbit and hare hunting in Idaho.

PUBLIC HEARING SCHEDULE: A number of public hearings and open houses have already occurred. The next public hearing before the Fish and Game Commission will be:

Wednesday, November 17, 2010 at approximately 7 p.m.

**Fish and Game Commission
Magic Valley Region Office
Idaho Department of Fish and Game
324 South 417 East in Jerome, Idaho**

Commission meetings are expected in January and March of 2011 in Boise, but the dates have not been scheduled yet.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at 2083343715.

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 2082872766 or through the Idaho Relay Service at 18003772529 (TDD).

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

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

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

DOCKET NO. 13-0108-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b), 36-1101, and 36-1202, 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.

Implement House Bill 416 which amends the definition of edible meat and expands the species exempt from waste. Implement House Bill 463 which requires amendment of existing Commission rules to allow nonresident deer or elk tags to be used for the take of black bear, mountain lion and wolf. Remove Units 48 and 57 from the Motorized Vehicle Rule. Allow the use of electronic calls for take of black bear, mountain lion and wolves in seasons specified by the Commission. Allow the take of wolves by trap or snare in seasons specified by the Commission. Prohibit the use of telemetry equipment as an aid to take of big game. Address depredation hunts for black bear and wolves. Extend the mandatory check and reporting requirements for harvested wolves. Update rules to reflect previous legislative (SB 1141aa-2009) and Commission actions, including the elimination of controlled hunt permits. Exchange of bear tags, and definitions of various tag types. Amend controlled hunt application requirements and address Mandatory Hunter Reports.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 44 through 65](#).

FISCAL IMPACT: The following is a specific 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 9th day of November, 2010.

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

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

DOCKET NO. 13-0108-1001 - 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 10-9, September 1, 2010, pages 44 through 65](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 13 - IDAHO FISH AND GAME COMISSION

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

DOCKET NO. 13-0108-1002P

NOTICE OF PROCLAMATION

AUTHORITY: In compliance with Section 36105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2010 Big Game Seasons establishing seasons and limits for deer, elk, pronghorn, black bear, and mountain lion hunting in Idaho.

PUBLIC HEARING SCHEDULE: A number of public hearings and open houses have already occurred. The next public hearing before the Fish and Game Commission will be:

Wednesday, November 17, 2010 at approximately 7 p.m.

**Fish and Game Commission
Magic Valley Region Office
Idaho Department of Fish and Game
324 South 417 East in Jerome, Idaho**

Commission meetings are expected in January and March of 2011 in Boise, but the dates have not been scheduled yet.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at 2083343715.

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 2082872766 or through the Idaho Relay Service at 18003772529 (TDD).

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

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

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

DOCKET NO. 13-0109-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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.

Some hunters have questioned whether shooting upland game birds from watercraft is an ethical method of take, and have requested Commission action to prohibit the take of upland game birds from any watercraft.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 66 and 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: N/A

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

DATED this 9th day of November, 2010.

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

DOCKET NO. 13-0109-1001 - 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 10-9, September 1, 2010, pages 66 and 67](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 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. 13-0109-1002

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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), 36-404, 36-406, 36-407 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.

Implement Senate Bill 1285 which allows nine year old hunters to apply for controlled hunt turkey permits.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 68 through 70.](#)

FISCAL IMPACT: The following is a specific 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 9th day of November, 2010.

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

DOCKET NO. 13-0109-1002 - 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 10-9, September 1, 2010, pages 68 through 70.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 13 - IDAHO FISH AND GAME COMISSION

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

DOCKET NO. 13-0109-1003P

NOTICE OF PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2010 - 2012 Upland Game and Turkey Seasons establishing seasons and limits for Upland Game Birds, Crows, Doves, and Sandhill Cranes.

PUBLIC HEARING SCHEDULE: A number of public hearings and open houses have already occurred. The next public hearing before the Fish and Game Commission will be:

Wednesday, November 17, 2010 at approximately 7 p.m.

**Fish and Game Commission
Magic Valley Region Office
Idaho Department of Fish and Game
324 South 417 East in Jerome, Idaho**

Commission meetings are expected in January and March of 2011 in Boise, but the dates have not been scheduled yet.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at 2083343715.

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 2082872766 or through the Idaho Relay Service at 18003772529 (TDD).

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

IDAPA 13 - IDAHO FISH AND GAME COMMISSION
13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO
DOCKET NO. 13-0109-1004P
NOTICE OF PROCLAMATION

AUTHORITY: In compliance with Section 36105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2010 Waterfowl Seasons establishing seasons and limits for Waterfowl hunting in Idaho.

PUBLIC HEARING SCHEDULE: A number of public hearings and open houses have already occurred. The next public hearing before the Fish and Game Commission will be:

Wednesday, November 17, 2010 at approximately 7 p.m.

**Fish and Game Commission
Magic Valley Region Office
Idaho Department of Fish and Game
324 South 417 East in Jerome, Idaho**

Commission meetings are expected in January and March of 2011 in Boise, but the dates have not been scheduled yet.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at 2083343715.

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 2082872766 or through the Idaho Relay Service at 18003772529 (TDD).

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

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

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

DOCKET NO. 13-0110-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 36-103, 36-104(b), 36-501, 36-502, 36-504, and 36-603 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.

Implement Senate Bill 1328 which allows the release of certain captured predatory and unprotected wildlife with written landowner permission. Senate Bill 1342 allows the Department to require records from taxidermy/furbuyers and adds a reporting requirement for purchase of raw mountain lion and black bear parts. Clarify legal methods of take and address commercial sale of rattlesnake parts.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 71 through 74.](#)

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

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

DATED this 9th day of November, 2010.

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

DOCKET NO. 13-0110-1001 - 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 10-9, September 1, 2010, pages 71 through 74.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 13 - IDAHO FISH AND GAME COMISSION

13.01.14 - RULES GOVERNING FALCONRY

DOCKET NO. 13-0114-1001P

NOTICE OF PROCLAMATION

AUTHORITY: In compliance with Section 36105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2010 - 2012 Falconry seasons establishing seasons and limits for Falconry hunting in Idaho.

PUBLIC HEARING SCHEDULE: A number of public hearings and open houses have already occurred. The next public hearing before the Fish and Game Commission will be:

Wednesday, November 17, 2010 at approximately 7 p.m.

**Fish and Game Commission
Magic Valley Region Office
Idaho Department of Fish and Game
324 South 417 East in Jerome, Idaho**

Commission meetings are expected in January and March of 2011 in Boise, but the dates have not been scheduled yet.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at 2083343715.

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 2082872766 or through the Idaho Relay Service at 18003772529 (TDD).

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

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. 13-0116-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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), 36-201 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.

Implement Senate Bill 1286 which classifies raccoons as predatory wildlife, and clarify the definitions of bait and 'game animal.'

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 75 through 77](#).

FISCAL IMPACT: The following is a specific 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 9th day of November, 2010.

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

DOCKET NO. 13-0116-1001 - 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 10-9, September 1, 2010, pages 75 through 77](#).**

**This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2011 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. 13-0116-1002

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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), 36-201, 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.

Public concern over the placement of traps and snares near public travel ways and injury to pets. Establish rules for placement of traps and snares near public travel ways.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 233 through 236](#).

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

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

DATED this 9th day of November, 2010.

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

DOCKET NO. 13-0116-1002 - 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 10-10, October 6, 2010, pages 223 through 236](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 13 - IDAHO FISH AND GAME COMISSION

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

DOCKET NO. 13-0116-1003P

NOTICE OF PROCLAMATION

AUTHORITY: In compliance with Section 36105(3), Idaho Code, notice is hereby given that this agency is proposing to adopt by proclamation the 2010 - 2012 Furbearer, Predators and Unprotected Species Seasons establishing seasons and limits for Furbearers, Predators, and Unprotected Species hunting, and Furbearer trapping in Idaho.

PUBLIC HEARING SCHEDULE: A number of public hearings and open houses have already occurred. The next public hearing before the Fish and Game Commission will be:

Wednesday, November 17, 2010 at approximately 7 p.m.

**Fish and Game Commission
Magic Valley Region Office
Idaho Department of Fish and Game
324 South 417 East in Jerome, Idaho**

Commission meetings are expected in January and March of 2011 in Boise, but the dates have not been scheduled yet.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed proclamation, contact W. Dallas Burkhalter at 2083343715.

Individuals with disabilities may request meeting accommodations by contacting the Director's office at the Idaho Department of Fish and Game directly at 2082872766 or through the Idaho Relay Service at 18003772529 (TDD).

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

IDAPA 13 - IDAHO FISH AND GAME COMMISSION

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

DOCKET NO. 13-0117-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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.

To clarify the definitions of bait and “game animals”; to allow incidental take of wolves near bear bait sites.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 78 and 79.](#)

FISCAL IMPACT: The following is a specific 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 9th day of November, 2010.

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

DOCKET NO. 13-0117-1001 - 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 10-9, September 1, 2010, pages 78 and 79.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 15 - DIVISION OF HUMAN RESOURCES

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

DOCKET NO. 15-0401-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 the Division of Human Resources has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5309, 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 temporary/proposed rule was published in the [August 4, 2010, Idaho Administrative Bulletin, Vol. 10-8, pages 57 through 60.](#)

FISCAL IMPACT: The following is a specific 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 Donna Weast at (208) 854-3079 or at donna.weast@dhr.idaho.gov.

DATED this 22nd day of November, 2010.

Vicki Tokita
Deputy Administrator
Division of Human Resources
304 N. 8th Street
PO Box 83720, Boise, ID 83720-0066
Main: 208-334-3900 / Fax: 208-334-2438

DOCKET NO. 15-0401-1001 - 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 10-8, August 4, 2010, pages 57 through 60.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 15 - DIVISION OF HUMAN RESOURCES

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

DOCKET NO. 15-0401-1002

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 the Division of Human Resources has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5309, 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.

Subsection 241.02 has been amended based on comments received from interested parties.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the [October 6, 2010, Idaho Administrative Bulletin, Vol. 10-10, pages 237 through 244](#).

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

There is no negative fiscal impact to the state general fund as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Donna Weast at (208) 854-3079 or at donna.weast@dhr.idaho.gov.

DATED this 18th day of November, 2010.

Vicki Tokita
Deputy Administrator
Division of Human Resources
304 N. 8th Street
PO Box 83720
Boise, ID 83720-0066
Main: 208-334-3900
Fax: 208-334-2438

DOCKET NO. 15-0401-1002 - 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 complete text of the proposed rule was published in the Idaho Administrative Bulletin, **Volume 10-10, October 6, 2010, pages 237 through 244.**

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET 15-0401-1002

Section 241 is being reprinted in its entirety

241. WORKERS COMPENSATION AND OR DISABILITY.

01. Use of Leave in a Workers Compensation Claim. In the event of a disability incurred on the job covered by workers compensation, the employee will be given the choice of either: (5-8-09)

a. Leave of absence without pay while receiving workers compensation; or (5-8-09)

b. Utilizing a portion of accrued sick leave to supplement workers compensation to maintain his regular salary; however, no appointing authority may require an employee to accept sick leave, vacation leave, or compensatory time off for overtime in lieu of workers compensation provided by law. Additionally, an employee may not waive his rights to workers compensation and cannot accept earned leave or other benefits in lieu thereof. (5-8-09)

02. Layoff After Twelve Weeks' Disability. If the employee becomes disabled, whether or not due to a workers compensation injury, and is unable to fully return to work after twelve (12) weeks' absence during any consecutive fifty-two (52) week period or when accrued sick leave has been exhausted, whichever is longer, the employee's position may be declared vacant unless otherwise prohibited by state or federal law. The twelve (12) weeks' period of absence need not occur consecutively. The employee's name is certified to a reemployment preference register when the administrator has been notified by the physician that the employee is able to return to work. (Ref. Rule Subsection 101.01) (5-8-09)

~~**a.** If an employee is not eligible for the protections of the Family and Medical Leave Act (FMLA), the employee may only take a maximum of twelve (12) weeks absence due to their disability every twelve (12) month period. The period of absence for such an employee is not interrupted by the employee's full return to work for less than two (2) consecutive work weeks and return to work as part of a rehabilitation program does not interrupt the calculation of the period of absence. (5-8-09)~~

~~**b.** Conditional releases will be considered in accordance with the Americans with Disabilities Act. (3-16-04)(____)~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.06 - RULES GOVERNING QUALITY ASSURANCE FOR IDAHO CLINICAL LABORATORIES

DOCKET NO. 16-0206-1001 (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 2011 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 56-1003, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [August 4, 2010, Idaho Administrative Bulletin, Vol. 10-8, page 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:

This rulemaking has no anticipated fiscal impact to state general funds. The functions administered under these rules are 100% federally funded under the CLIA (Clinical Laboratory Improvement Amendments of 1988) grant.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact David Eisentrager at (208) 334-2235 x245.

DATED this 4th day of November, 2010.

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. 16-0206-1001 - 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 10-8, August 4, 2010, page 61](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.02.06 - QUALITY ASSURANCE FOR IDAHO CLINICAL LABORATORIES
DOCKET NO. 16-0206-1002 (CHAPTER REWRITE)
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 56-1003, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [August 4, 2010, Idaho Administrative Bulletin, Vol. 10-8, 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:

This rulemaking has no anticipated fiscal impact to state general funds. The functions administered under these rules are 100% federally funded under the CLIA (Clinical Laboratory Improvement Amendments of 1988) grant.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact David Eisentrager at (208) 334-2235 x245.

DATED this 4th day of November, 2010.

Tamara Prisock
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(208) 334-5564 phone; (208) 334-6558 fax
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DOCKET NO. 16-0206-1002 - 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 10-8, August 4, 2010, 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 2011 Idaho State Legislature for final adoption.**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.08 - VITAL STATISTICS RULES

DOCKET NO. 16-0208-1001

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 2011 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-242, Idaho Code, and House Bill 492 (2010).

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 1, 2010, Idaho Administrative Bulletin, Vol. 10-9, pages 138 through 140.](#)

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 39-242, Idaho Code. The cost for a certified copy of a death certificate is being changed from \$13 to \$14.

FISCAL IMPACT: The following is a specific 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 cost for system changes to implement the new fee is estimated to be at least \$27,900. \$13,950 of this is to be covered by the Idaho Association of Counties and the remaining \$13,950 is to come from Department (Vital Statistics) monies that are not from the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Greg Heitman at (208) 334-5986.

DATED this 4th day of November, 2010.

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DOCKET NO. 16-0208-1001 - 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 10-9, September 1, 2010, pages 138 through 140.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.11 - IMMUNIZATION REQUIREMENTS FOR CHILDREN ATTENDING LICENSED DAYCARE FACILITIES IN IDAHO

DOCKET NO. 16-0211-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 39-1118, 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 to allow the Regulatory Authority, in the case of a vaccine shortage or an emergency situation, to temporarily suspend an immunization requirement for the length of time needed to remedy the vaccine shortage or emergency situation. Also, the exclusion criteria is being clarified for noncompliance.

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 1, 2010, Idaho Administrative Bulletin, Vol. 10-09, pages 141 through 146](#).

FISCAL IMPACT: The following is a specific 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 Carmela Kerns-Gupta at (208) 334-6994.

DATED this 4th day of November, 2010.

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DOCKET NO. 16-0211-1001 - ADOPTION OF PENDING RULE

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

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 10-9, September 1, 2010, pages 141 through 146.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR PENDING DOCKET NO. 16-0211-1001

Section 105

105. EXCEPTIONS TO IMMUNIZATION REQUIREMENT ~~FOR THE APPLICABLE DISEASE.~~

A child who meets one (1) or ~~both~~ more of the following conditions, when supporting documentation is in the possession of the licensed daycare facility operator, will not be required to ~~undergo~~ receive the required immunizations: in order to attend the licensed daycare facility. (4-6-05)()

Subsection 105.03

03. **Suspension of Requirement.** The Regulatory Authority may temporarily suspend one or more of the immunization requirements listed in Section 100 of these rules, if the Regulatory Authority determines that suspension of the requirement is necessary to address a vaccine shortage or other emergency situation in the state. The Regulatory Authority will suspend a requirement for the length of time needed to remedy the vaccine shortage or emergency situation. ()

Paragraph 150.01.a.

150. EXCLUSION CRITERIA.

01. **Noncompliance.** A child meeting any one (1) of the following conditions must be excluded by the licensed daycare facility operator: ()

a. **Has received fewer than the required number of doses of immunizations described in Section 100 of these rules, and does not have the remaining required vaccine doses scheduled;** ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.13 - RULES GOVERNING CERTIFICATION OF IDAHO WATER QUALITY LABORATORIES

DOCKET NO. 16-0213-1001 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 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 1, 2010, Idaho Administrative Bulletin, Vol. 10-9, page 147.](#)

FEE SUMMARY: The chapter of rules that contains the Drinking Water Laboratory Certification fees is being repealed in its entirety and rewritten under Docket No. 16-0213-1002. These fees are being repealed under the authority of Sections 56-1003 and 56-1007, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: As a result of rewriting this rule, the Idaho Bureau of Laboratories (IBL) will increase revenue generated from Drinking Water Lab Certification fees by approximately \$12,500 from the certification of in-state laboratories and out-of-state laboratories seeking reciprocity.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sandra Radwin at (208) 334-2235 x256.

DATED this 4th day of November, 2010.

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DOCKET NO. 16-0213-1001 - 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 10-9, September 1, 2010, page 147.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.13 - STATE OF IDAHO DRINKING WATER LABORATORY CERTIFICATION PROGRAM

DOCKET NO. 16-0213-1002 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 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 Department is amending the proposed rule based on comments received from the Department of Environmental Quality (DEQ). The amendments clarify the incorporations by reference cited in this newly rewritten chapter.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the [September 1, 2010, Idaho Administrative Bulletin, Vol. 10-9, pages 148 through 159.](#)

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

The Idaho Bureau of Laboratories is increasing the fees collected for certification of in-state laboratories and out-of-state laboratories seeking reciprocity.

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

As a result of this proposed rule change, the Idaho Bureau of Laboratories (IBL) will increase revenue generated from Drinking Water Lab Certification fees by approximately \$12,500 from the certification of in-state laboratories and out-of-state laboratories seeking reciprocity.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sandra Radwin at (208) 334-2235 x256.

IDATED this 4th day of November, 2010.

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DOCKET NO. 16-0213-1002 - 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 complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 10-9, September 1, 2010, pages 148 through 159.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR FEE DOCKET NO. 16-0213-1002

Subsections 004.01 and 004.01.a. through 004.01.n.

004. INCORPORATION BY REFERENCE.

01. Selected Sections from the Code of Federal Regulations, Title 40, Part 141 -- National Primary Drinking Water Regulations, July 1, 2010 Edition. 40 CFR 141 *and 143* may be accessed in electronic format at: http://www.access.gpo.gov/nara/cfr/waisidx_109/40cfrv22_10.html. *The following sections from the Code of Federal Regulations are hereby incorporated by reference:* ()

- a. 40 CFR 141.6 (h), effective dates;* ()
- b. 40 CFR 141.27, alternate testing program;* ()
- c. 40 CFR 141.21(f)(3), total coliform rule;* ()
- d. 40 CFR 141.23, inorganic methods;* ()
- e. 40 CFR 141.24, organic methods;* ()
- f. 40 CFR 141.25, methods for radioactivity;* ()
- g. 40 CFR 141.131, disinfection by-products;* ()
- h. 40 CFR 141.74(a), surface water treatment rule;* ()
- i. 40 CFR 141.89, lead and copper;* ()
- j. 40 CFR 141.402(c)(2), ground water;* ()
- k. 40 CFR 141.704, long-term surface water treatment rule 2;* ()
- l. 40 CFR 141.803, aircraft drinking water rules;* ()
- m. 40 CFR 141, Appendix A to Subpart C, expedited method approval; and* ()
- n. 40 CFR 143.4, secondary contaminants.* ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.15 - IMMUNIZATION REQUIREMENTS FOR IDAHO SCHOOL CHILDREN

DOCKET NO. 16-0215-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 39-4801, 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 to allow the Regulatory Authority, in the case of a vaccine shortage or an emergency situation, to temporarily suspend an immunization requirement for the length of time needed to remedy the vaccine shortage or emergency situation.

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 1, 2010, Idaho Administrative Bulletin, Vol. 10-09, pages 160 through 167](#).

FISCAL IMPACT: The following is a specific 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 Carmela Kerns-Gupta at (208) 334-6994.

DATED this 4th day of November, 2010.

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DOCKET NO. 16-0215-1001 - 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 complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 10-9, September 1, 2010, pages 160 through 167.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 16-0215-1001

Section 105

105. EXCEPTIONS TO IMMUNIZATION REQUIREMENT.

When supporting documentation is in the possession of school authorities at the time of admission and before attendance, a child who meets one (1) or ~~more~~ both of the following conditions, will not be required to ~~undergo~~ receive the required immunizations in order to attend school. (4-6-05)()

Subsection 105.03

03. **Suspension of Requirement.** The Regulatory Authority may temporarily suspend one or more of the immunization requirements listed in Section 100 of these rules, if the Regulatory Authority determines that suspension of the requirement is necessary to address a vaccine shortage or other emergency situation in the state. The Regulatory Authority will suspend a requirement for the length of time needed to remedy the vaccine shortage or emergency situation. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1003

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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, 56-250 through 56-257, Idaho Code; also House Bills 656 and 708 passed by the 2010 legislature; the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Section 1001(d); and 42 CFR Part 455, Subpart D.

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. These rule changes implement legislative intent language in H0656 and H0708 passed by the 2010 Legislature. The complete text of the proposed rule was published in the [September 1, 2010, Idaho Administrative Bulletin, Vol. 10-9, pages 176 through 190.](#)

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

Changes related to the pharmacy cost survey (H0708, 2010) will result in a cost reduction of \$1.67 million to the state general fund. The total cost reduction for both state and federal funds is \$8 million. This cost reduction has already been incorporated into the Division of Medicaid's 2011 appropriation. There is no anticipated fiscal impact to the state general fund related to the other changes being made in this docket.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lourie Neal at (208) 287-1162.

DATED this 24th day of November, 2010.

Tamara Prisock
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P.O. Box 83720, Boise, ID 83720-0036 e-mail: dhwrules@dhw.idaho.gov

DOCKET NO. 16-0309-1003 - 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 10-9, September 1, 2010, pages 176 through 190.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1002

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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. The effective date for these rules is July 1, 2011.

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(7), 56-203(9), 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.

In 2008, the Department began meeting with stakeholder groups to redesign developmental disabilities (DD) benefits for children. This project is known as the "Children's System Redesign." The Department will start a phased implementation of these redesigned benefits starting July 1, 2011. The major restructuring for the Children's System Redesign provides the following: definitions, requirements for children's DD programs, including the new services and provider qualifications.

In order to phase in these new benefits as seamlessly as possible, the Department will continue to operate the current children's DD benefits concurrently with the redesigned children's DD benefits. To accomplish this, the current requirements for developmental therapy, Intensive Behavioral Intervention (IBI), and other DDA services are being moved from IDAPA 16.04.11, "Developmental Disabilities Agencies (DDA)," to IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," in Sections 649 through 659 of this docket.

The Department has made many amendments throughout the proposed rule, based on the extensive public input received during the 21-day public comment period.

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 1, 2010, Idaho Administrative Bulletin, Vol. 10-9, pages 197 through 262.](#)

FISCAL IMPACT: The following is a specific 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 Lauren Ertz at (208) 287-1169.

DATED this 23rd day of November, 2010.

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DOCKET NO. 16-0310-1002 - ADOPTION OF PENDING RULE

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

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 10-9, September 1, 2010, pages 197 and 262.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 16-0310-1002

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

Subsection 009.02 Is Being Deleted and Renumbered

~~02. Availability to Work or Provide Service. (3-19-07)~~

~~a. The employer, at its discretion, may allow an individual to provide care or services on a provisional basis once the application for a criminal history and background check is completed and notarized and the employer has reviewed the application for any disqualifying crimes or relevant records. The employer determines whether the individual could pose a health and safety risk to the vulnerable participants it serves. The individual is not allowed to provide care or services when the employer determines the individual has disclosed a disqualifying crime or relevant record. (3-19-07)~~

~~b. Those individuals licensed or certified by the Department are not available to provide services or receive licensure or certification until the criminal history and background check is completed and a clearance issued by the Department. (3-19-07)~~

032. Additional Criminal Convictions. Once an individual has received a criminal history clearance, any additional criminal convictions must be reported by the agency to the Department when the agency learns of the conviction. (3-19-07)

043. Providers Subject to Criminal History and Background Check Requirements. The following providers are required to have a criminal history and background check: (3-19-07)

013. DEFINITIONS P THROUGH Z.

For the purposes of these rules, the following terms are used as defined below: (3-19-07)

Subsection 013.23

23. **Recreational Therapy (Services).** Those activities or services that are generally perceived as recreation such as, but not limited to, fishing, hunting, camping, attendance or participation in sporting events or practices, attendance at concerts, fairs or rodeos, skiing, sightseeing, boating, bowling, swimming, ~~training for Special Olympics~~, and special day parties (birthday, Christmas, etc.). (3-19-07)()

503. DEVELOPMENTAL DISABILITY DETERMINATION: TEST INSTRUMENTS.

A variety of standardized test instruments are available. Tests used to determine a developmental disability must reflect the current functional status of the individual being evaluated. Tests over one (1) year old must be verified to reflect the current status of the individual by an appropriate professional. Instruments designed only for screening purposes must not be used to determine eligibility. (3-19-07)

Subsection 503.02

02. **Test Instruments for Children.** The assessments utilized to determine eligibility must be based on age appropriate criteria. Evaluations must be performed by qualified personnel with experience and expertise with children; selected evaluation tools and practices should be age appropriate, based on consideration of the child's language and motor skills, ~~be racially and culturally non-discriminatory, and be conducted in settings that are typically comfortable and familiar to the child.~~ Unless contraindicated, the most recent version of the following test instruments ~~such as the following~~ must be used with children: (3-19-07)()

- a. Cognitive: (3-19-07)
 - i. Bayley Scales of Infant Development, ~~Third Edition (BSID-III)~~ for ages birth through forty-two (42) months; (3-19-07)()
 - ii. Stanford Binet Intelligence Scales, ~~Fifth Edition (SB5)~~ for ages two (2) years through adult; (3-19-07)()
 - iii. Wechsler Preschool and Primary Scale of Intelligence, ~~Third Edition (WPPSI-III)~~ for ages two (2) years, six (6) months to seven (7) years, three (3) months; (3-19-07)()
 - iv. Wechsler Intelligence Scale for Children, ~~Fourth Edition (WISC-IV)~~ for ages six (6) through sixteen (16) years, eleven (11) months; or (3-19-07)()
 - v. Wechsler Adult Intelligence Scale, ~~Third Edition (WAIS-III)~~ for ages sixteen (16) years to adult. (3-19-07)()
- b. Functional: (3-19-07)
 - i. ~~American Association on Mental Retardation Adaptive Behavior Scale: School (ABS-S) for ages three (3) through twenty one (21) years;~~ (3-19-07)
 - ii. Battelle Developmental Inventory, 2nd Edition (BDI-2) for ages birth to ninety-five (95) months; (3-19-07)
 - iii. ~~Developmental Profile II (DP-II) for ages birth through twelve (12) years;~~ (3-19-07)
 - iv. Scales of Independent Behavior (SIB-R) for ages birth through adult; ~~or~~ (3-19-07)()
 - v. ~~Vineland Adaptive Behavior Scales (VABS) for ages birth to eighteen (18) years, eleven (11) months;~~ (3-19-07)
 - vi. Mullen Scales of Early Learning (MSEL) for ages birth to three (3) years; (3-19-07)()

- vii. ~~Preschool Language Scale—3 (PLS-3) for ages birth to three (3) years; (3-19-07)~~
- viii. ~~Peabody Developmental Motor Scales for ages birth to three (3) years; or (3-19-07)~~
- ix. ~~Receptive Expressive Emergent Language Scale—Third Edition (REEL-3) for ages birth to three (3) years; (3-19-07)~~

511. INDIVIDUALS WITH A DEVELOPMENTAL DISABILITY - COVERAGE AND LIMITATIONS.
The scope of these rules defines prior authorization for the following Medicaid behavioral health services for adults:
(3-19-07)

Subsection 511.02

02. Developmental Disability Agency Services. Developmental Disability Agency services as described in Sections ~~65049~~ through ~~66059~~ of these rules and IDAPA 16.043.121, “Developmental Disabilities Agencies (DDA)”; and ~~(3-19-07)~~()

Section 521 Is Being Reprinted In Its Entirety

521. CHILDREN’S DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATIONS: DEFINITIONS.
For the purposes of Sections 520 through 528 of these rules, the following terms are used as defined below. ()

01. Assessment. A process that is described in Section 522 of these rules for program eligibility and in Section 526 of these rules for plan of service. ()

02. Baseline. A participant's skill level prior to intervention written in measurable, behaviorally-stated terms. ()

03. Child. A person who is under the age of eighteen (18) years. ()

04. Family. The participant and his parent(s) or legal guardian. ()

05. Family-Centered Planning Process. A process facilitated by the plan developer, by which the family-centered planning team collaborates with the participant to develop the plan of service. ()

06. Family-Centered Planning Team. The group who develops the plan of service. This group includes, at a minimum, the child participant (unless otherwise determined by the family-centered planning team), the parent or legal guardian and the plan developer. The family-centered planning team may include others identified by the family or agreed upon by the family and the Department as important to the process. ()

07. ICF/ID. Intermediate care facility for persons with intellectual disabilities. ()

08. Individualized Family Service Plan (IFSP). An initial or annual plan of service, developed by the Department or its designee, for providing early intervention services to children birth to age three (3). This plan must meet the provisions of the Individuals with Disabilities Education Act (IDEA), Part C. The IFSP may serve as the plan of service if it meets all of the components of the plan of service. ()

09. Level of Support. The amount of services and supports necessary to allow the individual to live independently and safely in the community. ()

10. Medical, Social, and Developmental Assessment Summary. A form used by the Department to gather a participant's medical, social and developmental history and other summary information. It is required for all participants receiving home and community-based services under a plan of service. The information is used in the

assessment and authorization of a participant's services. ()

11. Plan Developer. A paid or non-paid person identified by the participant who is responsible for developing one (1) plan of service and subsequent addenda that cover all services and supports based on a family-centered planning process. ()

12. Plan Monitor. A person who oversees the provision of services on a paid or non-paid basis. ()

13. Plan of Service. An initial or annual plan that identifies all services and supports based on a family-centered planning process, and which is developed for providing DD services to children birth through seventeen (17) years of age. ()

14. Practitioner of the Healing Arts, Licensed. A licensed physician, physician assistant, or nurse practitioner. ()

15. Prior Authorization (PA). A process for determining a participant's eligibility for services and medical necessity prior to the delivery or payment of services as provided by Sections 520 and 528 these rules. ()

16. Provider Status Review. The written documentation that identifies the participant's progress toward goals defined in the plan of service, and demonstrates the continued need for the service. ()

17. Right Care. Accepted treatment for defined diagnosis, functional needs and abilities to achieve the desired outcome. The right care is consistent with best practice and continuous quality improvement. ()

18. Right Place. Services delivered in the most integrated setting in which they normally occur, based on the participant's choice to promote independence. ()

19. Right Price. The most integrated and least expensive services that are sufficiently intensive to address the participant's needs. The amount is based on the individual's needs for services and supports as identified in the assessment. ()

20. Right Outcomes. Services based on assessed need that ensure the health and safety of the participant and result in progress, maintenance, or delay or prevention of regression for the participant. ()

21. Services. Evaluation, diagnostic, therapy, training, assistance, and support services that are provided to persons with developmental disabilities. ()

Section 522 Is Being Reprinted In Its Entirety

522. CHILDREN'S DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATIONS: ELIGIBILITY DETERMINATION.

The Department will make the final determination of a child's eligibility, based upon the assessments administered by the Department. Initial and annual assessments must be performed by the Department or its contractor. The purpose of the eligibility assessment is to determine a participant's eligibility for developmental disabilities services in accordance with Section 66-402, Idaho Code, and Sections 500 through 506 of these rules, to determine a participant's eligibility for children's home and community-based state plan option services in accordance with Section 662 of these rules, and to determine a participant's eligibility for ICF/ID level of care for children's waiver services in accordance with Section 682 of these rules. ()

01. Initial Eligibility Assessment. For new applicants, an assessment must be completed by the Department or its contractor within thirty (30) calendar days from the date a complete application is submitted. ()

02. Annual Eligibility Determination. Eligibility determination must be completed annually for current participants. The assessor must reassess the participant, or establish and document that the existing assessments reflect the participant's current level of care needs. At least sixty (60) calendar days before the expiration of the current plan of service: ()

a. The eligibility determination process must be completed to determine level of care needs; and ()

b. The assessor must provide the results of the eligibility determination to the participant. ()

03. Determination of Developmental Disability Eligibility. ()

a. The assessments that are required and completed by the Department or its contractor for determining a participant's eligibility for developmental disabilities services must include: ()

i. Medical, Social, and Developmental Assessment Summary; ()

ii. A functional assessment which reflects the participant's current functioning. The Department or its contractor will administer a functional assessment for use in initial eligibility determination of developmental disability eligibility. Thereafter, a new functional assessment will be required if the assessor determines that additional documentation is necessary to determine the participant's level of care criteria. ()

b. The Department or its contractor must obtain the following: ()

i. A medical assessment which contains medical information that accurately reflects the current status of the participant or establishes categorical eligibility in accordance with Section 66-402(5)(a), Idaho Code; or ()

ii. The results of psychometric testing if eligibility for developmental disabilities services is based on intellectual disability and there is no prior testing, or prior testing is inconclusive or invalid. Initial eligibility determinations also require documentation of diagnosis for participants whose eligibility is based on developmental disabilities other than intellectual disability. ()

04. ICF/ID Level of Care Determination for Waiver Services. The Department or its contractor will determine ICF/ID level of care for children in accordance with Section 584 of these rules. ()

05. Determination for Children's Home and Community Based State Plan Option. The Department or its contractor will determine if a child meets the established criteria necessary to receive children's home and community based state plan option services in accordance with Section 662 of these rules. ()

523. TRANSITION TO NEW CHILDREN'S DEVELOPMENTAL DISABILITY BENEFITS.

Subsections 523.04 and 523.05

04. Opportunity for Early Enrollment. A family may opt to transition their child to the new benefits prior to their child's birthdate. The Department will accept application for a family who chooses to opt-in early, but transitioning a child at his scheduled transition date will be the Department's top priority. ()

05. Duplication of Services. A child will not be able to receive both the new children's HCBS state plan option and children's waiver services listed in Section 660 through 666 and 680 through 688, at the same time he is receiving the old DDA services listed in Section 649 through 659. ()

Section 525 is Being Reprinted in Its Entirety

525. CHILDREN'S DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATIONS: PROCEDURAL REQUIREMENTS.

Prior to the development of the plan of service, the plan developer will gather and make referrals for the following information to guide the family-centered planning process: ()

01. Eligibility Determination Documentation. Eligibility determination documentation completed by the Department or its contractor as defined in Subsection 522.03 of these rules. ()

02. History and Physical. A current history and physical completed by a practitioner of the healing arts is required at least annually or more frequently as determined by the practitioner. For participants in Healthy Connections, the Healthy Connections physician must conduct the history and physical, and may refer the participant for other evaluations. ()

03. Discipline-Specific Assessments. Participants must be referred for an occupational therapy, physical therapy, or speech-language pathology assessment when the participant has a targeted need in one of these disciplines. The assessment is used to guide the provision of services identified on the plan of service. ()

04. Additional Information. Gather assessments and information related to the participant's medical conditions, risk of deterioration, living conditions, individual goals, and behavioral or psychiatric needs. ()

Section 526 Is Being Reprinted In Its Entirety

526. CHILDREN'S DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATIONS: PLAN OF SERVICE PROCESS.

In collaboration with the participant, the Department must ensure that the participant has one (1) plan of service. This plan of service is developed within the individualized participant budget referred to in Section 527 of these rules and must identify all services and supports. The participant and his parent or legal guardian may develop their own plan or use a paid or non-paid plan developer to assist with plan development. The plan of service must identify services and supports if available outside of Medicaid-funded services that can help the participant meet desired goals. ()

01. Plan Development and Monitoring. Paid plan development and monitoring must be provided by the Department or its contractor. Non-paid plan development and monitoring may be provided by the family, or a person of their choosing, when this person is not a paid provider of services identified on the child's plan of service. ()

02. Plan of Service Development. The plan of service must be developed with the parent or legal guardian, and the child participant (unless otherwise determined by the family-centered planning team). With the parent or legal guardian's consent, the family-centered planning team may include other family members or individuals who are significant to the participant. ()

a. In developing the plan of service, the family-centered planning team must identify any services and supports available outside of Medicaid-funded services that can help the participant meet desired goals. ()

b. The plan of service must identify, at a minimum, the type of service to be delivered, goals to be addressed within the plan year, target dates, and methods for collaboration. ()

03. No Duplication of Services. The plan developer must ensure that there is no duplication of services. ()

04. Plan Monitoring. The family-centered planning team must identify the frequency of monitoring, which must be at least every six (6) months. The plan developer must meet face-to-face with the participant at least annually. Plan monitoring must include the following: ()

a. Review of the plan of service with the parent or legal guardian to identify the current status of programs and changes if needed: ()

b. Contact with service providers to identify barriers to service provision; ()

c. Discuss with parent or legal guardian satisfaction regarding quality and quantity of services; and ()

d. Review of provider status reviews. ()

05. Provider Status Reviews. The service providers in Sections 664 and 684 of these rules must report to the plan monitor the participant's progress toward goals. The provider must complete a six (6) month and annual provider status review. The provider status review must be submitted to the plan monitor within forty-five (45) calendar days prior to the expiration of the existing plan of service. ()

06. Informed Consent. The participant and his parent or legal guardian must make decisions regarding the type and amount of services required. During plan development and amendment, planning team members must each indicate whether they believe the plan meets the needs of the participant, and represents the participant's choice. ()

07. Provider Implementation Plan. Providers of children's waiver services listed under Section 684 of these rules must develop an implementation plan that identifies specific objectives that demonstrate how the provider will assist the participant to meet the participant's goals and needs identified in the plan of service. ()

a. The implementation plan must be completed within fourteen (14) calendar days after the initial provision of service, and revised whenever participant needs change. ()

b. Documentation of implementation plan changes will be included in the participant's record. This documentation must include, at a minimum, the reason for the change, documentation of coordination with other service providers (where applicable), the date the change was made, and the signature of the person making the change complete with his title and the date signed. ()

08. Addendum to the Plan of Service. A plan of service may be adjusted during the year with an addendum to the plan. These adjustments must be based on changes in a participant's need or demonstrated outcomes. Additional assessments or information may be clinically necessary. Adjustment of the plan of service requires a parent's or legal guardian's signature and may be subject to prior authorization by the Department. ()

09. Annual Reauthorization of Services. A participant's plan of service must be reauthorized annually. The Department must review and authorize the new plan of service prior to the expiration of the current plan. ()

a. Annual Eligibility Determination Results. An annual determination must be completed in accordance with Section 522 of these rules. ()

b. Plan Developer Responsibilities for Annual Reauthorization. A new plan of service must be provided to the Department by the plan developer at least forty-five (45) calendar days prior to the expiration date of the current plan. Prior to this, the plan developer must: ()

i. Notify the providers who appear on the plan of service of the annual review date. ()

ii. Obtain a copy of the current annual provider status review from each provider for use by the family-centered planning team. Each provider status review must meet the requirements in Subsection 526.06 of these rules. ()

iii. Convene the family-centered planning team to develop a new plan of service. ()

c. Evaluation and Prior Authorization of the Plan of Service. The plan of service must be evaluated and prior authorized in accordance with the requirements in Sections 520 and 526 of these rules. ()

d. Adjustments to the Annual Budget and Services. The annual budget and services may be adjusted based on demonstrated outcomes, progress toward goals and objectives, and benefit of services. ()

e. Reapplication After a Lapse in Service. For participants who are re-applying for service after at least a thirty (30) calendar day lapse in service, the assessor must evaluate whether assessments are current and accurately describe the status of the participant. ()

Section 527 Is Being Reprinted In Its Entirety

527. CHILDREN'S DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATION: PROVIDER REIMBURSEMENT.

Providers are reimbursed on a fee-for-service basis for services identified on the participant's plan of service and within the participant's individualized budget. The Department will monitor the budget setting methodology on an ongoing basis to ensure that participant needs are accurately reflected in the methodology. ()

01. Individualized Budget Methodology. The following five (5) categories are used when determining individualized budgets for children with developmental disabilities: ()

a. HCBS State Plan Option. Children meeting developmental disabilities criteria. ()

b. Children's DD Waiver - Level I. ()

i. Children meeting ICF/ID level of care criteria who qualify based on functional limitations when their composite full scale functional age equivalency is less than fifty percent (50%) of their chronological age; or ()

ii. Children who have an overall age equivalency up to fifty-three percent (53%) of their chronological age when combined with a General Maladaptive Index between minus seventeen (-17), and minus twenty-one (-21) inclusive. ()

c. Children's DD Waiver - Level II. ()

i. Children meeting ICF/ID level of care criteria who qualify based on functional limitations when their composite full scale functional age equivalency is less than fifty percent (50%) of their chronological age; and ()

ii. Have an autism spectrum disorder diagnosis. ()

d. Children's DD Waiver - Level III. Children meeting ICF/ID level of care criteria who qualify based on maladaptive behaviors when their General Maladaptive Index is minus twenty-two (-22) or less. ()

e. Act Early Waiver. ()

i. Children age three (3) through six (6) meeting ICF/ID level of care criteria who qualify based on maladaptive behaviors when their General Maladaptive Index is minus twenty-two (-22) or less, and their composite full scale functional age equivalency is less than fifty percent (50%) of their chronological age; or ()

ii. Children age three (3) through six (6) meeting ICF/ID level of care criteria who have an autism spectrum disorder diagnosis. ()

02. Participant Notification of Budget Amount. The Department notifies each participant of his set budget amount as part of the eligibility determination process. The notification will include how the participant may appeal the set budget amount. ()

03. Annual Re-Evaluation. 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. ()

Section 528 Is Being Reprinted In Its Entirety

528. CHILDREN'S DEVELOPMENTAL DISABILITIES PRIOR AUTHORIZATION: DEPARTMENT'S QUALITY ASSURANCE AND IMPROVEMENT PROCESSES.

01. Quality Assurance. Quality Assurance consists of audits and reviews to ensure compliance with the Department's rules and regulations. If problems are identified during the review or audit, the provider must implement a corrective action plan within forty-five (45) calendar days after the results are received. The Department may terminate authorization of service or the provider agreement for providers who do not comply with the corrective action plan. If the Department finds a provider's deficiency or deficiencies immediately jeopardize the health or safety of its participants, the Department may immediately terminate the provider agreement. ()

02. Quality Improvement. The Department may gather and utilize information from participants and providers to evaluate customer satisfaction, participant satisfaction, outcomes monitoring, care management, quality assurance, quality improvement activities, and health and safety. These findings lead to quality improvement activities to improve provider processes and outcomes for participants. ()

03. Plan of Service Review. The Department will obtain the necessary information to determine that participants continue to meet eligibility criteria, services continue to be clinically necessary, services continue to be the choice of the participant, and services constitute appropriate care to warrant continued authorization or need for the service. ()

Section 648 (New Section)

634. -- ~~649~~. (RESERVED).

648. INTRODUCTION TO DEVELOPMENTAL DISABILITIES AGENCIES SECTION. Sections 649 through 659 of these rules include the requirements for developmental disabilities agencies delivering services to children and adults. The benefit requirements for developmental therapy, Intensive Behavioral Intervention (IBI), and other DDA services were moved from IDAPA 16.04.11, "Developmental Disabilities Agencies (DDA)," to this section of rules. IDAPA 16.04.11, "Developmental Disabilities Agencies (DDA)," has been rewritten and renamed to: IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA). ()

01. Background of the Children's System Redesign. ()

a. In 2008, the Department began meeting with stakeholder groups to redesign developmental disabilities (DD) benefits for children. This project is known as the "Children's System Redesign." The Department will begin phased implementation of these redesigned benefits starting July 1, 2011. Implementation requirements are provided in Section 523 of these rules. ()

b. In order to phase in these new benefits as seamlessly as possible, the Department will continue to operate the current children's DD benefits concurrently with the redesigned children's DD benefits. ()

i. The current children's DD benefits are found under Sections 649 to 659 of these rules. ()

ii. The redesigned children's DD benefits are found under Sections 520 through 528, 660 through 666, and 680 through 686 of these rules. ()

02. Developmental Disabilities Agency Services for Adults Age Eighteen and Older. Current DDA services for adults have not been modified and are covered under Sections 649 to 659 of these rules. ()

649. (RESERVED).

6531. DDA SERVICES: COVERAGE REQUIREMENTS AND LIMITATIONS.

Developmental disabilities agency services must be recommended by a physician or other practitioner of the healing arts. The following therapy services are reimbursable when provided in accordance with these rules. ()

Paragraph 651.01.a.

01. ~~Requirement for Plan of Service and Prior Authorization~~ Required DDA Services. Each DDA is required to provide developmental therapy; in addition, each DDA must provide or make available the following services: psychotherapy, occupational therapy, physical therapy, and speech and hearing therapy. Developmental therapy must be provided by qualified employees of the agency. Psychotherapy, occupational therapy, physical therapy, and speech and hearing therapy must either be provided by qualified employees of the agency or through a formal written agreement. (3-19-07)()

a. All therapy services for children must be identified on the Individual Program Plan developed by the developmental disabilities agency (DDA) as described in IDAPA 16.04.11, "Developmental Disabilities Agencies." Sufficient Quantity and Quality. All required services provided must be sufficient in quantity and quality to meet the needs of each person receiving services, and must be provided by qualified individuals in accordance with the requirements in Section 657 of these rules. (3-19-07)()

Subparagraph 651.03.e.viii.

03. ~~Psycho~~Therapy Services. Developmental disabilities agency services must be recommended by a physician or other practitioner of the healing arts and provided in accordance with objectives as specified in IDAPA 16.04.11, "Developmental Disabilities Agencies." The following therapy services are reimbursable when provided in accordance with these rules and IDAPA 16.04.11, "Developmental Disabilities Agencies." The following psychotherapy services must be available through each agency and based on assessment(s) conducted by the professional qualified to deliver the service: (3-19-07)()

e. Physical Therapy Services. Physical therapy services include individual or group therapy. These services are limited in accordance with IDAPA 16.03.09, "Medicaid Basic Plan Benefits." Sections 730 through 739. Psychotherapy services must be provided by one (1) of the following qualified professionals: (4-2-08)()

viii. Licensed Professional Counselor whose provision of psychotherapy is supervised by persons qualified above under Subsections 651.03.e.i. through 651.03.e.vii. of this rule: ()

Paragraph 651.12.e.

12. Intensive Behavioral Intervention. DDA's that choose to offer Intensive Behavioral Intervention (IBI) must provide IBI services in accordance with Section 656 of these rules. ()

e. Exception. Agencies that were providing IBI services prior to July 1, 2006, are exempt from the requirement under Subsection 651.12.d. of this rule. ()

Paragraphs 651.15.a. and 651.15.b.

15. Limitations on DDA Services. Therapy services may not exceed the limitations as specified

below. ()

a. The combination of therapy services listed in Subsections 651.02 through 651.06, 651.12, and 651.13 of this rule must not exceed twenty-two (22) hours per week. ()

b. Therapy services listed in Subsections 651.02 through 651.06, 651.12, and 651.13 of this rule, provided in combination with Community Supported Employment services under Subsection 703.04 of these rules, must not exceed forty (40) hours per week. ()

652. REQUIREMENTS FOR A DDA PROVIDING SERVICES TO PERSONS EIGHTEEN YEARS OF AGE OR OLDER.

This Section does not apply to adults who receive IBI or additional DDA services prior authorized under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program as described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits." DDAs must comply with the requirements under Section 653 of these rules for those adults. ()

Paragraph 652.02.a.

02. Intake. ()

a. For Medicaid participants eighteen (18) years of age or older, prior to the delivery of any Medicaid-funded DDA services: ()

Subsection 652.03

03. Assessments. Requirements for assessments are found under Subsections 655.01 through 655.06 of these rules. ()

653. REQUIREMENTS FOR A DDA PROVIDING SERVICES TO CHILDREN AGES THREE THROUGH SEVENTEEN AND ADULTS RECEIVING IBI OR ADDITIONAL DDA SERVICES PRIOR AUTHORIZED UNDER THE EPSDT PROGRAM.

Subsection 653.03

03. Assessments. Requirements for assessments are found under Subsections 655.01 through 655.06 of these rules. ()

655. DDA SERVICES: PROCEDURAL REQUIREMENTS.

Paragraph 655.01.b.

01. Assessment and Diagnostic Services. Twelve (12) hours is the maximum Medicaid reimbursable time allowed for the combination of all assessment, evaluation, or diagnostic services provided in any calendar year. Additional hours may be approved for a child through the month of his twenty-first birthday with approval from EPSDT staff in the Division of Medicaid. The following assessment and diagnostic services are reimbursable when provided in accordance with these rules: ()

b. Comprehensive Intensive Behavioral Intervention (IBI) Assessment. Before conducting the comprehensive IBI assessment, the DDA must receive prior authorization from the Department. The time required to

complete this assessment is included in the thirty-six (36) month IBI limitation but does not count against the twelve (12) hour limitation described in Subsection 655.01 of this rule; ()

Subparagraph 655.02.d.i.

02. Comprehensive Assessments Conducted by the DDA. Assessments must be conducted by qualified professionals defined under Section 657 of these rules for the respective discipline or areas of service. ()

d. Assessment must be completed within forty-five (45) days. ()

i. With the exception noted under Subsection 655.02.d.ii. of this rule, each assessment must be completed within forty-five (45) calendar days of the date it was recommended by the physician or other practitioner of the healing arts. If the assessment is not completed within this time frame, the participant's records must contain participant-based documentation justifying the delay. ()

Paragraph 655.07.b.

07. DDA Program Documentation Requirements. Each DDA must maintain records for each participant the agency serves. Each participant's record must include documentation of the participant's involvement in and response to the services provided. ()

b. Additional Requirements for Participants Eighteen Years or Older. For participant's eighteen (18) years of age or older, DDAs must also submit provider status reviews to the plan monitor in accordance with Sections 507 through 515 of these rules. ()

Subsection 655.08

08. DDA Program Implementation Plan Requirements. For each participant, the DDA must develop a Program Implementation Plan for each DDA objective included on the participant's required plan of service. All Program Implementation Plans must be related to a goal or objective on the participant's plan of service. The Program Implementation Plan must be written and implemented within fourteen (14) days after the first day of ongoing programming and be revised whenever participant needs change. If the Program Implementation Plan is not completed within this time frame, the participant's records must contain participant-based documentation justifying the delay. The Program Implementation Plan must include the following requirements: ()

657. DDA SERVICES: DDA PROVIDER QUALIFICATIONS AND DUTIES.

05. Developmental Specialist for Adults. To be qualified as a Developmental Specialist for adults, a person must have a minimum of two hundred forty (240) hours of professionally-supervised experience with individuals who have developmental disabilities and either: ()

Paragraph 657.05.b.

b. Possess a bachelor's or master's degree in an area not listed above in Subsection 657.05.a. of this rule and have: ()

Paragraphs 657.08.b. and 657.08.c.

08. Developmental Specialist for Children Birth to Three. ()

b. Electives closely related to the content under Subsection 657.08.a.iii. of this rule may be approved by the Department with a recommendation from an institution of higher education. ()

c. A developmental specialist who possesses a bachelor's or master's degree listed above under Subsection 657.08.a.ii. of this rule, must have completed a minimum of twenty (20) semester credits in EC/ECSE, and with Department approval are serving children under three (3) years of age as of July 1, 2005, will be allowed to continue providing services in accordance with his approved, conditional hiring agreement. ()

Paragraph 657.10.c.

10. Intensive Behavioral Intervention (IBI) Professional Delivering Services to Participants Three to Twenty-One. A person qualified to provide or direct the provision of Intensive Behavioral Intervention (IBI) must meet the following requirements: ()

c. Training and Certification. Qualified IBI professionals and paraprofessionals must comply with the requirements under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," Section 410. ()

Paragraph 657.11.c.

11. IBI Paraprofessionals Delivering Services to Participants Three to Twenty-One. A certified IBI paraprofessional may be used to provide IBI under the supervision of a certified IBI professional and must comply with Section 658 of these rules. An IBI paraprofessional must also: ()

c. Training and Certification. Qualified IBI professionals and paraprofessionals must comply with the requirements under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," Section 410. ()

Subsection 657.12

12. IBI Professionals Delivering Services to Children Birth to Three. A person qualified to provide or direct the provision of IBI to children under three (3) years of age must meet the staff qualifications described under Subsections 657.08.a.ii. through 657.08.d. of these rules, 657.10.b. and 657.10.c. of these rules and the certification and training requirements above under Subsections 658.01.e. and 658.01.f. of these rules. ()

Paragraph 657.13.e.

13. IBI Paraprofessionals Delivering Services to Children Birth to Three. A paraprofessional serving infants and toddlers from birth to three (3) years of age must meet the following qualifications: ()

e. Qualified IBI professionals and paraprofessionals must comply with the requirements under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," Section 410, and Subsections 658.01.e. and 658.01.f. of these rules. ()

Subsection 657.27

27. Requirements for Collaboration with Other Providers. When participants are receiving rehabilitative or habilitative services from other providers, each DDA must coordinate each participant's DDA program with these providers to maximize skill acquisition and generalization of skills across environments, and to avoid duplication of services. The DDA must maintain documentation of this collaboration. This documentation includes other plans of services such as the Individual Education Plan (IEP), Personal Care Services (PCS) plan, Residential Habilitation plan, and the Psychosocial Rehabilitation (PSR) plan. The participant's file must also reflect how these plans have been integrated into the DDA's plan of service for each participant. ()

658. GENERAL STAFFING REQUIREMENTS FOR AGENCIES.

Subsection 658.01

01. Standards for Paraprofessionals Providing Developmental Therapy and IBI. When a paraprofessional provides either developmental therapy or IBI, the agency must ensure adequate supervision by a qualified professional during its service hours. All paraprofessionals must meet the training requirements under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," Section 410 and must meet the qualifications under Section 657 of these rules. A paraprofessional providing IBI must be supervised by an IBI professional; a paraprofessional providing developmental therapy must be supervised by a Developmental Specialist. Paraprofessionals providing developmental therapy to children birth to three (3) years of age must work under the supervision of a Developmental Specialist fully qualified to provide services to participants in this age group. For paraprofessionals to provide developmental therapy or IBI in a DDA, the agency must adhere to the following standards: ()

Section 661 Is Being Reprinted In Its Entirety

661. CHILDREN'S HCBS STATE PLAN OPTION: DEFINITIONS.

For the purposes of these rules, the definitions in Section 521 of these rules apply. Additionally, the following terms apply to the Children's Home and Community Based Services State Plan Option: ()

01. Agency. A developmental disabilities agency (DDA) as defined in IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)." ()

02. Annual. Every three hundred sixty-five (365) days except during a leap year which equals three hundred sixty-six (366) days. ()

03. Clinical Supervisor. The professional responsible for the supervision of DDA staff as outlined in IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)." ()

04. Community. Natural, integrated environments outside of the home, school, or DDA center-based settings. ()

05. Developmental Disabilities Agency (DDA). A DDA is an agency that is: ()

a. A type of developmental disabilities facility, as defined in Section 39-4604(7), Idaho Code, that is non-residential and provides services on an outpatient basis; ()

b. Certified by the Department to provide home and community based services to people with developmental disabilities, in accordance with these rules; ()

c. A business entity, open for business to the general public; and ()

d. Primarily organized and operated to provide home and community based services and the ()

corresponding assessments to people with developmental disabilities. DDA services include evaluations, diagnostic, treatment, and support services that are provided on an outpatient basis to persons with developmental disabilities and may be community-based, home-based, or center-based in accordance with the requirements of this chapter. ()

06. Home and Community Based Services State (HCBS) Plan Option. The federal authority under section 1915(i) of the Social Security Act that allows a state to provide through a state plan amendment, medical assistance for home and community-based services for elderly and individuals with disabilities, without determining that without the provision of services the individuals would require institutional level of care. ()

07. Human Services Field. A particular area of academic study in health care, social services, education, behavioral science or counseling. ()

08. Integration. The process of promoting a life for individuals with developmental disabilities that is as much as possible like that of other citizens of the community, including living in the community and having access to community resources. A further goal of this process is to enhance the social image and personal competence of individuals with developmental disabilities. ()

09. Paraprofessional. A person qualified to provide direct support services which include respite and habilitative supports. ()

10. Professional. A person qualified to provide direct intervention services which include habilitative intervention, therapeutic consultation, family education, family training, interdisciplinary training, and crisis intervention. ()

11. Support Services. Support services may provide supervision for a participant, as well as may provide assistance to a participant by facilitating integration into the community. ()

Section 662 Is Being Reprinted In Its Entirety

662. CHILDREN'S HCBS STATE PLAN OPTION: PARTICIPANT ELIGIBILITY. Children's Home and Community Based State Plan Option eligibility will be determined by the Department as described in Section 520 of these rules. HCBS state plan option participants must meet the following requirements: ()

01. Age of Participants. Participants eligible to receive children's HCBS must be birth through seventeen (17) years of age. ()

02. Eligibility Determinations. The Department must determine that prior to receiving children's HCBS state plan option services, an individual must be determined to have a developmental disability under Sections 500 through 506 of these rules and Section 66-402, Idaho Code, and have a demonstrated need for Children's HCBS state plan option services. ()

03. Financial Eligibility. The Department must determine that prior to receiving children's HCBS state plan option services, the individual is in an eligibility group covered under the Medicaid State plan, and meets one (1) of the following criteria: ()

a. Has an income that does not exceed one hundred fifty percent (150%) of the Federal Poverty Level (FPL); or ()

b. Has an income that does not exceed three hundred percent (300%) of the Supplemental Security Income (SSI) Federal benefit rate (FBR), and is eligible for, but does not have to be enrolled in, HCBS under a 1915(c), (d), or (e) waiver, or 1115 demonstration program. ()

Section 663 Is Being Reprinted In Its Entirety

663. CHILDREN'S HCBS STATE PLAN OPTION: COVERAGE AND LIMITATIONS.

All children's home and community based services must be identified on a plan of service developed by the family-centered planning team, including the plan developer, *and must be recommended by a physician or other practitioner of the healing arts.* The following services are reimbursable when provided in accordance with these rules: ()

01. Respite. Respite provides supervision to the participant on an intermittent or short-term basis because of the need for relief of the primary unpaid caregiver. Respite is available in response to a family emergency or crisis, or may be used on a regular basis to provide relief to the caregiver. Respite may be provided in the participant's home, the private home of the respite provider, a DDA, or in the community. Payment for respite services are not made for room and board. ()

a. Respite must only be offered to participants living with an unpaid caregiver who requires relief. ()

b. Respite cannot exceed fourteen (14) consecutive days. ()

c. Respite must not be provided at the same time other Medicaid services are being provided. ()

d. Respite must not be provided on a continuous, long-term basis as a daily service that would enable an unpaid caregiver to work. ()

e. The respite provider must not use restraints on participants, other than physical restraints in the case of an emergency. Physical restraints may be used in an emergency to prevent injury to the participant or others, and must be documented in the participant's record. ()

f. When respite is provided as group respite, the following applies: ()

i. When group respite is center-based, there must be a minimum of one (1) qualified staff providing direct services to every six (6) participants. As the number and severity of the participants with functional impairments or behavioral issues increases, the staff-to-participant ratio must be adjusted accordingly. ()

ii. When group respite is community-based, there must be a minimum of one (1) qualified staff providing direct services to every three (3) participants. As the number and severity of the participants with functional impairments or behavioral issues increases, the staff-to-participant ratio must be adjusted accordingly. ()

g. Respite cannot be provided as group- or center-based respite when delivered by an independent respite provider. ()

h. For Act Early waiver participants, the cost of respite services cannot exceed ten (10) percent of the child's individualized budget amount to ensure the child receives the recommended amount of intervention based on evidence-based research. ()

02. Habilitative Supports. Habilitative Supports provides assistance to a participant with a disability by facilitating the participant's independence and integration into the community. This service provides an opportunity for participants to explore their interests, practice skills learned in other therapeutic environments, and learn through interactions in typical community activities. Integration into the community enables participants to expand their skills related to activities of daily living and reinforces skills to achieve or maintain mobility, sensory-motor, communication, socialization, personal care, relationship building, and participation in leisure and community activities. Habilitative Supports must: ()

a. Only be provided in community settings and have integration into the community as an identified goal on the plan of service; ()

b. Not supplant services provided in school or therapy, or supplant the role of the primary caregiver; ()

c. Ensure the participant is involved in age-appropriate activities and is engaging with typical peers according to the ability of the participant; and ()

d. Have a minimum of one (1) qualified staff providing direct services to every three (3) participants when provided as group habilitative supports. As the number and severity of the participants with functional impairments increases, the staff participant ratio shall be adjusted accordingly. ()

03. Family Education. Family education is professional assistance to families to help them better meet the needs of the participant. It offers education to the parent or legal guardian that is specific to the individual needs of the family and child as identified on the plan of service. Family education is delivered to families to provide an orientation to developmental disabilities and to educate families on generalized strategies for behavioral modification and intervention techniques specific to their child's diagnoses. ()

a. Family education may also provide assistance to the parent or legal guardian in educating other unpaid caregivers regarding the needs of the participant. ()

b. The family education providers must maintain documentation of the training in the participant's record documenting the provision of activities outlined in the plan of service. ()

c. Family education may be provided in a group setting not to exceed five (5) participants' families. ()

04. Family-Directed Community Supports. Families of participants eligible for the children's home and community based state plan option may choose to direct their individualized budget rather than receive the traditional services described in Subsections 663.01 through 663.03 of this rule when the participant lives at home with his parent or legal guardian. The requirements for this option are outlined in IDAPA 16.03.13 "Consumer-Directed Services." ()

05. Limitations. ()

a. HCBS state plan option services are limited by the participant's individualized budget amount. ()

b. For the children's HCBS state plan option services listed in Subsections 663.01, 663.02, and 663.04 of this rule, the following are excluded for Medicaid payment: ()

i. Vocational services; and ()

ii. Educational services. ()

Section 664 Is Being Reprinted In Its Entirety

664. CHILDREN'S HCBS STATE PLAN OPTION: PROCEDURAL REQUIREMENTS.

01. General Requirements for Program Documentation. The provider must maintain records for each participant served. Each participant's record must include documentation of the participant's involvement in and response to the services provided. For each participant, the following program documentation is required: ()

a. Direct service provider information that includes written documentation of the service provided during each visit made to the participant, and contains, at a minimum, the following information: ()

i. Date and time of visit; and ()

ii. Intervention and support services provided during the visit; and ()

iii. A statement of the participant's response to the service; and ()

- iv. Length of visit, including time in and time out; and ()
- v. Specific place of service. ()
- vi. A copy of the above information will be maintained by the independent provider or DDA. Failure to maintain such documentation will result in the recoupment of funds paid for undocumented services. ()

02. Habilitative Supports Documentation. In addition to the general requirements listed in Subsection 664.01 of this rule, the following must be completed: ()

a. On a monthly basis, the habilitative support staff must complete a summary of the participant's response to the support service and submit the monthly summary to the clinical supervisor. ()

b. The clinical supervisor reviews the summary on a monthly basis and when recommendations for changes to the type and amount of support are identified, submits the recommendations to the plan developer. ()

03. Family Education Documentation. In addition to the general requirements listed in Subsection 664.01 of this rule, the DDA must survey the parent or legal guardian's satisfaction of the service immediately following a family education session. ()

04. Reporting Requirements. The clinical supervisor must complete at a minimum, six- (6) month and annual *provider status* reviews for *habilitative support* services provided. *These provider status reviews must be completed more frequently, when so required* on the plan of service. ()

a. Documentation of the six- (6) month and annual reviews must be submitted to the plan monitor. ()

b. The provider must use Department-approved forms for provider status reviews. ()

Section 665 Is Being Reprinted In Its Entirety

665. CHILDREN'S HCBS STATE PLAN OPTION: PROVIDER QUALIFICATIONS AND DUTIES. All providers of HCBS state plan option services must have a valid provider agreement with the Department. Performance under this agreement will be monitored by the Department. ()

01. Respite. Respite services may be provided by an agency that is certified as a DDA and is capable of supervising the direct services provided, or by an independent respite provider. An independent respite provider is an individual who has entered into a provider agreement with the Department. Providers of respite services must meet the following minimum qualifications: ()

a. Must be at least sixteen (16) years of age when employed by a DDA; or ()

b. Must be at least eighteen (18) years of age and be a high school graduate, or have a GED, to act as an independent respite provider; and ()

c. Meet the qualifications prescribed for the type of services to be rendered, or must be an individual selected by the participant, the family, or the participant's guardian; and ()

d. Have received instructions in the needs of the participant who will be provided the service; and ()

e. Demonstrate the ability to provide services according to a plan of service; and ()

f. Must satisfactorily complete a criminal history background check in accordance with IDAPA 16.05.06 "Criminal History and Background Checks"; and ()

g. When employed by a DDA, must be certified in CPR and first aid in accordance with the general training requirements under IDAPA 16.03.21, "Developmental Disabilities Services (DDA)." Independent respite providers must be certified in CPR and first aid prior to delivering services, and must maintain current certification thereafter. ()

02. Habilitative Support Staff. Habilitative supports must be provided by an agency certified as a DDA with staff who are capable of supervising the direct services provided. Providers of habilitative supports must meet the following minimum qualifications: ()

a. Must be at least eighteen (18) years of age; ()

b. Must be a high school graduate or have a GED; ()

c. Have received instructions in the needs of the participant who will be provided the service; ()

d. Demonstrate the ability to provide services according to a plan of service; ()

e. Must have six (6) months supervised experience working with children with developmental disabilities. This can be achieved in the following ways: ()

i. Have previous work experience gained through paid employment, university practicum experience, or internship; or ()

ii. Have on-the-job supervised experience gained through employment at a DDA with increased supervision. Experience is gained by completing at least six (6) hours of job shadowing prior to the delivery of direct support services, and a minimum of weekly face-to-face supervision with the clinical supervisor for a period of six (6) months while delivering services. ()

f. Must complete competency coursework approved by the Department to demonstrate competencies related to the requirements to provide habilitative supports. ()

g. In addition to the habilitative support qualifications listed in Subsections 665.02.a. through f. of this rule, habilitative support staff serving infants and toddlers from birth to three (3) years of age must meet the following qualifications: ()

i. Have transcribed courses for a minimum of a Child Development Associate degree (CDA) or the equivalent through completion of twelve (12) semester credits from an accredited college or university in child development, special education, or closely-related coursework; or ()

ii. Have three (3) years of documented experience providing care to infants, toddlers, or children less than five (5) years of age with developmental delays or disabilities under the supervision of a child development professional, certified educator, licensed therapist, or Developmental Specialist. ()

03. Family Education. Family education must be provided by an agency certified as a DDA with staff who are capable of supervising the direct services provided. Providers of family education must meet the following minimum qualifications: ()

a. Must hold at least a bachelor's degree in a human services field from a nationally-accredited university or college, and has: ()

i. One (1) year experience providing care to children with developmental disabilities; ()

ii. Must complete competency coursework approved by the Department to demonstrate competencies related to the requirements to provide family education; or ()

b. Individuals working as Developmental Specialists for children ages birth through three (3) or three

(3) through seventeen (17), and individuals certified as Intensive Behavioral Interventionist professionals prior to July 1, 2011, are qualified to provide family education until June 30, 2013. The individual must meet the requirements of the Department-approved competency coursework by June 30, 2013, to maintain his certification. ()

c. Each professional providing family education services must complete at least twelve (12) hours of yearly training, six (6) hours of which must cover behavior methodology or interventions shown to be effective. If the individual has not completed the required training during any yearly training period, he may not provide family education services beginning with the anniversary date of the following period, and thereafter, until the required number of training hours have accumulated. As training hours accumulate, they will be accounted first to any training-deficient prior yearly period before being applied to the current annual training period. Training hours may not be earned in a current annual training period to be applied to a future training period. ()

04. Family Education for Children Birth to Three. In addition to the family education qualifications listed in Subsections 665.03.a. through c. of this rule, family education staff serving infants and toddlers from birth to three (3) years of age must have a minimum of two hundred forty (240) hours of professionally-supervised experience with young children who have developmental disabilities and one (1) of the following: ()

a. An Elementary Education Certificate or Special Education Certificate with an Endorsement in Early Childhood Special Education; or ()

b. A Blended Early Childhood/Early Childhood Special Education (EC/ECSE) Certificate; or ()

c. A bachelor's or master's degree in special education, elementary education, speech-language pathology, early childhood education, physical therapy, occupational therapy, psychology, social work, or nursing plus a minimum of twenty-four (24) semester credits in Early Childhood/Early Childhood Special Education (EC/ECSE) from an accredited college or university. Courses taken must appear on college or university transcripts and must cover the following standards in their content: ()

i. Promotion of development and learning for children from birth to three (3) years; ()

ii. Assessment and observation methods for developmentally appropriate assessment of young children; ()

iii. Building family and community relationships to support early interventions; ()

iv. Development of appropriate curriculum for young children, including IFSP and IEP development; ()

v. Implementation of instructional and developmentally effective approaches for early learning, including strategies for children who are medically fragile and their families; and ()

vi. Demonstration of knowledge of policies and procedures in special education and early intervention and demonstration of knowledge of exceptionalities in children's development. ()

d. Electives closely related to the content under Subsection 665.04.c.iii. of this rule may be approved by the Department with a recommendation from an institution of higher education. ()

e. Developmental specialists who possess a bachelor's or master's degree listed above under Subsection 665.04.c.ii. of this rule, have completed a minimum of twenty (20) semester credits in EC/ECSE, and with Department approval are serving children under three (3) years of age as of July 1, 2005, will be allowed to continue providing services in accordance with their approved, conditional hiring agreement. ()

f. When the Department in its role as lead agency for implementation of Part C of the Individuals with Disabilities Education Act (IDEA) has determined that there is a shortage of such qualified personnel to meet service needs in a specific geographic area: ()

i. The Department may approve the most qualified individuals who are demonstrating satisfactory progress toward completion of applicable course work in accordance with the individual's approved plan to meet the required standard within three (3) years of being hired. ()

ii. Satisfactory progress will be determined on an annual review by the Department. ()

iii. Individuals who have an approved plan for completion of twenty (20) semester credits in EC/ECSE prior to July 1, 2005, will be allowed to continue providing services so long as they demonstrate satisfactory progress on the plan and complete the requirements on the plan within three (3) years of their date of hire. ()

05. Requirements for Clinical Supervision. All DDA services must be provided under the supervision of a clinical supervisor. The clinical supervisor must meet the qualifications to provide habilitative intervention as defined in Section 685 of these rules. Clinical supervisor(s) are professionals employed by a DDA on a continuous and regularly scheduled basis. ()

a. The clinical supervisor is responsible for the oversight and supervision of service and support elements of the agency, including face-to-face supervision of agency staff providing direct services. ()

b. The clinical supervisor must observe and review the direct services performed by all paraprofessional and professional staff on a monthly basis, or more often as necessary, to ensure staff demonstrate the necessary skills to correctly provide the services and support. ()

c. Each DDA must employ an adequate number of clinical supervisors to ensure quality service delivery and participant satisfaction. ()

06. Requirements for Collaboration. Providers of home and community based services must coordinate with the family-centered planning team as specified on the plan of service. ()

07. Requirements for Quality Assurance. Providers of children's home and community based state plan option services must demonstrate high quality of services through an internal quality assurance review process. ()

08. DDA Services. In order for a DDA to provide respite, habilitative supports, and family education the DDA must be certified to provide support services. Each DDA is required to provide habilitative supports. ()

Section 666 Is Being Reprinted In Its Entirety

666. CHILDREN'S HCBS STATE PLAN OPTION: PROVIDER REIMBURSEMENT.

01. Reimbursement. The statewide reimbursement rate for children's HCBS state plan option services listed in Subsections 663.01 through 663.03 of these rules was derived by using Bureau of Labor Statistics mean wage for the direct care staff providing the service, adjusted for employment-related expenditures, program-related costs, and general and administrative costs based on a cost survey as described in Subsection 666.02 of this rule. Reimbursement rates are set at a percentage of the statewide target reimbursement rate. The Department will take into consideration the factors of efficiency, economy, quality of care, and access to care when determining rates. ()

02. Cost Survey. The Department will conduct a cost survey every five (5) years from a statistically appropriate number of provider association representatives in order to obtain cost data for employment-related expenditures, program-related costs, and general and administrative costs. ()

03. Claim Forms. Provider claims for payment will be submitted on claim forms provided or approved by the Department. Billing instructions will be provided by the Department. ()

04. Rates. The reimbursement rates calculated for children's HCBS include both services and mileage.

No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location when the participant is not being provided transportation.()

Section 681 Is Being Reprinted In Its Entirety

681. CHILDREN'S WAIVER SERVICES: DEFINITIONS.

For the purposes of Sections 680 through 686 of these rules, the following terms are used as defined below; in addition, the definitions in Sections 521 and 661 of these rules apply. ()

01. Crisis. An unanticipated event, circumstance, or life situation that places a participant at risk of at least one of the following: ()

a. Hospitalization: ()

b. Loss of housing: ()

c. Loss of employment: ()

d. Incarceration; or ()

e. Physical harm to self or others, including family altercation or psychiatric relapse. ()

02. Intervention Services. Intervention services include outcome-based therapeutic services, professional consultation services, and education and training for families caring for participants with developmental disabilities. ()

03. Objective. A behavioral outcome statement developed to address a particular need identified for a participant. An objective is written in measurable terms that specify a target date for completion, no longer than one (1) year in duration, and include criteria for successful attainment of the objective. ()

04. Probe. A probe is data gathered on an intermittent basis, after a baseline is established, to measure a participant's level of independent performance as related to an identified objective. ()

05. Program Implementation Plan. A plan that details how intervention goals from the plan of service will be accomplished. ()

06. Specific Skill Assessment. A type of assessment used to determine the baseline or the need for further supports or intervention for the discipline area being assessed. ()

07. Telehealth. Telehealth is an electronic real-time synchronized audio-visual contact between a consultant and participant related to the treatment of the participant. The consultant and participant interact as if they were having a face-to-face service. ()

08. Treatment Fidelity. Accurately and consistently administering a program or intervention from a manual, protocol, or model. ()

Section 682

682. CHILDREN'S WAIVER SERVICES: ELIGIBILITY.

Waiver eligibility will be determined by the Department as described in Section 522 of these rules. Children's waiver participants must meet the following requirements: ()

Paragraphs 682.02.b. and 682.02.c.

02. Eligibility Determinations. The Department must determine that: ()

b. The participant could be safely and effectively maintained in the requested or chosen community residence with appropriate waiver services. This determination must be made by a team of individuals with input from the family-centered planning team. Prior to any denial of services, it must be determined by the plan developer that services to correct the concerns of the team are not available. ()

c. The average annual cost of waiver services and other medical services to participants would not exceed the average annual cost to Medicaid of ICF/ID care and other medical costs. ()

Subsection 682.04

04. Children's Waiver Eligible Participants. A participant who is determined by the Department to be eligible for services under the children's waivers may elect not to use waiver services, but may choose admission to an ICF/ID. ()

Section 683

683. CHILDREN'S WAIVER SERVICES: COVERAGE AND LIMITATIONS.

All children's DD waiver services must be identified on a plan of service developed by the family-centered planning team, including the plan developer, and must be recommended by a physician or other practitioner of the healing arts. In addition to the children's home and community based state plan option services described in Section 663 of these rules, the following services are available for waiver eligible participants and are reimbursable services when provided in accordance with these rules: ()

Subsection 683.03 and Paragraph 683.03.b.

03. Habilitative Intervention Evaluation. The purpose of the habilitative intervention evaluation is to guide the formation of developmentally-appropriate objectives and intervention strategies related to goals identified through the family-centered planning process. The habilitative interventionist must complete an evaluation prior to the initial provision of habilitative intervention services. The evaluation must include: ()

b. Functional behavioral analysis: ()

Subsections 683.04 through 683.08

04. Habilitative Intervention. Habilitative intervention services must be consistent, aggressive, and continuous and are provided to improve a child's functional skills and minimize problem behavior. Services include individual or group behavioral interventions and skill development activity. Habilitative intervention must be based upon the well-known and widely regarded principles of evidence-based treatment. Evidence-based treatment (EBT) refers to the use of mental and behavioral health interventions for which systematic empirical research has provided evidence of statistically significant effectiveness as treatments for specific problems. As "promising practices" meet statistically significant effectiveness, they could be included as approved approaches. ()

a. Habilitative intervention must be provided to meet the intervention needs of the participant by developing adaptive skills for all participants, and addressing maladaptive behaviors for participants who exhibit them. ()

i. When goals to address maladaptive behavior are identified on the plan of service, the intervention

must include the development of replacement behavior rather than merely the elimination or suppression of maladaptive behavior that interferes with the child's overall general development, community, and social participation. ()

ii. When goals to address skill development are identified on the plan of service, the intervention must provide for the acquisition of skills that are functional. ()

b. Habilitative intervention must be provided in the participant's home or community setting, and in addition may be provided in a center-based setting. ()

c. Group intervention may be provided in the community and center. When habilitative intervention is provided as group intervention, the following applies: ()

i. There must be a minimum of one (1) qualified staff providing direct services for every three (3) participants. As the number and severity of the participants with functional impairments or behavioral issues increases, the staff participant ratio must be adjusted accordingly. ()

ii. When group intervention is community-based, the child must be integrated in the community in a natural setting with typically developing peers. ()

iii. Group intervention must be directly related to meeting the needs of the child, and be identified as an objective in accordance with a plan of service goal. ()

05. Therapeutic Consultation. Therapeutic consultation provides a higher level of expertise and experience to support participants who exhibit severe aggression, self-injury, and other dangerous behaviors. Therapeutic consultation is provided when a participant receiving habilitative intervention has been assessed as requiring a more advanced level of training and assistance based on the participant's complex needs. A participant requires therapeutic consultation when interventions are not demonstrating outcomes and it is anticipated that a crisis event may occur without the consultation service. ()

a. The therapeutic consultant assists the habilitative interventionist by: ()

i. Performing advanced assessments as necessary; ()

ii. Developing and overseeing the implementation of a positive behavior support plan; ()

iii. Monitoring the progress and coordinating the implementation of the positive behavioral support plan across environments; and ()

iv. Providing consultation to other service providers and families. ()

b. Telehealth resources may be used by a therapeutic consultant to provide consultation as appropriate and necessary. ()

c. Therapeutic consultation providers are subject to the following limitations: ()

i. Therapeutic consultation cannot be provided as a direct intervention service. ()

ii. Participants must be receiving habilitative intervention services prior to accessing therapeutic consultation, with the exception of crisis situations. ()

iii. Therapeutic consultation is limited to eighteen (18) hours per year per participant. ()

iv. Therapeutic consultation must be prior authorized by the Department. ()

06. Crisis Intervention. Crisis intervention services provide direct consultation and clinical evaluation of participants who are currently experiencing or may be expected to experience a psychological, behavioral, or

emotional crisis. The need for crisis intervention must meet the definition of crisis in Section 681 of these rules. This service may provide training and staff development related to the needs of a participant, and also provides emergency back-up involving the direct support of the participant in crisis. Children's crisis intervention services: ()

- a. Are provided in the home and community. ()
- b. Are provided on a short-term basis typically not to exceed thirty (30) days. ()
- c. Cannot exceed fourteen (14) days of out-of-home placement. ()
- d. Must be prior authorized by the Department. ()

i. Authorization for crisis intervention may be requested retroactively as a result of a crisis, defined in Section 681 of these rules, when no other means of support is available to the participant. In retroactive authorizations, the crisis intervention provider must submit a request for crisis intervention to the Department within seventy-two (72) hours of providing the service. ()

ii. If staying in the home endangers the health and safety of the participant, the family, or both, the provider may request short-term out of home placement for the participant. Out of home placement must be prior authorized by the Department. ()

e. Must use positive behavior interventions prior to and in conjunction with the implementation of any restrictive intervention. ()

f. Telehealth resources may be used by a crisis interventionist to provide consultation in a crisis situation. ()

07. Family-Directed Community Supports. Families of participants eligible for the children's DD waiver may choose to direct their individualized budget rather than receive the traditional services described in Subsections 683.01 through 683.06 of this rule when the participant lives at home with the parent or legal guardian. The requirements for selecting and participating in this option are outlined in IDAPA 16.03.13 "Consumer Directed Services." Act Early Waiver participants do not have the option to choose the family-directed services path. The Act Early Waiver is intended to be a more structured program that requires increased involvement from families, and ensures children receive an intense amount of services based on evidence-based research. ()

08. Service limitations. Children's waiver services are subject to the following limitations: ()

a. Place of Service Delivery. Waiver services may be provided in the participant's personal residence, community, or DDA. The following living situations are specifically excluded as a place of service for waiver services: ()

- i. Licensed skilled or intermediate care facilities, certified nursing facility (NF) or hospital; and ()
- ii. Licensed Intermediate Care Facility for persons with Intellectual Disabilities (ICF/ID); and ()
- iii. Residential Care or Assisted Living Facility; ()
- iv. Additional limitations to specific services are listed under that service definition. ()

b. According to 42 CFR 440.180, Medicaid Waiver services cannot be used to pay for special education and related services that are included in a child's Individual Educational Plan (IEP) under the provisions of Individuals with Disabilities Education Improvement Act of 2004 (IDEA), that are otherwise available through a local educational agency. ()

c. Children's waiver services are limited by the participant's individualized budget amount, excluding crisis intervention. ()

d. For the children's waiver services listed in Subsections 683.01 through 683.07 of these rules, the following are excluded for Medicaid payment: ()

i. Vocational services; ()

ii. Educational services; and ()

iii. Recreational services. ()

684. CHILDREN'S WAIVER SERVICES: PROCEDURAL REQUIREMENTS.

Subsections 684.03 through 684.06

03. Program Implementation Plan Requirements. For each participant receiving intervention and family training services, the DDA must develop a program implementation plan to determine objectives to be included on the participant's required plan of service. ()

a. All program implementation plan objectives must be related to a goal on the participant's plan of service. ()

b. The program implementation plan must be written, implemented, and submitted to the plan developer within fourteen (14) days after the first day of ongoing programming and be revised whenever participant needs change. If the program implementation plan is not completed within this time frame, the participant's records must contain participant-based documentation justifying the delay. ()

c. The program implementation plan must be completed by the habilitative interventionist, and must include the following requirements: ()

i. The participant's name. ()

ii. A baseline statement. ()

iii. Measurable, behaviorally-stated objectives that correspond to those goals or objectives previously identified on the required plan of service. ()

iv. Written instructions to the staff that may include curriculum, interventions, task analyses, activity schedules, type and frequency of reinforcement and data collection including probe, directed at the achievement of each objective. These instructions must be individualized and revised as necessary to promote participant progress toward the stated objective. ()

v. Identification of the type of environment(s) and specific location(s) where services will be provided. ()

vi. A description of the evidence-based treatment approach used for the service provided. ()

vii. When the child has a current positive behavior support plan, it must be incorporated into the program implementation plan. ()

viii. When interdisciplinary training is provided, identification of the type of interdisciplinary training and the objectives related to the training must be included on the program implementation plan. ()

ix. Target date for completion, not to exceed one (1) year. ()

x. The program implementation plan must be reviewed and approved by the DDA clinical supervisor as indicated by signature, credential, and date on the plan. ()

04. Reporting Requirements. The clinical supervisor must complete, at a minimum, six- (6) month and annual provider status reviews for habilitative intervention and family training services provided. These provider status reviews must be completed more frequently when so required on the plan of service. ()

a. Documentation of the six (6) month and annual reviews must be submitted to the plan developer. ()

b. The provider must use Department-approved forms for provider status reviews. ()

05. Provider Responsibility for Notification. It is the responsibility of the service provider to notify the plan developer when any significant changes in the participant's condition, as defined by the family-centered planning team, are noted during service delivery. Such notification will be documented in the service record. ()

06. Records Maintenance. When a participant leaves the waiver services program, the records will be retained by the Department as part of the participant's closed case record. Provider agencies will be responsible to retain their participant's records for five (5) years following the date of service. ()

Section 685 Is Being Reprinted In Its Entirety

685. CHILDREN'S WAIVER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Family Training. Providers of family training must meet the requirements for habilitative intervention providers defined in Subsections 685.03 and 685.04 of this rule. ()

02. Interdisciplinary Training. Providers of interdisciplinary training must meet the following requirements: ()

a. Occupational Therapist, as defined in Section 734 under IDAPA 16.03.09, "Medicaid Basic Plan Benefits"; ()

b. Physical Therapist, as defined in Section 734 under IDAPA 16.03.09, "Medicaid Basic Plan Benefits"; ()

c. Speech-Language Pathologist, as defined in Section 734 under IDAPA 16.03.09, "Medicaid Basic Plan Benefits"; ()

d. Practitioner of the healing arts; ()

e. Habilitative intervention provider as defined in Subsections 685.03 and 685.04 of this rule; or ()

f. Therapeutic consultation provider as defined in Subsection 685.05 of this rule. ()

03. Habilitative Intervention. Habilitative intervention must be provided by a DDA certified to provide both support and intervention services under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," and is capable of supervising the direct services provided. Providers of habilitative intervention must meet the following minimum qualifications: ()

a. Must hold at least a bachelor's degree in a human services field from a nationally-accredited university or college; ()

b. Must be able to provide documentation of one (1) year's supervised experience working with children with developmental disabilities. Experience must be gained through paid employment or university ()

practicum experience or internship: ()

c. Must complete competency coursework approved by the Department to demonstrate competencies related to the requirements to provide habilitative intervention; or ()

d. Individuals working as Developmental Specialists for children age birth through three (3) or three (3) through 17, and individuals certified as Intensive Behavioral Intervention professionals prior to July 1, 2011, are qualified to provide habilitative intervention until June 30, 2013. The individual must meet the requirements of the Department-approved competency coursework by June 30, 2013 to maintain his certification. ()

04. Habilitative Intervention for Children Birth to Three. In addition to the habilitative intervention qualifications listed in Subsections 685.04.a. through d. of this rule, habilitative intervention staff serving infants and toddlers from birth to three (3) years of age must have a minimum of two hundred forty (240) hours of professionally-supervised experience with young children who have developmental disabilities and one (1) of the following: ()

a. An Elementary Education Certificate or Special Education Certificate with an Endorsement in Early Childhood Special Education; or ()

b. A Blended Early Childhood/Early Childhood Special Education (EC/ECSE) Certificate; or ()

c. A bachelor's or master's degree in special education, elementary education, speech-language pathology, early childhood education, physical therapy, occupational therapy, psychology, social work, or nursing plus a minimum of twenty-four (24) semester credits in Early Childhood/Early Childhood Special Education (EC/ECSE) from an accredited college or university. Courses taken must appear on college or university transcripts and must cover the following standards in their content: ()

i. Promotion of development and learning for children from birth to three (3) years; ()

ii. Assessment and observation methods for developmentally appropriate assessment of young children; ()

iii. Building family and community relationships to support early interventions; ()

iv. Development of appropriate curriculum for young children, including IFSP and IEP development; ()

v. Implementation of instructional and developmentally effective approaches for early learning, including strategies for children who are medically fragile and their families; and ()

vi. Demonstration of knowledge of policies and procedures in special education and early intervention and demonstration of knowledge of exceptionalities in children's development. ()

d. Electives closely related to the content under Subsection 685.04.c.iii. of this rule may be approved by the Department with a recommendation from an institution of higher education. ()

e. Developmental specialists who possess a bachelor's or master's degree listed above under Subsection 685.04.c.ii. of this rule, have completed a minimum of twenty (20) semester credits in EC/ECSE, and with Department approval are serving children under three (3) years of age as of July 1, 2005, will be allowed to continue providing services in accordance with their approved, conditional hiring agreement. ()

f. When the Department in its role as lead agency for implementation of Part C of the Individuals with Disabilities Education Act (IDEA) has determined that there is a shortage of such qualified personnel to meet service needs in a specific geographic area: ()

i. The Department may approve the most qualified individuals who are demonstrating satisfactory progress toward completion of applicable course work in accordance with the individual's approved plan to meet the required standard within three (3) years of being hired. ()

ii. Satisfactory progress will be determined on an annual review by the Department. ()

iii. Individuals who have an approved plan for completion of twenty (20) semester credits in EC/ECSE prior to July 1, 2005, will be allowed to continue providing services so long as they demonstrate satisfactory progress on the plan and complete the requirements on the plan within three (3) years of their date of hire. ()

05. Therapeutic Consultation. Therapeutic consultation may be provided by a DDA certified to provide both supports and intervention services under IDAPA 16.03.21, "Developmental Disabilities Services (DDA)," or by an independent Medicaid provider under agreement with the Department. Providers of therapeutic consultation must meet the following minimum qualifications: ()

a. Doctoral or Master's degree in psychology, education, applied behavioral analysis, or have a related discipline with one thousand five hundred (1500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, or behavior analysis (may be included as part of degree program); and ()

b. Two (2) years relevant experience in designing and implementing comprehensive behavioral therapies for children with DD and challenging behavior. ()

c. Therapeutic consultation providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." ()

d. Therapeutic consultation providers employed by a DDA must be certified in CPR and first aid in accordance with the general training requirements under IDAPA 16.03.21 "Developmental Disabilities Services (DDA)." Independent therapeutic consultation providers must be certified in CPR and first aid prior to delivering services, and must maintain current certification thereafter. ()

06. Crisis Intervention. Crisis intervention may be provided by a DDA certified to provide support and intervention services under IDAPA 16.03.21, "Developmental Disabilities Services (DDA)," or by an independent Medicaid provider under agreement with the Department. Providers of crisis intervention must meet the following minimum qualifications: ()

a. Crisis Intervention professionals must meet the minimum therapeutic consultation provider qualifications described in Subsection 685.04 of this rule. ()

b. Emergency intervention technician providers must meet the minimum habilitative support provider qualifications described under Subsection 665.02 of these rules. ()

c. Crisis intervention providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." ()

07. Continuing Training Requirements for Professionals. Each professional providing waiver services must complete at least twelve (12) hours of yearly training, six (6) hours of which must cover behavior methodology or interventions shown to be effective. If the individual has not completed the required training during any yearly training period, he may not provide waiver services beginning with the anniversary date of the following period, and thereafter, until the required number of training hours have accumulated. As training hours accumulate, they will be accounted first to any training-deficient prior yearly period before being applied to the current annual training period. Training hours may not be earned in a current annual training period to be applied to a future training period. ()

08. Requirements for Clinical Supervision. All DDA services must be provided under the supervision of a clinical supervisor. The clinical supervisor must meet the qualifications to provide habilitative intervention as defined in this rule. Clinical supervisor(s) are professionals employed by a DDA on a continuous and regularly scheduled basis. ()

a. The clinical supervisor is responsible for the oversight and supervision of service and support elements of the agency, including face-to-face supervision of agency staff providing direct services. ()

b. The clinical supervisor must observe and review the direct services performed by all paraprofessional and professional staff on a monthly basis, or more often as necessary, to ensure staff demonstrate the necessary skills to correctly provide the services and support. ()

c. Each DDA must employ an adequate number of clinical supervisors to ensure quality service delivery and participant satisfaction. ()

09. Requirements for Collaboration with Other Providers. Providers of waiver services must coordinate with the family-centered planning team as specified on the plan of service. When a participant has had a psychological or psychiatric assessment, the results of the psychological or psychiatric assessment must be used when developing objectives to ensure therapies provided in the DDA accommodate the participant's mental health needs and to ensure that none of the therapeutic methods are contra-indicated or delivered in a manner that presents a risk to the participant's mental health status. ()

10. Requirements for Quality Assurance. Providers of children's waiver services must demonstrate high quality of services, including treatment fidelity, through an internal quality assurance review process. ()

11. DDA Services. In order for a DDA to provide waiver services, the DDA must be certified to provide both support and intervention services. Each DDA is required to provide habilitative supports. When a DDA opts to provide habilitative intervention services, the DDA must also provide habilitative supports and family training. ()

Section 686 Is Being Reprinted In Its Entirety

686. CHILDREN'S WAIVER SERVICES: PROVIDER REIMBURSEMENT.

01. Reimbursement. The statewide reimbursement rate for children's HCBS state plan option services listed in Subsections 683.01 through 683.06 of these rules was derived by using Bureau of Labor Statistics mean wage for the direct care staff providing the service, adjusted for employment-related expenditures, program-related costs, and general and administrative costs based on a cost survey as described in Subsection 686.02 of this rule. Reimbursement rates are set at a percentage of the statewide target reimbursement rate. The Department will take into consideration the factors of efficiency, economy, quality of care, and access to care when determining rates. ()

02. Cost Survey. The Department will conduct a cost survey every five (5) years from a statistically appropriate number of provider association representatives in order to obtain cost data for employment-related expenditures, program-related costs, and general and administrative costs. ()

03. Claim Forms. Provider claims for payment will be submitted on claim forms provided by or approved by the Department. Billing instructions will be provided by the Department. ()

04. Rates. The reimbursement rates calculated for waiver services include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location when the participant is not being provided transportation. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1003

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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, 56-250 through 56-257, Idaho Code; also House Bills 701 and 708 passed by the 2010 Legislature.

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. These rule changes implement legislative intent language in House Bills 701 and 708 passed by the 2010 Legislature regarding nursing facilities. The complete text of the proposed rule was published in the [September 1, 2010, Idaho Administrative Bulletin, Vol. 10-9, pages 263 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:

Changes related to House Bill 701 will result in a reduction of \$193,000 to the state general fund. The total cost reduction is \$965,000 for state and federal funds combined.

Changes related to House Bill 708 will result in a cost reduction of \$1.09 million to the state general fund. Total cost reduction is \$5.4 million for state and federal funds combined. This cost reduction has already been incorporated into the Division of Medicaid's 2011 appropriation.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Robert Kellerman at (208) 364-1994.

DATED this 24th day of November, 2010.

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

DOCKET NO. 16-0310-1003 - 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 10-9, September 1, 2010, pages 263 through 272.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1101

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective dates of the temporary rule are September 1, 2010, and January 1, 2011.

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(b), 56-203(7), 56-203(9), 56-250 through 56-257, Idaho Code; also House Bill 701 passed by the 2010 legislature.

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

These rules are being amended to reflect reimbursement methodologies that have been recently approved by the Centers for Medicare and Medicaid through the Medical Assistance State Plan amendment process for mental health clinics, developmental disability agencies, and rehabilitative mental health services. The reimbursement methodologies for these providers in the current rules are no longer accurate.

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 in order to comply with deadlines in amendments to governing law or federal programs. Temporary rulemaking is also being done under the authority granted in House Bill 701 (2010), Section 13.

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

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

While the methodology is different than the historical approach, it is designed to be budget neutral. This rulemaking has no anticipated fiscal impact to the state general fund.

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

DATED this 24th day of November, 2010.

Tamara Prisock
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THE FOLLOWING IS THE TEMPORARY TEXT FOR DOCKET 16-0310-1101

119. ~~(RESERVED)~~ ENHANCED OUTPATIENT MENTAL HEALTH SERVICES – PROVIDER REIMBURSEMENT.

01. Medical Assistance Upper Limit. The Department’s medical assistance upper limit for reimbursement is the lower of: (9-1-10)T

a. The mental health clinic’s actual charge; or (9-1-10)T

b. The allowable charge as established by the Department’s medical assistance fee schedule. Mental health clinic reimbursement is subject to the provisions of 42 CFR 447.321. (9-1-10)T

02. Reimbursement. (9-1-10)T

a. For physician services where mid-levels are authorized to administer mental health services, the Department reimburses based on the Department’s medical assistance fee schedule. (9-1-10)T

b. For other health professionals authorized to administer mental health services, the statewide reimbursement rate for mental health services was derived by using Bureau of Labor Statistics mean wage for the direct care staff providing the service, adjusted for employment-related expenditures, program-related costs, and general and administrative costs based on a cost survey as described in Subsection 119.03 of this rule. Reimbursement rates for partial care, and social history and evaluation are set at a percentage of the statewide target reimbursement rate. (9-1-10)T

03. Cost Survey. The Department will conduct a cost survey every five (5) years from a statistically appropriate number of provider association representatives in order to obtain cost data for employment-related expenditures, program-related costs, and general and administrative costs. (9-1-10)T

(BREAK IN CONTINUITY OF SECTIONS)

140. PSYCHOSOCIAL REHABILITATIVE SERVICES (PSR) - PROVIDER REIMBURSEMENT.

Payment for PSR agency services must be in accordance with rates established by the Department. The rate paid for services includes documentation. (5-8-09)

01. Duplication. Payment for services must not duplicate payment made to public or private entities under other program authorities for the same purpose. (3-19-07)

02. Number of Staff Able to Bill. Only one (1) staff member may bill for an assessment, individualized treatment plan, or case review when multiple agency staff are present. (5-8-09)

03. Medication Prescription and Administration. Medication prescription and administration may be billed only by physicians and other medical staff qualified under Title 54, Chapter 18, Idaho Code. (3-19-07)

04. Recoupment. Billing for services and receiving reimbursement for services that were not rendered or failure to comply with these rules must be cause for recoupment of payments for services, sanctions, or both. (3-19-07)

05. Access to Information. Upon request, the provider must provide the Department with access to all information required to review compliance with these rules. Failure by the provider to comply with such a request must result in termination of the Medicaid PSR Provider Agreement. (3-19-07)

06. Evaluations and Tests. Evaluations and tests are a reimbursable service if provided in accordance with the requirements in IDAPA 16.03.09, “Medicaid Basic Plan Benefits.” (5-8-09)

07. Psychiatric or Medical Inpatient Stays. Community reintegration services may be provided during the last thirty (30) days of inpatient stay or if the inpatient stay is not expected to last longer than thirty (30) days, when not duplicating those services included in the responsibilities of the inpatient facility. Treatment services are the responsibility of the facility. (5-8-09)

08. Reimbursement. (9-1-10)T

a. For physician services where mid-levels are authorized to administer mental health services, the Department reimburses based on the Department's medical assistance fee schedule. (9-1-10)T

b. For other health professionals authorized to administer rehabilitative mental health services, the statewide target reimbursement rate for rehabilitative mental health services was derived by using Bureau of Labor Statistics mean wage for the direct care staff providing the service, adjusted for employment-related expenditures, program-related costs, and general and administrative costs based on a cost survey as described in Subsection 140.09 of this rule. Reimbursement rates for intake assessment, functional assessment, individual and group skill training, and community reintegration are set at a percentage of the statewide target reimbursement rate. (9-1-10)T

c. Crisis assistance for adults with serious and persistent mental illness (SPMI) will be paid based on the same reimbursement methodology as service coordination crisis intervention services defined in Subsection 736.09 of these rules. (9-1-10)T

09. Cost Survey. The Department will conduct a cost survey every five (5) years from a statistically appropriate number of provider association representatives in order to obtain cost data for employment-related expenditures, program-related costs, and general and administrative costs. (9-1-10)T

(BREAK IN CONTINUITY OF SECTIONS)

656. DDA SERVICES: PROVIDER REIMBURSEMENT.

Payment for agency services must be in accordance with rates established by the Department. (3-19-07)

01. Reimbursement. (9-1-10)T

a. For physician services where mid-levels are authorized to administer developmental disability services, the Department reimburses based on the Department's Medical Assistance fee schedule. (9-1-10)T

b. For other health professional authorized to administer developmental disability services, the statewide reimbursement rate for developmental disability services was derived by using Bureau of Labor Statistics mean wage for the direct care staff providing the service, adjusted for employment-related expenditures, program-related costs, and general and administrative costs based on a cost survey as described in Subsection 656.02 of this rule. (9-1-10)T

02. Cost Survey. The Department will conduct a cost survey every five (5) years from a statistically appropriate number of provider association representatives in order to obtain cost data for employment-related expenditures, program-related costs, and general and administrative costs. (9-1-10)T

(BREAK IN CONTINUITY OF SECTIONS)

706. DD WAIVER SERVICES: PROVIDER REIMBURSEMENT.

01. Fee for Service. Waiver service providers will be paid on a fee for service basis based on the type of service provided as established by the Department. (3-19-07)

02. Claim Forms. Provider claims for payment will be submitted on claim forms provided or approved by the Department. Billing instructions will be provided by the Department. (3-19-07)

03. Rates. The reimbursement rates calculated for waiver services include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location when the participant is not being provided transportation. (3-19-07)

04. Reimbursement. For select services, the statewide reimbursement rate for DD waiver services was derived by using Bureau of Labor Statistics mean wage for the direct care staff providing the service, adjusted for employment-related expenditures, program-related costs, and general and administrative costs based on a cost survey as described in Subsection 706.05 of this rule. Reimbursement rates are set at a percentage of the statewide target reimbursement rate. (9-1-10)T

05. Cost Survey. The Department will conduct a cost survey every five (5) years from a statistically appropriate number of provider association representatives in order to obtain cost data for employment-related expenditures, program-related costs, and general and administrative costs. (9-1-10)T

(BREAK IN CONTINUITY OF SECTIONS)

736. SERVICE COORDINATION: PROVIDER REIMBURSEMENT.

01. Duplication. Participants are only eligible for one (1) type of service coordination. If they qualify for more than one (1) type, the participant must choose one (1). Service coordination payment must not duplicate payment made to public or private sector entities under other program authorities for this same purpose. (3-19-07)

02. Payment for Service Coordination. Subject to the service limitations in Subsection 736.06 of this rule, only the following services are reimbursable: (5-8-09)

- a.** Service coordination plan development defined in Section 721 of these rules. (5-8-09)
- b.** Face-to-face contact required in Subsection 728.07 of these rules. (5-8-09)
- c.** Two-way communication between the service coordinator and the participant, participant's service providers, family members, primary care givers, legal guardian, or other interested persons. (5-8-09)
- d.** Face-to-face contact between the service coordinator and the participant's family members, legal representative, primary caregivers, providers, or other interested persons. (3-19-07)
- e.** Referral and related activities associated with obtaining needed services as identified in the service coordination plan. (5-8-09)

03. Service Coordination During Institutionalization. Service coordination is reimbursable on the day a participant is admitted to a medical institution if the service is provided prior to admission. Service coordination is reimbursable on the day of discharge from a medical institution if the service is provided after discharge. (5-8-09)

- a.** Service coordination for reintegration into the community, can only be provided by and reimbursed to a service coordination agency when the following applies: (5-8-09)
 - i.** During the last fourteen (14) days of an inpatient stay which is less than one hundred eighty (180) days in duration; or (5-8-09)
 - ii.** During the last sixty (60) days of an inpatient stay of one hundred eighty (180) days or more.

(5-8-09)

b. Service coordination providers may not file claims for reimbursement until the participant is discharged and using community services; (5-8-09)

c. Service coordination must not duplicate activities provided as part of admission or discharge planning activities of the medical institution. (5-8-09)

04. Incarceration. Service coordination is not reimbursable when the participant is incarcerated. (3-19-07)

05. Services Delivered Prior to Assessment. Payment for on-going service coordination will not be made prior to the completion of the service coordination plan. (5-8-09)

06. Payment Limitations. Reimbursement is not allowed for missed appointments, attempted contacts, travel to provide the service, leaving messages, scheduling appointments with the Medicaid service coordinator, transporting participants, or documenting services. (5-8-09)

a. Service coordination providers are paid in unit increments of fifteen (15) minutes each. A service coordinator can only be reimbursed for the amount of time worked and must not bill for more than 4 billing units per hour. The following table is an example of minutes to billing units. (5-8-09)

Services Provided Are More Than Minutes	Services Provided Are Less Than Minutes	Billing Units
8	23	1
22	38	2
37	53	3
52	68	4
67	83	5
82	98	6
97	113	7

(5-8-09)

b. Direct delivery of medical, educational, psychiatric, social, early intervention, or other service to which a participant has been referred is not reimbursable as service coordination. (5-8-09)

c. Activities that are an integral component of another covered Medicaid service are not reimbursable as service coordination. (5-8-09)

d. Activities that are integral to the administration of foster care programs are not reimbursable as service coordination. (5-8-09)

e. Activities that are integral to the administration of another non-medical program are not reimbursable as service coordination. This exclusion does not apply to case management provided as part of the individualized education program or individualized family service plan required by the Individuals with Disabilities Education Act. (5-8-09)

07. Healthy Connections. A participant enrolled in Healthy Connection must receive a referral for assessment and provision of services from his Healthy Connections provider ~~unless he receives personal care services or aged and disabled waiver services.~~ To be reimbursed for service coordination, the Healthy Connections referral must cover the dates of service delivery. (5-8-09)(1-1-11)T

08. Group Service Coordination. Payment is not allowed for service coordination provided to a group of participants. (3-19-07)

09. Reimbursement. The statewide reimbursement rate for a service coordinator and a paraprofessional was derived by using: (9-1-10)T

a. Bureau of Labor Statistics mean wage for the direct care staff providing the service adjusted for employment-related expenditures; (9-1-10)T

b. Non-productive time including vacation, sick time, and holiday; and (9-1-10)T

c. An indirect general and administrative cost based on a survey as described in Subsection 736.10 of this rule. (9-1-10)T

10. Survey. The Department will conduct a time study, general and administrative cost, and mileage cost survey every five (5) years from a statistically appropriate number of provider association representatives in order to obtain time and cost data to provide services. (9-1-10)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.10 - MEDICAID ENHANCED PLAN BENEFITS

DOCKET NO. 16-0310-1102

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule are October 1, 2010. This temporary rule will cease to be in effect June 30, 2011, in accordance with H0701 (2010).

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(b), 56-203(7), 56-203(9), 56-250 through 56-257, Idaho Code; also House Bill 701 passed by the 2010 legislature.

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

This rulemaking changes Nursing Facilities Services by adding new subsections of rule that describe the nursing facility assessment and the nursing facility adjustment payment. These changes allow additional assessments on skilled nursing facilities to maintain adequate state trustee and benefit funds to the extent that a general fund shortfall exists or as limited by the maximum assessment of 5.5%. An additional purpose is to draw down additional federal matching funds by maximizing reimbursement for allowable costs available through the state Medicaid plan.

These rule changes will cease to be in effect on June 30, 2011.

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 in order to comply with deadlines in amendments to governing law or federal programs. Temporary rulemaking is also being done under the authority granted in House Bill 701 (2010), Section 13.

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. The fee changes described under the descriptive summary above are being implemented under the authority granted in House Bill 701 (2010), Section 13.

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 nursing facility amendments will reduce the state general funds by approximately \$10,000,000 per state fiscal year. This cost reduction has already been incorporated into the Division of Medicaid's 2011 appropriation.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Robert Kellerman (208) 364-1994.

DATED this 24th day of November, 2010.

Tamara Prisock
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THE FOLLOWING IS THE TEMPORARY TEXT FOR DOCKET 16-0310-1102

235. NURSING FACILITY: PROVIDER REIMBURSEMENT.

01. **Payment Methodology.** Nursing facilities will be reimbursed in accordance with the payment methodologies as described in Sections 236 through 295 of these rules. (3-19-07)

02. **Date of Discharge.** Payment by the Department for the cost of long term care is to ~~include~~ the date of the participant's discharge ~~only if the discharge occurred after 3 p.m. and is not discharged to a related ICF/ID provider.~~ If a Medicaid patient dies in a nursing home, his date of death is covered regardless of the time of occurrence. If an admission and a discharge occur on the same date, then one (1) day of care will be deemed to exist. ~~(3-19-07)~~(10-1-10)T

03. **Nursing Facility Assessment.** The Department will collect from all nursing facilities, except those owned by the state, a nursing facility assessment thirty (30) days from the date of invoice. The aggregated amount for assessments for all nursing facilities, during a fiscal year, will be an amount not exceeding five and a half percent (5.5%) of the total aggregate net patient service revenue of assessed facilities from each provider's prior fiscal year. (10-1-10)T

04. **Nursing Facility Adjustment Payments.** All nursing facilities will be eligible for annual nursing facility adjustment payments. Adjustment payments will be made within the state fiscal year 2011 to reimburse covered Medicaid expenditures in the aggregate within the upper payment limit. (10-1-10)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.13 - CONSUMER-DIRECTED SERVICES

DOCKET NO. 16-0313-1002

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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. The effective date for this chapter of rules is July 1, 2011.

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, 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 proposed rules for the redesign of children's developmental disabilities benefits included options for children. Changes are being made in the pending rule to stipulate decision-making responsibilities for children, and the definition of participant was amended. 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 1, 2010, Idaho Administrative Bulletin, Vol. 10-9, pages 277 through 291](#).

FISCAL IMPACT: The following is a specific 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 is cost neutral, because the individualized budgets and limitations for participants are being based on historical costs of developmental disabilities agency (DDA) services for children.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Lauren Ertz at (208) 287-1169.

DATED this 12th day of November, 2010.

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DOCKET NO. 16-0313-1002 - 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 complete text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 10-9, September 1, 2010, pages 227 and 291.

This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET 16-0313-1002

010. DEFINITIONS.

Subsection 010.10; Subsection 010.12; Subsections 010.17 through 010.19

10. Participant. A person eligible for and enrolled in the Consumer-Directed Services Programs. ()

12. Self-Directed Community Supports (SDCS). A program option for adults eligible for the Adult Developmental Disabilities (DD) Waiver described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ()

13. Traditional HCBS Adult DD Waiver Services. A program option for participants eligible for the Home and Community Based Services Adult 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. (3-29-10) ()

18. Traditional Children's DD Waiver Services. A program option for children eligible for the Children's Developmental Disabilities (DD) Waiver consisting of the specific Medicaid Enhanced Plan Benefits described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ()

19. Traditional Children's HCBS State Plan Option Services. A program option for children eligible for the Children's Home and Community-Based Services (HCBS) State Plan Option consisting of the specific Medicaid Enhanced Plan Benefits described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ()

Section 020 [New Text]

011. -- 019. (RESERVED).

020. RESPONSIBILITY FOR DECISION-MAKING.
Under this chapter of rules, decisions are to be made as follows: ()

01. Children. The parent or legal guardian is responsible for decisions made on behalf of a child participant. ()

02. Adults. The participant, or legal guardian if one exists, is responsible for decisions made on behalf of an adult participant. ()

021. -- 099. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.19 - CERTIFIED FAMILY HOMES

DOCKET NO. 16-0319-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 39-3505, 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. These rule changes updated guardianship, safety, and sanitation requirements for certified family homes. The complete text of the proposed rule was published in the [September 1, 2010 Idaho Administrative Bulletin, Vol. 10-9, pages 292 through 297](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Karen Vasterling at (208) 239-6260.

DATED this 4th day of November, 2010.

Tamara Prisock
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DOCKET NO. 16-0319-1001 - 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 10-9, September 1, 2010, pages 292 through 297](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.21 - DEVELOPMENTAL DISABILITIES AGENCIES (DDA)

DOCKET NO. 16-0321-1001 (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 2011 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. **The effective date for this chapter of rules is July 1, 2011.**

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 Department is amending the proposed rule to address concerns received during the public comment period. The following terms were added for clarification to the rules: clinical supervision, plan of service, and program implementation plan. These terms were deleted: comprehensive assessment, substantial compliance and supervision. Several changes have been made for clarification around the DDA services, types of certificates, qualifications of those providing services, and national accreditation. 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 1, 2010, Idaho Administrative Bulletin, Vol. 10-09, pages 298 through 320.](#)

FISCAL IMPACT: The following is a specific 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 Randy May (208) 334-5747.

DATED this 4th day of November, 2010.

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DOCKET NO. 16-0321-1001 - ADOPTION OF PENDING RULE

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

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin,
[Volume 10-9, September 1, 2010, pages 298 through 320.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 16-0321-1001

Subsection 009.02 (Proposed Subsection .02 has been deleted and .03 renumbered to .02)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Verification of Compliance. The agency must verify that all employees, subcontractors, agents of the agency, and volunteers delivering DDA services have complied with IDAPA 16.05.06, "Criminal History and Background Checks." ()

02. Requirement to Report Additional Criminal Convictions, Pending Investigations, or Pending Charges. Once an employee, subcontractor, agent of the agency, or volunteer delivering DDA services has received a criminal history clearance, any additional criminal convictions, pending investigations, or pending charges must be reported to the Department or its designee when the agency learns of the convictions, investigations, or charges. ()

Section 010 Is Being Reprinted In Its Entirety

010. DEFINITIONS -- A THROUGH Z.

For the purposes of this chapter of rules, the following terms apply. ()

01. ADA. The "Americans with Disabilities Act Accessibility Guidelines," under 28 CFR Part 36, Appendix A. ()

02. Adult. A person who is eighteen (18) years of age or older. ()

03. Agency. A developmental disabilities agency (DDA) as defined in Section 010 of this rule. ()

04. Board. The Idaho State Board of Health and Welfare. ()

05. Clinical Supervision. Initial direction and procedural guidance by a professional and periodic inspection of the actual work performed at the service delivery site. ()

06. Communicable Disease. A disease that may be transmitted from one (1) person or an animal to another person either by direct contact or through an intermediate host, vector, inanimate object, or other means that may result in infection, illness, disability, or death. ()

07. Deficiency. A determination of non-compliance with a specific rule or part of rule. ()

08. Department. The Idaho Department of Health and Welfare. ()

09. Developmental Disabilities Agency (DDA). A DDA is an agency that is: ()

a. A type of developmental disabilities facility, defined in Section 39-4604, Idaho Code, that is non-residential and provides services on an outpatient basis; ()

b. Certified by the Department to provide services to people with developmental disabilities, according to this chapter of rules; and ()

c. A business entity, open for business to the general public. ()

10. Developmental Disability. A developmental disability, defined in Section 66-402, Idaho Code, means a chronic disability of a person which appears before the age of twenty-two (22) years of age and: ()

a. Is attributable to an impairment, such as intellectual disability, cerebral palsy, epilepsy, autism, or other condition found to be closely related to or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; and ()

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and ()

c. Reflects the need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and individually planned and coordinated. ()

11. Human Services Field. *A particular area of academic study in health care, social services, education, behavioral science or counseling.* ()

12. Measurable Objective. A statement in specific and concrete terms that describes the observable results of the skill to be acquired. ()

13. Paraprofessional. A person delivering support services who meets the qualifications required in Section 400 of these rules. ()

14. Participant. A person who has been identified as having a developmental disability defined in Section 010 of this rule, and who is receiving services through a DDA. ()

15. Plan of Service. *An initial or annual plan that identifies all services and supports.* ()

16. Practitioner of the Healing Arts, Licensed. A licensed physician, physician assistant, or nurse practitioner. ()

17. Professional. A professional delivering services within the scope of his practice and who meets the qualifications required in Section 400 of these rules. ()

18. Program Implementation Plan. *A plan that details how intervention goals from the plan of service will be accomplished.* ()

19. Provider. An agency, or an individual working for an agency, that furnishes DDA services under the provisions of these rules. ()

20. Provisional Certificate. A certificate issued by the Department to a DDA with deficiencies that do not adversely affect the health or safety of participants. A provisional certificate is issued contingent upon the correction of deficiencies in accordance with an agreed-upon plan. A provisional certificate is issued for a specific period of time, up to, but not to exceed, six (6) months. ()

21. Repeat Deficiency. A violation or deficiency found on a resurvey or revisit to a DDA that was also found during the previous survey or visit. ()

- 22.** Staff. Employees or contractors of an agency who deliver services. ()
- 23.** Survey. A review conducted by the Department to determine compliance with statutes and rules. ()

Section 075 Is Being Reprinted In Its Entirety.

075. DDA SERVICES.

A DDA provides services that include evaluation, diagnostic, training, treatment, and support services that are provided on an outpatient basis to persons with developmental disabilities and may be community-based, home-based, or center-based in accordance with the requirements of this chapter. A DDA may provide the following services as specified on its certificate under Section 120 of these rules. ()

01. Support Services. Support services may include supervision for a participant, as well as assisting and facilitating the participant's integration into the community. ()

02. Intervention Services. Intervention services include outcome-based therapeutic services, professional consultation services, as well as education and training for families caring for participants with developmental disabilities. ()

Section 101 Is Being Reprinted In Its Entirety.

101. APPLICATION FOR INITIAL CERTIFICATION.

01. Open Application. An application for certification from new agencies will be accepted on an open and continuous basis. ()

02. Content of Application for Certification. Application for certification must be made on the Department-approved form available by contacting the Department as described in Subsection 005.06 of these rules. The application and supporting documents must be received by the Department at least sixty (60) days prior to the planned opening date. The application must include all of the following: ()

- a.** Name, address, and telephone number of the agency; ()
- b.** Types of services to be provided by the agency and the anticipated capacity of each service; ()
- c.** The geographic service area of the agency as indicated by counties that will be served; ()
- d.** The anticipated date for the initiation of services; ()
- e.** An accurate and complete statement of all business names of the agency as filed with the Secretary of State, whether an assumed business name, partnership, corporation, limited liability company or other entity, that identifies each owner with more than five percent (5%) interest in the agency, and the management structure of the agency; ()
- f.** A statement that the agency is in compliance with these rules and all other applicable local, state and federal requirements, including an assurance that the agency complies with pertinent state and federal requirements governing equal opportunity and nondiscrimination; ()
- g.** A written code of ethics policy adopting a code of ethics relevant to professional activities with participants and colleagues, in practice settings. The policy must articulate basic values, ethical principles and standards for confidentiality, conflict of interest, exploitation, and inappropriate boundaries in an agency's relationship with participants, relatives, or with other agencies. This code of ethics must reflect nationally-recognized standards of practice; ()

- h.** A copy of the proposed organizational chart or plan for staffing of the agency; ()
- i.** Staff qualifications including resumes, job descriptions, evidence of compliance with criminal history and background check requirements in Section 009.01 through 009.03 of these rules, and copies of state licenses and certificates for staff when applicable; ()
- j.** *Written policies and procedures that address professionals entering the field are being provided, or have completed, increased supervision for a period of six (6) months;* ()
- k.** Written transportation safety policies and procedures required in Section 501 of these rules; ()
- l.** Staff and participant illness policy, communicable disease policy, and other health-related policies and procedures required in Section 510 of these rules; ()
- m.** Written policies and procedures that address special medical or health care needs of participants required in Section 510 of these rules; ()
- n.** Written medication policies and procedures to meet requirements in Section 511 of these rules; ()
- o.** Written admission, transfer, and transition policies and procedures; ()
- p.** Written description of the agency's quality assurance program developed to meet requirements in Section 900 of these rules; ()
- q.** Written participant grievance policies and procedures to meet requirements in Section 905 of these rules; ()
- r.** Written policies and procedures for reporting incidents to the adult or child protection authority and to the Department to meet requirements in Section 910 of these rules; ()
- s.** Written policies and procedures that address the development of participants' social skills and the management of participants' inappropriate behavior to meet requirements in Section 915 of these rules; ()
- t.** Written description of the program records system including a completed sample of a plan of service for participants, program implementation plan, and a monitoring record; ()
- u.** Written description of the fiscal record system including a sample of program billing; and ()
- v.** Any other information requested by the Department for determining the agency's compliance with these rules or the agency's ability to provide the services for which certification is requested. ()
- w.** When center-based services are to be provided, the following are also required for each service location: ()
- i.** A site review must be completed by the Department prior to the initiation of center based services; ()
- ii.** Address and telephone number for each service location; ()
- iii.** A checklist that verifies compliance with the ADA requirements under Section 500 of these rules; ()
- iv.** Evidence of a local fire safety inspection; ()
- v.** Evidence of compliance with local building and zoning codes, including occupancy permit; ()

vi. Written policies and procedures covering the protection of all persons in the event of fire and other emergencies under Section 500 of these rules; and ()

vii. Written policies and procedures regarding emergency evacuation procedures. ()

120. INITIAL ISSUANCE OF CERTIFICATE.

Subsection 120.05

05. Service Specific Certification. The certificate must indicate the type of service the agency is qualified to provide prior to the delivery of service. Types of certificates include: ()

a. Support Services; ()

b. Intervention Services; or ()

c. Intervention and Support Services. ()

125. RENEWAL AND EXPIRATION OF THE CERTIFICATE.

An agency must request renewal of its certificate no less than ninety (90) days before the expiration date of the certificate, to ensure there is no lapse in certification. The request must contain any changes in optional services provided and outcomes of the internal quality assurance processes required under Section 900 of these rules. ()

Subsections 125.04 and 025.05

04. National Accreditation. The Department may accept national accreditation in lieu of state certification for developmental disabilities agencies. ()

05. DDA Enrolled Prior to July 1, 2011. Agencies certified prior to July 1, 2011, are qualified to provide DDA services under the Intervention and Support Services Certification. Developmental Therapy and Intensive Behavioral Intervention services delivered by an agency are not subject to the requirements listed in Subsection 400.06 of these rules. ()

300. ENFORCEMENT PROCESS.

The Department may impose a remedy or remedies, when it determines a DDA has not met the requirements in this chapter of rules. ()

Subsection 300.04

04. Failure to Comply. If after three (3) months from the date of survey, the DDA has not implemented the Plan of Correction as approved by the Department and remains out of compliance with the identified rule, the Department may impose one (1) or more of the remedies specified in Subsection 300.01 of this rule. ()

400. GENERAL STAFFING REQUIREMENTS FOR AGENCIES.

Each DDA is accountable for all operations, policy, procedures, and service elements of the agency. ()

Subsections 400.03 through 400.09

03. Clinical Supervisor Duties. A clinical supervisor must be employed by the DDA on a continuous and regularly scheduled basis and be readily available on-site to provide for: ()

a. The supervision of service elements of the agency, including face to face supervision of agency staff providing direct care services; and ()

b. The observation and review of the direct services performed by all paraprofessional and professional staff on at least a monthly basis, or more often as necessary, to ensure staff demonstrate the necessary skills to correctly provide the DDA services. ()

04. Clinical Supervisor Qualifications. A person qualified to act as clinical supervisor of a DDA must meet the following requirements: ()

a. Must hold at least a bachelor's degree in a human services field from a nationally accredited university or college; and ()

b. Must provide documentation of one (1) year's supervised experience working with the population served; and ()

c. Must demonstrate competencies related to the requirements to provide intervention services as required by the Department; and ()

d. Must complete a additional coursework as required by the Department; or ()

e. Individuals working as Developmental Specialists or as Intensive Behavioral Interventionists prior to July 1, 2011, are qualified to provide clinical supervision until June 30, 2013. The individual must meet the requirements of the Department-approved competency coursework by June 30, 2013, to maintain their certification. ()

f. The agency administrator and clinical supervisor can be the same individual. ()

05. Limitations. If an agency administrator or a clinical supervisor also works as a professional delivering direct services, the agency must have policies and procedures demonstrating how the agency will continue to meet agency staffing requirements in Subsections 400.01 through 400.04 of this rule. ()

06. Professionals. The agency must ensure that staff providing intervention services have the appropriate licensure or certification required to provide services. A person qualified to provide intervention services must also meet the following minimum requirements: ()

a. Must hold at least a bachelor's degree in a human services field from a nationally accredited university or college; ()

b. Must provide documentation of one (1) year's supervised experience working with participants with developmental disabilities; ()

c. Must demonstrate competencies related to the requirements to provide intervention services as required by the Department; and ()

d. Must complete a supervised practicum and additional coursework as required by the Department; or ()

e. Individuals working as Developmental Specialists or as Intensive Behavioral Interventionists prior to July 1, 2011, are qualified to provide intervention services until June 30, 2013. The individual must meet the requirements of the Department-approved competency coursework by June 30, 2013, to maintain their certification. ()

07. Paraprofessionals. A person qualified to provide support services must meet the following minimum requirements: ()

- a. Meet the qualifications prescribed for the type of services to be rendered; ()
- b. Have received instructions in the needs of the participant who will be provided the service; and ()
- c. Demonstrate the ability to provide services according to a plan of service. ()

08. Records of Licenses or Certifications. The agency must maintain documentation of the staff qualifications, including copies of applicable licenses and certificates. ()

09. Parent or Legal Guardian of Participant. A DDA may not hire the parent or legal guardian of a participant to provide services to the parent's or legal guardian's child. ()

Section 410

410. GENERAL TRAINING REQUIREMENTS FOR DDA STAFF.

Each DDA must ensure that all training of staff specific to service delivery to the participant is completed as follows: ()

520. SETTING REQUIREMENTS FOR AGENCIES DELIVERING COMMUNITY-BASED SERVICES.

The requirements in Section 520 of these rules apply when a DDA is providing community-based services. ()

Subsection 520.03

03. Service Group Size. The community-based services must occur in integrated, inclusive settings and with no more than three (3) participants per qualified staff at each session. ()

Subsection 520.06

06. Natural Environment. The environment where an activity or behavior naturally occurs that is typical for peers of the participant's age, such as the home and community where the participant lives or participates in activities, and according to the service environment indicated. ()

601. RECORD REQUIREMENTS.

Each DDA certified under these rules must maintain accurate, current, and complete participant and administrative records. These records must be maintained for at least five (5) years. Each participant record must support the individual's choices, interests, and needs that result in the type and amount of each service provided. Each participant record must clearly document the date, time, duration, and type of service, and include the signature of the individual providing the service, for each service provided. Each signature must be accompanied both by credentials and the date signed. Each agency must have an integrated participant records system to provide past and current information and to safeguard participant confidentiality under these rules. ()

Subsection 601.01

- 01. General Records Requirements.** Each participant record must contain the following information: ()

- a.** Authorized plan of service as required for the participant. ()
- b.** Program implementation plans that include participant's name, baseline statement, measurable objectives, written instructions to staff, service environments, target date, and corresponding program documentation and monitoring records when intervention services are delivered to the participant. ()
- c.** When a participant has had a psychological or psychiatric assessment, the results of the assessment must be maintained in the participant's record. ()
- d.** Profile sheet containing the identifying information *reflecting the current status of* the participant, including residence and living arrangement, contact information, emergency contacts, physician, current medications, allergies, special dietary or medical needs, and any other information required to provide safe and effective care; ()
- e.** Medical, social, and developmental information and assessments that *reflect the current status of the participant*; and ()
- f.** Intervention evaluation. An evaluation must be completed or obtained by the agency prior to the delivery of the intervention service. The evaluation must include the results, test scores, and narrative reports signed with credentials and dated by the respective evaluators. ()

900. REQUIREMENTS FOR AN AGENCY'S QUALITY ASSURANCE PROGRAM.

Each DDA defined under these rules must develop and implement a quality assurance program. ()

02. Quality Assurance Program Components. Each DDA's written quality assurance program must include: ()

Subsection 900.02.g.

g. *Ongoing* review of participant progress *to ensure* revisions *to* daily activities or specific implementation procedures are *made when progress, regression, or inability to maintain independence is identified.* ()

Section 915 Is Being Reprinted In Its Entirety.

915. POLICIES AND PROCEDURES REGARDING DEVELOPMENT OF SOCIAL SKILLS AND MANAGEMENT OF MALADAPTIVE BEHAVIOR.

Each DDA must develop and implement written policies and procedures that address the development of participants' social skills and management of *maladaptive* behavior. These policies and procedures must include statements that *address:* ()

01. Adaptive and Maladaptive Behaviors. *For intervention services, ensure an evaluation of participants' adaptive and maladaptive behaviors is completed.* ()

02. Social Skills Development. Focus on developing or increasing participants' social skills. ()

03. Prevention Strategies. Ensure and document the use of positive approaches to increase social skills and decrease *maladaptive* behavior while using least restrictive alternatives and consistent, proactive responses to behaviors. ()

04. Function of Behavior. Address the possible underlying causes or function of a behavior and identify what participants may be attempting to communicate by the behavior. ()

05. Behavior Replacement. For intervention services, ensure that programs to assist participants with managing *maladaptive* behavior include teaching of alternative adaptive skills to replace the *maladaptive* behavior. ()

06. Protected Rights. Ensure the safety, welfare, and human and civil rights of participants are adequately protected. ()

07. Objectives and Plans. For intervention services, ensure that objectives and intervention techniques are developed or obtained and implemented to address self-injurious behavior, aggressive behavior, inappropriate sexual behavior, and any other behaviors which significantly interfere with participants' independence or ability to participate in the community. Ensure that reinforcement selection is individualized and appropriate to the task and not contraindicated for medical reasons. ()

08. Participant Involvement. Ensure plans developed by the DDA involve the participants, whenever possible, in developing the plan to increase social skills and to manage *maladaptive* behavior. ()

09. Written Informed Consent. Ensure programs developed by an agency to assist participants with managing *maladaptive* behavior are conducted only with the written informed consent of a participant, parent, or legal guardian, where applicable. When programs used by the agency are developed by another service provider the agency must obtain a copy of the informed consent. ()

10. Review and Approval. Ensure programs developed by an agency to manage *maladaptive* behavior are only implemented after the review and written approval of the professional. If the program contains restrictive or aversive components, a licensed individual working within the scope of their license, must also review and approve, in writing, the plan prior to implementation. When programs implemented by the agency are developed by another service provider, the agency must obtain a copy of these reviews and approvals. ()

11. Appropriate Use of Interventions. Ensure interventions used to manage participants' *maladaptive* behavior are never used: ()

- a. For disciplinary purposes; ()
- b. For the convenience of staff; ()
- c. As a substitute for a needed training program; or ()
- d. By untrained or unqualified staff. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.11 - DEVELOPMENTAL DISABILITIES AGENCIES

DOCKET NO. 16-0411-1001 (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 2011 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. The effective date for this rule is July 1, 2011.

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 Title 39, Chapter 46, 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 pending rule is being adopted as proposed. The notice of the proposed rule repealing this chapter was published in the [September 1, 2010, Idaho Administrative Bulletin, Vol. 10-9, page 321](#).

FISCAL IMPACT: The following is a specific 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 Randy May at (208) 334-5747.

DATED this 12th day of November, 2010.

Tamara Prisock
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DOCKET NO. 16-0411-1001 - 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 10-9, September 1, 2010, page 321.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.11 - DEVELOPMENTAL DISABILITIES AGENCIES

DOCKET NO. 16-0411-1101

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2011.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized by Section 39-4605, 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 making several changes in this docket which will help meet the Department's appropriations budget for State Fiscal Year 2011. These temporary rules will be in place from January 1, 2011 through June 30, 2011. The changes include clarification of assessment requirements for individuals receiving developmental disability services, and the removal of supportive counseling and collateral contact services. These changes will not affect the quality of care or access to services.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is necessary for compliance with deadlines in amendments to governing law. These changes are needed to meet budget reductions for State Fiscal Year 2011.

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

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

The changes in this docket are regulatory changes related to budget reductions in other benefit rule dockets that carry the fiscal impact statements.

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

DATED this 12th day of November, 2010.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5564 phone
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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET 16-0411-1101

010. DEFINITIONS -- A THROUGH O.

For the purposes of these rules, the following terms are used as defined below: (7-1-06)

- 01. Adult.** A person who is eighteen (18) years of age or older. (3-29-10)
- 02. Agency.** A developmental disabilities agency (DDA) as defined in Section 010 of this rule. (7-1-06)
- 03. Annual.** Every three hundred sixty-five (365) days except during a leap year which equals three hundred sixty-six (366) days. (7-1-06)
- 04. Baseline.** A baseline is pre-intervention or annual data used to gauge a participant's level of independent performance as a basis for initiating therapeutic intervention. (7-1-06)
- 05. Board.** The Idaho State Board of Health and Welfare. (7-1-06)
- 06. Communicable Disease.** A disease that may be transmitted from one (1) person or an animal to another person either by direct contact or through an intermediate host, vector, inanimate object, or other means that may result in infection, illness, disability, or death. (7-1-06)
- 07. Comprehensive Assessment.** An assessment used for diagnostic and evaluation purposes that contains uniform criteria used to contribute to the determination of a person's eligibility for DDA services and the need for those services. (7-1-06)
- 08. Deficiency.** A determination of non-compliance with a specific rule or part of rule. (7-1-06)
- 09. Department.** The Idaho Department of Health and Welfare. (7-1-06)
- 10. Developmental Disabilities Agency (DDA).** A DDA is an agency that is: (7-1-06)
 - a.** A type of developmental disabilities facility, as defined in Section 39-4604(7), Idaho Code, that is non-residential and provides services on an outpatient basis; (7-1-06)
 - b.** Certified by the Department to provide DDA services to people with developmental disabilities, in accordance with these rules; (7-1-06)
 - c.** A business entity, open for business to the general public; and (7-1-06)
 - d.** Primarily organized and operated to provide developmental therapy and other DDA services and the corresponding assessments to people with developmental disabilities. (7-1-06)
- 11. DDA Services.** A DDA provides services that are rehabilitative and habilitative in nature. DDA services include assessment, diagnostic, and treatment services that are provided on an outpatient basis to persons with developmental disabilities and may be community-based, home-based, or center-based in accordance with the requirements of this chapter. Each DDA is required to provide developmental therapy, and, in addition, also must provide or make available the following services: psychotherapy, occupational therapy, physical therapy, and speech and hearing therapy. A DDA may also opt to provide pharmacological management, psychiatric diagnostic interviews, community crisis supports, ~~collateral contact~~, and Intensive Behavioral Intervention (IBI). (7-1-06)(1-1-11)T
- 12. Developmental Disability.** A developmental disability, as defined in Section 66-402, Idaho Code, means a chronic disability of a person which appears before the age of twenty-two (22) years of age and: (7-1-06)
 - a.** Is attributable to an impairment, such as an intellectual disability, cerebral palsy, epilepsy, autism or other condition found to be closely related to or similar to one (1) of these impairments, which requires similar treatment or services or is attributable to dyslexia resulting from such impairments; and (7-1-06)

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and (7-1-06)

c. Reflects the need for a combination or sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and individually planned and coordinated. (7-1-06)

13. Developmental Specialist. A person qualified to conduct developmental assessments and developmental therapy under these rules. (7-1-06)

14. Developmental Therapy. Developmental therapy is the use of therapeutic intervention and positive behavioral techniques that result in measurable skill acquisition or prevent regression where documentation shows that regression is anticipated in the following areas: (7-1-06)

a. Self-care; (7-1-06)

b. Receptive and expressive language; (7-1-06)

c. Learning; (7-1-06)

d. Mobility; (7-1-06)

e. Self-direction; (7-1-06)

f. Capacity for independent living; and (7-1-06)

g. Economic self-sufficiency. (7-1-06)

15. Habilitation. The process of developing skills and abilities. (7-1-06)

16. Individualized Family Service Plan (IFSP). An initial or annual plan of service, developed by the Department or its designee, for providing early intervention services to children birth to age three (3). This plan must meet the provisions of the Individuals with Disabilities Education Act (IDEA), Part C. (7-1-06)

17. Individual Program Plan (IPP). An initial or annual plan of service developed by the DDA for providing DDA services to: (7-1-06)

a. Children from three (3) through seventeen (17) years of age; (7-1-06)

b. Participants up to age twenty-one (21) who are receiving IBI or additional DDA services under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program; or (7-1-06)

c. Participants eighteen (18) years of age or older receiving DDA services and who are using the Home and Community Based Services (HCBS) Waiver for the Aged and Disabled (A&D), State Plan PCS, or are living in a nursing facility. (7-1-06)

18. Individual Service Plan (ISP). An initial or annual plan of service for persons eighteen (18) years of age or older that identifies all services and supports developed under a person-centered planning process. The Department authorizes each ISP at least once every three hundred sixty-five (365) days. This type of plan is referred to as the "plan of service" in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 507 through 515. (3-29-10)

19. Integration. The process of promoting a life for individuals with developmental disabilities that is as much as possible like that of other citizens of the community, including living in the community and having access to community resources. A further goal of this process is to enhance the social image and personal competence of

individuals with developmental disabilities. (7-1-06)

20. Intensive Behavioral Intervention (IBI). Individualized, comprehensive interventions that have been shown to be effective and are used on a short term, one-to-one basis that: (7-1-06)

a. Produce measurable outcomes that diminish behaviors that interfere with the development and use of language and appropriate social interaction skills; or (7-1-06)

b. Broaden an otherwise severely restricted range of interest; and (7-1-06)

c. Increase the child's ability to participate in other therapies and environments. (7-1-06)

21. Medical/Social History. An assessment completed by a licensed social worker or other qualified professional working within the scope of his license. This assessment of the participant's history, home, family, and physical environment is part of the process used to determine his treatment needs. (7-1-06)

22. Medical, Social, and Developmental Assessment Summary. A form used by the Department to gather a participant's medical, social and developmental history and other summary information. It is required for all participants receiving DDA services under an ISP. The information is used in the assessment and authorization of a participant's services. (7-1-06)

23. Objective. A behavioral outcome statement developed to address a particular need identified for a participant. An objective is written in measurable terms that specify a target date for completion, no longer than one (1) year in duration, and include criteria for successful attainment of the objective. (7-1-06)

011. DEFINITIONS -- P THROUGH Z.

For the purposes of these rules, the following terms are used as defined below: (7-1-06)

01. Paraprofessional. A person, such as an aide or therapy technician, who is qualified to assist a qualified professional in providing services to persons with developmental disabilities. (7-1-06)

02. Participant. A person who has been identified as having a developmental disability as defined in this chapter, and who is receiving services through a DDA. (7-1-06)

03. Person-Centered Planning Process. A meeting facilitated by the plan developer, comprised of family and individuals significant to the participant who collaborate with the participant to develop the plan of service. (7-1-06)

04. Person-Centered Planning Team. The group who develops the plan of service. This group includes, at a minimum, the participant and the service coordinator or plan developer chosen by the participant. The person-centered planning team may include others identified by the participant or agreed upon by the participant and the Department as important to the process. (7-1-06)

05. Plan Developer. A paid or nonpaid person identified by the participant who is responsible for developing an ISP and subsequent addenda that covers all services and supports, based on a person-centered planning process. (7-1-06)

06. Plan Monitor. A person who oversees the provision of services on the ISP on a paid or non-paid basis. The plan developer is the plan monitor unless there is a Service Coordinator, in which case the Service Coordinator assumes both roles. (7-1-06)

07. Plan of Service. An initial or annual plan that identifies services and supports. Plans are developed annually. In this chapter of rules, "plan of service" may refer to any of the following: IFSP, IPP, or ISP. (7-1-06)

08. Practitioner of the Healing Arts, Licensed. A licensed physician, physician assistant, or nurse practitioner. (7-1-06)

09. Prior Authorization (PA). A process for determining a participant's eligibility for services and medical necessity prior to the delivery or payment of services in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 507 through 515. (7-1-06)

10. Probe. A probe is data gathered on an intermittent basis, after a baseline is established, to measure a participant's level of independent performance as related to an identified objective. (7-1-06)

11. Program Implementation Plan. A plan that details how DDA goals from the plan of service will be accomplished. (7-1-06)

12. Provider. An agency, or an individual working for an agency, that furnishes DDA services under the provisions of these rules. (7-1-06)

13. Provider Status Review. The written documentation that identifies a participant's progress toward goals defined in the ISP. (7-1-06)

14. Provisional Certificate. A certificate issued by the Department to a DDA with deficiencies that do not adversely affect the health or safety of participants. A provisional certificate is issued contingent upon the correction of deficiencies in accordance with an agreed-upon plan. A provisional certificate is issued for a specific period of time, up to, and not exceeding, six (6) months. (7-1-06)

15. Psychotherapy. Treatment methods using a specialized, formal interaction between a qualified professional and an individual, family, or group in which a therapeutic relationship is established, maintained, or sustained to understand unconscious processes, or intrapersonal, interpersonal, and psychosocial dynamics, or the diagnosis and treatment of mental, emotional, and behavioral disorders, conditions, and addictions. (7-1-06)

16. Qualified Professional. A professional delivering services within the scope of his practice and in accordance with the requirements of this chapter. (7-1-06)

17. Rehabilitation. The process of improving skills or level of adjustment to increase the person's ability to maintain satisfactory independent or dependent functioning. (7-1-06)

18. Repeat Deficiency. A violation or deficiency found on a resurvey or revisit to a DDA that was also found during the previous survey or visit. (7-1-06)

19. Service. Assessment, diagnosis, therapy, training, assistance, or support provided to a person with a developmental disability by a DDA. (7-1-06)

20. Service Coordination. Service coordination is an activity that assists individuals eligible for Medicaid in gaining and coordinating access to necessary care and services appropriate to the needs of an individual. The delivery of service coordination is governed by IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 720 through 779. (7-1-06)

21. Service Coordinator. An individual who provides service coordination to a Medicaid-eligible participant, is employed by a service coordination agency, and meets the training, experience, and other requirements under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 720 through 779. (7-1-06)

22. Specific Skill Assessment. A type of assessment used to determine the baseline or the need for further intervention for the discipline area being assessed. (7-1-06)

23. Staff. Employees or contractors of an agency who provide services, including those persons with whom the agency has a formal, written agreement. (7-1-06)

24. Supervision. Initial direction and procedural guidance by a qualified professional and periodic inspection of the actual work performed at the service delivery site. (7-1-06)

~~**25. Supportive Counseling.** A method used by qualified professionals to assist individuals with~~

~~developmental disabilities to learn how to solve problems and make decisions about personal, social, relationship, and other interpersonal concerns. Supportive counseling does not seek to reach unconscious material.~~ (3-30-07)

~~265.~~ **Supports.** Formal or informal services and activities, not paid for by the Department, that enable the individual to reside safely and effectively in the setting of his choice. (7-1-06)

~~26.~~ **Updated Assessments.** Assessments are considered updated and current when a qualified professional with the same credentials or same qualifications of that professional who completed the assessment has reviewed such assessment and verified by way of their signature and date in the participants file that the assessment continues to reflect the participants current status and assessed needs. (1-1-11)T

(BREAK IN CONTINUITY OF SECTIONS)

405. STANDARDS FOR PARAPROFESSIONALS PROVIDING DEVELOPMENTAL THERAPY AND IBI.

When a paraprofessional provides either developmental therapy or IBI, the agency must assure adequate supervision by a qualified professional during its service hours. All paraprofessionals must meet the training requirements under Section 415 of these rules and must meet the qualifications under Section 420 of these rules. A paraprofessional providing IBI must be supervised by an IBI professional; a paraprofessional providing developmental therapy must be supervised by a Developmental Specialist. Paraprofessionals providing developmental therapy to children birth to three (3) must work under the supervision of a Developmental Specialist fully qualified to provide services to participants in this age group. For paraprofessionals to provide developmental therapy or IBI in a DDA, the agency must adhere to the following standards: (7-1-06)

01. Limits to Paraprofessional Activities. The agency must assure that paraprofessionals do not conduct participant assessments, establish a plan of service, develop a Program Implementation Plan, or conduct ~~collateral contact or~~ IBI consultation. These activities must be conducted by a professional qualified to provide the service. (7-1-06)(1-1-11)T

02. Frequency of Supervision. The agency must assure that a professional qualified to provide the service must, for all paraprofessionals under his supervision, on a weekly basis or more often if necessary: (7-1-06)

- a. Give instructions; (7-1-06)
- b. Review progress; and (7-1-06)
- c. Provide training on the program(s) and procedures to be followed. (7-1-06)

03. Professional Observation. The agency must assure that a professional qualified to provide the service must, on a monthly basis or more often if necessary, observe and review the work performed by the paraprofessional under his supervision, to assure the paraprofessional has been trained on the program(s) and demonstrates the necessary skills to correctly implement the program(s). (7-1-06)

04. Limitations to Service Provision by an IBI Paraprofessional. IBI provided by a paraprofessional is limited to ninety percent (90%) of the direct intervention time, per individual participant. The remaining ten percent (10%) of the direct intervention time must be provided by the professional qualified to provide and direct the provision of IBI. (7-1-06)

(BREAK IN CONTINUITY OF SECTIONS)

601. GENERAL REQUIREMENTS FOR ASSESSMENT RECORDS.

01. Completion of Assessments. Assessments must be completed or obtained prior to the delivery of therapy in each type of service. (7-1-06)

02. Update of Assessments. Assessments or updates are required in disciplines in which services are being delivered and when recommended by a professional. (7-1-06)

03. Psychological Assessment. A ~~current~~ psychological assessment must be ~~completed~~ **updated** or obtained: ~~(7-1-06)~~ **(1-1-11)T**

~~a.~~ *When the participant is receiving a behavior modifying drug(s);* (7-1-06)

ba. Prior to the initiation of restrictive interventions to modify inappropriate behavior(s); (7-1-06)

~~e.~~ *Prior to the initiation of supportive counseling;* ~~(3-30-07)~~

~~db.~~ When it is necessary to determine eligibility for services or establish a diagnosis; (7-1-06)

~~ec.~~ When a participant has been diagnosed with mental illness; or (7-1-06)

fl. When a child has been identified to have a severe emotional disturbance. (7-1-06)

602. REQUIREMENTS FOR CURRENT ASSESSMENTS. Assessments must accurately reflect the current status of the participant. (7-1-06)

01. Current Assessments for Ongoing Services. To be considered current, assessments must be completed or updated at least ~~annually~~ **every two (2) years** for service areas in which the participant is receiving services on an ongoing basis. ~~(7-1-06)~~ **(1-1-11)T**

02. Updated Assessments. At the time of the required review of the assessment(s), the qualified professional in the respective discipline must determine whether a full assessment or an updated assessment is required for the purpose of reflecting the participant's current status in that service area. If, during the required review of the assessment(s), the latest assessment accurately represents the status of the participant, the file must contain documentation from the professional stating so. (7-1-06)

03. Medical/Social Histories and Medical Assessments. Medical/social histories and medical assessments must be completed at a frequency determined by the recommendation of a professional qualified to conduct those assessments. (7-1-06)

04. Intelligence Quotient (IQ) Tests. Once initial eligibility has been established, annual assessment of IQ is not required for persons whose categorical eligibility for DDA services is based on a diagnosis of being intellectually disabled. IQ testing must be reconducted on a frequency determined and documented by the agency psychologist or at the request of the Department. (7-1-06)

(BREAK IN CONTINUITY OF SECTIONS)

720. OPTIONAL SERVICES.

DDAs may opt to provide any of the following services: pharmacological management, psychiatric diagnostic interviews, community crisis supports, ~~collateral contact,~~ **and** Intensive Behavioral Intervention (IBI), ~~and supportive counseling.~~ All services must be provided by qualified individuals in accordance with the requirements in Section 420 of these rules. ~~(3-30-07)~~ **(1-1-11)T**

(BREAK IN CONTINUITY OF SECTIONS)

724. ~~COLLATERAL CONTACT~~ (RESERVED).

~~Collateral contact is consultation with or treatment direction given to a person with a primary relationship to a participant for the purpose of assisting the participant to live in the community. Collateral contact must:~~ (7-1-06)

~~01. Conducted by Agency Professionals. Be conducted by agency professionals qualified to deliver services and be necessary to gather and exchange information with individuals having a primary relationship to the participant.~~ (7-1-06)

~~02. Face to Face or by Telephone. Be conducted either face to face or by telephone when telephone contact is the most expeditious and effective way to exchange information. Collateral contact does not include general staff training, general staffings, regularly scheduled parent-teacher conferences, general parent education, or treatment team meetings, even when the parent is present.~~ (7-1-06)

~~03. On the Plan of Service. Have a goal and objective stated on the plan of service that identifies the purpose and outcome of the service and is conducted only with individuals specifically identified on the plan of service. Program Implementation Plans are not required for collateral contact objectives.~~ (7-1-06)

(BREAK IN CONTINUITY OF SECTIONS)

726. ~~SUPPORTIVE COUNSELING.~~

~~01. Psychological Assessment. The initial and ongoing need for the service of supportive counseling must be recommended in a current psychological assessment.~~ (3-30-07)

~~02. On Plan of Service. Supportive counseling must be provided in accordance with the requirements for the plan of service. The type, amount, frequency and duration of this service must be specified on the plan of service.~~ (3-30-07)

~~03. Staff Qualifications. Supportive counseling must be provided by a professional listed under Subsection 712.02 of these rules or by a licensed social worker (LSW).~~ (3-30-07)

727.6. -- 799. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.05.04 - RULES OF THE IDAHO COUNCIL ON DOMESTIC VIOLENCE
AND VICTIM ASSISTANCE GRANT FUNDING

DOCKET NO. 16-0504-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 55-5209, 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 Council on Domestic Violence is updating the minimum standards document for the Domestic Violence Batterer Treatment Program that is incorporated by reference in this chapter of rules. The minimum standards are being updated to reflect current research on domestic violence treatment, in particular, evidence-based batterer intervention.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010, Idaho Administrative Bulletin, Vol. 10-10, pages 270 through 274.](#)

FISCAL IMPACT: The following is a specific 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 Luann Dettman at (208) 332-1540.

DATED this 12th day of November, 2010.

Tamara Prisock
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DOCKET NO. 16-0504-1001 - 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 10-10, October 6, 2010, pages 270 through 274.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.06 - CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-1001

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

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is September 1, 2010. This pending rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 56-1004A, 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 Department implemented a selective contract for Non-Emergency Medical Transportation Services under IDAPA 16.03.09, "Medicaid Basic Plan Benefits." These rules for criminal history checks have been amended to reflect that change.

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 [July 7, 2010, Idaho Administrative Bulletin, Vol. 10-7, pages 36 through 44](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Steve Bellomy (208) 334-0609.

DATED this 12th day of November, 2010.

Tamara Prisock
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DOCKET NO. 16-0506-1001 - 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 10-7, July 7, 2010, pages 36 through 44.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 16-0506-1001

100. INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.
Individuals subject to a Department criminal history and background check are those persons or classes of individuals who are required by statute, or ~~program~~ **Department** rules to complete a criminal history and background check. ~~(3-26-08)~~(7-1-10)T

Subsection 100.06

06. ~~Commercial Contracted~~ Non-Emergency ~~Medical~~ Transportation Providers. ~~Staff of commercial non-emergency transportation providers who have contact with participants, as required in~~ **Individuals who must comply with** IDAPA 16.03.09, "Medicaid Basic Plan Benefits." ~~(3-29-10)~~(7-1-10)T(9-1-10)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.06 - CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-1002

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 2011 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-1004A, Idaho Code, and 42 USC 16961 Section 152.

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 that added Child Protection Central Registry checks was published in the [July 7, 2010 Idaho Administrative Bulletin, Vol. 10-7, pages 45 and 46](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 56-1004A and 56-1007, Idaho Code. The fee amount for providing the Idaho Child Protection Central Registry checks is based on costs incurred to complete each check. The fee amount to be charged to other states is \$20 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 approximately 840 registry checks will generate \$16,900 in additional revenue to the dedicated fund for SFY 2011, and will have no fiscal impact to the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Bellomy (208) 334-0609.

DATED this 121th day of November, 2010.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
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DOCKET NO. 16-0506-1002 - 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 10-7, July 7, 2010, pages 45 and 46.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.01 - CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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, 56-202(b), and 56-1003, Idaho Code; Section 56-803, Idaho Code, re: adoption and guardian assistance; Title IV, Parts B and E of the Social Security Act, as amended by Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) re: guardianship assistance; and Title IV, Part E of the Social Security Act, Section 475(a)(18)(A)&(B) as amended by the Multiethnic Placement Act of 1994, as amended by the Interethnic Adoption Provisions of 1996 (P.L. 103-382, 42 U.S.C. 622).

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 from the Region X federal review of the rule changes. The amendments clarify the language regarding compliance with the requirements of the Multiethnic Placement Act of 1994 (MEPA) as Amended by the Interethnic Adoption Provisions (IEP) of 1996.

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 1, 2010, Idaho Administrative Bulletin, Vol. 10-9, pages 322 through 345](#).

FISCAL IMPACT: The following is a specific 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 Kathy Morris at (208) 334-5706.

DATED this 12th day of November, 2010.

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DOCKET NO. 16-0601-1001 - 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 complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 10-9, September 1, 2010, pages 322 through 345.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 16-0601-1001

050. PROTECTIONS AND SAFEGUARDS FOR CHILDREN AND FAMILIES.

The federal and state laws which are the basis for these rules include a number of mandatory protections and safeguards which are intended to ensure timely permanency for children and to protect the rights of children, their families and their tribes. (3-30-01)()

Subsection 050.11

11. Compliance with Requirements of the Multiethnic Placement Act and of 1994 (MEPA) as Amended by the Interethnic Adoption Provisions (IEP) of 1996. (3-30-01)()

a. The Department prohibits entities that are involved in foster care or adoption placements and that receive federal financial assistance under Title IV-E, Title IV-B, or any other federal program from delaying or denying a child's foster care or adoptive placement on the basis of the child's or the prospective foster or adoptive parent's race, color, or national origin. ()

b. The Department prohibits entities that are involved in foster care or adoption placements and that receive federal financial assistance under Title IV-E, Title IV-B, or any other federal program, from denying to any individual the opportunity to become a foster or adoptive parent on the basis of the prospective foster or adoptive parent's or the child's race, color, or national origin; ()

c. To remain eligible for federal assistance for their child welfare programs, the Department must diligently recruit foster and adoptive parents who reflect the racial and ethnic diversity of the children in the state who need foster and adoptive homes; ()

d. A child's race, color, or national origin cannot be routinely considered as a relevant factor in assessing the child's best interests; ()

e. Failure to comply with MEPA/IEP's prohibitions against discrimination is a violation of Title VI of the Civil Rights Act of 1964; and ()

f. Nothing in MEPA/IEP is to be construed to affect the application of the Indian Child Welfare Act of 1978. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

DOCKET NO. 16-0602-1001

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

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2010. This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 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 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 Department has amended these rules to reflect the current statutory definitions for the following terms: daycare center, group daycare, and family daycare. Also, the term daycare facility has been deleted from this chapter of rules.

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 [July 7, 2010, Idaho Administrative Bulletin, Vol. 10-7, pages 47 through 79](#).

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 the anticipated cost for SFY 2011 is \$69,000. This cost will be covered by the Federal Child Care Development Funds which is 100 percent federally funded.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Marian Woods at (208) 334-0683.

DATED this 12th day of November, 2010.

Tamara Prisock
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DOCKET NO. 16-0602-1001 - 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 10-7, July 7, 2010, pages 47 through 79.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 16-0602-1001

010. DEFINITIONS A THROUGH M.

For the purposes of these rules, the following terms apply. (7-1-09)

Subsections 010.17 through 010.29

157. **Daycare Center.** A place or facility providing daycare **for compensation for** ~~where~~ thirteen (13) or more children, ~~regardless of relationship to the person or persons providing the care, are in attendance.~~ (3-30-01)(7-1-10)T(7-1-10)T

~~18.~~ ~~**Daycare Facility.** A place or facility providing daycare where seven (7) or more children, regardless of relationship to the person or persons providing the care, are in attendance.~~ (7-1-10)T

168. **Department.** The Idaho Department of Health and Welfare ~~or its designee.~~ (7-1-09)(7-1-10)T

179. **Direct Care Staff.** An employee who has direct personal interaction with children in the provision of child care and is included as staff in meeting the minimum staff-child ratio requirements. (3-30-01)

~~1820.~~ **Director.** Director of the Idaho Department of Health and Welfare or designee. (3-30-01)

~~1921.~~ **Family Daycare Home.** A home, place, or facility providing daycare **where for** 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 in attendance.~~ (3-30-01)(7-1-10)T(7-1-10)T

202. **Foster Care.** The twenty-four (24) hour substitute parental care of children by persons who may or may not be related to a child. (7-1-09)

~~213.~~ **Foster Home.** The private home of an individual or family licensed or approved as meeting the standards for foster care and providing twenty-four (24) hour substitute parental care to six (6) or fewer children. (7-1-09)

224. Foster Parent. A person or persons residing in a private home under their direct control to whom a foster care license ~~or certification~~ has been issued. (3-30-01)(7-1-10)T

235. Group Daycare Facility. A home, place, or facility providing daycare ~~where for~~ seven (7) to twelve (12) children, ~~regardless of relationship to the person or persons providing the care, are in attendance.~~ (3-30-01)(7-1-10)F(7-1-10)T

246. Inter-Country Adoption. The placement of a child from one (1) country to another for the purpose of adoption. (3-30-01)

~~**25. Licensing Authority.** The Department's child care licensing unit responsible for licensure or certification of Children's Residential Treatment Facilities, Children's Agencies, and Children's Outdoor Therapeutic Program. (7-1-09)~~

267. Mechanical Restraint. Devices used to control the range and motion of an individual, including handcuffs, restraint boards, restraint chairs, and restraint jackets. (3-30-01)

278. Medical Professionals. Persons who have received a degree in nursing or medicine and registered nurse, nurse practitioner, physician's assistant and medical doctor. (3-30-01)

289. Member of the Household. Any person, other than a foster child, who resides in, or on the property of, a foster home. (3-30-01)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

DOCKET NO. 16-0602-1002

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 2011 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 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 pending rule is being adopted as proposed. The complete text of the proposed rule for the daycare licensing fees was published in the [July 7, 2010 Idaho Administrative Bulletin, Vol. 10-7, pages 80 and 81.](#)

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. Section 39-1107, Idaho Code, established a maximum licensing fee for a basic daycare license not to exceed \$175 for daycare centers, and \$100 for group daycare facilities and a family daycare home voluntarily licensed. 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 negative 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 \$69,000, which is the difference for licensing fees collected and expenditures for health and safety inspections. This cost will be covered by the Federal Child Care Development Funds which is 100 percent federally funded.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Marian Woods at (208) 334-0683.

DATED this 12th day of November, 2010.

Tamara Prisock
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DOCKET NO. 16-0602-1002 - 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 10-7, July 7, 2010, pages 80 and 81.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2011 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. 16-0602-1003

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 under Sections 39-1211 and 56-1004A, Idaho Code.

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

The Department is amending the proposed rule based on comments received from the Legislative Services Office (LSO). The amendments clarify when an adult member of a foster care household who is age 18 to 21 must have a criminal history and background check.

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 1, 2010, Idaho Administrative Bulletin, Vol. 10-9, pages 346 and 347](#).

FISCAL IMPACT: The following is a specific 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 Kathy Morris at (208) 334-5706.

DATED this 12th day of November, 2010.

Tamara Prisock
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DOCKET NO. 16-0602-1003 - 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 complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 10-9, September 1, 2010, pages 346 and 347.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 16-0602-1003

404. CRIMINAL HISTORY AND BACKGROUND CHECKS FOR FOSTER CARE LICENSE.

All applicants for a foster care license and other adult members of the household must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks," and the following requirements: (3-30-07)

03. Foster Parent's Child Turns Eighteen. A foster parent's child who turns eighteen (18) and ~~continues to~~ lives continuously in the home is not required to have a criminal history and background check except as specified in Subsection 404.03.c. of this rule. (~~3-30-07~~)()

Subsection 404.03.a.

a. After turning eighteen (18) years of age, ~~if~~ the foster parent's adult child ~~moves out of~~ no longer lives in the foster parent's home ~~for longer than ninety (90) days~~ and returns to live subsequently resumes living in the licensed foster home ~~as a permanent resident,~~ he will be considered an adult member of the household and must complete a criminal history and background check within fifteen (15) days ~~of his return~~ from the date he became an adult member of the household. (~~3-30-07~~)()

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. 16-0750-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-305, 39-311, and 56-1003, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any 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 pending rule is being adopted as proposed. The proposed rules updated testing requirements for blood alcohol and tuberculosis and published in the [October 6, 2010, Idaho Administrative Bulletin, Vol. 10-10, pages 287 through 289](#).

FISCAL IMPACT: The following is a specific 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 Ross Edmunds at (208) 334-5726.

DATED this 12th day of November, 2010.

Tamara Prisock
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DOCKET NO. 16-0750-1001 - 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 10-10, October 6, 2010, pages 287 through 289.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.03 - RULES GOVERNING SECURITY FOR COMPENSATION

DOCKET NO. 17-0203-1001 (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 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-508, 72-520, 72,721, 72-722, and 72-723, 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 the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, page 290](#).

FISCAL IMPACT: The following is a specific 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 Jane McClaran at 208-334-6042.

DATED this November 18, 2010.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
PO Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6059
Fax: 208-334-5145

DOCKET NO. 17-0203-1001 - 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 10-10, October 6, 2010, page 290](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.05 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- INDUSTRIAL COMMISSION

DOCKET NO. 17-0205-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-508, 72-520, 72,721, 72-722, and 72-723, 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 notice of the temporary and proposed rule was published in the [July 7, 2010, Idaho Administrative Bulletin, Vol. 10-7, pages 82 through 85](#).

FISCAL IMPACT: The following is a specific 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 Scott McDougall at 208-334-6063.

DATED this November 18, 2010.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
PO Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6059
Fax: 208-334-5145

DOCKET NO. 17-0205-1001 - 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 10-7, July 7, 2010, pages 82 through 85](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-1001 (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 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-508, 72-520, 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. This is a Chapter Repeal. The notice of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, page 291](#).

FISCAL IMPACT: The following is a specific 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 Patti Vaughn at 208-334-6084.

DATED this November 18, 2010.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
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Fax: 208-334-5145

DOCKET NO. 17-0208-1001 - 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 10-10, October, 2010, page 291](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.08 - MISCELLANEOUS PROVISIONS

DOCKET NO. 17-0208-1002 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-508, 72-520, 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. This is a Chapter Rewrite. The notice of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 292 through 297](#).

FISCAL IMPACT: The following is a specific 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 Patti Vaughn at 208-334-6084.

DATED this November 18, 2010.

Mindy Montgomery, Director
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Phone: 208-334-6059
Fax: 208-334-5145

DOCKET NO. 17-0208-1002 - 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 10-10, October, 2010, pages 292 through 297.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.09 - MEDICAL FEES

DOCKET NO. 17-0209-1001 (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 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session with the exception of Section 032, which becomes effective on January 1, 2012, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-508, 72-520, 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 amended as a result of public hearings conducted and written comments received from sureties, hospitals, and Ambulatory Surgery Centers (APC). The definition of Critical Access Hospitals was redefined for better clarity. Changes were made to clarify which APC weight schedule is to be used and the annual effective date of the APC weight schedule. A slight increase in the base rate was made for both the hospital outpatient and ASC services. Also, invoice costs for reimbursement of implantable hardware was changed to aggregate invoice costs with a cap of \$3,000 for inpatient services and \$1,000 for outpatient and ASC services.

The notice of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 298 through 305.](#)

FISCAL IMPACT: The following is a specific 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 Patti Vaughn at 208-334-6084.

DATED this November 18, 2010.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
PO Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6059
Fax: 208-334-5145

DOCKET NO. 17-0209-1001 - 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 complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 10-10, October, 2010, pages 298 through 305.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 17-0209-1001

030. DEFINITIONS.

Words and terms used in this rule are defined in the subsections which follow.

()

Subsection 030.04

04. Critical Access Hospital. A hospital currently designated as a critical access hospital by the Centers for Medicare and Medicaid Services (CMS). ()

032. ACCEPTABLE CHARGES FOR MEDICAL SERVICES PROVIDED BY HOSPITALS AND AMBULATORY SURGERY CENTERS UNDER THE IDAHO WORKERS' COMPENSATION LAW.

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Commission hereby adopts the following rule for determining acceptable charges for medical services provided by hospitals and ambulatory surgery centers under the Idaho Workers' Compensation Law. ()

02. Adoption of Standards for Hospitals and ASCs. The following standards shall be used to determine the acceptable charge for hospitals and ambulatory surgery centers. ()

Paragraph 032.02.c.

c. Hospital Outpatient and Ambulatory Surgical Center (ASC) Services. The standard for determining the acceptable charge for outpatient services provided by hospitals (other than critical access and rehabilitation hospitals) and for services provided by ambulatory surgical centers is calculated by multiplying the base rate by the Medicare Hospital Outpatient Prospective Payment System (OPPS) APC weight in effect on the first day of January of the current calendar year. The base rate for hospital outpatient services is one hundred and thirty-eight dollars (\$138). The base rate for ASC services is ninety dollars (\$90). ()

Subparagraph 032.02.c.iv.

iv. Status code Q items with an assigned APC weight will not be discounted. ()

Paragraph 032.02.d.

d. Hospitals Outside of Idaho. Reimbursement for services provided by hospitals outside the state of Idaho may be based upon the agreement of the parties. If there is no agreement, services shall be paid in accordance with the workers' compensation fee schedule in effect in the state in which services are rendered. If there is no

hospital fee schedule in effect in such state, or if the fee schedule in that state does not allow reimbursement for the services rendered, reimbursement shall be paid in accordance with these rules. ()

e. Additional Hospital Payments. When the charge for a medical service provided by a hospital (other than a critical access or rehabilitation hospital) meets the following standards, additional payment shall be made for that service, as indicated. ()

Subparagraphs 032.02.e.ii. and 032.02.e.iii.

ii. Inpatient Implantable Hardware. Hospitals may seek additional reimbursement beyond the MSDRG payment for invoiced implantable hardware where the *aggregate* invoice cost is greater than ten thousand dollars (\$10,000). Additional reimbursement shall be the invoice cost plus *an amount which is equal to* ten percent (10%) *of the invoice cost, but which does not exceed three thousand dollars (\$3,000)*. Handling and freight charges shall be included in invoice cost. ()

iii. Outpatient Implantable Hardware. Hospitals and ASCs may seek additional reimbursement beyond the APC payment for invoiced implantable hardware where the *aggregate* invoice cost is greater than five hundred dollars (\$500). Additional reimbursement shall be the invoice cost plus *an amount which is equal to* ten percent (10%) *of the invoice cost, but which does not exceed one thousand dollars (\$1,000)*. Handling and freight charges shall be included in invoice cost. ()

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.10 - RULES GOVERNING SECURITY FOR COMPENSATION – INSURANCE CARRIERS

DOCKET NO. 17-0210-1001 (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 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-508, 72-520, 72,721, 72-722, and 72-723, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 306 through 316.](#)

FISCAL IMPACT: The following is a specific 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 Jane McClaran at 208-334-6042.

DATED this November 18, 2010.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
PO Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6059
Fax: 208-334-5145

DOCKET NO. 17-0210-1001 - 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 10-10, October, 2010, pages 306 through 316.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.11 - RULES GOVERNING SECURITY FOR COMPENSATION – SELF-INSURED EMPLOYERS

DOCKET NO. 17-0211-1001 (NEW CHAPTER - FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-508, 72-520, 72,721, 72-722, and 72-723, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 317 through 326](#).

FISCAL IMPACT: The following is a specific 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 Jane McClaran at 208-334-6042.

DATED this November 18, 2010.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
PO Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6059
Fax: 208-334-5145

DOCKET NO. 17-0211-1001 - 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 10-10, October, 2010, pages 317 through 326.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 17 - INDUSTRIAL COMMISSION

17.05.01 - RULES UNDER THE CRIME VICTIMS COMPENSATION ACT

DOCKET NO. 17-0501-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 72-1004 and 72-1026, 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 notice of the temporary and proposed rule was published in the [July 7, 2010, Idaho Administrative Bulletin, Vol. 10-7, pages 86 through 93](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact George Gutierrez at 208-334-6080.

DATED this November 18, 2010.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
PO Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6059
Fax: 208-334-5145

DOCKET NO. 17-0501-1001 - 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 10-7, July 7, 2010, pages 86 through 93](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 20 - DEPARTMENT OF LANDS

20.02.11 - TIMBER SUPPLY STABILIZATION ACT OF 1989 ON STATE FORESTS

DOCKET NO. 20-0211-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 by Sections 58-104(6) and 58-105, 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.

The pending rule is being adopted as proposed. The notice of the temporary and proposed rule was published in the [October 6, 2010, Idaho Administrative Bulletin, Vol. 10-10, page 351](#).

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact the undersigned.

DATED this 19th day of November, 2010.

Bob Helmer
Bureau Chief, Forest Management
Idaho Department of Lands
3284 West Industrial Loop
Coeur d'Alene, Idaho 83815
(208) 666-8610
Fax No. (208) 769-1524

DOCKET NO. 20-0211-1001 - 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 10-10, October 6, 2010, page 351](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 20 - DEPARTMENT OF LANDS

20.02.14 - RULES FOR SELLING FOREST PRODUCTS ON STATE OWNED ENDOWMENT LANDS

DOCKET NO. 20-0214-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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, and IDAPA 20.01.01, Rules of Practice and Procedure before the State Board of Land Commissioners (Board), notice is hereby given that this agency has adopted a pending 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.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010, Idaho Administrative Bulletin, Vol. 10-10, pages 352 through 357.](#)

FISCAL IMPACT: The following is a specific 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, please contact the person below.

DATED this 16th day of November.

Bob Helmer
Bureau Chief, Forest Management
Idaho Department of Lands
3284 West Industrial Loop
Coeur d'Alene, Idaho 83815
208-666-8610 office
208-769-1524 fax

DOCKET NO. 20-0214-1001 - 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 10-10, October 6, 2010, pages 352 through 357.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 20 - DEPARTMENT OF LANDS

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

DOCKET NO. 20-0304-1001

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 2011 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 rule. This action is authorized pursuant to Section 58-104(6), Idaho Code.

DESCRIPTIVE SUMMARY: This rulemaking will resolve an issue regarding covered slips that arose late in the 2009 rulemaking process. Also, a statutory change enacted during the 2010 legislative session requires a rule conflict to be removed. This will allow the replacement of some single and two-family docks without a permitting process. Another statutory change enacted during the 2010 legislative session allows the Department to raise the application fees for some encroachment types. Lastly, the Department proposes to lower the application fee for small domestic waterlines.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 359 through 364.](#)

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. Application fees will be increased from \$250 to \$300 for single and two-family docks, and from \$250 to \$550 for bank stabilization and erosion control. In addition, application fees for domestic water intake lines that serve four houses or less will be decreased from \$1,000 to \$300.

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 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 16th day of November, 2010.

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

DOCKET NO. 20-0304-1001 - 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 10-10, October 6, 2010, pages 359 through 364.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS

DOCKET NO. 24-0301-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-707, 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 Chiropractic Physicians would like to establish a code of ethics that will further protect the public. Changes from the published proposed rule are necessary due to comments received and considered by the Board. Appendix A number one (1) has been amended to clarify the duty to report and Appendix A number four (4) has been amended to exclude the Safekeeping Pre-paid Funds paragraph.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 379 through 381](#).

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

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

DATED this 18th day of November, 2010.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
700 W State, Boise, ID 83702
(208) 334-3233 Ph. (208) 334-3945, fax

DOCKET NO. 24-0301-1001 - 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 complete text of the proposed rule was published in the Idaho Administrative Bulletin, **Volume 10-10, October 6, 2010, pages 379 through 381.**

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 24-0301-1001

Appendix A

Appendix A – Chiropractic Physicians Code of Ethics

Preamble

This code of ethics set forth principles for the ethical practice of chiropractic. All chiropractic physicians are responsible for maintaining and promoting ethical practice and otherwise complying with the terms of this code of ethics. To this end, the chiropractic physician shall act in the best interest of the patient. This code of ethics shall be binding on all chiropractic physicians.

1. Duty to Report

- A. Duty to Report. It shall be the duty of every licensee to notify the Board through the Bureau of Occupational Licenses of any violation of the Chiropractic Act or Board Rules, if the licensee has personal knowledge of the conduct.
- B. Reporting of Certain Judgments to Board. If a judgment is entered against a licensee in any court, or a settlement is reached on a claim involving malpractice exceeding fifty thousand dollars (\$50,000), a licensee shall report that fact to the Board within thirty (30) days. The licensee may satisfy the provision of this subsection if he/she provides the Board with a copy of the judgment or settlement.

If a licensee is convicted of a felony or a crime involving dishonesty, theft, violence, habitual use of drugs or alcohol, or sexual misconduct, he/she shall report that fact to the board within thirty (30) days following the conviction.

2. Advertising of Research Projects

Advertisement of Affiliation with Research Projects. If a licensee advertises any affiliation with a research project, he must make a written statement of the objectives, cost and budget of the project, and the person conducting the research. Such statements are to be made available at the request of the Board, to scientific organizations, and to the general public. The advertisement must indicate that it is supported by clinical research. Any willful failure to comply with these requirements will be deemed false and deceptive advertising under rule 450. Licensee must comply with all state and federal laws and regulations governing research projects on humans, and shall obtain "Institutional Review Board" (IRB) approval as established and set forth in the U.S. Code of Federal Regulations, Title 45, Part 46, Subpart A (45 CFR 46.101-46-505).

3. Sexual Misconduct

The doctor-patient relationship requires the chiropractic physician to exercise utmost care that he or she will do nothing to exploit the trust and dependency of the patient. Sexual misconduct is a form of behavior that adversely

affects the public welfare and harms patients individually and collectively. Sexual misconduct exploits the doctor-patient relationship and is a violation of the public trust. This section of the Code of Ethics shall not apply between a chiropractor and their spouse.

For the purposes of this subsection, sexual misconduct is divided into sub-categories based upon the severity of the conduct:

- A. Sexual Impropriety. Any behavior such as gestures, expressions, and statements which are sexually suggestive or demeaning to a patient, or which demonstrate a lack of respect for a patient's privacy.
- B. Sexual Violation. Physician-patient contact of a sexual nature, whether initiated by the physician or the patient.
- C. A chiropractic physician shall wait at least one (1) year ("waiting period") following the termination of a professional doctor-patient relationship, before beginning any type of sexual relationship with a former patient.

4. Pre-Paid Funds

- A. A chiropractic physician shall promptly refund any unearned fees within thirty (30) days upon request and cancellation of the pre-paid contract. A full accounting of the patient account shall be provided to the patient at the time of the refund or upon request.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.06.01 - RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

DOCKET NO. 24-0601-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-3717, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 382 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 this pending rule, contact Cherie Simpson at 208 334-3233.

DATED this 17th day of November, 2010.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
700 W State, Boise, ID 83702
Ph (208) 334-3233; Fax (208) 334-3945

DOCKET NO. 24-0601-1001 - 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 10-10, October 6, 2010, pages 382 through 387](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.14.01 - RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS

DOCKET NO. 24-1401-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 403 through 406.](#)

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

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

DATED this 15th day of November, 2010.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
700 W State, Boise, ID 83702
Ph (208) 334-3233; Fax (208) 334-3945

DOCKET NO. 24-1401-1001 - 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 10-10, October 6, 2010, pages 403 through 406.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.25.01 - RULES OF THE IDAHO DRIVING BUSINESSES LICENSURE BOARD

DOCKET NO. 24-2501-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-5403, 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 2009 legislature passed Senate Bill 1133 which created the State Driving Businesses Licensure Board. The law was codified at Title 54, Chapter 54, Idaho Code, and the Board adopted temporary/proposed rules to implement the law. The legislature amended the law (House Bill 564) to add educational requirements for instructors, including continuing education. In response to these legislative changes the proposed rules include substantive changes to the temporary/proposed rules that were previously extended. Therefore, the temporary/proposed rules submitted in 2009 on docket 24-2501-0901 will be vacated and not submitted as pending rules. Rather, the Board is submitting this new set of proposed rules, which are needed to implement the law, as amended. The proposed rules also are needed to clarify ambiguities to insurance requirements, establish a deadline for the review of applications, and clarify on-line instruction.

Changes from the published proposed rule are necessary to correct an Idaho Code section reference in 010 of these proposed rules.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 409 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:

The Board operates on temporary/proposed rules that were extended during the 2010 session. These rules have the same impact as the previously extended temporary/proposed rules. Like those temporary/proposed rules, which will be vacated and not submitted as pending rules, these proposed rules establish fees which will be deposited in the Bureau of Occupational Licenses dedicated fund. The fees will be used by the State Driving Businesses Licensure Board to administer the act. Since all self governing boards are expected to be self-supporting, these fees are based on the estimated costs and the anticipated number of licensees.

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

DATED this 10th day of November, 2010.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses

700 W State, Boise, ID 83702
Ph (208) 334-3233 - Fax (208) 334-3945

DOCKET NO. 24-2501-1001 - 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 10-10, October 6, 2010, pages 409 through 422.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 24-2501-1001

010. DEFINITIONS (RULE 10).

Subsection 010.01

- 01. Board.** The Idaho Driving Businesses Licensure Board as created in Section 54-5403, Idaho Code. ()

IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-1001

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 2011 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 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-4210, 67-4223, and 67-4249, 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 4, 2010, Idaho Administrative Bulletin, Vol. 10-8, pages 86 through 92.](#)

FISCAL IMPACT: The following is a specific 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 David M. Ricks, 208.514.2450.

DATED this the 10th day of November, 2010.

David M. Ricks
Deputy Director
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue
Boise, Idaho 83716-8700
PO Box 83720, Boise, Idaho 83720-0065
Telephone: 208.514.2450;
FAX 208.334.3741

DOCKET NO. 26-0120-1001 - 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 10-8, August 4, 2010, pages 86 through 92.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION

**26.01.34 - RULES GOVERNING THE IDAHO PROTECTION AGAINST
INVASIVE SPECIES STICKER RULES**

DOCKET NO. 26-0134-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 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 67-7002 and 67-7008A, 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 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 [October 6, 2010, Idaho Administrative Bulletin, Vol. 10-10, pages 423 and 424.](#)

FISCAL IMPACT: The following is a specific 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 David M. Ricks, 208.514.2450.

DATED this 10th day of November, 2010

David M. Ricks
Deputy Director
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue
Boise, Idaho 83716-8700
PO Box 83720, Boise, Idaho 83720-0065
Telephone: 208.514.2450
FAX: 208.334.3741

DOCKET NO. 26-0134-1001 - 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 10-10, October 6, 2010, pages 423 and 424.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2011 Idaho State Legislature for final adoption.**

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION

31.11.01 - SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-1101-1001

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 2011 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 61-515 and 61-517, 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 received no comments regarding the proposed rule. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 443 through 444](#).

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 Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 12th day of November 2010.

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. 31-1101-1001 - 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 10-10, October 6, 2010, pages 443 and 444](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION
31.71.03 - RAILROAD SAFETY AND ACCIDENT REPORTING RULES

DOCKET NO. 31-7103-1001

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 2011 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 61-515 and 61-517, 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 received no comments regarding the proposed rule. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010 Idaho Administrative Bulletin, Vol. 10-10, pages 445 through 447](#).

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 Donald L. Howell, II, Deputy Attorney General, at (208) 334-0312.

DATED this 12th day of November 2010.

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. 31-7103-1001 - 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 10-10, October 6, 2010, pages 445 through 447](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.01 - IDAHO INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-1002

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2011 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(1), Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules was published in the [October 6, 2010, Idaho Administrative Bulletin, Volume 10-10, pages 458 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 the pending rule, contact Janice Boyd at (208) 334-7544.

DATED this 19th day of November 2010.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

DOCKET NO. 35-0101-1002 - 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 10-10, October 6, 2010, pages 458 through 492.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 35 - IDAHO STATE TAX COMMISSION
35.01.01 - IDAHO INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-1003
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2011 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(1), Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The text of the pending rules have been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rules was published in the [October 6, 2010, Idaho Administrative Bulletin, Vol. 10-10, pages 493 through 506](#).

The proposed amendments to Rules 006, 580, 582, 583, 584, 585, 586, 587, and 589 have been removed from the pending rule. These sections will remain as currently codified.

FISCAL IMPACT: The following is a specific 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 19th day of November, 2010.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

DOCKET NO. 35-0101-1003 - 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 complete text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 10-10, October 6, 2010, pages 493 through 506.

This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 35-0101-1003

Section 006 is not being amended. The text will remain as currently codified.

280. PARTNERSHIPS OPERATING WITHIN AND WITHOUT IDAHO (RULE 280). (3-30-07)
Sections 63-3027 and 63-3030(a)(9), Idaho Code.

02. Exceptions to Apportionment Formula. If the method described in Subsection 280.01 does not fairly represent the extent of the business activity in Idaho, the partnership may file a request to use, or the Tax Commission may require, an alternative method, including the following: (3-30-07)

Subsection 280.02.a. is not being amended. The text will remain as currently codified.

a. Separate accounting as provided in Rule 585 of these rules; (3-30-07)

286. S CORPORATIONS OPERATING WITHIN AND WITHOUT IDAHO (RULE 286). (4-2-08)
Sections 63-3027 and 63-3030(a)(4), Idaho Code.

02. Exceptions to Apportionment Formula. If the method described in Subsection 286.01 of this rule does not fairly represent the extent of the business activity in Idaho, the S corporation may file a request to use or the Tax Commission may require an alternative method, including the following: (4-2-08)

Subsection 286.02.a. is not being amended. The text will remain as currently codified.

a. Separate accounting as provided in Rule 585 of these rules; (4-2-08)

Sections 580, 582, 583, 584, 585, 586, 587, and 589 are not being amended. The text will remain as currently codified.

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.02 - SALES TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2011 Idaho State Legislature for final approval. The pending rules become final and effective at the conclusion of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rules. The action is authorized pursuant to Section(s) 63-105, 63-3624, 63-3635 and 63-3039 Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 6, 2010, Idaho Administrative Bulletin, Volume 10-10, pages 507 through 510.](#)

FISCAL IMPACT: The following is a specific 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 19th day of November 2010.

Jim Husted
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7530

DOCKET NO. 35-0102-1001 - 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 10-10, October 6, 2010, pages 507 through 510.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.02 - SALES TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1002

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2011 Idaho State Legislature for final approval. The pending rules become final and effective at the conclusion of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rules. The action is authorized pursuant to Section(s) 63-105, 63-3624, 63-3635 and 63-3039 Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules was published in the [October 6, 2010, Idaho Administrative Bulletin, Volume 10-10, pages 511 through 515.](#)

FISCAL IMPACT: The following is a specific 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 19th day of November 2010.

Jim Husted
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7530

DOCKET NO. 35-0102-1002 - 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 10-10, October 6, 2010, pages 511 through 515.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1002

NOTICE OF RULEMAKING - VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 63-105 and 63-105A, Idaho Code.

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

This rulemaking is being vacated because public comments evidence a need for further consideration.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Alan Dornfest at (208) 334-7544.

DATED this 19th day of November, 2010.

Alan Dornfest
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7544

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1003

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2011 Idaho State Legislature for final approval. The pending rules become final and effective at the conclusion of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rules. The action is authorized pursuant to Section(s) 63-105 and 63-105A, Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules was published in the [October 6, 2010, Idaho Administrative Bulletin, Volume 10-10, pages 516 through 541](#).

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rules, contact Alan Dornfest (208) 334-7544.

DATED this 19th day of November, 2010.

Alan Dornfest
Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7544

DOCKET NO. 35-0103-1003 - 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 10-10, October 6, 2010, pages 516 through 541](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 35 - IDAHO STATE TAX COMMISSION
35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-1001
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes 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 rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the [June 2, 2010, Idaho Administrative Bulletin, Volume 10-6, pages 52 through 54](#).

FISCAL IMPACT: The following is a specific 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 19th day of November, 2010.

Randy Nilson
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

DOCKET NO. 35-0105-1001 - ADOPTION OF PENDING RULE

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

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 10-6, June 2, 2010, pages 52 through 54.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 35-0105-1001

130. DISTRIBUTOR'S FUEL TAX REPORTS (RULE 130).

01. Monthly Reports. Every licensed distributor shall file with the State Tax Commission a monthly tax report and supporting detailed schedules on forms prescribed by the State Tax Commission. The distributor must keep detailed inventory records. All reports which require the reporting of the number of gallons of motor fuels and other petroleum products shall be stated in gross gallons. With respect to the quantity of motor fuels and other petroleum products received during the month, the distributor shall include a listing of each person from inside and/or outside Idaho supplying motor fuels and petroleum products to the distributor during the month and the number of gallons supplied by each supplier, on a load-by-load basis. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the State Tax Commission may require: (3-30-01)

c. The total quantity of motor fuels and other petroleum products disbursed during the month. ~~A~~ ~~Disbursements include is~~ motor fuel that is: (4-11-06)()

Subsections 130.01.c.iv. and 130.01.c.v.

iv. ~~Exempt from~~ Delivered to a tribe or an Indian-owned retail outlet fuels tax and transfer fee not collected because the fuel is the subject of an agreement authorized by Section 67-4002, Idaho Code, to the extent provided by the agreement, but only if the agreement is signed by the governor and appropriate representative of a tribe before December 1, 2007; ~~or~~ (4-2-08)()

v. Delivered to an Idaho pipeline terminal and placed into storage fuels tax and transfer fee not collected. ()

IDAPA 35 - STATE TAX COMMISSION

35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0105-1003

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2011 Idaho State Legislature for final approval. The pending rules become final and effective at the conclusion of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules was published in the [October 6, 2010, Idaho Administrative Bulletin, Volume 10-10, pages 542 through 546.](#)

FISCAL IMPACT: The following is a specific 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 19th day of November, 2010.

Randy Nilson
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

DOCKET NO. 35-0105-1003 - 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 10-10, October 6, 2010, pages 542 through 546.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.02.01 - IDAHO TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2011 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(1), Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

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

The pending rules are being adopted as proposed. The complete text of the proposed rules was published in the [October 6, 2010, Idaho Administrative Bulletin, Volume 10-10, pages 547 through 549.](#)

FISCAL IMPACT: The following is a specific 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 19th day of November 2010.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410
(208) 334-7530

DOCKET NO. 35-0201-1001 - 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 10-10, October 6, 2010, pages 547 through 549.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1101

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of a fully approved state implementation plan under Section 110 of the Clean Air Act.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

February 7, 2011, 3:30 p.m.

**Department of Environmental Quality
Conference Room B
1410 N. Hilton, Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to incorporate by reference the final rule for Prevention of Significant Deterioration (PSD) for Particulate Matter Less than 2.5 Micrometers (PM2.5 Rule) adopted by EPA with an effective date of December 20, 2010 and published in the Federal Register on October 20, 2010. DEQ annually initiates rulemaking to update citations to federal regulations incorporated by reference into the Idaho Rules for the Control of Air Pollution in Idaho. The PM2.5 Rule was not adopted in time to be included in DEQ's annual update of citations to federal regulations incorporated by reference.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the April 2011 Board meeting for adoption as a pending and temporary rule. If adopted by the Board, the temporary rule will become effective on April 27, 2011. The pending rule is expected to be final upon adjournment of the 2012 legislative session if approved by the Legislature.

It is necessary to incorporate by reference the PM2.5 Rule as a temporary rule as it is needed to fully implement essential elements of the PSD program for new sources and modifications to existing sources with PM2.5 emissions.

Members of the regulated community who may be subject to Idaho's air quality rules, special interest groups, public officials, and members of the public who have an interest in the regulation of air emissions from sources in Idaho may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Incorporation by reference is necessary to ensure that the state rules are consistent with federal regulations. An electronic copy of the federal regulations incorporated by reference can be obtained at <http://www.gpoaccess.gov/fr/index.html>.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Michael Simon at (208) 373-0212 or michael.simon@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before February 7, 2011.

DATED this 17th day of December, 2010.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-1101

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term “documents” includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

- and
- a.** All federal publications: U.S. Government Printing Office, <http://www.gpoaccess.gov/index.html>; (3-20-04)
 - b.** All documents herein incorporated by reference: (7-1-97)
 - i.** Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502. (7-1-97)
 - ii.** State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-1-94)

- a.** Requirements for Preparation, Adoption, and Submittal of Implementation Plans and Appendix W

to Part 51--Guideline on Air Quality Models. 40 CFR Part 51 revised as of July 1, 2009. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: (3-29-10)

- i. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, except that 40 CFR 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules; and (3-30-07)
- ii. Appendix Y to Part 51, Guidelines for BART Determinations Under the Regional Haze Rule. (3-30-07)
- b. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 2009. (3-29-10)
- c. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, 40 CFR 51.301, 51.304(a), 51.307, and 51.308, revised as of July 1, 2009. (3-29-10)
- d. Approval and Promulgation of Implementation Plans, 40 CFR Part 52 revised as of July 1, 2009. (3-29-10)
- e. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 2009. (3-29-10)
- f. Ambient Air Quality Surveillance, Quality Assurance Requirements for Prevention of Significant Deterioration (PSD Air Monitoring), 40 CFR Part 58, Appendix B, revised as of July 1, 2009. (3-29-10)
- g. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 2009. (3-29-10)
- h. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 2009. (3-29-10)
- i. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 2009. (3-29-10)
- j. Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 2009. (3-29-10)
- k. Permits, 40 CFR Part 72, revised as of July 1, 2009. (3-29-10)
- l. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 2009. (3-29-10)
- m. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 2009. (3-29-10)
- n. Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)
- o. Determining Conformity of Federal Actions to State or Federal Implementation Plans: Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, 40 CFR Part 93, Subpart A, Sections 93.100 through 93.129, revised as of July 1, 2009, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. (3-29-10)
- p. The final rule for Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units, 70 Fed. Reg. 28,606 (May 18, 2005), corrected at 70 Fed. Reg. 51,266 the final rule for Standards of Performance for Electric Utility Steam Generating Units, Industrial-Commercial-Institutional Steam Generating Units, and Small Industrial-Commercial-Institutional Steam Generating Units, only as it applies to coal fired electric steam generating units as defined in 40 CFR 60.24, 71 Fed. Reg. 9865 (February 27, 2006); Revision of December 2000 Clean Air Act Section 112(n) Finding Regarding Electric Utility Steam Generating Units; and Standards of Performance for New and Existing Electric Utility Steam Generating Units: Reconsideration, 71 Fed.

Reg. 33,388 (June 9, 2006) are expressly excluded from any incorporation by reference into these rules. (3-30-07)

g. The final rule for Prevention of Significant Deterioration (PSD) for Particulate Matter Less than 2.5 Micrometers (PM_{2.5})—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC), 75 Fed. Reg. 64,864 through 64,907 (October 20, 2010) to be codified at 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) and 40 CRF Part 52 (Approval and Promulgation of Implementation Plans). This final rule is effective on December 20, 2010. ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS

DOCKET NO. 58-0102-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Sixty-first Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the [Idaho Administrative Bulletin, September 1, 2010, Vol. 10-9, pages 445 through 469](#). After consideration of public comments, the rule has been revised at Sections 010 and 052. The remainder of the rule has been adopted as proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/water/58_0102_1001_pending.cfm or by contacting the undersigned.

In addition, two documents providing assistance in understanding and achieving compliance with the requirements of these rules can be obtained at http://www.deq.idaho.gov/rules/water/58_0102_1001_pending.cfm. These documents are titled "Antidegradation Implementation Scenarios" and "Examples of New and Increased Discharge."

IDAHO CODE SECTION 39-107D STATEMENT: The standards included in this rule are not broader in scope, nor more stringent, than federal regulations and do not regulate an activity not regulated by the federal government.

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective: Implementation of this rule is estimated to annually require 1.6 FTE DEQ staff time at a cost of approximately \$145,500 in current dollars. In addition, one time startup costs for staff training are estimated to be about \$16,500. The workload strategy at this time is for the DEQ regional office surface water quality staff assigned to conduct Clean Water Act Section 401 Water Quality Certifications to implement the antidegradation rules in coordination with a state office water quality standards staff person. Existing surface water quality work such as monitoring and assessments will be reduced in order to shift duties to antidegradation review and analysis.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Don Essig at don.essig@deq.idaho.gov, (208)373-0119.

Dated this 12th day of November, 2010.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

DOCKET NO. 58-0102-1001 - ADOPTION OF PENDING RULE

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

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 10-9, September 1, 2010, pages 445 and 469.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 58-0102-1001

010. DEFINITIONS.

For the purpose of the rules contained in IDAPA 58.01.02, "Water Quality Standards," the following definitions apply: (4-11-06)

Subsection 010.01 [New Text]

01. Activity. *For purposes of antidegradation review, an activity that causes a discharge to a water subject to the jurisdiction of the Clean Water Act.* ()

02. Acute. A stimulus severe enough to induce a rapid response. In aquatic toxicity tests, acute refers to a single or short-term (i.e., ninety-six (96) hours or less) exposure to a concentration of a toxic substance or effluent which results in death to fifty percent (50%) of the test organisms. When referring to human health, an acute effect is not always measured in terms of lethality. (3-30-07)

03. Acute Criteria. Unless otherwise specified in these rules, the maximum instantaneous or one (1) hour average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from acute toxicity due to exposure to the toxic substance or effluent. Acute criteria are expected to adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. This is also known as the Criterion Maximum Concentration (CMC). There are no specific acute criteria for human health; however, the human health criteria are based on chronic health effects and are expected to adequately protect against acute effects. (3-30-07)

04. Aquatic Species. Any plant or animal that lives at least part of its life in the water column or benthic portion of waters of the state. (8-24-94)

Subsection 010.05

05. Assigned Criteria. *Criteria associated with beneficial uses from Section 100 of these rules.* ()

046. Background. The biological, chemical or physical condition of waters measured at a point immediately upstream (up-gradient) of the influence of an individual point or nonpoint source discharge. If several discharges to the water exist or if an adequate upstream point of measurement is absent, the Department will determine where background conditions should be measured. (8-24-94)

057. Basin Advisory Group. No less than one (1) advisory group named by the Director, in consultation with the designated agencies, for each of the state's six (6) major river basins which shall generally advise the Director on water quality objectives for each basin, work in a cooperative manner with the Director to achieve these objectives, and provide general coordination of the water quality programs of all public agencies pertinent to each basin. Each basin advisory group named by the Director shall reflect a balanced representation of the interests in the basin and shall, where appropriate, include representatives from each of the following: agriculture, mining, nonmunicipal point source discharge permittees, forest products, local government, livestock, Indian tribes (for areas within reservation boundaries), water-based recreation, and environmental interests. (3-20-97)

068. Beneficial Use. Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (8-24-94)

079. Best Management Practice. A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals. (3-20-97)

0810. Bioaccumulation. The process by which a compound is taken up by, and accumulated in the tissues of an aquatic organism from the environment, both from water and through food. (8-24-94)

0911. Biological Monitoring or Biomonitoring. The use of a biological entity as a detector and its response as a measure to determine environmental conditions. Toxicity tests and biological surveys, including habitat monitoring, are common biomonitoring methods. (8-24-94)

102. Board. The Idaho Board of Environmental Quality. (7-1-93)

143. Chronic. A stimulus that persists or continues for a long period of time relative to the life span of an organism. In aquatic toxicity tests, chronic refers to continuous exposure to a concentration of a toxic substance or effluent which results in mortality, injury, reduced growth, impaired reproduction, or other adverse effect to aquatic organisms. The test duration is long enough that sub-lethal effects can be reliably measured. When referring to human health, a chronic effect is usually measured in terms of estimated changes in rates (# of cases/ 1000 persons) of illness over a lifetime of exposure. (3-30-07)

124. Chronic Criteria. Unless otherwise specified in these rules, the four (4) day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from chronic toxicity due to exposure to the toxic substance or effluent. Chronic criteria are expected to adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. This is also known as the Criterion Continuous Concentration (CCC). Human health chronic criteria are based on lifetime exposure. (3-30-07)

135. Compliance Schedule or Schedule Of Compliance. A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard. (8-24-94)

16. Cost-Effective and Reasonable Best Management Practices (BMPs) for Nonpoint Sources. All approved BMPs specified in Subsections 350.03 and 055.07 of these rules. BMPs for activities not specified are, in accordance with Section 350, determined on a case-by-case basis. ()

147. Daily Maximum (Minimum). The highest (lowest) value measured during one (1) calendar day or a twenty-four (24) hour period, as appropriate. For ambient monitoring of dissolved oxygen, pH, and temperature, multiple measurements should be obtained at intervals short enough that the difference between consecutive measurements around the daily maximum (minimum) is less than zero point two (0.2) ppm for dissolved oxygen, zero point one (0.1) SU for pH, or zero point five (0.5) degree C for temperature. (3-30-07)

~~158.~~ **Daily Mean.** The average of at least two (2) appropriately spaced measurements, acceptable to the Department, calculated over a period of one (1) day: (3-20-97)

a. Confidence bounds around the point estimate of the mean may be required to determine the sample size necessary to calculate a daily mean; (8-24-94)

b. If any measurement is greater or less than five-tenths (0.5) times the average, additional measurements over the one-day period may be needed to obtain a more representative average; (3-20-97)

c. In calculating the daily mean for dissolved oxygen, values used in the calculation shall not exceed the dissolved oxygen saturation value. If a measured value exceeds the dissolved oxygen saturation value, then the dissolved oxygen saturation value will be used in calculating the daily mean. (8-24-94)

d. For ambient monitoring of temperature, the daily mean should be calculated from equally spaced measurements, at intervals such that the difference between any two (2) consecutive measurements does not exceed one point zero (1.0) degree C. (3-30-07)

Subsection 010.19

~~19.~~ **Degradation or Lower Water Quality.** For purposes of antidegradation review, degradation or lower water quality means a change in a pollutant that is adverse to *designated or existing uses as calculated upon appropriate mixing of the discharge and receiving water.* ()

~~1620.~~ **Deleterious Material.** Any nontoxic substance which may cause the tainting of edible species of fish, taste and odors in drinking water supplies, or the reduction of the usability of water without causing physical injury to water users or aquatic and terrestrial organisms. (8-24-94)

~~1721.~~ **Department.** The Idaho Department of Environmental Quality. (7-1-93)

~~1822.~~ **Design Flow.** The critical flow used for steady-state wasteload allocation modeling. (8-24-94)

~~1923.~~ **Designated Agency.** The department of lands for timber harvest activities, oil and gas exploration and development, and mining activities; the soil conservation commission for grazing and agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the Department's division of environmental quality for all other activities. (3-20-97)

~~204.~~ **Designated Beneficial Use or Designated Use.** Those beneficial uses assigned to identified waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," Sections 110 through 160, whether or not the uses are being attained. (4-5-00)

~~215.~~ **Desirable Species.** Species indigenous to the area or those introduced species identified as desirable by the Idaho Department of Fish and Game. (3-15-02)

~~226.~~ **Director.** The Director of the Idaho Department of Environmental Quality or his authorized agent. (7-1-93)

Subsection 010.27

~~237.~~ **Discharge.** When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. *For purposes of antidegradation review, means "discharge" as used in Section 401 of the Clean Water Act.* (8-24-94)()

~~248.~~ **Dissolved Oxygen (DO).** The measure of the amount of oxygen dissolved in the water, usually expressed in mg/l. (7-1-93)

~~259.~~ **Dissolved Product.** Petroleum product constituents found in solution with water. (8-24-94)

2630. Dynamic Model. A computer simulation model that uses real or derived time series data to predict a time series of observed or derived receiving water concentrations. Dynamic modeling methods include continuous simulation, Monte Carlo simulations, lognormal probability modeling, or other similar statistical or deterministic techniques. (8-24-94)

2731. E. coli (Escherichia coli). A common fecal and intestinal organism of the coliform group of bacteria found in warm-blooded animals. (4-5-00)

2832. Effluent. Any wastewater discharged from a treatment facility. (7-1-93)

2933. Effluent Biomonitoring. The measurement of the biological effects of effluents (e.g., toxicity, biostimulation, bioaccumulation, etc.). (8-24-94)

304. EPA. The United States Environmental Protection Agency. (7-1-93)

315. Ephemeral Waters. A stream, reach, or water body that flows naturally only in direct response to precipitation in the immediate watershed and whose channel is at all times above the water table. (4-11-06)

Subsection 010.36

36. Existing Activity or Discharge. An activity or discharge that has been previously authorized or did not previously require authorization. ()

327. Existing Beneficial Use Or Existing Use. Those beneficial uses actually attained in waters on or after November 28, 1975, whether or not they are designated for those waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards." (4-11-06)

338. Facility. As used in Section 850 only, any building, structure, installation, equipment, pipe or pipeline, well pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft, area, place or property from which an unauthorized release of hazardous materials has occurred. (8-24-94)

349. Four Day Average. The average of all measurements within a period of ninety-six (96) consecutive hours. While a minimum of one (1) measurement per each twenty-four (24) hours is preferred, for toxic chemicals in Section 210, any number of data points is acceptable. (3-30-07)

3540. Free Product. A petroleum product that is present as a nonaqueous phase liquid. Free product includes the presence of petroleum greater than one-tenth (0.1) inch as measured on the water surface for surface water or the water table for ground water. (7-1-93)

3641. Full Protection, Full Support, or Full Maintenance of Designated Beneficial Uses of Water. Compliance with those levels of water quality criteria listed in Sections 200, 210, 250, 251, 252, 253, and 275 (if applicable) or where no major biological group such as fish, macroinvertebrates, or algae has been modified by human activities significantly beyond the natural range of the reference streams or conditions approved by the Director in consultation with the appropriate basin advisory group. (3-15-02)

3742. Geometric Mean. The geometric mean of "n" quantities is the "nth" root of the product of the quantities. (7-1-93)

3843. Ground Water. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-30-07)

3944. Harmonic Mean Flow. The number of daily flow measurements divided by the sum of the reciprocals of the flows (i.e., the reciprocal of the mean of reciprocals). (8-24-94)

405. Hazardous Material. A material or combination of materials which, when discharged in any quantity into state waters, presents a substantial present or potential hazard to human health, the public health, or the

environment. Unless otherwise specified, published guides such as Quality Criteria for Water (1976) by EPA, Water Quality Criteria (Second Edition, 1963) by the state of California Water Quality Control Board, their subsequent revisions, and more recent research papers, regulations and guidelines will be used in identifying individual and specific materials and in evaluating the tolerances of the identified materials for the beneficial uses indicated.

(7-1-93)

Subsection 010.46

46. Highest Statutory and Regulatory Requirements for Point Sources. All applicable effluent limits required by the Clean Water Act and other permit conditions. It also includes any compliance schedules or consent orders requiring measures to achieve applicable effluent limits and other permit conditions required by the Clean Water Act. ()

47. **Hydrologic Unit Code (HUC).** A unique eight (8) digit number identifying a subbasin. A subbasin is a United States Geological Survey cataloging unit comprised of water body units. (4-5-00)

48. **Hydrologically-Based Design Flow.** A statistically derived receiving water design flow based on the selection and identification of an extreme value (e.g., 1Q10, 7Q10). The underlying assumption is that the design flow will occur X number of times in Y years, and limits the number of years in which one (1) or more excursions below the design flow can occur. (8-24-94)

49. **Hypolimnion.** The bottom layer in a thermally-stratified body of water. It is fairly uniform in temperature and lays beneath a zone of water which exhibits a rapid temperature drop with depth such that mixing with overlying water is inhibited. (3-30-07)

50. Integrated Report. Refers to the consolidated listing and reporting of the state's water quality status pursuant to Sections 303(d), 305(b), and 314 of the Clean Water Act. ()

51. **Inter-Departmental Coordination.** Consultation with those agencies responsible for enforcing or administering the practices listed as approved best management practices in Subsection 350.03. (7-1-93)

52. **Intermittent Waters.** A stream, reach, or water body which naturally has a period of zero (0) flow for at least one (1) week during most years. Where flow records are available, a stream with a 7Q2 hydrologically-based unregulated flow of less than one-tenth (0.1) cubic feet per second (cfs) is considered intermittent. Streams with natural perennial pools containing significant aquatic life uses are not intermittent. (4-11-06)

53. **LC-50.** The toxicant concentration killing fifty percent (50%) of exposed organisms at a specific time of observation (e.g., ninety-six (96) hours). (3-20-97)

54. **Load Allocation (LA).** The portion of a receiving water's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources. (8-24-94)

55. **Loading Capacity.** The greatest amount of pollutant loading that a water can receive without violating water quality standards. (8-24-94)

~~**49.** **Lower Water Quality.** A measurable and adverse anthropogenic change in a chemical, physical, or biological parameter of water relevant to a beneficial use, and which can be expressed numerically. Measurable change may be determined by a statistically significant difference using standard methods for analysis and statistical interpretation appropriate to the parameter. Statistical significance is defined as the ninety five percent (95%) confidence limit when significance is not otherwise defined for the parameter in standard methods or practices. (3-30-07)~~

56. **Lowest Observed Effect Concentration (LOEC).** The lowest concentration of a toxic substance or an effluent that results in observable adverse effects in the aquatic test population. (3-30-07)

57. **Man-Made Waterways.** Canals, flumes, ditches, wasteways, drains, laterals, and/or associated features, constructed for the purpose of water conveyance. This may include channels modified for such purposes

prior to November 28, 1975. These waterways may have uniform and rectangular cross-sections, straight channels, follow rather than cross topographic contours, be lined to reduce water loss, and be operated or maintained to promote water conveyance. (3-30-07)

528. Maximum Weekly Maximum Temperature (MWMT). The weekly maximum temperature (WMT) is the mean of daily maximum temperatures measured over a consecutive seven (7) day period ending on the day of calculation. When used seasonally, e.g., spawning periods, the first applicable WMT occurs on the seventh day into the time period. The MWMT is the single highest WMT that occurs during a given year or other period of interest, e.g., a spawning period. (3-30-07)

539. Milligrams Per Liter (mg/l). Milligrams of solute per liter of solution, equivalent to parts per million, assuming unit density. (7-1-93)

5460. Mixing Zone. A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (7-1-93)

5561. National Pollutant Discharge Elimination System (NPDES). Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (8-24-94)

562. Natural Background Conditions. The physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. Natural disturbances including, but not limited to, wildfire, geologic disturbance, diseased vegetation, or flow extremes that affect the physical, chemical, and biological integrity of the water are part of natural background conditions. Natural background conditions should be described and evaluated taking into account this inherent variability with time and place. (3-30-07)

5763. Nephelometric Turbidity Units (NTU). A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. (8-24-94)

Subsection 010.64

64. New Activity or Discharge. An activity or discharge that has not been previously authorized. Existing activities or discharges not currently permitted or licensed will be presumed to be new unless the Director determines to the contrary based on review of available evidence. An activity or discharge that has previously taken place without need for a license or permit is not a new activity or discharge when first licensed or permitted. ()

5865. Nonpoint Source Activities. Activities on a geographical area on which pollutants are deposited or dissolved or suspended in water applied to or incident on that area, the resultant mixture being discharged into the waters of the state. Nonpoint source activities on ORWs do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments. Nonpoint sources activities include, but are not limited to: (3-20-97)

- a. Irrigated and nonirrigated lands used for: (7-1-93)
 - i. Grazing; (7-1-93)
 - ii. Crop production; (7-1-93)
 - iii. Silviculture; (7-1-93)
- b. Log storage or rafting; (7-1-93)
- c. Construction sites; (7-1-93)
- d. Recreation sites; (3-20-97)

- e. Septic tank disposal fields. (8-24-94)
- f. Mining; (3-20-97)
- g. Runoff from storms or other weather related events; and (3-20-97)
- h. Other activities not subject to regulation under the federal national pollutant discharge elimination system. (3-20-97)

~~5966.~~ **Nuisance.** Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (7-1-93)

~~607.~~ **Nutrients.** The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (7-1-93)

~~618.~~ **One Day Minimum.** The lowest daily instantaneous value measured. (3-20-97)

~~6269.~~ **One Hour Average.** The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of one (1) hour. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the one-hour period may be needed to obtain a more representative mean. (3-20-97)

~~6370.~~ **Operator.** For purposes of Sections 851 and 852, any person presently or who was at any time during a release in control of, or having responsibility for, the daily operation of the petroleum storage tank (PST) system. (4-2-03)

~~6471.~~ **Outstanding Resource Water (ORW).** A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been designated by the legislature and subsequently listed in this chapter. ORW constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality. (3-20-97)

~~6572.~~ **Outstanding Resource Water Mixing Zone.** An area or volume of an ORW where pollutants are allowed to mix with the ORW receiving water at a location distinct from the sampling point where compliance with ORW quality standards is measured. An ORW mixing zone will be downstream from the discharge of a tributary or a segment immediately upstream which contains man caused pollutants as a result of nonpoint source activities occurring on that tributary or segment. As a result of the discharge, the mixing zone may not meet all water quality standards applicable to the ORW, but shall still be protected for existing beneficial uses. The Department, after consideration of input from interested parties, will determine the size, configuration and location of mixing zones which are necessary to meet the requirements of this chapter. (7-1-93)

~~6673.~~ **Owner.** For purposes of Sections 851 and 852, any person who owns or owned a petroleum storage tank (PST) system any time during a release and the current owner of the property where the PST system is or was located. (4-2-03)

~~74.~~ **Permit or License.** A permit or license for an activity that is subject to certification by the state under Section 401 of the Clean Water Act, including, for example, NPDES permits, dredge and fill permits, and FERC licenses. ()

~~675.~~ **Person.** An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-97)

~~6876.~~ **Petroleum Products.** Products derived from petroleum through various refining processes. (7-1-93)

6977. Petroleum Storage Tank (PST) System. Any one (1) or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. (7-1-93)

708. Point Source. Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (7-1-93)

719. Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, unitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (3-20-97)

7280. Project Plans. Documents which describe actions to be taken under a proposed activity. These documents include environmental impact statements, environmental assessments, and other land use or resource management plans. (7-1-93)

7381. Public Swimming Beaches. Areas indicated by features such as signs, swimming docks, diving boards, slides, or the like, boater exclusion zones, map legends, collection of a fee for beach use, or any other unambiguous invitation to public swimming. Privately owned swimming docks or the like which are not open to the general public are not included in this definition. (4-11-06)

7482. Receiving Waters. Those waters which receive pollutants from point or nonpoint sources. (7-1-93)

7583. Reference Stream or Condition. A water body which represents the minimum conditions necessary to fully support the applicable designated beneficial uses as further specified in these rules, or natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin. In highly mineralized areas or in the absence of such reference streams or water bodies, the Director, in consultation with the basin advisory group and the technical advisors to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported. (3-20-97)

7684. Release. Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (8-24-94)

7785. Resident Species. Those species that commonly occur in a site including those that occur only seasonally or intermittently. This includes the species, genera, families, orders, classes, and phyla that: (8-24-94)

- a. Are usually present at the site; (8-24-94)
- b. Are present only seasonally due to migration; (8-24-94)
- c. Are present intermittently because they periodically return or extend their ranges into the site; (8-24-94)
- d. Were present at the site in the past but are not currently due to degraded conditions, and are expected to be present at the site when conditions improve; and (8-24-94)
- e. Are present in nearby bodies of water but are not currently present at the site due to degraded conditions, and are expected to be present at the site when conditions improve. (8-24-94)

786. Responsible Persons in Charge. Any person who: (8-24-94)

- a.** By any acts or omissions, caused, contributed to or exacerbated an unauthorized release of hazardous materials; (8-24-94)
- b.** Owns or owned the facility from which the unauthorized release occurred and the current owner of the property where the facility is or was located; or (8-24-94)
- c.** Presently or who was at any time during an unauthorized release in control of, or had responsibility for, the daily operation of the facility from which an unauthorized release occurred. (8-24-94)
- ~~79~~**87.** **Sediment.** Undissolved inorganic matter. (3-30-07)
- ~~80~~**8.** **Seven Day Mean.** The average of the daily mean values calculated over a period of seven (7) consecutive days. (3-20-97)
- ~~81~~**9.** **Sewage.** The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (8-24-94)
- ~~82~~**90.** **Short-Term or Temporary Activity.** An activity which is as short as possible but lasts for no more than one (1) year, is limited in scope and is expected to have only minimal impact on water quality as determined by the Director. Short-term or temporary activities include, but are not limited to, those activities described in Subsection 080.02. (3-30-07)
- ~~83~~**91.** **Silviculture.** Those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber. (3-20-97)
- ~~84~~**92.** **Sludge.** The semi-liquid mass produced by partial dewatering of potable or spent process waters or wastewater. (7-1-93)
- ~~85~~**93.** **Special Resource Water.** Those specific segments or bodies of water which are recognized as needing intensive protection: (7-1-93)
- a.** To preserve outstanding or unique characteristics; or (7-1-93)
- b.** To maintain current beneficial use. (7-1-93)
- ~~86~~**94.** **Specialized Best Management Practices.** Those practices designed with consideration of geology, land type, soil type, erosion hazard, climate and cumulative effects in order to fully protect the beneficial uses of water, and to prevent or reduce the pollution generated by nonpoint sources. (3-3-87)
- ~~87~~**95.** **State.** The state of Idaho. (7-1-93)
- ~~88~~**96.** **State Water Quality Management Plan.** The state management plan developed and updated by the Department in accordance with Sections 205, 208, and 303 of the Clean Water Act. (3-20-97)
- ~~89~~**7.** **Suspended Sediment.** The undissolved inorganic fraction of matter suspended in surface water. (3-30-07)
- ~~90~~**8.** **Suspended Solids.** The undissolved organic and inorganic matter suspended in surface water. (3-30-07)
- ~~91~~**9.** **Technology-Based Effluent Limitation.** Treatment requirements under Section 301(b) of the

Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under Section 402 of the Clean Water Act. (8-24-94)

92100. Total Maximum Daily Load (TMDL). The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (8-24-94)

93101. Toxicity Test. A procedure used to determine the toxicity of a chemical or an effluent using living organisms. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent. (8-24-94)

94102. Toxic Substance. Any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the State and upon exposure, ingestion, inhalation or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic substances include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA pursuant to Section 307(a) of the federal Clean Water Act. (8-24-94)

99103. Treatment. A process or activity conducted for the purpose of removing pollutants from wastewater. (7-1-93)

96104. Treatment System. Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. A treatment system may also be known as a treatment facility. (4-11-06)

97105. Twenty-Four Hour Average. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of twenty-four (24) consecutive hours. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the twenty-four (24)-hour period may be needed to obtain a more representative mean. (3-20-97)

98106. Unique Ecological Significance. The attribute of any stream or water body which is inhabited or supports an endangered or threatened species of plant or animal or a species of special concern identified by the Idaho Department of Fish and Game, which provides anadromous fish passage, or which provides spawning or rearing habitat for anadromous or desirable species of lake dwelling fishes. (8-24-94)

99107. Wasteload Allocation (WLA). The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. (8-24-94)

1003. Wastewater. Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. (7-1-93)

1019. Water Body Unit. Includes all named and unnamed tributaries within a drainage and is considered a single unit unless designated otherwise. (4-5-00)

10210. Water Pollution. Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (8-24-94)

10311. Water Quality-Based Effluent Limitation. An effluent limitation that refers to specific levels of

water quality that are expected to render a body of water suitable for its designated or existing beneficial uses. (8-24-94)

10412. Water Quality Limited Water Body. After monitoring, evaluation of required pollution controls, and consultation with the appropriate basin and watershed advisory groups, a water body identified by the Department, which does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards after the application of required pollution controls. A water body identified as water quality limited shall require the development of a TMDL or other equivalent process in accordance with Section 303 of the Clean Water Act and Sections 39-3601 et seq., Idaho Code. (3-20-97)

10513. Waters and Waters Of The State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (7-1-93)

10614. Watershed. The land area from which water flows into a stream or other body of water which drains the area. (3-20-97)

10715. Watershed Advisory Group. An advisory group appointed by the Director, with the advice of the appropriate Basin Advisory Group, which will recommend to the Department those specific actions needed to control point and nonpoint sources of pollution affecting water quality limited water bodies within the watershed. Members of each watershed advisory group shall be representative of the industries and interests affected by the management of that watershed, along with representatives of local government and the land managing or regulatory agencies with an interest in the management of that watershed and the quality of the water bodies within it. (3-20-97)

10816. Whole-Effluent Toxicity. The aggregate toxic effect of an effluent measured directly with a toxicity test. (8-24-94)

10917. Zone of Initial Dilution (ZID). An area within a Department authorized mixing zone where acute criteria may be exceeded. This area should be as small as practicable and assure that drifting organisms are not exposed to acute concentrations for more than one (1) hour more than once in three (3) years. The actual size of the ZID will be determined by the Department for a discharge on a case-by-case basis, taking into consideration mixing zone modeling and associated size recommendations and any other pertinent chemical, physical, and biological data available. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

052. IMPLEMENTATION.

The antidegradation policy shall be implemented as follows: ()

01. Waters Protected. All waters receive Tier I protection. Waters receiving Tier II protection will be identified using a water body by water body approach during the antidegradation review. Waters given Tier III protection are designated in law. ()

02. Restoration Projects. Changes in water quality may be allowed by the Department without an antidegradation review where determined necessary to secure long-term water quality improvement through restoration projects designed to trend toward natural characteristics and associated uses to a water body where those characteristics and uses have been lost or diminished. Restoration projects shall implement best management practices. ()

03. General Permits. For general permits issued on or after July 1, 2011, the Department will conduct antidegradation review, including any required Tier II analysis, at the time at which general permits are certified. For general permits that the Department determines adequately address antidegradation, review of individual applications for coverage will not be required unless it is required by the general permit. For general permits that the Department determines do not adequately address antidegradation, the Department shall ensure that antidegradation is

adequately addressed. To achieve this the Department may conclude that other conditions, such as the submittal of additional information or individual certification at the time an application is submitted for coverage under a general permit, are necessary in the general permit to provide reasonable assurance of compliance with the antidegradation policy. If supported by the permit record, the Department may also conclude that discharges authorized under a general permit are insignificant or that the pollution controls required in the general permit are the least degrading alternative as specified in Subsection 052.08.c. ()

04. Initiation of Antidegradation Review. Review of degradation potential and application of the appropriate level of protection from degradation will be triggered by an application for a new or reissued permit or license. ()

05. Identification of Tier II Waters. The Department will utilize a water body by water body approach in determining where Tier II protection is appropriate in addition to Tier I protection. This approach shall be based on an assessment of the chemical, physical, biological, and other information regarding the water body. The most recent federally approved Integrated Report and supporting data will be used to determine the appropriate level of protection as follows: ()

a. Water bodies identified in the Integrated Report as fully supporting assessed uses will be provided Tier II protection. ()

b. Water bodies identified in the Integrated Report as not assessed will be provided an appropriate level of protection on a case-by-case basis using information available at the time of a proposal for a new or reissued permit or license. ()

c. Water bodies identified in the Integrated Report as not fully supporting will receive Tier I protection, except as follows: ()

i. For aquatic life uses listed only for one or more of the following causes: dissolved oxygen, nutrients, pH, sediment, or temperature, if biological or aquatic habitat parameters show a healthy, balanced biological community is present, as described in the "Water Body Assessment Guidance" published by the Idaho Department of Environmental Quality, then the water body shall receive Tier II protection for aquatic life. If these data are insufficient to determine a healthy, balanced biological community is present, then the water body will be provided an appropriate level of protection on a case-by-case basis using information available at the time of a proposal for a new or reissued permit or license. ()

ii. For recreational uses, if water quality data show compliance with those levels of water quality criteria listed in Sections 200, 210, 251, and 275 (where applicable), then the water body shall receive Tier II protection for recreational uses. ()

06. Evaluation of Effect of an Activity or Discharge on Water Quality. The Department will evaluate the effect on water quality for each pollutant. The Department will determine whether an activity or discharge results in an improvement, no change, or degradation of water quality. ()

a. Effect on water quality will be based on the calculated change in concentration in the receiving water as a result of a new or reissued permit or license. With respect to a discharge, this calculation will take into account dilution using appropriate mixing of the receiving water under critical conditions coupled with the design flow of the discharge. For a reissued permit or license, the calculated change will be the difference in water quality that would result from the activity or discharge as authorized in the current permit or license and the water quality that would result from the activity or discharge as proposed in the reissued permit or license. For a new permit or license, the calculated change will be the difference between the existing receiving water quality and water quality that would result from the activity or discharge as proposed in the new permit or license. ()

i. Current Discharge Quality. For pollutants that are currently limited, current discharge quality shall be based on limits in the current permit or license. For pollutants not currently limited, current discharge quality shall be based on available discharge quality data collected within five years of the application for a permit or license or other relevant information. ()

ii. Proposed Quality for an Existing Discharge. Future discharge quality shall be based on proposed permit limits. For pollutants not limited in the proposed permit or license, future discharge quality will be estimated from available discharge quality data since the last permit or license was issued accounting for any changes in production, treatment or operation. For the proposed discharge of a new pollutant or a proposed increased discharge of a pollutant, future discharge quality will be estimated based on information provided by the applicant or other relevant information. ()

iii. New Permit Limits for an Existing Discharge. When new permit limits are proposed for the first time for a pollutant in an existing discharge, then for purposes of calculating the change in water quality, any statistical procedures used to derive the proposed new limits will be applied to past discharge quality as well, where appropriate. ()

iv. Proposed Quality for a New Discharge. Future discharge quality shall be based on proposed permit limits. For pollutants not limited in the proposed permit or license, future discharge quality will be based on information provided by the applicant or other relevant information. ()

b. Receiving water quality will be the quality measured, or modeled as appropriate, immediately above the discharge for flowing waters and outside any Department authorized mixing zone for lakes and reservoirs. ()

c. Offsets. In determining the effect of an activity or discharge on water quality of Tier II or Tier III waters, the Department may take into account reductions in pollution from other sources that are tied to the proposed activity or discharge. These offsets in pollution must be upstream of the degradation in water quality due to the proposed activity or discharge and occur before the activity or discharge is allowed to begin. The applicant seeking a permit or license for an activity or discharge based on offsets will be held responsible for assuring offsets are achieved and maintained as a condition of their permit or license. ()

07. Tier I Review. Tier I review will be performed for all new or reissued permits or licenses. Existing uses and the water quality necessary to protect the existing uses must always be maintained and protected. No degradation or lowering of water quality may be allowed that would cause or contribute to violation of water quality criteria as calculated after authorized mixing of the discharge with the receiving water. Identification of existing uses and the water quality necessary for their protection will be based on all available information, including any water quality related data and information submitted during the public comment period for the permit or license. ()

08. Tier II Analysis. A Tier II analysis will only be conducted for activities or discharges, subject to a permit or a license, that cause degradation. The Department may allow significant degradation of surface water quality that is better than assigned criteria only if it is determined to be necessary to accommodate important economic or social development in the area in which the waters are located. The process and standard for this determination are set forth below. ()

a. Insignificant Activity or Discharge. The Department shall consider the size and character of an activity or discharge or the magnitude of its effect on the receiving stream and shall determine whether it is insignificant. If an activity or discharge is determined to be insignificant, then no further Tier II analysis, as set forth in Subsections 052.08.b., 052.08.c., and 052.08.d., shall be required. ()

i. The Department shall determine insignificance when the proposed change in an activity or discharge, from conditions as of July 1, 2011: ()

(1) Will not increase ambient concentrations by more than ten percent (10%); and ()

(2) Will not cumulatively decrease assimilative capacity by more than ten percent (10%). ()

ii. The Department reserves the right to request additional information from the applicant in making a determination a proposed change in an activity or discharge is insignificant. ()

b. Other Source Controls. In allowing any degradation of high water quality, the Department must

assure that there shall be achieved in the watershed the highest statutory and regulatory requirements for all new and existing point sources and cost-effective and reasonable best management practices for all nonpoint source controls. In providing such assurance, the Department may enter together into an agreement with other State of Idaho or federal agencies in accordance with Sections 67-2326 through 67-2333, Idaho Code. ()

c. Alternatives Analysis. Degradation will be deemed necessary only if there are no reasonable alternatives to discharging at the levels proposed. The applicant seeking authorization to degrade high water quality must provide an analysis of alternatives aimed at selecting the best combination of site, structural, managerial and treatment approaches that can be reasonably implemented to avoid or minimize the degradation of water quality. To identify the least degrading alternative that is reasonable, the following principles shall be followed: ()

i. Controls to avoid or minimize degradation should be considered at the earliest possible stage of project design. ()

ii. Alternatives that must be evaluated as appropriate, are: ()

(1) Relocation or configuration of outfall or diffuser; ()

(2) Process changes/improved efficiency that reduces pollutant discharge; ()

(3) Seasonal discharge to avoid critical time periods for water quality; ()

(4) Non-discharge alternatives such as land application; and ()

(5) Offsets to the activity or discharge's effect on water quality. ()

iii. The Department retains the discretion to require the applicant to examine specific alternatives or provide additional information to conduct the analysis. ()

iv. In selecting the preferred alternative the applicant shall: ()

(1) Evaluate economic impacts (total cost effectiveness, incremental cost effectiveness) of all technologically feasible alternatives; ()

(2) Rank all technologically feasible treatment alternatives by their cost effectiveness at pollutant reduction; ()

(3) Consider the environmental costs and benefits across media and between pollutants; and ()

(4) Select the least degrading option or show that a more degrading alternative is justified based on Subsections 052.08.c.iv.(1), 052.08.c.iv.(2), or 052.08.c.iv.(3) above. ()

d. Socioeconomic Justification. Degradation of water quality deemed necessary must also be determined by the Department to accommodate important economic or social development. Therefore, the applicant seeking authorization to degrade water quality must at a minimum identify the important economic or social development for which lowering water quality is necessary and should use the following steps to demonstrate this: ()

i. Identify the affected community; ()

ii. Describe the important social or economic development associated with the activity which can include cleanup/restoration of a closed facility; ()

iii. Identify the relevant social, economic and environmental health benefits and costs associated with the proposed degradation in water quality for the preferred alternative. Benefits and costs that must be analyzed include, but are not limited to: ()

(1) Economic benefits to the community such as changes in employment, household incomes and tax base; ()

(2) Provision of necessary services to the community; ()

(3) Potential health impacts related to the proposed activity; ()

(4) Impacts to direct and indirect uses associated with high quality water, e.g., fishing, recreation, and tourism; and ()

(5) Retention of assimilative capacity for future activities or discharges. ()

iv. Factors identified in the socioeconomic justification should be quantified whenever possible but for those factors that cannot be quantified a qualitative description of the impacts may be accepted; and ()

v. If the Department determines that more information is required, then the Department may require the applicant to provide further information or seek additional sources of information. ()

e. Process. ()

i. Analysis. The Department in cooperation with State of Idaho designated management agencies and/or federal agencies will collect information regarding the other source controls specified in Subsection 052.08.b. The applicant for a new or reissued permit or license is responsible for providing information pertinent to determining significance/insignificance of proposed changes in water quality and completing an alternatives analysis and socioeconomic justification as appropriate and submitting them to the Department for review. ()

ii. Departmental review. The Department shall review all pertinent information and, after intergovernmental coordination, public notice and input, make a determination as to whether there is assurance that the other source controls specified in Subsection 052.08.b. shall be achieved, and whether degradation of water quality is necessary to accommodate important economic or social development. ()

iii. Public Involvement. The Department will satisfy the public participation provisions of Idaho's continuing planning process. Public notice and review of antidegradation will be coordinated with existing 401 certification notices for public review. ()

09. Tier III - Outstanding Resource Waters (ORWs). ORWs are designated by the legislature. Subsection 052.09 describes the nomination, public notice and comment, public hearing, and board review process for directing the Department to develop legislation designating ORWs. Only the legislature may designate ORWs. Once designated by the legislature, the ORWs are listed in these rules. ()

a. Nominations. Any person may request, in writing to the board, that a stream segment be considered for designation as an Outstanding Resource Water. To be considered for ORW designation, nominations must be received by the board by April 1 or ten (10) days after the adjournment sine die of that year's regular session of the legislature, whichever is later, for consideration during the next regular session of the legislature. All nominations shall be addressed to:

Idaho Board of Environmental Quality
Department of Environmental Quality
Outstanding Resource Water Nomination
1410 N. Hilton
Boise, Idaho 83706-1255

The nomination shall include the following information: ()

i. The name, description and location of the stream segment; ()

ii. The boundaries upstream and downstream of the stream segment; ()

- iii. An explanation of what makes the segment a candidate for the designation; ()
- iv. A description of the existing water quality and any technical data upon which the description is based as can be found in the most current basin status reports; ()
- v. A discussion of the types of nonpoint source activities currently being conducted that may lower water quality, together with those activities that are anticipated during the next two (2) years, as described in the most current basin status reports; and ()
- vi. Any additional evidence to substantiate such a designation. ()
- b.** Public Notice and Public Comment. The board will give public notice that one (1) or more stream segments are being considered for recommendation to the legislature as outstanding resource waters. Public notice will also be given if a public hearing is being held. Public comments regarding possible designation will be accepted by the board for a period of at least forty-five (45) days. Public comments may include, but are not limited to, discussion of socioeconomic considerations; fish, wildlife or recreational values; and other beneficial uses. ()
- c.** Public Hearing. A public hearing(s) may be held at the board's discretion on any stream segment nominated for ORW designation. Public notice will be given if a hearing is held. The decision to hold a hearing may be based on the following criteria: ()
- i. One (1) or more requests contain supporting documentation and valid reasons for designation; ()
- ii. A stream segment is generally recognized as constituting an outstanding national resource, such as waters of national and state parks, and wildlife refuges; ()
- iii. A stream segment is generally recognized as waters of exceptional recreational or ecological significance; ()
- iv. The board shall give special consideration to holding a hearing and to recommending for designation by the legislature, waters which meet criteria found in Subsections 052.09.c.ii. and 052.09.c.iii.; ()
- v. Requests for a hearing will be given due consideration by the board. Public hearings may be held at the board's discretion. ()
- d.** Board Review. The board shall review the stream segments nominated for ORW designation and based on the hearing or other written record, determine the segments to recommend as ORWs to the legislature. The board shall submit a report for each stream segment it recommends for ORW designation. The report shall contain the information specified in Subsection 052.09.a. and information from the hearing record or other written record concerning the impacts the designation would have on socioeconomic conditions; fish, wildlife and recreational values; and other beneficial uses. The Department shall then prepare legislation for each segment that will be recommended to the legislature as an ORW. The legislation shall provide for the listing of designated segments in these rules without the need for formal rulemaking procedures, pursuant to Sections 67-5201, et seq., Idaho Code. ()
- e.** Designated Waters. Those stream segments designated by the legislature as ORWs are listed in Sections 110 through 160. ()
- f.** Restriction of Nonpoint Source Activities on ORWs. Nonpoint source activities on ORWs shall be restricted as follows: ()
- i. The water quality of ORWs shall be maintained and protected. After the legislature has designated a stream segment as an outstanding resource water, no person shall conduct a new or substantially modify an existing nonpoint source activity that can reasonably be expected to lower the water quality of that ORW, except for conducting short term or temporary nonpoint source activities which do not alter the essential character or special

uses of a segment, allocation of water rights, or operation of water diversions or impoundments. Stream segments not designated as ORWs that discharge directly into an ORW shall not be subject to the same restrictions as an ORW, nor shall the ORW mixing zone be subject to the same restrictions as an ORW. A person may conduct a new or substantially modify an existing nonpoint source activity that can reasonably be expected to lower the water quality of a tributary or stream segment, which discharges directly into an ORW or an ORW mixing zone, provided that the water quality of that ORW below the mixing zone shall not be lowered. ()

ii. After the legislature has designated a stream segment as an outstanding resource water as outlined in Subsection 052.09.e., existing nonpoint source activities may continue and shall be conducted in a manner that maintains and protects the current water quality of an ORW. The provisions of this section shall not affect short term or temporary activities that do not alter the essential character or special uses of a segment, allocation of water rights, or operations of water diversions or impoundments, provided that such activities shall be conducted in conformance with applicable laws and regulations. ()

g. Restriction of Point Source Discharges to ORWs. The water quality of ORWs shall be maintained and protected. Point source discharges that may cause degradation to ORWs may be allowed only if they are offset by reductions in other discharges per Subsection 052.06.c. ()

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.17 - RULES FOR THE RECLAMATION AND REUSE OF MUNICIPAL AND INDUSTRIAL WASTEWATER

DOCKET NO. 58-0117-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Sixty-first Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the [Idaho Administrative Bulletin, September 1, 2010, Vol. 10-9, pages 470 through 511](#). After consideration of public comments, the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at http://www.deq.idaho.gov/rules/waste_water/58_0117_1001_pending.cfm or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to the Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater. Therefore, the changes to these rules are not broader in scope or more stringent than federal law or regulations.

This rulemaking does revise rules and standards necessary to protect human health and the environment. The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code. Information relating to Section 39-107D(2) has also been provided.

Section 39-107D(2)(a), Idaho Code. To the degree that a department action is based on science, the department shall utilize the best available peer reviewed science and supporting studies conducted in accordance with sound objective scientific practices.

The rule changes were initiated for clarification purposes rather than for scientific reasons. By clarifying the language in the Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater, DEQ is facilitating more efficient implementation of the rule, thereby reducing the economic burden on the regulated community. Improved rules also allow the public to better understand the requirements imposed on the regulated community to protect human health and the environment. Specifically, the changes to the rule improve upon the administrative process to determine the permit conditions for municipal and industrial wastewater reuse facilities. The administrative improvements in the rule are not based on science. DEQ has, however, relied upon its experience dealing with reuse activities in drafting the changes to the rule.

Section 39-107D(2)(b), Idaho Code. To the degree that a department action is based on science, the department shall utilize data collected by accepted methods or best available methods if the reliability of the method and the nature of the decision justifies use of the data.

This provision is not applicable because the rule changes are for the purpose of clarifying existing rule language. Please see explanation above.

Section 39-107D(3), Idaho Code. Any proposed rule subject to this section which proposes a standard necessary to protect human health and the environment shall also include in the rulemaking record requirements under chapter 52, title 67, Idaho Code, the following additional information:

(a) Identification of each population or receptor addressed by an estimate of public health effects or environmental effects;

- (b) Identification of the expected risk or central estimate of risk for the specific population or receptor;
- (c) Identification of each appropriate upper bound or lower bound estimate of risk;
- (d) Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty; and
- (e) Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data.

The changes to the rule improve upon the administrative process to determine the permit conditions for municipal and industrial wastewater reuse facilities in order to protect human health and the environment. The rule changes in this rulemaking are not based upon any analysis of risk to specific populations or receptors, but rather improve upon the permitting process necessary to minimize risk to human health and the environment posed by permitted reuse facilities. Therefore, DEQ has no additional information relevant to this rulemaking pursuant to Section 39-107D(3).

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Olga Cuzmanov at olga.cuzmanov@deq.idaho.gov, (208)373-0449.

Dated this 12th day of November, 2010.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

DOCKET NO. 58-0117-1001 - 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 10-9, September 1, 2010, pages 470 through 511.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting
review and approval by the 2011 Idaho State Legislature for final adoption.**

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0103-1001

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2011 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

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

Idaho Code section 59-1322(1) requires the Retirement Board establish contribution rates to fund benefits, within certain constraints. The Retirement Board has determined based on actuarial values of reserves and liabilities that it is necessary to increase the contributions necessary to fund the level of benefits authorized by the plan. Increase contribution rates by a total of 5.28%. The increase is to be phased in over a 3 year period. These increases will affect employees and employers, since, by law, contributions are allocated 37.5% to employees and 62.5% to employers.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The only amendment is to the effective date of the contribution rate increases, which now begin July 1, 2012. 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 4, 2010, Idaho Administrative Bulletin, Vol. 10-8, pages 224 through 227.

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

Employer contribution rates will increase by a total of 3.26% (of payroll) over a three-year period, beginning July 1, 2012. This will affect the general fund as the state is a PERSI employer, to the extent that an agency's PERSI employer fund contributions are made from general fund dollars.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, PERSI, 287-9271.

DATED this 7th of December, 2010.

Don Drum
Executive Director
Public Employee Retirement System of Idaho
607 N. 8th Street, Boise, ID 83702
P.O. Box 83720, Boise, ID 83720-0078
Phone: 208-287-9230
Fax: 208-334-3408

DOCKET NO. 59-0103-1001 - ADOPTION OF PENDING RULE

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

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

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, **Volume 10-8, August 4, 2010, pages 224 and 227.**

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2011 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 59-0103-1001

Docket No. 59-0103-1001 is Being Reprinted in its Entirety

026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (RULE 26).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, shall be nine point seventy-seven percent (9.77%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point thirty-nine percent (10.39%) of payroll through June 30, 2012. Beginning July 1, 2012, the rate shall be eleven point thirty-two percent (11.32%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be twelve point twenty-four percent (12.24%) of payroll through June 30, 2014. Beginning July 1, 2014, the rate shall be thirteen point sixty-five percent (13.65%) of payroll until next determined by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(5-8-09)~~(_____)

027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (RULE 27).

The Firefighter Retirement Fund employer rate shall be: (10-1-94)

01. Option I And II Firefighters. For option I and II firefighters hired before October 1, 1980, as follows:

Option I And II Firefighters	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll <u>through June 30, 2012. Beginning July 1, 2012, the rate shall be eleven point sixty-six percent (11.66%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be twelve point fifty-eight percent (12.58%) of payroll through June 30, 2014. Beginning July 1, 2014, the rate shall be thirteen point ninety-nine percent (13.99%) of payroll</u> until next determined by the Board.
Additional Employer Rate:	One percent (1.00%)
Social Security Rate:	Seven point sixty-five percent (7.65%)

Option I And II Firefighters	
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Thirty-six percent (36%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be thirty-six point sixty-two percent (36.62%) of payroll <u>through June 30, 2012. Beginning July 1, 2012, the rate shall be thirty seven point fifty-five percent (37.55%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be thirty eight point forty-seven percent (38.47%) of payroll through June 30, 2014. Beginning July 1, 2014, the rate shall be thirty nine point eighty-eight percent (39.88%) of payroll</u> until next determined by the Board.

~~(5-8-09)~~()

02. Class D Firefighters. For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund), as follows:

Class D Firefighters	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll <u>through June 30, 2012. Beginning July 1, 2012, the rate shall be eleven point sixty-six percent (11.66%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be twelve point fifty-eight percent (12.58%) of payroll through June 30, 2014. Beginning July 1, 2014, the rate shall be thirteen point ninety-nine percent (13.99%) of payroll</u> until next determined by the Board.
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Twenty-seven point thirty-five percent (27.35%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be twenty-seven point ninety-seven percent (27.97%) of payroll <u>through June 30, 2012. Beginning July 1, 2012, the rate shall be twenty eight point nine percent (28.9%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be twenty nine point eighty-two percent (29.82%) of payroll through June 30, 2014. Beginning July 1, 2014, the rate shall be thirty one point twenty-three percent (31.23%) of payroll</u> until next determined by the Board.

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) ~~(5-8-09)~~()

03. Class E Members. For class E members (general members who meet the definition of paid firefighter under Section 59-1391(f), Idaho Code, but are not firefighters as defined in Section 59-1302(16), Idaho Code) the employer general member contribution rate as provided in Rule 26, plus the excess merger costs specified in Subsection 027.01. (3-20-04)

028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (RULE 28).

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police officer member excluding those listed in Rule 29 of this chapter when applicable, and firefighters excluding those listed in Rule 27 of this chapter, shall be ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2012. Beginning July 1, 2012, the rate shall be eleven point sixty-six percent (11.66%) of payroll through June 30, 2013. Beginning July 1, 2013, the rate shall be twelve point fifty-eight percent (12.58%) of payroll through June 30, 2014. Beginning July 1, 2014, the rate shall be thirteen point ninety-nine percent (13.99%) of payroll until next determined

by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) ~~(5-8-09)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (RULE 100).

The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, for all members not classified as police members or firefighters, shall be five point eighty-six percent (5.86%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be six point twenty-three percent (6.23%) of salary through June 30, 2012. Beginning July 1, 2012, the rate shall be six point seventy-nine percent (6.79%) of salary through June 30, 2013. Beginning July 1, 2013, the rate shall be seven point thirty-four percent (7.34%) of salary through June 30, 2014. Beginning July 1, 2014, the rate shall be eight point nineteen percent (8.19%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(5-8-09)~~(____)

101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (RULE 101).

The employee contribution rate as provided in Section 59-1334, Idaho Code, for an employee classified as a police officer member is seven point twenty-one percent (7.21%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be seven point sixty-five percent (7.65%) of salary through June 30, 2012. Beginning July 1, 2012, the rate shall be eight point thirty-two percent (8.32%) of salary through June 30, 2013. Beginning July 1, 2013, the rate shall be eight point ninety-nine percent (8.99%) of salary through June 30, 2014. Beginning July 1, 2014, the rate shall be ten percent (10%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ~~(5-8-09)~~(____)

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LEGAL NOTICE

Summary of Proposed Rulemakings

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

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

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY 1410 N. Hilton, Boise, ID 83706-1255

***58-0101-1101, Rules for the Control of Air Pollution in Idaho.** (*Public Hearing Scheduled) Incorporates by reference the final rule for Prevention of Significant Deterioration (PSD) for Particulate Matter Less than 2.5 Micrometers ("PM2.5 Rule") adopted by EPA with an effective date of December 20, 2010 and published in the Federal Register on October 20, 2010. Comment by February 7, 2011.

NOTICE OF ADOPTION OF TEMPORARY RULE

Department of Health and Welfare
16-0310-1101, Medicaid Enhanced Plan Benefits
16-0310-1102, Medicaid Enhanced Plan Benefits

16-0411-1101, Developmental Disabilities Agencies

NOTICE OF VACATION OF PROPOSED RULEMAKING

State Board and Department of Education
08-0202-1001, Rules Governing Uniformity

Idaho State Tax Commission
35-0103-1002, Property Tax Administrative Rules

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/ 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

*Idaho Department of Administration
Office of the Administrative Rules Coordinator*

July 1, 1993 -- Present

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*This online index provides a history of all agency rulemakings from 1993 to the present.
It tracks all rulemaking activities on each chapter of rules and includes negotiated,
temporary, proposed, pending and final rules, public hearing notices,
vacated rulemaking notices, and executive orders of the Governor.*

ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*Idaho Department of Administration
Office of the Administrative Rules Coordinator*

March 29, 2010 -- December 1, 2010

*(eff. *PLR) - Final Rule Adoption Date Pending Legislative Review And Approval*

(eff. date)L - Denotes Adoption by Legislative Action

(eff. date)T - Temporary Rule Effective Date

SCR # - denotes the number of a Senate Concurrent Resolution (Legislative Action)

HCR # - denotes the number of a House Concurrent Resolution (Legislative Action)

*(This Abridged Index includes rules promulgated before March 29, 2010 that have not been
adopted as final rules and all rulemakings being promulgated after March 29, 2010 - Sine Die.)*

IDAPA 02 -- DEPARTMENT OF AGRICULTURE

(Rules of the Idaho State Soil and Water Conservation Commission have been moved from IDAPA 02 and re-indexed under IDAPA 60 pursuant to House Bill 576 - Session Law 279 - 2010 Legislative Session)

60-0000-1001 Notice of Legislative Action Creating the Idaho State Soil and Water Conservation Commission - House Bill 576, Session Law 279, Bulletin Vol. 10-9 (eff. 7-1-10)

02.01.04, Rules Governing the Idaho Preferred TM Promotion Program

02-0104-1001 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-7

02-0104-1001 Proposed Rulemaking, Bulletin Vol. 10-10

02-0104-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

02.02.14, Rules for Weights and Measures

02-0214-1001 Proposed Rulemaking, Bulletin Vol. 10-8

02-0214-1001 Adoption of Pending Rule, Bulletin Vol. 10-10 (eff. *PLR 2011)

02.04.08, Rules Governing Grade A Milk and Milk Products

02-0408-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 10-1-10)T

02-0408-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

02.04.09, Rules Governing Methods of Making Sanitation Ratings of Milk Shippers

02-0409-1001 Temporary and Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 10-8 (eff. 10-1-10)T

02-0409-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

02.04.10, Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers

02-0410-1001 Temporary and Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 10-8 (eff. 10-1-10)T

02-0410-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

02.04.11, Rules Governing Evaluation of Milk Laboratories

02-0411-1001 Temporary and Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 10-8 (eff. 10-1-10)T

02-0411-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

02.04.13, Rules Governing Raw Milk

02-0413-1001 Proposed Rulemaking, Bulletin Vol. 10-9

02-0413-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

02.04.14, Rules Governing Dairy Waste

02-0414-0902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 09-10

02.04.19, Rules Governing Domestic Cervidae

02-0419-1001 Proposed Rulemaking, Bulletin Vol. 10-10

02-0419-1001 Public Hearing, Bulletin Vol. 10-11

02-0419-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

02.04.21, Rules Governing the Importation of Animals

02-0421-1001 Notice of Temporary Rulemaking, Bulletin Vol. 10-6 (eff. 4-15-10)T

02-0421-1002 Proposed Rulemaking, Bulletin Vol. 10-10

02-0421-1002 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

02.04.29, Rules Governing Trichomoniasis

02-0429-1001 Proposed Rulemaking, Bulletin Vol. 10-10

02-0429-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

02.06.02, Rules Pertaining to the Idaho Commercial Feed Law

02-0602-1001 Proposed Rulemaking, Bulletin Vol. 10-10

02-0602-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

02.06.10, Rules Governing the Potato Cyst Nematode (*Globodera pallida*)

02-0610-0901 Temporary and Proposed Rule, Bulletin Vol. 09-12 (eff. 10-1-09)T

02-0610-0901 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5

02-0610-0901 Adoption of Pending Rule, Bulletin Vol. 10-10

02.06.12, Rules Pertaining to the Idaho Commercial Fertilizer Law

02-0612-1001 Proposed Rulemaking, Bulletin Vol. 10-10

02-0612-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

02.06.13, Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts in the State of Idaho

02-0613-0801 Notice of Intent to Promulgate Rules - Request for Written Comments, Bulletin Vol. 08-9

02-0613-0801 Notice of Intent to Promulgate Rules - Request for Written Comments, Bulletin Vol. 08-10

02-0613-0801 Notice of Intent to Promulgate Rules - Request for Written Comments, Bulletin Vol. 08-11

02.06.16, Crop Residue Disposal Rules

02-0616-1001 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 10-10

02-0616-1001 Adoption of Pending Rule (Chapter Repeal), Bulletin Vol. 10-12 (eff. *PLR 2011)

02.06.33, Organic Food Products Rules

02-0633-1001 Proposed Rulemaking, Bulletin Vol. 10-10

02-0633-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

02.06.41, Rules Pertaining to the Soil and Plant Amendment Act of 2001

02-0641-1001 Proposed Rulemaking, Bulletin Vol. 10-10

02-0641-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

IDAPA 03 -- STATE ATHLETIC COMMISSION

03.01.01, Rules of the State Athletic Commission

03-0101-1001 Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 10-10

03-0101-1001 Adoption of Pending Rule (Fee Rule), Bulletin Vol. 10-12 (eff. *PLR 2011)

IDAPA 04 -- OFFICE OF THE ATTORNEY GENERAL

04.11.01, Idaho Rules of Administrative Procedure of the Attorney General

04-1101-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 7-1-10)T

04-1101-1001 Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)

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05.01.01, Rules for Contract Providers

05-0101-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-5 (eff. 3-29-10)T

05-0101-1001 Adoption of Pending Rule, Bulletin Vol. 10-8 (eff. *PLR 2011)

05.01.05, Rules for Reintegration Providers

05-0105-1001 Temporary and Proposed Rulemaking (New Chapter), Bulletin Vol. 10-11 (eff. 12-1-10)T

05-0105-1001 Adoption of Pending Rule and Admendment to Temporary Rule, Bulletin Vol. 11-1 (eff. 3-29-10)T (eff. *PLR 2011)

IDAPA 06 -- STATE BOARD OF CORRECTION

06.01.01, Rules of the Board of Correction

06-0101-1001 Notice of Proclamation of Rulemaking, Bulletin Vol. 10-10 (eff. 11-5-10)

IDAPA 07 -- DIVISION OF BUILDING SAFETY

07.01.03, Rules of Electrical Licensing and Registration - General

07-0103-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-10 (eff. 9-1-10)T

07-0103-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

07.01.04, Rules Governing Electrical Specialty Licensing

07-0104-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-10 (eff. 9-1-10)T

07-0104-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

07.01.07, Rules Governing Continuing Education Requirements

07-0107-1001 Proposed Rulemaking, Bulletin Vol. 10-10

07-0107-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

07.02.05, Rules Governing Plumbing Safety Licensing

07-0205-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-10 (eff. 9-1-10)T

07-0205-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

07.03.01, Rules of Building Safety

07-0301-1001 Proposed Rulemaking, Bulletin Vol. 10-10

07-0301-1002 Proposed Rulemaking (Fee Rule), Bulletin Vol. 10-10

07-0301-1001 Adoption of Pending Rule and Temporary Rule, Bulletin Vol. 10-12 (eff. 1-1-11)T (eff. *PLR 2011)

07-0301-1002 Adoption of Pending Rule (Fee Rule), Bulletin Vol. 10-12 (eff. *PLR 2011)

07.03.11, Rules Governing Manufactured/Mobile Home Industry Licensing

07-0311-1001 Proposed Rulemaking, Bulletin Vol. 10-10

07-0311-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

07.04.02, Safety Rules for Elevators, Escalators, and Moving Walks

07-0402-1001 Proposed Rulemaking, Bulletin Vol. 10-10

07-0402-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

07.07.01, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems

07-0701-1001 Proposed Rulemaking, Bulletin Vol. 10-10

07-0701-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

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08.01.11, Registration of Postsecondary Educational Institutions and Proprietary Schools

08-0111-1001 Proposed Rulemaking, Bulletin Vol. 10-10

08-0111-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

08.02.02, Rules Governing Uniformity - State Board of Education Rules

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08-0202-1002 Proposed Rulemaking, Bulletin Vol. 10-10

- 08-0202-1003** Proposed Rulemaking, Bulletin Vol. 10-10
- 08-0202-1004** Temporary and Proposed Rulemaking, Bulletin Vol. 10-10 (eff. 8-11-10)T
- 08-0202-1001** Vacation of Proposed Rule, Bulletin Vol. 11-1
- 08-0202-1002** Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)
- 08-0202-1003** Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)
- 08-0202-1004** Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

08.02.03, Rules Governing Thoroughness - State Board of Education Rules

- 08-0203-1001** Adoption of Temporary Rule, Bulletin Vol. 10-1 (eff. 11-9-09)T (Expires Sine Die 2011)
- 08-0203-1001** OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5
- 08-0203-1001** Proposed Rulemaking, Bulletin Vol. 10-10
- 08-0203-1002** Proposed Rulemaking, Bulletin Vol. 10-10
- 08-0203-1003** Proposed Rulemaking, Bulletin Vol. 10-10
- 08-0203-1004** Temporary and Proposed Rulemaking, Bulletin Vol. 10-10 (eff. 8-11-10)T
- 08-0203-1001** Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)
- 08-0203-1002** Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)
- 08-0203-1003** Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)
- 08-0203-1004** Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

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- 09-0104-1001** Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 7-1-10)T
- 09-0104-1001** Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

09.01.06, Rules of the Appeals Bureau

- 09-0106-1001** Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 7-1-10)T
- 09-0106-1001** Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

09.01.30, Unemployment Insurance Benefits Administrative Rules

- 09-0130-1001** Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 7-1-10)T
- 09-0130-1001** Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

09.01.35, Unemployment Insurance Tax Administrative Rules

- 09-0135-1001** Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 7-1-10)T
- 09-0135-1001** Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

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AND PROFESSIONAL LAND SURVEYORS******10.01.01, Rules of Procedure***

- 10-0101-1001** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-6
- 10-0101-1001** Proposed Rulemaking, Bulletin Vol. 10-8
- 10-0101-1001** Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)

10.01.02, Rules of Professional Responsibility

- 10-0102-1001** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-6
- 10-0102-1001** Proposed Rulemaking, Bulletin Vol. 10-8
- 10-0102-1001** Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)

IDAPA 11 -- IDAHO STATE POLICE

11.03.01, Rules Governing Alcohol Testing, Idaho State Forensic Laboratory

- 11-0301-1001** Temporary and Proposed Rulemaking, Bulletin Vol. 10-10 (eff. 9-1-10)T
11-0301-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

11.05.01, Rules Governing Alcohol Beverage Control

- 11-0501-0902** Temporary Rulemaking, Bulletin Vol. 09-11 (9-1-09)T
11-0501-0902 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5
11-0501-0902 Proposed Rulemaking, Bulletin Vol. 10-11
11-0501-0902 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

11.10.01, Rules Governing Idaho Public Safety and Security Information System

- 11-1001-1001** Proposed Rulemaking, Bulletin Vol. 10-10
11-1001-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

11.11.01, Rules of the Idaho Peace Officer Standards and Training Council (POST)

- 11-1101-1001** Temporary Rulemaking, Bulletin Vol. 10-3 (eff. 1-12-10)T
11-1101-1001 Proposed Rulemaking, Bulletin Vol. 10-10
11-1101-1002 Proposed Rulemaking, Bulletin Vol. 10-10
11-1101-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)
11-1101-1002 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

11.11.02, Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers

- 11-1102-1001** Proposed Rulemaking, Bulletin Vol. 10-10
11-1102-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

11.11.03, Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Probation Officers

- 11-1103-1001** Proposed Rulemaking, Bulletin Vol. 10-10
11-1103-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

11.11.04, Rules of the Idaho Peace Officer Standards and Training Council for Correctional Officers and Adult Probation and Parole Officers

- 11-1104-1001** Proposed Rulemaking, Bulletin Vol. 10-10
11-1104-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

11.11.05, Rules of the Idaho Peace Officer Standards and Training Council for Idaho Department of Juvenile Corrections Direct Care Staff

- 11-1105-1001** Proposed Rulemaking, Bulletin Vol. 10-10
11-1105-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

11.11.06, Rules of the Idaho Peace Officer Standards and Training Council for Misdemeanor Probation Officers

- 11-1106-1001** Proposed Rulemaking (New Chapter), Bulletin Vol. 10-10
11-1106-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

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THE IDAHO DEPARTMENT OF FISH AND GAME******13.01.02, Public Safety - Idaho Fish and Game Commission***

- 13-0102-1001** Temporary and Proposed Rulemaking, Bulletin Vol. 10-9 (eff. 7-12-10)T
13-0102-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

13.01.04, Rules Governing Licensing

- 13-0104-1001** Proposed Rulemaking, Bulletin Vol. 10-9
13-0104-1002 Temporary and Proposed Rulemaking, Bulletin Vol. 10-9 (eff. 7-12-10)T

13-0104-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

13-0104-1002 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

13.01.06, *Classification and Protection of Wildlife*

13-0106-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-9 (eff. 7-12-10)T

13-0106-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

13.01.07, *Rules Governing the Taking of Upland Game Animals*

13-0107-1001P Notice of Proposed Proclamation, Bulletin Vol. 11-1

13.01.08, *Rules Governing the Taking of Big Game Animals in the State of Idaho*

13-0108-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-9 (eff. 7-12-10)T

13-0108-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

13-0108-1002P Notice of Proposed Proclamation, Bulletin Vol. 11-1

13.01.09, *Rules Governing the Taking of Game Birds in the State of Idaho*

13-0109-1001 Proposed Rulemaking, Bulletin Vol. 10-9

13-0109-1002 Temporary and Proposed Rulemaking, Bulletin Vol. 10-9 (eff. 7-12-10)T

13-0109-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

13-0109-1002 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

13-0109-1003P Notice of Proposed Proclamation, Bulletin Vol. 11-1

13-0109-1004P Notice of Proposed Proclamation, Bulletin Vol. 11-1

13.01.10, *Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife*

13-0110-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-9 (eff. 7-12-10)T

13-0110-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

13.01.14, *Rules Governing Falconry*

13-0114-1001P Notice of Proposed Proclamation, Bulletin Vol. 11-1

13.01.16, *The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals*

13-0116-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-9 (eff. 7-12-10)T

13-0116-1002 Temporary and Proposed Rulemaking, Bulletin Vol. 10-10 (eff. 8-18-10)T

13-0116-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

13-0116-1002 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

13-0116-1003P Notice of Proposed Proclamation, Bulletin Vol. 11-1

13.01.17, *Rules Governing the Use of Bait for Taking Big Game Animals*

13-0117-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-9 (eff. 7-12-10)T

13-0117-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

IDAPA 15 -- OFFICE OF THE GOVERNOR

Executive Orders of the Governor

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Executive Order No. **2010-10** Bulletin Vol. 10-11

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Division of Human Resources and Personnel Commission

IDAPA 28.01.01, "Rules of the Idaho Personnel Commission" were transferred to the Division of Human Resources and Personnel Commission under the Office of the Governor effective July 1, 1999 and redesignated as IDAPA 15.04.01/

15.04.01, Rules of the Division of Human Resources and Personnel Commission

- 15-0401-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 7-1-10)T
- 15-0401-1002 Proposed Rulemaking, Bulletin Vol. 10-10
- 15-0401-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)
- 15-0401-1002 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

IDAPA 16 -- DEPARTMENT OF HEALTH AND WELFARE**16.02.02, Rules of the Emergency Medical Services (EMS) Physician Commission**

- 16-0202-1001 Proposed Rulemaking, Bulletin Vol. 10-7
- 16-0202-1001 Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)

16.02.03, Rules Governing Emergency Medical Services

- 16-0203-0901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 09-5
- 16-0203-0901 Temporary and Proposed Rulemaking, Bulletin Vol. 09-10 (eff. 7-1-09)T
- 16-0203-0901 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5
- 16-0203-1001 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 10-9
- 16-0203-1002 Proposed Rulemaking, Bulletin Vol. 10-9
- 16-0203-1003 Proposed Rulemaking (Fee Rule), Bulletin Vol. 10-9
- 16-0203-1001 Vacation of Proposed Rulemaking, Bulletin Vol. 10-12
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- 16-0203-1003 Vacation of Proposed Rulemaking, Bulletin Vol. 10-12

16.02.06, Quality Assurance for Idaho Clinical Laboratories

- 16-0206-1001 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-5
- 16-0206-1001 Proposed Rulemaking, Bulletin (Chapter Repeal) Vol. 10-8
- 16-0206-1002* Proposed Rulemaking, Bulletin (Chapter Rewrite) Vol. 10-8
 - *Changes chapter name from: "Rules Governing Quality Assurance for Idaho Clinical Laboratories"
to: "Quality Assurance for Idaho Clinical Laboratories"
- 16-0206-1001 Adoption of Pending Rule, (Chapter Repeal) Bulletin Vol. 11-1 (eff. *PLR 2011)
- 16-0206-1002 Adoption of Pending Rule, (Chapter Rewrite) Bulletin Vol. 11-1 (eff. *PLR 2011)

16.02.08, Vital Statistics Rules

- 16-0208-1001 Proposed Rulemaking (Fee Rule), Bulletin Vol. 10-9
- 16-0208-1001 Adoption of Pending Fee Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

16.02.11, Immunizations Requirements for Children Attending Licensed Day Care Facilities in Idaho

- 16-0211-1001 Proposed Rulemaking, Bulletin Vol. 10-9
- 16-0211-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

16.02.13, State of Idaho Drinking Water Laboratory Certification Program

- 16-0213-1001 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-5
- 16-0213-1001 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 10-9
- 16-0213-1002* Proposed Rulemaking (Chapter Rewrite - Fee Rule), Bulletin Vol. 10-9
 - *Changes chapter name from: "Rules Governing Certification of Idaho Water Quality Laboratories"
to: "State of Idaho Drinking Water Laboratory Certification Program"
- 16-0213-1001 Adoption of Pending Fee Rule (Chapter Repeal), Bulletin Vol. 11-1 (eff. *PLR 2011)
- 16-0213-1002 Adoption of Pending Fee Rule (Chapter Rewrite), Bulletin Vol. 11-1 (eff. *PLR 2011)

16.02.15, Immunization Requirements for Idaho School Children

- 16-0215-1001 Proposed Rulemaking, Bulletin Vol. 10-9
- 16-0215-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

16.03.01, Eligibility for Health Care Assistance for Families and Children

- 16-0301-1001 Proposed Rulemaking, Bulletin Vol. 10-7
- 16-0301-1002 Temporary and Proposed Rulemaking, Bulletin Vol. 10-10 (eff. (4-1-09)T - (12-19-09)T - (1-1-10)T - (9-1-10)T)
- 16-0301-1001 Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)
- 16-0301-1002 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)
- 16-0301-1003 Temporary and Proposed Rulemaking, Bulletin Vol. 10-12 (eff. (1-1-11)T)

16.03.03, Rules Governing Child Support Services

- 16-0303-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-12 (eff. (1-1-11)T)

16.03.04, Rules Governing the Food Stamp Program in Idaho

- 16-0304-0902 Temporary Rulemaking, Bulletin Vol. 09-7 (eff. 6-1-09)T (Expires May 31, 2010)
- 16-0304-0902 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5 (Expires 5-31-10)
- 16-0304-1001 Temporary Rulemaking, Bulletin Vol. 10-7 (eff. 6-1-10)T (Expires May 31, 2011)
- 16-0304-1002 Proposed Rulemaking, Bulletin Vol. 10-10
- 16-0304-1003 Temporary and Proposed Rulemaking, Bulletin Vol. 10-10 (eff. (12-19-09)T - (1-1-10)T - (7-1-10)T - (10-1-10)T)
- 16-0304-1002 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)
- 16-0304-1003 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)
- 16-0304-1004 Temporary and Proposed Rulemaking, Bulletin Vol. 10-12 (eff. (1-1-11)T)

16.03.05, Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)

- 16-0305-0904 Temporary and Proposed Rulemaking, Bulletin Vol. 09-12 (eff. (1-1-10)T)
- 16-0305-0904 Adoption of Pending and Amendment to Temporary Rule, Bulletin Vol. 10-4 (eff. (1-1-10)T)
- 16-0305-0904 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5
- 16-0305-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-6 (eff. 7-1-10)T
- 16-0305-1001 Notice of Public Hearing and Extension of Written Comment Period, Bulletin Vol. 10-8
- 16-0305-1002 Temporary and Proposed Rulemaking, Bulletin Vol. 10-9 (eff. (12-19-09)T - (1-1-10)T - (9-1-10)T)
- 16-0305-1002 Notice of Public Hearing and Extension of Written Comment Period, Bulletin Vol. 10-10
- 16-0305-1001 Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)
- 16-0305-1002 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)
- 16-0305-1003 Temporary and Proposed Rulemaking, Bulletin Vol. 10-12 (eff. (1-1-11)T)

16.03.08, Rules Governing Temporary Assistance for Families in Idaho

- 16-0308-1001 Proposed Rulemaking, Bulletin Vol. 10-5
- 16-0308-1001 Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)
- 16-0308-1002 Temporary and Proposed Rulemaking, Bulletin Vol. 10-12 (eff. (1-1-11)T)

16.03.09, Medicaid Basic Plan Benefits

- 16-0309-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 7-1-10)T
- 16-0309-1002 Temporary and Proposed Rulemaking, Bulletin Vol. 10-8 (eff. 9-1-10)T
- 16-0309-1003 Temporary and Proposed Rulemaking, Bulletin Vol. 10-9 (eff. 7-1-10)T
- 16-0309-1004 Temporary Rulemaking, Bulletin Vol. 10-9 (eff. 7-1-10)T - Expires June 30, 2011
- 16-0309-1002 Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)
- 16-0309-1005 Notice of Agency Action Regarding The Adoption of Temporary Rules, Bulletin Vol. 10-11
- 16-0309-1001 Adoption of Pending and Amendment to Temporary Rule, Bulletin Vol. 10-12 (eff. (7-1-10)T, *PLR 2011)
- 16-0309-1005 Temporary Rulemaking, Bulletin Vol. 10-12 (eff. 1-1-11)T - Expires June 30, 2011
- 16-0309-1003 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

16.03.10, Medicaid Enhanced Plan Benefits

- 16-0310-0902 Temporary and Proposed Rulemaking, Bulletin Vol. 09-1 (eff. 1-1-09)T
- 16-0310-0902 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 108, Bulletin Vol. 09-6
- 16-0310-0902 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5
- 16-0310-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-5 (eff. 1-1-10)T
- 16-0310-1001 Notice of Public Hearing and Extension of Written Comment Period, Bulletin Vol. 10-7
- 16-0310-1002 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-7
- 16-0310-1002 Proposed Rulemaking, Bulletin Vol. 10-9

- 16-0310-1003 Temporary and Proposed Rulemaking, Bulletin Vol. 10-9 (eff. 7-1-10)T
- 16-0310-1004 Temporary Rulemaking, Bulletin Vol. 10-9 (eff. 7-1-10)T (*Expires June 30, 2011*)
- 16-0310-1001 Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)
- 16-0310-1005 Temporary and Proposed Rulemaking, Bulletin Vol. 10-11 (eff. 11-1-10)T
- 16-0310-1006 Notice of Agency Action Regarding The Adoption of Temporary Rules, Bulletin Vol. 10-11
- 16-0310-1006 Temporary Rulemaking, Bulletin Vol. 10-12 (eff. 1-1-11)T - *Expires June 30, 2011*
- 16-0310-1007 Temporary and Proposed Rulemaking, Bulletin Vol. 10-12 (eff. 1-1-11)T
- 16-0310-1002 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)
- 16-0310-1003 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)
- 16-0310-1101 Temporary Rulemaking, Bulletin Vol. 11-1 (eff. 9-1-10)T - (1-1-11)T - *Expires June 30, 2011*
- 16-0310-1102 Temporary Rulemaking, Bulletin Vol. 11-1 (eff. 10-1-10)T - *Expires June 30, 2011*

16.03.13, Consumer-Directed Services

- 16-0313-1001 Adoption of Temporary Rule, Bulletin Vol. 10-1 (eff. 1-1-10)T (*Expires 3-29-10*)
- 16-0313-1002 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-7
- 16-0313-1002 Proposed Rulemaking, Bulletin Vol. 10-9
- 16-0311-1002 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

16.03.19, Rules Governing Certified Family Homes

- 16-0319-1001 Proposed Rulemaking, Bulletin Vol. 10-9
- 16-0319-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

16.03.21, Developmental Disabilities Agencies (DDA)

- 16-0321-1001 Proposed Rulemaking (New Chapter), Bulletin Vol. 10-9
- 16-0321-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

16.03.22, Residential Care or Assisted Living Facilities in Idaho

- 16-0322-1001 Proposed Rulemaking, Bulletin Vol. 10-10
- 16-0322-1001 Vacation of Proposed Rulemaking, Bulletin Vol. 10-12

16.03.24, The Medically Indigent Program - Request for Medicaid Eligibility Determination

- 16-0324-1001 Temporary and Proposed Rulemaking (New Chapter), Bulletin Vol. 10-7 (eff. 7-1-10)T
- 16-0324-1001 Adoption of Pending Rule and Amendment to Temporary Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)

16.04.11, Developmental Disabilities Agencies (DDA)

- 16-0411-1001 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-7
- 16-0411-1001 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 10-9
- 16-0411-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)
- 16-0411-1101 Adoption of Temporary Rule, Bulletin Vol. 11-1 (eff. 1-1-11)T

16.05.04, Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding

- 16-0504-1001 Proposed Rulemaking, Bulletin Vol. 10-10
- 16-0504-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

16.05.06, Criminal History and Background Checks

- 16-0506-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-7 (eff. 5-1-10)T - (7-1-10)T
- 16-0506-1002 Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 10-7 (eff. 7-1-10)T
- 16-0506-1001 Adoption of Pending Rule and Amendment to Temporary Rule, Bulletin Vol. 11-1 (eff. 9-1-10)T (eff. *PLR 2011)
- 16-0506-1002 Adoption of Pending Fee Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

16.06.01, Rules Governing Family and Children's Services

- 16-0601-1001 Proposed Rulemaking, Bulletin Vol. 10-9
- 16-0601-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

16.06.02, Rules Governing Standards for Child Care Licensing

- 16-0602-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-7 (eff. 7-1-10)T
- 16-0602-1002 Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 10-7 (eff. 7-1-10)T
- 16-0602-1003 Proposed Rulemaking, Bulletin Vol. 10-9
- 16-0602-1001 Adoption of Pending Rule and Amendment to Temporary Rule, Bulletin Vol. 11-1 (eff. 7-1-10)T (eff. *PLR 2011)
- 16-0602-1003 Adoption of Pending Fee Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)
- 16-0602-1003 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

16.06.12, Rules Governing the Idaho Child Care Program (ICCP)

- 16-0612-1001 Temporary Rulemaking, Bulletin Vol.10-4 (eff. 1-1-10)T
- 16-0612-1001 Proposed Rulemaking, Bulletin Vol. 10-5
- 16-0612-1002 Proposed Rulemaking, Bulletin Vol. 10-10
- 16-0612-1001 Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)
- 16-0612-1002 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)
- 16-0612-1003 Temporary and Proposed Rulemaking, Bulletin Vol. 10-12 (eff. 1-1-11)T

16.07.37, Children's Mental Health Services

- 16-0737-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-6 (eff. 5-1-10)T
- 16-0737-1001 Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)

16.07.50, Rules and Minimum Standards Governing Non-Hospital, Medically-Monitored Detoxification/Mental Health Diversion Units

- 16-0750-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-10 (10-1-10)T
- 16-0750-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

IDAPA 17 -- INDUSTRIAL COMMISSION***17.02.03, Administrative Rules of the Industrial Commission Under the Worker's Compensation Law - Security for Compensation***

- 17-0203-1001 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 10-10
- 17-0203-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

17.02.05, Administrative Rules of the Industrial Commission Under Worker's Compensation Law - Industrial Commission

- 17-0205-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-7 (eff. 7-1-10)T
- 17-0205-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

17.02.08, Miscellaneous Provisions

- 17-0208-1001 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 10-10
- 17-0208-1002 Proposed Rulemaking (Chapter Rewrite), Bulletin Vol. 10-10
- 17-0208-1001 Adoption of Pending Rule (Chapter Repeal), Bulletin Vol. 11-1 (eff. *PLR 2011)
- 17-0208-1002 Adoption of Pending Rule (Chapter Rewrite), Bulletin Vol. 11-1 (eff. *PLR 2011)

17.02.09, Medical Fees

- 17-0209-1001 Proposed Rulemaking (New Chapter), Bulletin Vol. 10-10
- 17-0209-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

17.02.10,- Administrative Rules of the Industrial Commission Under The Workers' Compensation Law -- Security For Compensation - Insurance Carriers

- 17-0210-1001 Proposed Rulemaking (New Chapter), Bulletin Vol. 10-10
- 17-0210-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

17.02.11, Administrative Rules of the Industrial Commission Under The Workers' Compensation Law - Security For Compensation - Self-Insured Employers

- 17-0211-1001 Proposed Rulemaking (New Chapter), Bulletin Vol. 10-10
17-0211-1001 Adoption of Pending Fee Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

17.05.01, Rules Under the Crime Victims Compensation Act

- 17-0501-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-7 (eff. 7-1-10)T
17-0501-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

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- 18-0104-1001 Proposed Rulemaking (New Chapter), Bulletin Vol. 10-10
18-0104-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

18.01.05, Health Carrier External Review

- 18-0105-0901 Temporary and Proposed Rulemaking (New Chapter), Bulletin Vol. 09-12 (eff. 1-1-10)T
18-0105-0901 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5
18-0105-0901 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

18.01.25, Title Insurance and Title Insurance Agents and Escrow Officers

- 18-0125-1001 Proposed Rulemaking, Bulletin Vol. 10-9
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18.01.30, Individual Disability and Group Supplemental Disability Insurance Minimum Standards Rule

- 18-0130-0901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 09-5

18.01.47, Valuation of Life Insurance Policies Including the Introduction and Use of New Select Mortality Factors

- 18-0147-1001 Proposed Rulemaking, Bulletin Vol. 10-9
18-0147-1001 Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)

18.01.50, Adoption of the International Fire Code

- 18-0150-1001* Proposed Rulemaking, Bulletin Vol. 10-10
18-0150-1001* Adoption of Pending Rule and Adoption of Temporary Rule, Bulletin Vol. 10-12 (eff. *PLR 2011, (1-1-11)T)
*Rulemaking changes chapter name to: "Adoption of the International Fire Code"
from: "Adoption of the 2006 International Fire Code"

18.01.53, Continuing Education

- 18-0153-1001 Proposed Rulemaking, Bulletin Vol. 10-9
18-0153-1001 Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)

18.01.56, Rebates and Illegal Inducements to Obtaining Title Insurance Business

- 18-0156-1001 Proposed Rulemaking, Bulletin Vol. 10-9
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18.01.66, Director's Authority for Companies Deemed to Be in Hazardous Financial Condition

- 18-0166-1001 Proposed Rulemaking, Bulletin Vol. 10-9
18-0166-1001 Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)

18.01.77, Actuarial Opinion and Memorandum Rule

- 18-0177-1001 Proposed Rulemaking, Bulletin Vol. 10-9
18-0177-1001 Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)

18.01.79, Recognition of Preferred Mortality Tables for Use In Determining Minimum Reserve Liabilities

- 18-0179-1001 Proposed Rulemaking, Bulletin Vol. 10-9
18-0179-1001 Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)

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19.01.01, Rules of the Idaho State Board of Dentistry

- 19-0101-1001** Proposed Rulemaking, Bulletin Vol. 10-10
- 19-0101-1001** Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

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20.02.11, Timber Supply Stabilization Act of 1989 on State Forests

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- 20-0211-1001** Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

20.02.14, Rules for Selling Forest Products on State-Owned Endowment Lands

- 20-0214-1001** Proposed Rulemaking, Bulletin Vol. 10-10
- 20-0214-1001** Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

20.03.04, The Regulation of Beds, Waters, and Airspace over Navigable Lakes in the State of Idaho

- 20-0304-1001** Proposed Rulemaking (Fee Rule), Bulletin Vol. 10-10
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23.01.01, Rules of the Idaho Board of Nursing

- 23-0101-1001** Proposed Rulemaking, Bulletin Vol. 10-10
- 23-0101-1001** Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)
- 23-0101-1002** Adoption of Temporary Rule, Bulletin Vol. 10-12 (eff. 11-5-10)T

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24.01.01, Rules of the Board of Architectural Examiners

- 24-0101-0902** Temporary and Proposed Rulemaking, Bulletin Vol. 09-12 (eff. 9-18-09)T
- 24-0101-0902** OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5
- 24-0101-0902** Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

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- 24-0201-1001** Proposed Rulemaking, Bulletin Vol. 10-10
- 24-0201-1002** Temporary and Proposed Rulemaking, Bulletin Vol. 10-10 (eff. 8-11-10)T
- 24-0201-1001** Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)
- 24-0201-1002** Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

24.03.01, Rules of the State Board of Chiropractic Physicians

- 24-0301-1001** Proposed Rulemaking, Bulletin Vol. 10-10
- 24-0301-1001** Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

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- 24-0601-1001** Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

24.08.01, Rules of the State Board of Morticians

- 24-0801-1001** Proposed Rulemaking, Bulletin Vol. 10-10

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24.14.01, Rules of the State Board of Social Work Examiners

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24-1401-1001 Adoption of Pending Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

24.22.01, Rules of the Idaho Liquefied Petroleum Gas Safety Board

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24.25.01, Rules of the Idaho Driving Businesses Licensure Board

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24-2601-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-7 (eff. 4-30-10)T

24-2601-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

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26-0120-1001 Adoption of Pending Fee Rule, Bulletin Vol. 11-1 (eff. *PLR 2011)

26.01.34, Idaho Protection Against Invasive Species Sticker Rules

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27-0101-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

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- 31-0101-1001** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-4
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- 31-1101-1001** Proposed Rulemaking, Bulletin Vol. 10-10
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- 32-0101-1001** Temporary Rulemaking (Fee Rule - New Chapter), Bulletin Vol. 10-5 (eff. 3-30-10)T
- 32-0101-1001** Proposed Rulemaking (Fee Rule - New Chapter), Bulletin Vol. 10-10
- 32-0101-1001** Adoption of Pending Fee Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

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- 34-0101-1001** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 10-10
- 34-0101-1001** Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

34.01.02, Rules Governing Facsimile Service and Fees

- 34-0102-1001** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 10-10
- 34-0102-1001** Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

34.01.03, Rules Governing the Public Access Information System (PAIS)

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34.01.04, Rules Governing the Electronic Bulletin Board

- 34-0104-1001** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 10-10
- 34-0104-1001** Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

34.05.01, Rules Governing Farm Products Central Filing System

- 34-0501-1001** Proposed Rulemaking, Bulletin Vol. 10-9
- 34-0501-1001** Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)

34.05.02, Rules Governing Liens in Crops, For Seed, and Farm Labor

- 34-0502-1001*** Proposed Rulemaking, Bulletin Vol. 10-9
 - 34-0502-1001*** Adoption of Pending Rule, Bulletin Vol. 10-11 (eff. *PLR 2011)
- *Changes chapter name from: "Rules Governing Liens in Crops, For Seed, and Farm Labor"
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34.05.04, Rules Governing Public Access to UCC Files

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34-0504-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

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- 35-0101-1002** Proposed Rulemaking, Bulletin Vol. 10-10
- 35-0101-1003** Proposed Rulemaking, Bulletin Vol. 10-10
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- 59-0105-1001** Proposed Rulemaking, Bulletin Vol. 10-8
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- 59-0106-0901** Temporary Rulemaking, Bulletin Vol. 09-3 (eff. 3-1-09)T
59-0106-0901 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5
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59-0106-1001 Adoption of Pending Rule, Bulletin Vol. 10-12 (eff. *PLR 2011)

IDAPA 60 -- IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION

(Rules of the Idaho State Soil and Water Conservation Commission have been moved from IDAPA 02 and re-indexed under IDAPA 60. This action is being done pursuant to the legislative intent of House Bill 576 - Session Law 279 - 2010 Legislative Session)

(These rules were formerly indexed under the Department of Lands (IDAPA 20) and the Department of Agriculture (IDAPA 02) and were governed by the Soil Conservation Commission)

- 60-0000-1001** Notice of Legislative Action Affecting the Idaho Soil and Water Conservation Commission - House Bill 576, Session Law 279, Bulletin Vol. 10-9 (eff. 7-1-10)

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