

# IDAHO ADMINISTRATIVE BULLETIN

January 4, 2012 -- Volume 12-1

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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 that are statutorily required to be published in the Bulletin. All official rulemaking notices, official rule text, executive orders of the Governor, all legislative documents affecting rules, and other such documents an agency may want promulgated through the Bulletin.

State agencies are required to provide public notice of all proposed rulemaking actions and must invite public input once formal rulemaking procedures have been initiated. The public receives notice that an agency has initiated formal rulemaking procedures through the Idaho Administrative Bulletin and a Public Notice of Intent (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 whether any amendments have been made to the rule, the reader should refer to the **Cumulative Rulemaking Index** that can be accessed through the Administrative Rules homepage at [adminrules.idaho.gov](http://adminrules.idaho.gov).

## 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 incorporate all five of these actions. 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 normally results in the formulation of a proposed and the initiation of formal rulemaking procedures but the result may also be that formal rulemaking is not initiated and no further action is taken by the agency. The rulemaking effectively stops before it gets started.

## **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.

Any proposed rulemaking that is 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: [adminrules.idaho.gov](http://adminrules.idaho.gov)

### **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: [adminrules.idaho.gov](http://adminrules.idaho.gov)

## 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 2011**

<b>Vol. No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
11-1	January 2011	<b>*November 19, 2010</b>	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 11, 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 13, 2011	June 1, 2011	June 22, 2011
11-7	July 2011	June 10, 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	<b>**August 31, 2011</b>	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

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2012**

<b>Vol. No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
12-1	January 2012	<b>*November 25, 2011</b>	January 4, 2012	January 25, 2012
12-2	February 2012	January 13, 2012	February 1, 2012	February 22, 2012
12-3	March 2012	February 10, 2012	March 7, 2012	March 28, 2012
12-4	April 2012	March 9, 2012	April 4, 2012	April 25, 2012
12-5	May 2012	April 6, 2012	May 2, 2012	May 23, 2012
12-6	June 2012	May 4, 2012	June 6, 2012	June 27, 2012
12-7	July 2012	June 8, 2012	July 4, 2012	July 25, 2012
12-8	August 2012	July 6, 2012	August 1, 2012	August 22, 2012
12-9	September 2012	August 3, 2012	September 5, 2012	September 28, 2012
12-10	October 2012	<b>**August 31, 2012</b>	October 3, 2012	October 24, 2012
12-11	November 2012	October 5, 2012	November 7, 2012	November 28, 2012
12-12	December 2012	November 2, 2012	December 5, 2012	December 26, 2012

***\*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.***

<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS</b>	
<b>IDAPA 01</b>	<b>Accountancy</b> , Board of
<b>IDAPA 38</b>	<b>Administration</b> , Department of
<b>IDAPA 44</b>	<b>Administrative Rules Coordinator</b> , Office of the
<b>IDAPA 02</b>	<b>Agriculture</b> , Idaho Department of
<b>IDAPA 40</b>	<b>Arts</b> , Idaho Commission on the
<b>IDAPA 03</b>	<b>Athletic Commission</b>
<b>IDAPA 04</b>	<b>Attorney General</b> , Office of the
<b>IDAPA 53</b>	<b>Barley Commission</b> , Idaho
<b>IDAPA 51</b>	<b>Beef Council</b> , Idaho
<b>IDAPA 07</b>	<b>Building Safety</b> , Division of Electrical Board (07.01) Plumbing Board (07.02) Building Codes & Manufactured Homes (07.03) Building Code Advisory Board (07.03.01) Public Works Contractors License Board (07.05) Uniform School Building Safety (07.06) HVAC Board (07.07)
<b>IDAPA 43</b>	<b>Canola and Rapeseed Commission</b> , Idaho
<b>IDAPA 28</b>	<b>Commerce</b> , Idaho Department of
<b>IDAPA 06</b>	<b>Correction</b> , Board of
<b>IDAPA 19</b>	<b>Dentistry</b> , Board of
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<b>IDAPA 12</b>	<b>Finance</b> , Department of
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<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS</b>	
<b>IDAPA 15</b>	<b>Governor, Office of the</b> Idaho Commission on Aging (15.01) Idaho Commission for the Blind and Visually Impaired (15.02) Idaho Forest Products Commission (15.03) Division of Human Resources and Personnel Commission (15.04) Idaho Liquor Division (15.10) Idaho Emergency Communications Commission (15.06) Emergency Response Commission (15.13)
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<b>IDAPA 17</b>	<b>Industrial Commission</b>
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<b>IDAPA 05</b>	<b>Juvenile Corrections, Department of</b>
<b>IDAPA 09</b>	<b>Labor, Idaho Department of</b>
<b>IDAPA 20</b>	<b>Lands, Department of</b>
<b>IDAPA 30</b>	<b>Libraries, Commission for</b>
<b>IDAPA 52</b>	<b>Lottery Commission, Idaho State</b>
<b>IDAPA 22</b>	<b>Medicine, Board of</b>
<b>IDAPA 23</b>	<b>Nursing, Board of</b>



**ALPHABETICAL INDEX OF STATE AGENCIES  
AND CORRESPONDING IDAPA NUMBERS**

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<b>IDAPA 26</b>	<b>Parks and Recreation, Department of</b>
<b>IDAPA 27</b>	<b>Pharmacy, Board of</b>
<b>IDAPA 11</b>	<b>Police, Idaho State</b>
<b>IDAPA 29</b>	<b>Potato Commission, Idaho</b>
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<b>IDAPA 59</b>	<b>Public Employee Retirement System of Idaho (PERSI)</b>
<b>IDAPA 31</b>	<b>Public Utilities Commission</b>
<b>IDAPA 56</b>	<b>Rangeland Resources Commission, Idaho</b>
<b>IDAPA 33</b>	<b>Real Estate Commission, Idaho</b>
<b>IDAPA 34</b>	<b>Secretary of State, Office of the</b>
<b>IDAPA 57</b>	<b>Sexual Offender Classification Board</b>
<b>IDAPA 49</b>	<b>Shorthand Reporters Board, Idaho Certified</b>
<b>IDAPA 60</b>	<b>Soil and Water Conservation Commission, Idaho State</b>

<b>ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS</b>	
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<b>IDAPA 35</b>	<b>Tax Commission, State</b>
<b>IDAPA 39</b>	<b>Transportation Department, Idaho</b>
<b>IDAPA 54</b>	<b>Treasurer, Office of the State</b>
<b>IDAPA 21</b>	<b>Veterans Services, Division of</b>
<b>IDAPA 46</b>	<b>Veterinary Medical Examiners, Board of</b>
<b>IDAPA 47</b>	<b>Vocational Rehabilitation, Division of</b>
<b>IDAPA 37</b>	<b>Water Resources, Department of</b>
<b>IDAPA 42</b>	<b>Wheat Commission</b>

**IDAPA 05 - IDAHO DEPARTMENT OF JUVENILE CORRECTIONS**  
**05.01.02 - RULES AND STANDARDS FOR SECURE JUVENILE DETENTION CENTERS**  
**DOCKET NO. 05-0102-1101**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 20-504(9), 20-504(11), and 20-531(4), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any 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 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 83 through 103.](#)

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

The fiscal impact for the implementation of the Prison Rape Elimination Act (PREA) is still being determined by the federal government; there will be no other fiscal impact with these changes.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Sharon Harrigfeld, Director, Idaho Department of Juvenile Corrections at 334-5100 x 404.

DATED this 29th day of November, 2011.

Sharon Harrigfeld, Director  
Idaho Dept. of Juvenile Corrections  
954 W. Jefferson St.  
PO Box 83720, Boise, Idaho 83720-0285  
Phone: (208) 334-5100 ext. 404  
Fax: (208) 334-5120

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**DOCKET NO. 05-0102-1101 - 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 11-10, October 5, 2011, pages 83 through 103.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

**08.01.04 - RULES GOVERNING RESIDENCY CLASSIFICATION**

**DOCKET NO. 08-0104-1101**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105, 33-107 and 33-3717B, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 163 and 164.](#)

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Tracie Bent at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

DATED this 25th day of November, 2011.

Tracie Bent  
Chief Planning and Policy Officer  
Idaho State Board of Education  
650 W State Street  
PO Box 83720, Boise, ID 83720-0037  
Phone: (208)332-1582  
Fax: (208)334-2270

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**DOCKET NO. 08-0104-1101 - 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 11-10, October 5, 2011, pages 163 and 164.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

**08.01.09 - RULES GOVERNING THE GEAR UP IDAHO SCHOLARSHIP PROGRAM**

**DOCKET NO. 08-0109-1101 (NEW CHAPTER)**

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

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is November 3, 2011. This pending rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 33-105, and 33-107, Idaho Code.

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

IDAPA 08.01.09 is a new chapter of rule outlining the eligibility requirement and application process for students who have participated in the GEAR UP Idaho program to apply for a GEAR UP Idaho Scholarship. The language has been patterned after the process currently used in applying for the existing Idaho Opportunity Scholarship. Changes to the rule were a result of technical errors discovered during the promulgation process.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Board amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 165 through 172](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Tracie Bent at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

DATED this 25th day of November, 2011.

Tracie Bent  
Chief Planning and Policy Officer  
Idaho State Board of Education  
650 W State Street  
PO Box 83720, Boise, ID 83720-0037  
Phone: (208)332-1582  
Fax: (208)334-2270

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**DOCKET NO. 08-0109-1101 - ADOPTION OF PENDING RULE  
AND AMENDMENT TO TEMPORARY RULE**

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

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

The text of the temporary/proposed rule was published in the Idaho Administrative Bulletin, [Volume 11-10, October 5, 2011, pages 165 through 172.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEMPORARY RULE AND THE AMENDED PENDING RULE TEXT FOR DOCKET NO. 08-0109-1101

*[Subsection 010.05]*

010. DEFINITIONS.

05. ~~Administrative~~or. The Executive Director of the Idaho State Board of Education or his designee. ~~(6-24-11)T~~[\(11-3-11\)T](#)

*[Paragraph 200.01.a.]*

200. APPLICATION PROCESS.

01. Initial Applications. (6-24-11)T

a. An eligible student who has not yet graduated from an accredited high school or its equivalent in the state of Idaho must complete and submit the GEAR UP Idaho Scholarship Application to the Board electronically on or before the date specified in the application, but not later than January 15th. An applicant without electronic capabilities may receive assistance in completing the electronic application from ~~your~~ a high school counselor or from State Board of Education scholarship staff; ~~and may be submitted to the~~ Gear Up Idaho Scholarship Administrator through the United States Postal Service, which must be postmarked not later than January 15th. ~~(6-24-11)T~~[\(11-3-11\)T](#)

*[Subsection 200.02]*

02. **Announcement of Award.** Announcement of the award of initial scholarships for the 2012 - 2013 academic years will be made no later than May 15, 2012, with awards to be effective at the beginning of that academic year. The announcement of award recipients in future academic years will be made no later than May 1.

~~(6-24-11)~~T(11-3-11)T

**[Section 300]**

**300. SELECTION OF SCHOLARSHIP RECIPIENTS.**

Applications will be reviewed and awards selected based on financial need, hours of participation in the GEAR UP program and academic preparation based on a combination of the ACT score and cumulative ~~HS-GPA~~ *high school grade point average (GPA)*. Priority will be given to applicants who are eligible to receive Pell grant funding, as determined by the Free Application for Federal Student Aid (*FAFSA*). ~~(6-24-11)~~T(11-3-11)T

**[Paragraph 300.01.a.]**

**01. Academic Eligibility.** (6-24-11)T

a. Applicants for the GEAR UP Idaho scholarship are selected as recipients, in part, on the basis of their academic performance. The student applicant's high school ~~grade point average (GPA)~~ and ACT composite score are weighed equally to determine an applicant's academic rank. ~~(6-24-11)~~T(11-3-11)T

**[Paragraph 300.02.a.]**

**02. Financial Eligibility.** (6-24-11)T

a. Applicants for GEAR UP Idaho scholarship are selected as recipients, in part, on the basis of demonstrated financial need. The primary tool that will be used by the GEAR UP Scholarship Program officials to determine financial need will be the federal ~~Free Application for Federal Student Aid (FAFSA)~~, used by the United States Department of Education to determine eligibility for financial aid and an expected family's contribution (EFC) to a student's postsecondary education. The financial need of an applicant for a GEAR UP scholarship will be based on the validated expected family contribution, as identified by the FAFSA report. ~~(6-24-11)~~T(11-3-11)T

**[Subsections 500.01 and 500.02]**

**500. CONTINUING ELIGIBILITY.**

To remain eligible for renewal of a GEAR UP Idaho scholarship, the recipient must comply with all of the provisions of the GEAR UP Idaho Program and these rules, in addition to the following requirements: (6-24-11)T

**01. Renewal Application.** A scholarship recipient must complete and submit a renewal application in order to be considered for a continuing scholarship for each succeeding year. A completed application for the renewal of a GEAR UP Idaho scholarship must be submitted to the Board electronically by the date established on the application, but not later than January 30. An applicant without electronic capabilities may submit an application on the form established by the GEAR UP Idaho Program administrator through the United States Postal Service, which must be postmarked no later than January 30. In addition, a scholarship recipient must update and submit the FAFSA on or prior to February 15. ~~(6-24-11)~~T(11-3-11)T

**02. Credit Hours.** To remain eligible for renewal of a scholarship award, the scholarship recipient must have completed a minimum of twenty-four (24) credit hours or its equivalent for the academic year in which the student received a scholarship award. A student must be enrolled in full-time study each term unless prior approval *by the program administrator* is granted to attend part-time. If a student does not receive a minimum of twelve (12) credit hours in a term, they may not receive the second semester award without seeking approval from the scholarship administrator. ~~(6-24-11)~~T(11-3-11)T

*[Subsection 600.01]*

**600. MISCELLANEOUS PROVISIONS.**

**01. Interruption of Enrollment.** A scholarship recipient who requests to take leave from and interrupt enrollment at an eligible institution must submit a letter of intent to interrupt continuous enrollment to the GEAR UP Idaho administrator no later than sixty (60) days prior to the first day of the academic term of the discontinued attendance. Requests can only be made ~~only~~ after the completion of one (1) full academic year. Failure to do so may result in forfeiture of any continuing scholarship eligibility. The administrator will review each request for interruption and notify the individual of approval or denial of the request. In addition, the individual must file a statement with the administrator declaring his intent to re-enroll as a full-time undergraduate student at an eligible institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll. If a leave request is granted, the total time that the scholarship will be available to the student shall not exceed the four (4) academic years immediately following the student's graduation from secondary school or its equivalent. ~~(6-24-11)F(11-3-11)T~~

*[Section 800]*

**800. APPEALS.**

Any scholarship applicant or recipient adversely affected by a decision made under provisions of these rules may appeal such adverse decision as follows. The opportunity scholarship applicant or recipient must appeal *in writing* no later than thirty (30) days following notice of the decision, and the written statement must include a statement of the reason the scholarship applicant or recipient believes the decision should be changed. The appeal must be submitted to the GEAR UP Idaho administrator, who must acknowledge receipt of the appeal within seven (7) days. The GEAR UP Idaho administrator shall forward the appeal to the ~~the~~ President of the Board. The Board may or may not agree to review the action, or may appoint a subcommittee of three (3) persons, including at least one (1) financial aid administrator at an eligible postsecondary educational institution in Idaho. ~~(6-24-11)F(11-3-11)T~~



# **IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

## **08.01.11 - REGISTRATION OF POST-SECONDARY EDUCATIONAL INSTITUTIONS AND PROPRIETARY SCHOOLS**

**DOCKET NO. 08-0111-1102**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105, 33-107, 33-2402, and 33-2403, Idaho Code.

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

The proposed changes to IDAPA 08.01.11 incorporate the language previously approved by the Board as a temporary rule referencing the new enforcement section in Section 33-2400, Idaho Code, and student complaint processes required by the Federal Government. Additional language has been added to clarify the registration requirement for start-up entities, the definition of Idaho presence, and approval standards for proprietary schools. As well as eliminating language allowing for an approval process for postsecondary institutions which were not accredited. This section has been removed requiring all postsecondary institutions to be accredited by a national accreditation organization that is recognized by and in good standing with both the United States Department of Education and by the Council for Higher Education Accreditation.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 176 through 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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Tracie Bent at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

DATED this 25th day of November, 2011.

Tracie Bent  
Chief Planning and Policy Officer  
Idaho State Board of Education

650 W State Street  
PO Box 83720, Boise, ID 83720-0037  
Phone: (208)332-1582 / Fax: (208)334-2270

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### **DOCKET NO. 08-0111-1102 - 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 11-10, October 5, 2011, pages 176 through 194.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

**08.01.14 - IDAHO RURAL PHYSICIAN INCENTIVE PROGRAM**

**DOCKET NO. 08-0114-1101**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective **June 24, 2011** unless the rule is rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105, and 33-3723 through 33-3725, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 195 through 197.](#)

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Tracie Bent at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

DATED this 25th day of November, 2011.

Tracie Bent  
Chief Planning and Policy Officer  
Idaho State Board of Education  
650 W State Street  
PO Box 83720, Boise, ID 83720-0037  
Phone: (208)332-1582  
Fax: (208)334-2270

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**DOCKET NO. 08-0114-1101 - 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 11-10, October 5, 2011, pages 195 through 197.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

# IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

## 08.02.01 - RULES GOVERNING ADMINISTRATION

DOCKET NO. 08-0201-1101

### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The clarifying changes made between the proposed rule stage and the pending rule stage are in response to comments received from the Idaho School Boards Association and public comments received during the open 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 [October 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 198 and 199.](#)

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

These changes result in no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact: Camille Wells, Coordinator of Students Come First, State Department of Education, Boise, Idaho, 208-332-6817.

DATED this 23rd day of November, 2011.

Tom Luna  
Idaho Superintendent of Public Instruction  
State Department of Education  
650 West State Street  
P.O. Box 83720  
Boise, Idaho 83720-0027  
Phone: 208-332-6800  
Fax: 208-334-2228

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DOCKET NO. 08-0201-1101 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 11-10, October 5, 2011, pages 198 and 199.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF THE PENDING RULE  
FOR DOCKET NO. 08-0201-1101

*[Section 151 - Entire Section]*

**151. NEGOTIATIONS.**

**01. Open Meeting.** For the purposes of Section 33-1273A, Idaho Code, all open meeting negotiations shall adhere to Sections 67-2340 through 67-2344 and 67-2346 through 67-2347, Idaho Code, including posting notices and agendas. In addition, notices and agendas shall be posted on the main page of the school district's website. ( )

**02. Collective Bargaining Limited to Compensation and Benefits.** Items that may be included in master contracts or negotiated agreements shall be limited to the specific items defined under the terms "Compensation" and "Benefits" under Section 33-1272, Idaho Code. For the purposes of the definition of "Compensation" as stated in Section 33-1272, Idaho Code, the term "salary" means: ( )

**a.** Any monies provided through public funding that are paid to an employee pursuant to an employment contract, the form of which is approved by the Superintendent of Public Instruction pursuant to Section 33-513, Idaho Code; and ( )

**b.** The process by which the school district board of trustees will determine local student achievement share awards pursuant to Section 33-1004I, Idaho Code. ( )

**c.** The inclusion of any other items in a master contract or negotiated agreement is hereby prohibited. Any items included in violation of this provision are hereby declared null, void and of no force or effect. ( )

**IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

**08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-1101**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-1511(2), Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [August 3, 2011, Idaho Administrative Bulletin, Vol. 11-8, pages 25 and 26.](#)

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

These changes result in no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact: Brad Jensen, Director of Transportation, State Department of Education, Boise, Idaho, 208-332-6856.

DATED this 23rd day of November, 2011.

Tom Luna  
Idaho Superintendent of Public Instruction  
State Department of Education  
650 West State Street  
P.O. Box 83720, Boise, Idaho 83720-0027  
Phone: 208-332-6800  
Fax: 208-334-2228

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**DOCKET NO. 08-0202-1101 - 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 11-8, August 3, 2011, pages 25 and 26.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

**08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-1102**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105, 33-207, and 33-1612, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 200 and 201.](#)

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

These changes result in no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact: Luci Willits, Chief of Staff, State Department of Education, Boise, Idaho, 208-332-6814.

DATED this 23rd day of November, 2011.

Tom Luna  
Idaho Superintendent of Public Instruction  
State Department of Education  
650 West State Street  
P.O. Box 83720  
Boise, Idaho 83720-0027  
Phone: 208-332-6800  
Fax: 208-334-2228

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**DOCKET NO. 08-0202-1102 - 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 11-10, October 5, 2011, pages 200 and 201.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

# **IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

## **08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-1103**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105, 33-107, and 33-1612, Idaho Code.

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

The clarifying changes made between the proposed rule stage and the pending rule stage are in response to public comment received during the open 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 [October 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 202 through 207](#).

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

These changes result in no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact: Christina Linder, Director of Certification and Professional Standards, State Department of Education, Boise, Idaho, 208-332-6886.

DATED this 23rd day of November, 2011.

Tom Luna  
Idaho Superintendent of Public Instruction  
State Department of Education  
650 West State Street  
P.O. Box 83720  
Boise, Idaho 83720-0027  
Phone: 208-332-6800  
Fax: 208-334-2228

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**DOCKET NO. 08-0202-1103 - ADOPTION OF PENDING RULE**

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 11-10, October 5, 2011, pages 202 through 207.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF THE PENDING RULE  
FOR DOCKET NO. 08-0202-1103

*[Subsection 023.04]*

023. ENDORSEMENTS E - L.

04. **English as a New Language (ENL) (K-12).** Twenty (20) semester credit hours to include four (4) semester credit hours in a ~~M~~modern ~~L~~languages *other than English*; three (3) semester credit hours in Cultural Diversity; three (3) semester credit hours in ENL Methods; three (3) semester credits in Linguistics; three (3) semester credit hours in Foundations, Federal and State Law, Theory, Testing/Identification of Limited English Proficient Students; one (1) semester credit in ENL Practicum or Field Experience; and three (3) semester credit hours in an ENL related elective. ~~(3-30-07)~~( )



# **IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

## **08.02.02 - RULES GOVERNING UNIFORMITY**

**DOCKET NO. 08-0202-1104**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-114, 33-1254, and 33-1258, Idaho Code.

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

The clarifying changes made between the proposed rule stage and the pending rule stage is in response to public comment received during the open 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 [October 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 208 and 209.](#)

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

These changes result in no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact: Christina Linder, Director of Certification and Professional Standards, State Department of Education, Boise, Idaho, 208-332-6886.

DATED this 23rd day of November, 2011.

Tom Luna  
Idaho Superintendent of Public Instruction  
State Department of Education  
650 West State Street  
P.O. Box 83720  
Boise, Idaho 83720-0027  
Phone: 208-332-6800  
Fax: 208-334-2228

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**DOCKET NO. 08-0202-1104 - ADOPTION OF PENDING RULE**

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 11-10, October 5, 2011, pages 208 and 209.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF THE PENDING RULE  
FOR DOCKET NO. 08-0202-1104

*[Subsection 015.02 (part of the proposed text was deleted and has been removed)]*

015. IDAHO INTERIM CERTIFICATE.

02. Reinstatement of Expired Certificate. An individual holding an expired Idaho certificate may be issued a nonrenewable three-year interim certificate. During the validity period of the interim certificate, the applicant must meet all current requirements listed for the specific certificate and endorsement(s) including the appropriate content, pedagogy, and performance assessments. ( )

# IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

## 08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1105

### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-114, 33-1254, and 33-1258, Idaho Code.

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

Changes made between the proposed rule stage and the pending rule stage are in response to confusion expressed in public comments received during the open comment period. The primary change is reinstating reference to the National Council for Accreditation of Teacher Education (NCATE).

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 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 210 and 211](#).

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

These changes result in no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact: Christina Linder, Director of Certification and Professional Standards, State Department of Education, Boise, Idaho, 208-332-6886.

DATED this 23rd day of November, 2011.

Tom Luna  
Idaho Superintendent of Public Instruction  
State Department of Education  
650 West State Street  
P.O. Box 83720  
Boise, Idaho 83720-0027  
Phone: 208-332-6800  
Fax: 208-334-2228

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DOCKET NO. 08-0202-1105 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 11-10, October 5, 2011, pages 210 and 211.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF THE PENDING RULE  
FOR DOCKET NO. 08-0202-1105

*[Subsections 100.01 through Paragraph 100.03.a.]*

**100. OFFICIAL VEHICLE FOR APPROVING TEACHER EDUCATION PROGRAMS.**

(Section 33-114, Idaho Code)

(4-1-97)

**01. The Official Vehicle for the Approval of Teacher Education Programs.** The official vehicle for the approval of teacher education programs will be the National Council for Accreditation of Teacher Education (NCATE) approved Idaho Standards for the Initial Certification of Professional School Personnel ~~as approved on June 2004. The Idaho Standards are based upon the accepted national standards for educator preparation and include state-specific, core teaching requirements.~~ The State Department of Education will transmit to the head of each Idaho college or department of education a copy of all revisions to the Idaho Standards for the Initial Certification of Professional School Personnel. Such revisions will ~~not~~ take effect ~~on approval evaluations of the Idaho program until and must be implemented within a period not to exceed~~ two (2) years after notification of such revision. ~~The two (2) year deferral may be waived upon written request of the head of the college or department to be evaluated.~~

~~(4-6-05)( )~~

~~**02. Effective Date.** The effective date for the NCATE approved Idaho Standards for the Initial Certification of Professional School Personnel is September 1, 2001. Students with junior or senior standing and currently enrolled in an institution's program that does not meet the Standards will be eligible for certification in Idaho after successfully completing their program if this program is completed within two (2) years of the September 1, 2001 effective date. All programs not meeting the Standards will be responsible for informing enrolled students of their non-compliance.~~

~~(3-30-01)~~

~~**03. Reference Availability.** The Idaho Standards for the Initial Certification of Professional School Personnel, are incorporated herein by reference in Subsection 004.01, and are available for inspection in on the Office of the State Board of Education's website at [www.boardofed.idaho.gov](http://www.boardofed.idaho.gov).~~

~~(3-30-01)( )~~

~~**04. Continuing Accreditation Approval.**~~

~~( )~~

~~**a.** The state of Idaho will follow the National Council for Accreditation of Teacher Education (NCATE) model and by which institutions shall pursue continuing approval at the end of through a full program review every seven (7) years following baseline approval. The full program review shall be based upon the Idaho Standards for Initial Certification of Professional School Personnel.~~

~~(3-16-04)( )~~

# IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

## 08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1106

### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The change made between the proposed rule stage and the pending rule stage are due to comments received from the Idaho School Boards Association and public comments received during the open comment period. Idaho Code statute does not refer to a specific start date for Parent Input.

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 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 212 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:

These changes result in no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact: Camille Wells, Coordinator of Students Come First, State Department of Education, Boise, Idaho, 208-332-6817.

DATED this 23rd day of November, 2011.

Tom Luna  
Idaho Superintendent of Public Instruction  
State Department of Education  
650 West State Street  
P.O. Box 83720  
Boise, Idaho 83720-0027  
Phone: 208-332-6800  
Fax: 208-334-2228

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DOCKET NO. 08-0202-1106 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 11-10, October 5, 2011, pages 212 and 215.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF THE PENDING RULE  
FOR DOCKET NO. 08-0202-1106

**120. LOCAL DISTRICT EVALUATION POLICY.**

Each school district board of trustees will develop and adopt policies for teacher performance evaluation in which criteria and procedures for the evaluation of certificated personnel are research based and aligned to Charlotte Danielson's Framework for Teaching Second Edition domains and components of instruction. The process of developing criteria and procedures for certificated personnel evaluation will allow opportunities for input from those affected by the evaluation; i.e., trustees, administrators and teachers. The evaluation policy will be a matter of public record and communicated to the certificated personnel for whom it is written. (3-29-10)

**[Subsection 120.02]**

**02. Parent Input.** Input from the parents and guardians of students shall be considered as a factor in the evaluation of any school-based certificated employees. For such certificated employees on a Category A, B or grandfathered renewable contract, this input shall be part of the first portion of the evaluation (as stipulated in 33-514(4), Idaho Code.) that must be completed before February 1 of each year (Section 33-513 and 33-514, Idaho Code). ( )

**[Subsection 120.06]**

**046. Evaluation Policy - Frequency of Evaluation.** The evaluation policy ~~should~~ shall include a provision for evaluating all certificated personnel on a fair and consistent basis. ~~At a minimum, the policy must provide standards for evaluating the following personnel:~~ All contract personnel shall be evaluated at least once annually. (4-1-97)( )

# **IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

## **08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-1101**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-105, 33-107, 33-2002, Idaho Code, and 34 CFR Part 200 Elementary and Secondary Education Act.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [July 6, 2011, Idaho Administrative Bulletin, Vol. 11-7, pages 20 through 22.](#)

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

If the achievement standards are not approved and consequently the ISAT-Alt scoring cannot be completed, Idaho could lose 25%, or \$105,000, of its Title I administrative funding in the form of a compliance fine from the U.S. Department of Education.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact: Carissa Miller, Deputy Superintendent, State Department of Education, Boise, Idaho, 208-332-6901.

DATED this 23rd day of November, 2011.

Tom Luna  
Idaho Superintendent of Public Instruction  
State Department of Education  
650 West State Street  
P.O. Box 83720  
Boise, Idaho 83720-0027  
Phone: 208-332-6800  
Fax: 208-334-2228

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### **DOCKET NO. 08-0203-1101 - 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 11-7, July 6, 2011, pages 20 through 22.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

**08.02.03 - RULES GOVERNING THOROUGHNESS**

**DOCKET NO. 08-0203-1102**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 33-116, 33-118 and 33-1612, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 216 through 224.](#)

**FISCAL IMPACT:** The following is a specific 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 at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

DATED this 25th day of November, 2011.

Tracie Bent  
Chief Planning and Policy Officer  
Idaho State Board of Education  
650 W State Street  
PO Box 83720, Boise, ID 83720-0037  
Phone: (208)332-1582  
Fax: (208)334-2270

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**DOCKET NO. 08-0203-1102 - 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 11-10, October 5, 2011, pages 216 through 224.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**



# IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

## 08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1103

### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

There were no public comments received during the open comment period. The changes made between the proposed rule stage and the pending rule stage reflect removal of additional references to the Direct Math Assessment (DMA) and Direct Writing Assessment (DWA) tests; and a change to correct the grade levels in IDAPA 08.02.03.111.13a.

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 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 225 through 229](#).

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

There is no expected fiscal impact. Previous resources used to fund Direct Writing Assessment (DWA) and Director Math Assessment (DMA) tests are being used to develop end-of-course assessments.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact: Luci Willits, Chief of Staff, State Department of Education, Boise, Idaho, 208-332-6814.

DATED this 23rd day of November, 2011.

Tom Luna  
Idaho Superintendent of Public Instruction  
State Department of Education  
650 West State Street  
P.O. Box 83720  
Boise, Idaho 83720-0027  
Phone: 208-332-6800  
Fax: 208-334-2228

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DOCKET NO. 08-0203-1103 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 11-10, October 5, 2011, pages 225 through 229.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF THE PENDING RULE  
FOR DOCKET NO. 08-0203-1103

*[Subsection 111.08]*

111. ASSESSMENT IN THE PUBLIC SCHOOLS.

08. **Costs Paid by the State.** Costs for the following testing activities will be paid by the state: (4-1-97)

a. All consumable and non-consumable materials needed to conduct the prescribed statewide comprehensive assessment program; (3-15-02)

b. Statewide distribution of all assessment materials; and (~~3-15-02~~)( )

c. Processing and scoring student response forms, distribution of prescribed reports for the statewide comprehensive assessment program; and. (~~3-15-02~~)( )

~~d. Implementation, processing, scoring and distribution of prescribed reports for the Direct Writing Assessment and the Direct Mathematics Assessment. (3-15-02)~~

*[Paragraph 111.13.a.]*

13. **Dual Enrollment.** For the purpose of non-public school student participation in non-academic public school activities as outlined in Section 33-203, Idaho Code, the Idaho State Board of Education recognizes the following: (3-15-02)

a. The Idaho Standards Achievement Tests (grades ~~2~~3-9 and High School). (~~5-3-03~~)( )

# IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

## 08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1104

### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

The clarifying changes made between the proposed rule stage and the pending rule stage are in response to comments received from the Idaho School Boards Association and public comments received during the open 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 [October 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 230 through 234.](#)

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

These changes result in no fiscal impact.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact: Camille Wells, Coordinator of Students Come First, State Department of Education, Boise, Idaho, 208-332-6817.

DATED this 23rd day of November, 2011.

Tom Luna  
Idaho Superintendent of Public Instruction  
State Department of Education  
650 West State Street  
P.O. Box 83720  
Boise, Idaho 83720-0027  
Phone: 208-332-6800  
Fax: 208-334-2228

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DOCKET NO. 08-0203-1104 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 11-10, October 5, 2011, pages 230 through 234.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 08-0203-1104

*[Paragraph 105.03.b.]*

**105. HIGH SCHOOL GRADUATION REQUIREMENTS.**

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

**03. College Entrance Examination.** (Effective for all public school students who enter high school at the 9th grade level in Fall 2009 or later.) ( )

**b.** A student may elect an exemption in their 11th grade year from the college entrance exam requirement if the student is: ( )

# IDAPA 11 - IDAHO STATE POLICE

## 11.03.01 - RULES GOVERNING ALCOHOL TESTING

DOCKET NO. 11-0301-1201

### NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is November 1, 2011.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Section 67-2901, Idaho Code.

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

Clarifying that blood samples need to only contain a minimal concentration of sodium fluoride. The tubes in the ISP Blood Alcohol kits are prepared so that if they are filled, the sodium fluoride concentration will be ten (10) milligrams of sodium fluoride per cubic centimeter of blood. If the blood tube is not all the way full, the concentration of sodium fluoride in the tube will be greater. Having a larger concentration of sodium fluoride in the tube (due to a smaller blood collection) makes no difference because the sodium fluoride is a preservative and has no effect on the testing. Regardless of the amount of blood in the tube, there will be an adequate amount of sodium fluoride to preserve the blood sample appropriately.

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

The current wording of the rule has led to suppression hearings in Idaho's courts, to suppress blood alcohol results. If the blood alcohol results are suppressed by the courts because of the current wording, DUI cases with blood test results would not be able to be prosecuted in Idaho. Not prosecuting DUI cases presents a public safety threat.

**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:

There is no fee being imposed or charged through this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Matthew Gamette, ISPFS Quality Manger, 884-7217 or [matthew.gamette@isp.idaho.gov](mailto:matthew.gamette@isp.idaho.gov).

DATED this 8th day of November, 2011.

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

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THE FOLLOWING IS THE TEMPORARY TEXT OF DOCKET NO. 11-0301-1201

**013. REQUIREMENTS FOR LABORATORY ALCOHOL ANALYSIS.**

**01. Laboratory.** Any laboratory desiring to perform urine alcohol or blood alcohol analysis shall meet the following standards: (3-19-99)

**a.** The laboratory shall prepare and maintain a written procedure governing its method of analysis, including guidelines for quality control and proficiency testing; (7-1-93)

**b.** The laboratory shall provide adequate facilities and space for the procedure used; (7-1-93)

**c.** Specimens shall be maintained in a secure storage area prior to analysis; (7-1-93)

**d.** All equipment, reagents and glassware necessary for the performance of the chosen procedure shall be on hand or readily available on the laboratory premises; (7-1-93)

**e.** The laboratory shall participate in approved proficiency testing and pass this proficiency testing according to standards set by the department. Failure to pass a proficiency test shall result in disapproval until the problem is corrected and a proficiency test is successfully completed; (7-1-93)

**f.** For a laboratory performing blood or urine alcohol analysis, approval shall be awarded to the laboratory director or primary analyst responsible for that laboratory. The responsibility for the correct performance of tests in that laboratory rests with that person; however, the duty of performing such tests may be delegated to any person designated by such director or primary analyst; (3-19-99)

**g.** Urine samples shall be collected in clean, dry containers. (7-1-93)

**02. Blood Collection.** Blood collection shall be accomplished according to the following requirements: (7-1-93)

**a.** Blood samples shall be collected using sterile, dry syringes and hypodermic needles, or other equipment of equivalent sterility; (7-1-93)

**b.** The skin at the area of puncture shall be cleansed thoroughly and disinfected with an aqueous solution of a nonvolatile antiseptic. Alcohol or phenolic solutions shall not be used as a skin antiseptic; (7-1-93)

**c.** Blood specimens shall contain at least ten (10) milligrams of sodium fluoride per cubic centimeter of blood plus an appropriate anticoagulant. ~~(7-1-93)~~(11-1-11)T

**03. Results.** The results of analysis on blood for alcohol concentration shall be reported in units of grams of alcohol per one hundred (100) cubic centimeters of whole blood. (3-19-99)

**04. Reported.** The results of analysis on urine for alcohol concentration shall be reported in units of grams of alcohol per sixty-seven (67) milliliters of urine. Results of alcohol analysis of urine specimens shall be accompanied by a warning statement about the questionable value of urine alcohol results. (3-19-99)

**05. Records.** All records regarding proficiency tests, quality control and results shall be retained for three (3) years. (7-1-93)

## IDAPA 11 - IDAHO STATE POLICE

### 11.10.02 - RULES ESTABLISHING FEES FOR SERVICES - IDAHO CRIMINAL JUSTICE INFORMATION SYSTEM

#### DOCKET NO. 11-1002-1101 (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 2012 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 67-3010, Idaho Code.

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

The pending fee rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, page 237 and 238.](#)

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

The rule change will increase the cost for a non-criminal justice fingerprint based state background check to \$25, a state name check to \$20, and the fee for rolling fingerprints to \$10 with a \$5 fee for each additional copy. Fees are authorized under Section 67-3010, Idaho Code, for taking fingerprints and for processing a request for criminal record review of state and federal files when the purpose is other than the administration of criminal justice.

**FISCAL IMPACT:** The following is a specific 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 fee rule, contact Dawn Peck, (208) 884-7136 or [dawn.peck@isp.idaho.gov](mailto:dawn.peck@isp.idaho.gov).

DATED this 6th day of November, 2011.

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

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#### DOCKET NO. 11-1002-1101 - 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 11-10, October 5, 2011, pages 237 and 238.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

## IDAPA 11- IDAHO STATE POLICE

### 11.10.03 - RULES GOVERNING THE SEX OFFENDER REGISTRY

DOCKET NO. 11-1003-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 18-8304(5), Idaho Code.

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

During the 2011 session, the legislature made some substantive changes to Idaho Code Title 18, Chapter 83, Sexual Offender Registration Notification And Community Right-to-Know Act. Those changes necessitate changes in IDAPA 11.10.03.

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 [November 2, 2011 Idaho Administrative Bulletin, Vol.11-11, pages 18 through 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 Dawn Peck, Idaho State Police Bureau of Criminal Identification Manager, 208-884-7136, or [dawn.peck@isp.idaho.gov](mailto:dawn.peck@isp.idaho.gov).

DATED this 16<sup>th</sup> day of December, 2011.

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

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#### DOCKET NO. 11-1003-1101 - ADOPTION OF PENDING RULE

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

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



The text of the proposed rule was published in the Idaho Administrative Bulletin,  
Volume 11-11, November 2, 2011, pages 18 through 23.

This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2012 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 11-1003-1101

*[Section 010]*

**010. DEFINITIONS.**

The terms defined in Section 67-3001, Idaho Code, will have the same meaning in these rules. In addition, the following terms shall have the meanings set forth below: ( )

*[Subsection 012.06]*

**012. SEX OFFENDER CENTRAL REGISTRY -- ADMINISTRATION.**

**076.** Notification to Other ~~States~~ **Jurisdictions.** Within one (1) working day of receiving notification that a registered sex offender is moving to another ~~state~~ **jurisdiction**, the bureau will notify the receiving ~~state~~ **jurisdiction's** designated sex offender registration agency of the move by mail or electronic means. ~~(3-18-99)~~( )

*[Paragraph 012.07.b.]*

**087.** Expungement of Central Registry Information. (3-18-99)

**b.** Upon receipt of a duly attested copy of a pardon issued by the governor of ~~a state~~ **the jurisdiction** ~~as to a~~ **where the** conviction **was entered and then** reported to the central registry, the bureau will expunge all records concerning the conviction from the central registry. If the pardoned person has no other conviction requiring registration, the bureau will expunge all references concerning the person from the central registry. ~~(3-18-99)~~( )

*[Paragraphs 012.08.a. and 012.08.b.]*

**08.** **Determination of Substantially Equivalent or Similar Crime.** ( )

**a.** A person convicted of a sex offense in another jurisdiction and who moves to Idaho may be required to register as a sex offender in Idaho pursuant to Title 18, Chapters 83 or 84, Idaho Code. ( )

**b.** The bureau shall determine if a person's out-of-jurisdiction conviction is substantially equivalent or similar to an Idaho sex related offense, as defined by Idaho's Criminal Code, for the purposes of requiring a person to register in Idaho. ( )

## IDAPA 11 - IDAHO STATE POLICE

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

DOCKET NO. 11-1101-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 239 through 249.](#)

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact William Flink at (208) 884-7251.

DATED this 22nd day of November, 2011.

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

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#### DOCKET NO. 11-1101-1101 - 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 11-10, October 5, 2011, pages 239 through 249.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 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. 11-1101-1102

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

In response to suggestions from the Senate Judiciary & Rules and House Judiciary, Rules & Administration Subcommittees for Review of Administrative Rules, the following changes were made:

Title of provision language was amended in Subsection 063 for clarification and to make the provision consistent with statutory language in 19-5109(3)(c).

Language was amended in Subsection 063.04 to reference all agencies defined in the definition of "law enforcement" within 19-5101(c) and "law enforcement profession" as provided by IDAPA 11.1101.010.26.

Language was amended in Subsection 091.04 for consistency with Subsection 063 and statutory language in 19-5109(3)(c).

Language was amended in Subsection 091.04.m. to add applicability to legal proceedings.

Language was amended in Subsection 092.02.b. regarding an officer's failure to respond to investigation questions or failure to respond truthfully from "may" to "shall" be cause for decertification.

Language was amended in Subsection 092.03.b. to add language to provide record of complaint and record information to officer.

Language was amended in Subsection 092.03.b.iii. to establish an emergency hearing with POST Division Administrator prior to effective date of order.

Language was amended in Subsection 092.03.c. to should officer fail to appear at emergency hearing or respond in writing and the effect upon the finality of the order.

Language was amended in Subsection 092.03.d. to provide Division Administrator seven days to render a decision after the emergency hearing or written response, and give notice of the decision.

Subsection 092.03.e. adds new language that the POST Division Administrator's decision is a final decision subject to review by the POST Council.

Language was amended in Subsection 092.03.f. to clarify the employing agency record is not the exclusive basis for POST action.

Language was amended in Subsection 092.05 to make a request with the POST Council for a hearing, requiring the officer to provide a brief statement of the questions or issues to be addressed during the hearing.

Subsection 092.06.a.iii. adds language regarding an officer's right to discovery under IDAPA 04.11.01.520.

Subsection 092.06.a.v. adds language regarding an officer's failure to respond to hearing questions or failure to respond truthfully as cause for decertification.

Language was amended in Subsection 092.06.a.ix. to reflect the proper spelling of "principal".

Language was amended in Subsection 092.06.b. to make a petition for review with the full POST Council regarding the hearing board or hearing officer's decision; petition for review shall include a brief statement of the reasons the hearing is requested.

Language was amended in Subsection 092.08 that service of all notices by mail shall be made by certified mail – return receipt requested.

The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 250 through 260.](#)

**FISCAL IMPACT:** The following is a specific 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 William Flink at (208) 884-7251.

DATED this 23rd day of November, 2011.

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

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**DOCKET NO. 11-1101-1102 - ADOPTION OF PENDING RULE**

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

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 11-10, October 5, 2011, pages 250 through 260.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 11-1101-1102

**[Section 063 and Subsection 063.04]**

**063. CODE OF ~~CONDUCT/CODE OF~~ ETHICS/~~STANDARDS OF CONDUCT.~~**

Each applicant shall attest that he has read, understands, and will abide by the ~~Law Enforcement POST Council's Code of Conduct Ethics~~ as ~~found in Subsection 091.04 standards of professional conduct~~ and ~~the Law Enforcement Code of Ethics that he has read and understands the conduct that may constitute cause for decertification~~ as found in Subsections ~~091.053 and 091.04.~~ (4-2-08)( )

**04. Public Trust.** ~~I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of law enforcement service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other law enforcement officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.~~ ( )

**[Subsection 091.04 and Paragraph 091.04.m.]**

**091. INTRODUCTION.**

**04. ~~Law Enforcement POST Council's Code of Conduct Ethics. Additional Cause for Decertification.~~** ~~As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality, and justice. I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. In furtherance of these duties, I hereby adopt and accept~~ **The Council may also decertify any officer who engages in any of** the following ~~code of~~ conduct **which shall be considered a violation of the Council's code of ethics and standards of professional conduct:** (7-1-99)( )

**m.** ~~Refusal to respond or failure to respond truthfully to questions asked in relation to an investigation or legal proceeding.~~ ( )

**[Section 092 - Entire Section]**

**092. DUE PROCESS PROCEDURES.**

**01. Overview.** ~~The POST Division Administrator shall oversee and conduct investigations into all trustworthy allegations or information received pertaining to officer conduct that could be a cause for decertification as set forth in these rules. Based upon the results of the investigation in each case, the Division Administrator shall make a determination whether decertification proceedings shall be commenced. The due process procedures set forth in these rules shall apply to all decertification proceedings once they are commenced.~~ ( )

**02. Investigations.** ( )

**a.** ~~The officer may be interviewed during the investigation. The officer shall receive an administrative warning requiring the officer to respond to questions, to answer such questions truthfully, and to acknowledge his~~

understanding that no statements provided shall be used against him in criminal proceedings, as based on *Garrity v. New Jersey* 385 U.S. 493 (1967). ( )

**b.** Refusal to respond or failure to respond truthfully to questions asked in relation to an investigation under this section shall be cause for decertification. ( )

**03. Due Process Procedures - Summary Decertification.** If the POST Division Administrator determines that the allegations of conduct by the officer constitute cause for decertification and create a situation involving an immediate danger to the public health, safety, or welfare, he shall issue an order of decertification, including a brief, reasoned statement to justify both that the immediate danger exists and the decision to summarily decertify. ( )

**a.** The order shall include findings of fact and conclusions of law and shall be effective when issued. ( )

**b.** The officer and his agency head shall be provided written notice of the order and a copy of the record. ( )

**i.** The notice of the order shall advise the officer of his right to respond to the order and present the POST Division Administrator, in writing or in person, with any reasons why the action should not have been taken. The order shall specify a deadline for such response. ( )

**ii.** The notice shall inform the officer of his right to be represented by a person of the officer's own choosing during the opportunity to respond. ( )

**iii.** The notice shall establish a date for an emergency hearing on the matter within seven (7) days of the date of the order, unless otherwise agreed upon by the officer and POST Division Administrator. ( )

**c.** The decision of the POST Division Administrator shall become final if the officer fails to appear at the emergency hearing, or respond within the time allowed, or if a response has been waived in writing by the officer, whichever occurs first. ( )

**d.** If the officer appears at the emergency hearing or responds in writing, the POST Division Administrator shall review and consider his response and shall, within seven (7) days of the emergency hearing or receiving written response, make a decision and give notice of the decision to the officer. ( )

**e.** The decision of the POST Division Administrator is a final decision that is subject to review pursuant to Subsection 092.05. ( )

**f.** The agency record need not constitute the exclusive basis for POST action in a summary proceeding or for judicial review thereof. ( )

**04. Due Process Procedures - Non-Summary Decertification.** If the POST Division Administrator determines that the allegations of conduct by the officer do not create a situation involving an immediate danger to the public health, safety, or welfare, the officer shall be provided notice and an opportunity to respond before a decision is made to decertify. ( )

**a.** The POST Division Administrator shall provide the officer with a notice of the intent to decertify, which shall state the basis or reason for the contemplated decertification and an explanation of the evidence supporting the intended action. ( )

**b.** The officer shall be given the opportunity to respond to the notice and present the POST Division Administrator, in writing or in person, any reasons why the intended action should not be taken. The notice shall inform the officer of his right to be represented by a person of the officer's own choosing during the opportunity to respond. The deadline for the opportunity to respond shall not occur sooner than fourteen (14) days after the notice is given. After the officer has responded, or after the period to respond has expired or has been waived in writing by the

officer, whichever occurs first, the POST Division Administrator shall, within twenty-eight (28) days, make a decision on the decertification of the officer and give notice of the decision and the reasons therefore to the officer. ( )

**05. Final Decision.** The decision or action of the POST Division Administrator shall be final and conclusive unless the officer files with the POST Council a request for a hearing on the decision within fourteen (14) days after the date of the POST Division Administrator's decision. The request for hearing shall include a brief statement of the questions or issues to be addressed during the requested hearing. ( )

**06. Due Process Procedure - Hearing.** Upon receipt of a request for hearing, the POST Council shall assign the matter to a hearing board or officer for hearing. If after the hearing the hearing board or officer determines that proper cause for decertification did not in fact exist under Subsection 091.03 or 091.04 of these rules, or that proper procedures were not followed in reaching the decision, the hearing board or officer shall order the reinstatement of the officer's certification, or may remand the case to the POST Division Administrator for further proceedings. ( )

**a.** Process and procedure for the hearing before the hearing board or officer shall be as summary and simple as reasonably may be. ( )

**i.** The hearing board or officer appointed by the POST Council shall have the power to subpoena witnesses, administer oaths, and examine such of the records of the parties as relate to the questions in dispute. ( )

**ii.** The officer shall have the right to be represented at the hearing by a person of the officer's own choosing. ( )

**iii.** The officer shall have the right to discovery under IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 520 through 532. ( )

**iv.** Prior to submitting testimonial evidence, the officer shall receive an administrative warning requiring the officer to respond to questions, to answer such questions or provide testimony truthfully, and to acknowledge his understanding that no statements provided shall be used against him in criminal proceedings, as based on *Garrity v. New Jersey* 385 U.S. 493 (1967). ( )

**v.** Refusal to respond or failure to respond truthfully to questions asked in relation to a hearing under Section 092 shall be cause for decertification. ( )

**vi.** A verbatim record of the proceedings at hearing before the hearing board or officer shall be recorded at the POST Council's expense. The verbatim record shall be the official record of the proceedings. ( )

**vii.** Any party to the action may, at its expense, request that a transcript of the proceedings be prepared or that additional recordings be made of the proceedings. Such a request shall be approved if the making of the additional recording does not cause distraction or disruption of the hearing. ( )

**viii.** The hearing board or officer to whom the matter has been assigned shall make such inquiry and investigations as shall be deemed necessary. ( )

**ix.** The hearings shall be held at the principal office of the Idaho Division of the Peace Officer Standards and Training in Ada County or in such place as the hearing board or officer may designate. ( )

**x.** The district court, in and for the county of Ada, shall have the power to enforce by proper proceedings the attendance and testimony of witnesses and production and examination of books, papers, and records. ( )

**b.** The decision of the hearing board or officer, consisting of such findings of fact, conclusions of law, and orders as are necessary, together with the record of the proceedings, shall be filed with the POST Council. A copy of the hearing board or officer's decision shall be immediately sent to the parties by United States mail. The decision

of the hearing board or officer shall be final and conclusive between the parties, unless a petition for review by the full POST Council is filed with the Council within twenty-eight (28) days. The petition for review shall include a brief statement of the reasons that a hearing is requested. Where the decision and order of the hearing board or officer directed the reinstatement of the officer's certification, the certification shall be reinstated by the POST Division Administrator upon the expiration of the time for filing a petition for review. ( )

**07. Due Process Procedure - Review by POST Council.** If a petition for review is filed, the POST Council shall review the record of the proceedings before the hearing board or officer, briefs submitted in accordance with any briefing schedule it orders, and any transcripts submitted of the hearing. The Council may grant the parties the opportunity to present oral argument, but need not do so. The officer may be represented by a person of the officer's own choosing during the review process. The Council may affirm, reverse, or modify the decision of the hearing board or officer, or may remand the matter. A decision of the POST Council shall be final and conclusive between the parties. The POST Council's decision may be appealed to district court by filing a notice of appeal within twenty-eight (28) days of the filing of the decision. ( )

**08. Notice.** All notices to be given under Section 092 of these rules shall be made either by personal service, facsimile or by U.S. mail, with postage prepaid, addressed to a party's last known address, as shown in the records and files of the POST Council. Service by mail shall be made by certified mail, return receipt requested. An affidavit of personal service shall be filed by the person making the same. ( )



## IDAPA 11 - IDAHO STATE POLICE

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

DOCKET NO. 11-1101-1103

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 261 through 263](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact William Flink at (208) 884-7251.

DATED this 22nd day of November, 2011.

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

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#### DOCKET NO. 11-1101-1103 - 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 11-10, October 5, 2011, pages 261 through 263.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 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. 11-1102-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 264 and 265.](#)

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact William Flink at (208) 884-7251.

DATED this 22nd day of November, 2011.

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

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#### DOCKET NO. 11-1102-1101 - 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 11-10, October 5, 2011, pages 264 and 265.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 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. 11-1106-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 266 and 267.](#)

**FISCAL IMPACT:** The following is a specific 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 William Flink at (208) 884-7251.

DATED this 22nd day of November, 2011.

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

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#### DOCKET NO. 11-1106-1101 - 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 11-10, October 5, 2011, pages 266 and 267.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

## IDAPA 12 - IDAHO DEPARTMENT OF FINANCE

### 12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 26-31-103(2)(b) and 26-31-204(5), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any 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 updates references to federal laws and regulations and amends IDAPA 12.01.10.101 to comport with state law, namely to clarify that use of the Nationwide Mortgage Licensing System and Registry (NMLSR) by Idaho mortgage brokers/lenders/originators for license issuance and maintenance is not optional, but required. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 268 through 270](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Michael Larsen, Idaho Department of Finance, (208) 332-8000.

DATED this 29th day of November, 2011.

Michael Larsen  
Consumer Finance Bureau Chief  
Idaho Department of Finance  
800 Park Boulevard, Suite 200  
P.O. Box 83720  
Boise, Idaho 83720-0031  
Telephone: (208) 332-8000  
Fax: (208) 332-8096  
[mlarsen@finance.idaho.gov](mailto:mlarsen@finance.idaho.gov)

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#### DOCKET NO. 12-0110-1101 - 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 11-10, October 5, 2011, pages 268 through 270](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.02 - RULES GOVERNING PUBLIC SAFETY

DOCKET NO. 13-0102-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 36-412, Idaho Code.

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

Provides a mechanism for exemption from the live fire requirement of hunter education certification for persons with military and peace officer training, and responds to constituent and Legislative request.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 271 and 272.](#)

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

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

DATED this 15th day of November, 2011.

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) 258-2881

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#### DOCKET NO. 13-0102-1101 - 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 11-10, October 5, 2011, pages 271 and 272.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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, 36-407 through -409, and 36-416, Idaho Code.

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

No changes were made to the proposed rule that allows nonresident disabled veterans to participate in a hunt in association with a qualified organization to receive reduced fees for certain licenses and tags. It also provides specific rules for bighorn sheep auction and lottery tags to accommodate proxy bidders, but prevents tag resale, and sets Nonresident tag and outfitter set-aside quotas.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 273 through 278.](#)

**FISCAL IMPACT:** The following is a specific 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 16th day of November, 2011.

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) 258-2881

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#### DOCKET NO. 13-0104-1101 - 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 11-10, October 5, 2011, pages 273 through 278.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

**IDAPA 13 - IDAHO FISH AND GAME COMMISSION**

**13.01.04 - RULES GOVERNING LICENSING**

**DOCKET NO. 13-0104-1102**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

No changes were made to the proposed rule that provides for consistency in tag allocation and incentives for landowners in certain units who provide benefits for wildlife, wildlife habitat, or sportsmen.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 279 through 282.](#)

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

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

DATED this 16th day of November, 2011.

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) 258-2881

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**DOCKET NO. 13-0104-1102 - 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 11-10, October 5, 2011, pages 279 through 282.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 13 - IDAHO FISH AND GAME COMMISSION**

**13.01.04 - RULES GOVERNING LICENSING**

**DOCKET NO. 13-0104-1103**

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

**EFFECTIVE DATE:** The effective date of this rescission is November 16, 2011.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Sections 36-104(b), 36-408, and 36-415, Idaho Code.

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

The refunds authorized by the temporary rule have all been completed. Therefore, this temporary rule is rescinded and is hereby declared null, void, and of no force and effect.

Section 603, "Nonresident Wolf Tag Discount Refund," has been deleted with the rescission of this temporary rule and removed from the rule (IDAPA 13.01.04). Section 603 is now a "RESERVED" section within the rule.

The complete text of the temporary rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, page 283](#).

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

DATED this 16<sup>th</sup> day of November, 2011.

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) 258-2881



**IDAPA 13 - IDAHO FISH AND GAME COMMISSION**

**13.01.05 - RULES GOVERNING FISHING CONTESTS**

**DOCKET NO. 13-0105-1101**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-901, Idaho Code.

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

No changes were made to the proposed rule that clarifies and simplifies the definition of “fishing contest”.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 284 and 285.](#)

**FISCAL IMPACT:** The following is a specific 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 16th day of November, 2011.

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) 258-2881

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**DOCKET NO. 13-0105-1101 - 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 11-10, October 5, 2011, pages 284 and 285.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 13 - IDAHO FISH AND GAME COMMISSION**  
**13.01.06 - CLASSIFICATION AND PROTECTION OF WILDLIFE**  
**DOCKET NO. 13-0106-1101**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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:

No changes were made to the proposed rule that changes the classification name for Leatherside chub and Bluehead sucker to comply with recent research.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 286 and 287](#).

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

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

DATED this 16th day of November, 2011.

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) 258-2881

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**DOCKET NO. 13-0106-1101 - 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 11-10, October 5, 2011, pages 286 and 287](#).**

**This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2012 Idaho State Legislature for final adoption.**

## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.08 - RULES GOVERNING BIG GAME

DOCKET NO. 13-0108-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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:

No changes were made to the proposed rule that deletes references to a wolf trapping permit, clarifies the wolf trapping rules, allows wolf trapping near naturally deceased big game carcasses, and clarifies and adjusts certain Big Game Management Unit descriptions.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 288 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 W. Dallas Burkhalter (208) 334-3715.

DATED this 16th day of November, 2011.

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) 258-2881

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#### DOCKET NO. 13-0108-1101 - 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 11-10, October 5, 2011, pages 288 through 297](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 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. 13-0109-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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), 36-105, 36-1101 and 36-1102, Idaho Code.

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

No changes were made to the proposed rule that amends the Youth Waterfowl Day to correspond to the federal age qualification. The proposed rule also removes obsolete references to seasons, bag limits, and possession limits that are set by Commission Proclamation.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 300 through 309](#).

**FISCAL IMPACT:** The following is a specific 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 16th day of November, 2011.

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) 258-2881

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#### DOCKET NO. 13-0109-1101 - 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 11-10, October 5, 2011, pages 300 through 309.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 13 - IDAHO FISH AND GAME COMMISSION**

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

**DOCKET NO. 13-0110-1101**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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, and 36-504, Idaho Code.

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

No changes were made to the proposed rule that amends the wildlife salvage rules to allow increased salvage of commercially valuable wildlife.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 312 through 314.](#)

**FISCAL IMPACT:** The following is a specific 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 16th day of November, 2011.

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) 258-2881

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**DOCKET NO. 13-0110-1101 - 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 11-10, October 5, 2011, pages 312 through 314.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2012 Idaho State Legislature for final adoption.**

## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-901, Idaho Code.

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

No changes were made to the proposed rule that amends and simplifies definitions of certain terms, specifies the conditions by which hatchery steelhead and salmon legally harvested may be transported without tails and heads attached, prohibits marking and releasing fish without a collecting permit, and allows the use of a gaff hook when harvesting nongame fish taken with archery equipment.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 315 through 322](#).

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

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

DATED this 16th day of November, 2011.

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) 258-2881

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#### DOCKET NO. 13-0111-1101 - 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 11-10, October 5, 2011, pages 315 through 322.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.12 - RULES GOVERNING COMMERCIAL FISHING

DOCKET NO. 13-0112-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 36-804, Idaho Code.

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

No changes were made to the proposed rule that removes mountain sucker from the list of fish species that may be commercially harvested.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 324 and 325](#).

**FISCAL IMPACT:** The following is a specific 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 16th day of November, 2011.

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) 258-2881

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#### DOCKET NO. 13-0112-1101 - 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 11-10, October 5, 2011, pages 324 and 325.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

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

DOCKET NO. 13-0116-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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:

No changes were made to the proposed rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 326 through 328](#).

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

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

DATED this 16th day of November, 2011.

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) 258-2881

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#### DOCKET NO. 13-0316-1101 - 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 11-10, October 5, 2011, pages 326 through 328](#).**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**



**IDAPA 15 - OFFICE OF THE GOVERNOR**  
**DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

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

**DOCKET NO. 15-0401-1101**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5309, 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 proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 335 through 337](#).

**FISCAL IMPACT:** The following is a specific 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 fiscal impact on the general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Donna Weast at 208-854-3079.

DATED this 30th day of November, 2011.

Vicki Tokita, Administrator  
Division of Human Resources  
304 N. 8th Street  
P.O. Box 83720  
Boise, ID 83720-0066  
Phone: 208-334-2263  
Fax: 208-854-3088

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**DOCKET NO. 15-0401-1101 - 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 11-10, October 5, 2011, pages 335 through 337](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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

### **16.01.01 - EMERGENCY MEDICAL SERVICES (EMS) - ADVISORY COMMITTEE (EMSAC)**

#### **DOCKET NO. 16-0101-1101 (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 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 56-1003 and 56-1023, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any 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 current EMS rules establish a statewide EMS Advisory Committee (EMSAC) to provide counsel to the Department in administering the Emergency Medical Services Act (Sections 56-1011 through 56-1023, Idaho Code).

The membership requirements and organizational representation on the EMSAC are being updated in these rules to reflect the addition of the Idaho Transportation Department. The Department is writing this new chapter to provide the representation on the committee, and the committee's duties and responsibilities.

Under Section 56-1013A, Idaho Code, the Idaho EMS Physician Commission was created and assumed responsibility for the provider scopes of practice from the Board of Medicine. Because of this change, the representation of the Board of Medicine is being removed from the EMS Advisory Committee and replaced with representation from the Idaho Transportation Department (ITD), Office of Highway Operations and Safety, since the majority of EMS requests for services are related to traffic accidents.

This new chapter of rules will provide the following for EMS Advisory Committee:

1. Establish the required membership and organizational representation, including the addition of the Idaho Transportation Department (ITD), and removal of the Idaho Board of Medicine representation
2. Provide length of terms of membership
3. Provide guidelines, duties, and responsibilities of the committee; and
4. Provide definitions and other required sections needed to meet APA requirements for rules.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [July 6, 2011, Idaho Administrative Bulletin, Vol. 11-7, pages 42 through 47.](#)

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

This rulemaking has no fiscal impact to the state general fund. The Emergency Medical Services (EMS) program is funded through dedicated funds.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Wayne Denny at (208) 334-4000.

DATED this 17th day of November, 2011.

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

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**DOCKET NO. 16-0101-1101 - 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 11-7, July 6, 2011, pages 42 through 47.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2012 Idaho State Legislature for final adoption.**

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.01.07 - EMERGENCY MEDICAL SERVICES (EMS) - PERSONNEL LICENSING REQUIREMENTS

#### DOCKET NO. 16-0107-1101 (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 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 by this notice.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 56-1023, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any 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 updated the Emergency Medical Services rules and the Idaho EMS system to reflect current national standards for safety and quality of services. Through the process of implementing new rules, the Department reorganized the EMS rules. This chapter of rule is part of that reorganization and provides for personnel licensing requirements.

Based on input received following implementation of this chapter, the text of the pending rule has been amended to clarify a number of sections. Amendments include: A description of the process by which an individual can regain an EMS personnel license after it has been lapsed for more than two years, removal of the reference to the certificate of eligibility (COE) from a section in which it did not belong, and other housekeeping changes and small additions of clarifying language. The complete text of the proposed rule was published in the [July 6, 2011, Idaho Administrative Bulletin, Vol. 11-7, pages 48 through 69.](#)

Other dockets publishing in this bulletin related to the reorganization of EMS services are: 16-0203-1101, 16-0107-1102, 16-0112-1101, and 16-0101-1101.

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

This rulemaking has no fiscal impact to the state general fund. The Emergency Medical Services (EMS) program is funded through dedicated funds.

**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:

The Department incorporated by reference the "Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual," edition 2012-1, because this manual sets the scope of practice for Emergency Medical Services in Idaho.

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

DATED this 17th day of November, 2011.

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

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

DOCKET NO. 16-0107-1101 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 11-7, July 6, 2011, pages 48 through 69.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF THE PENDING RULE  
FOR DOCKET NO. 16-0107-1101

*[Section 004]*

**004. INCORPORATION BY REFERENCE.**

The Department has incorporated by reference the "Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual," edition 2012-1. Copies of this Standards Manual may be obtained from the EMS Bureau described in Section 005 of these rules, or online at: <http://www.emspc.dhw.idaho.gov>. ( )

*[Section 106 - Entire Section]*

**106. TIME FRAME FOR PERSONNEL LICENSURE AFTER SUCCESSFUL COMPLETION OF EDUCATION COURSE.**

An individual who has successfully completed an EMS education course is eligible to attempt the certification examination for the appropriate level of licensure. ( )

**01. Complete Standardized Certification Examination.** A candidate must successfully complete all components of the standardized certification examination *in a twelve (12) month period* within twenty-four (24) months of completing an EMS training course in order to be eligible for an Idaho EMS personnel license. ( )

**02. Certification Examination Not Completed.** If all components of the standardized certification examination are not *successfully* completed *in a twelve (12) month period* within twenty-four (24) months of course completion, the candidate must repeat the initial training course and all components of the certification examination in order to be eligible for an Idaho EMS personnel license. ( )

**110. INITIAL PERSONNEL LICENSURE.**

Upon successful completion of an approved course recognized by the EMS Bureau under IDAPA 16.02.03, "Emergency Medical Services," an individual may apply to the EMS Bureau for licensure. The candidate must meet the following: ( )

***[Subsection 110.04 (New Paragraphs 110.04.a. and 110.04.b. have been deleted)]***

**04. Provide Current Affiliation with EMS Agency.** A candidate must declare all organizations in which they are allowed to practice as licensed personnel. A candidate must have *a* current affiliation with a licensed EMS agency that functions at, or above, the level of licensure being sought by the candidate. ( )

***[Paragraph 110.07.a. through 110.07.d.]***

**07. Pass Standardized Examination.** A candidate must successfully complete the standardized examination for the level of licensure on the application required under IDAPA 16.02.03, "Emergency Medical Services." ( )

**a.** A candidate for EMR licensure must have successfully completed the standardized certification examination at the EMR level *or higher* within the preceding thirty-six (36) months. ( )

**b.** A candidate for EMT licensure must have successfully completed the standardized certification examination at the EMT level *or higher* within the preceding thirty-six (36) months. ( )

**c.** A candidate for AEMT licensure must have successfully completed the standardized certification examination at the *AEMT* level *or higher* within the preceding twenty-four (24) months. ( )

**d.** *A candidate for Paramedic licensure must have successfully completed the standardized certification examination at the Paramedic level within the preceding twenty-four (24) months.* ( )

***[Paragraphs 116.02.b. (proposed text has been deleted) and 116.04.a.]***

**116. PERSONNEL LICENSE TRANSITION.**

Between the years of 2011 and 2016, the scope of practice and the accompanying license levels for EMS personnel will change. The scope of practice for licensed EMS personnel is provided in the EMS Physician Commission Standards Manual incorporated by reference under Section 004 of these rules. Personnel licensed at the AEMT level can opt to either transition to the AEMT-2011 level, or they may remain at the AEMT-1985 level. In order to renew a license, personnel licensed at the EMR, EMT, or Paramedic level must transition and meet the following requirements. ( )

**02. Transition Options Specific for Personnel Licensed at the AEMT Level.** Personnel licensed at the AEMT level have options specific to transitioning as follows: ( )

**b.** Personnel licensed at the AEMT level who choose not to complete the transition requirements according to Subsection 116.03.b. of this rule, will be allowed to renew their personnel license at the AEMT-1985 level, if all other license renewal requirements listed in Section 120 of these rules are met. ( )

**04. Early Transition of Licensed Personnel.** Licensed personnel who meet all transition requirements and choose to transition prior to their license renewal date will be issued a license as follows: ( )

**a.** Continuing education completed between the effective *date of the pre-transition license* and the expiration date of the *transitioned* license may be used to meet requirements listed in Section 120 of these rules for renewal of the transition license; ( )

**[Paragraph 120.02.b. through 120.02.c.ii.]**

**120. PERSONNEL LICENSE RENEWAL.**

Licensed personnel must provide documentation that they meet the following requirements: ( )

**02. Documentation of Continuing Education for Level of Licensure Renewal.** A candidate for renewal of licensure must provide documentation of continuing education consistent with the license holder's level of licensure. All continuing education and skill proficiency requirements must be completed under the provisions in Sections 300 through 335 of these rules. The time frame for continuing education courses must meet the following requirements: ( )

**b.** All continuing education and skill proficiency requirements for successive licenses must be completed between the effective and expiration dates of the license being renewed *or according to Section 116 of these rules.* ( )

**c.** *All continuing education and skill proficiency requirements for renewal of licenses obtained through conversion of a Certificate of Eligibility must be completed as follows:* ( )

**i.** *For EMR or EMT, within the thirty-six (36) months preceding renewal.* ( )

**ii.** *For AEMT and Paramedic, within the twenty-four (24) months preceding renewal.* ( )

**[Subsection 130.05]**

**130. LAPSED LICENSE.**

Licensed personnel who fail to submit a complete renewal application prior to the expiration date of their license cannot practice or represent themselves as licensed EMS personnel. ( )

**05. Reinstatement of an EMS Personnel License Lapsed for More Than Twenty-Four Months.** *An individual whose license has been lapsed for more than twenty-four (24) months must retake and successfully complete an initial education course for the level of licensure for reinstatement. The individual must then meet all requirements in Section 110 of these rules for an initial personnel license.* ( )

**[Section 131 - Entire Section]**

**131. REINSTATEMENT OF A LAPSED EMS PERSONNEL LICENSE.**

An individual desiring to reinstate a lapsed personnel license must provide documentation that he meets the following requirements: ( )

**01. Declaration of Previous Applications and Licensures.** *A reinstatement candidate must declare each state or jurisdiction in which he has applied for, been denied, or held an EMS license or certification.* ( )

**02. Authorization for Release of Information.** *A reinstatement candidate must provide authorization for the EMS authority in other states or jurisdictions to release the candidate's registration, licensure, and certification information to the Idaho EMS Bureau.* ( )

**03. Provide Current Affiliation with EMS Agency.** *A reinstatement candidate must declare all organizations in which they are allowed to practice as licensed personnel. The candidate must have a current affiliation with a licensed EMS agency that functions at, or above, the level of licensure being sought by the candidate.* ( )

**04. Documentation of Continuing Education for Lapsed License Reinstatement.** A candidate for

reinstatement of a lapsed license must provide documentation of continuing education consistent with the license holder's lapsed license. Continuing education requirements are provided in Sections 300 through 335 of these rules. The time frame for meeting the continuing education requirements for reinstatement are as follows: ( )

**a.** The candidate must meet continuing education requirements under Sections 320 through 335 of these rules for the last valid licensure cycle; and ( )

**b.** Additional continuing education hours in any combination of categories and venues, proportionate to the amount of time since the expiration date of the lapsed license, as follows: ( )

**i.** EMR -- Three-quarters (3/4) of one (1) hour of continuing education per month of lapsed time. ( )

**ii.** EMT -- One and one-half (1 ½) hours of continuing education per month of lapsed time. ( )

**iii.** AEMT -- Two and one-quarter (2 ¼) hours of continuing education per month of lapsed time. ( )

**iv.** Paramedic -- Three (3) hours of continuing education per month of lapsed time. ( )

**05. Valid Identification for Reinstatement of Lapsed License.** A reinstatement candidate must have a valid state driver's license, an Idaho identification card which is issued by a county driver's license examining station, or identification card issued by the Armed Forces of the United States. ( )

**06. Criminal History and Background Check for Reinstatement of Lapsed License.** A reinstatement candidate must successfully complete a criminal background check under the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." Denial without the grant of an exemption under IDAPA 16.05.06 will result in denial of reinstatement of licensure. ( )

**07. Pass Standardized Examination for Reinstatement.** A reinstatement candidate must successfully complete the standardized examination for the lapsed level of licensure required under IDAPA 16.02.03, "Emergency Medical Services." A candidate for reinstatement must successfully complete the standardized certification examination within the time period during which the license was lapsed. ( )

**08. Standardized Exam Attempts For Reinstatement.** A candidate for licensure reinstatement is allowed to attempt to successfully pass the standardized exam as follows: ( )

**a.** An EMR candidate is allowed three (3) attempts to pass the exam, after which the initial EMR course must be successfully completed again before another three (3) attempts are allowed. ( )

**b.** An EMT candidate is allowed three (3) attempts to pass the exam, after which twenty-four (24) hours of remedial education must be successfully completed before another three (3) attempts are allowed. ( )

**c.** An AEMT candidate is allowed three (3) attempts to pass the exam, after which thirty-six (36) hours of remedial education must be successfully completed before another three (3) attempts are allowed. ( )

**d.** A Paramedic candidate is allowed three (3) attempts to pass the exam, after which forty-eight (48) hours of remedial education must be successfully completed before another three (3) attempts are allowed. ( )

**09. Submit Required Licensure Fee for Reinstatement.** A candidate must submit the applicable reinstatement license fee provided in Section 111 of these rules. A candidate for reinstatement of an EMR or EMT level of licensure has no fee requirement. ( )

**10. Expiration Date of a Reinstated License.** The expiration date for a lapsed license that is reinstated is determined as provided in Section 115 of these rules. ( )

**11. Reinstatement During Transition.** *A candidate may reinstate his lapsed license only if he has*



*completed transition requirements for his level of licensure. Education obtained in a transition course may be used to meet the CEU requirements for reinstatement according to Section 300 of these rules.* ( )

***[Subparagraph 320.01.b.ii. through 320.01.d.]***

**320. EMR LEVEL LICENSE RENEWAL CONTINUING EDUCATION AND SKILLS PROFICIENCY REQUIREMENTS.**

An EMR level license renewal candidate must provide documentation of the following during each licensure period. ( )

**01. EMR Level Continuing Education Hours Needed for License Renewal.** A candidate must provide proof of successful completion of twenty-four (24) hours of continuing education. The types of continuing education courses and the number of hours required for EMR level licensure are: ( )

**b.** A minimum of three (3) hours in EMS Systems and Operations earned by completing state-approved Landing Zone Officer (LZO) and extrication awareness training. Continuing education hours are awarded as follows: ( )

**ii.** For extrication awareness training, two (2) hours in *classroom presentation, or one (1) hour in distributed education*; ( )

**c.** Two (2) hours in six (6) categories *other than pediatrics and EMS Systems and Operations* listed in Section 305 of these rules, for twelve (12) continuing education hours; and ( )

**d.** Seven (7) hours of continuing education can be from any single category or combination of categories listed in Section 305 of these rules. ( )

***[Subparagraph 325.01.b.ii. through 325.01.d.]***

**325. EMT LEVEL LICENSE RENEWAL CONTINUING EDUCATION AND SKILLS PROFICIENCY REQUIREMENTS.**

An EMT level license renewal candidate must provide documentation of the following during each licensure period. ( )

**01. EMT Level Continuing Education Hours Needed for License Renewal.** A candidate must provide proof of successful completion of forty-eight (48) hours of continuing education. The types of continuing education courses and the number of hours needed for EMT level licensure are: ( )

**b.** A minimum of three (3) hours in EMS Systems and Operations earned by completing state-approved Landing Zone Officer (LZO) and extrication awareness training. Continuing education hours are awarded as follows: ( )

**ii.** For extrication awareness training, two (2) hours in *classroom presentation, or one (1) hour in distributed education*; ( )

**c.** Four (4) hours in eight (8) categories *other than pediatrics and EMS Systems and Operations* listed in Section 305 of these rules for thirty-two (32) hours; and ( )

**d.** Nine (9) hours can be from any single category or combination of categories listed in Section 305

of these rules. ( )

***[Subparagraph 330.01.b.ii. through 330.01.d.]***

**330. AEMT LEVEL LICENSE RENEWAL CONTINUING EDUCATION AND SKILLS PROFICIENCY REQUIREMENTS.**

An AEMT license renewal candidate must provide documentation of the following during each licensure period: ( )

**01. AEMT Level Continuing Education Hours Needed for License Renewal.** A candidate must provide proof of successful completion of fifty-four (54) hours of continuing education. The types of continuing education courses and the number of hours needed for AEMT level licensure are: ( )

**b.** A minimum of three (3) hours in EMS Systems and Operations earned by completing state-approved Landing Zone Officer (LZO) and extrication awareness training. Continuing education hours are awarded as follows: ( )

**ii.** For extrication awareness training, two (2) hours in *classroom presentation, or one (1) hour in* distributed education; ( )

**c.** Four (4) hours in nine (9) categories *other than pediatrics and EMS Systems and Operations* listed in Section 305 of these rules, for thirty-six (36) hours; and ( )

**d.** Nine (9) hours of continuing education can be from any single category or combination of categories listed in Section 305 of these rules. ( )

***[Subparagraph 335.01.b.ii. through 335.01.d.]***

**335. PARAMEDIC LEVEL LICENSE RENEWAL CONTINUING EDUCATION AND SKILLS PROFICIENCY REQUIREMENTS.**

A paramedic license renewal candidate must provide documentation of the following during each licensure period. ( )

**01. Paramedic Level Continuing Education Hours Needed for License Renewal.** A candidate must provide proof of successful completion of seventy-two (72) hours of continuing education. The types of continuing education courses and the number of hours needed for paramedic level licensure are: ( )

**b.** A minimum of three (3) hours in EMS Systems and Operations earned by completing state-approved Landing Zone Officer (LZO) and extrication awareness training. Continuing education hours are awarded as follows: ( )

**ii.** For extrication awareness training, two (2) hours in *classroom presentation, or one (1) hour in* distributed education; ( )

**c.** Four (4) hours in eleven (11) categories *other than pediatrics and EMS Systems and Operations* listed in Section 305 of these rules, for forty-four (44) hours; and ( )

**d.** Seventeen (17) hours can be from any single category or a combination of categories listed in Section 305 of these rules. ( )

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.01.07 - EMERGENCY MEDICAL SERVICES (EMS) -- PERSONNEL LICENSING REQUIREMENTS

#### DOCKET NO. 16-0107-1102 (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 2012 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. This action is authorized pursuant to Section 56-1023, Idaho Code.

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

The Department updated the Emergency Medical Services rules and the Idaho EMS system to reflect current national standards for safety and quality of services. Under the new chapter in IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirement,," the Department requires individuals applying for licensure to pay a licensing fee. The pending fee rule is being adopted as proposed. The complete text of the proposed rule was published in the [July 6, 2011, Idaho Administrative Bulletin, Vol. 11-7, pages 70 through 72](#).

Other dockets publishing in this bulletin that implemented the reorganization of EMS services are: 16-0203-1101, 16-0107-1101, 16-0112-1101, and 16-0101-1101.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: Advanced emergency technicians and paramedics currently pay fees for licensure. The fees in this new chapter of rules do not impose any new or additional fees. This fee or charge is being imposed pursuant to Section 56-1023, Idaho Code.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking has no fiscal impact to the state general fund. The Emergency Medical Services (EMS) program is funded through dedicated funds paid for by motor vehicle and driver licensing fees.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending fee rule, contact Wayne Denny at (208) 334-4000.

DATED this 17th day of November, 2011.

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

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e-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

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#### DOCKET NO. 16-0107-1102 - 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 11-7, July 6, 2011, pages 70 through 72](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.01.12 - EMERGENCY MEDICAL SERVICES (EMS) -- COMPLAINTS, INVESTIGATIONS, AND DISCIPLINARY ACTIONS

#### DOCKET NO. 16-0112-1101 (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 2012 Idaho State Legislature for final approval. The pending rule becomes final 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. This action is authorized pursuant to Section 56-1023, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any 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 updated the Emergency Medical Services rules and the Idaho EMS system to reflect current national standards for safety and quality of services. Through the process of implementing new rules, the Department reorganized the EMS rules. This chapter of rule is part of that reorganization and provides for the investigation of complaints and disciplinary actions for licensure and certification. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [July 6, 2011, Idaho Administrative Bulletin, Vol. 11-7, pages 73 through 85](#).

Other dockets published in this bulletin that implemented the reorganization of EMS services are: 16-0203-1101, 16-0107-1101, 16-0107-1102, and 16-0101-1101.

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

This rulemaking has no fiscal impact to the state general fund. The Emergency Medical Services (EMS) program is funded through dedicated funds.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Wayne Denny at (208) 334-4000.

DATED this 17th day of November, 2011.

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

Boise, ID 83720-0036  
phone: (208) 334-5564  
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#### DOCKET NO. 16-0112-1101 - 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 11-7, July 6, 2011, pages 73 through 85](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.02.03 - EMERGENCY MEDICAL SERVICES

DOCKET NO. 16-0203-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 56-1023, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any 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 updated the Emergency Medical Services rules and the Idaho EMS system to reflect current national standards for safety and quality of services. Through the process of implementing new rules, the Department reorganized the EMS rules. The Department has a new chapter of rule, IDAPA 16.01.01, "Emergency Medical Services (EMS) - Advisory Committee (EMSAC)," that takes effect Sine Die 2012. The changes to the proposed text in this docket removes those items that have been placed into this new chapter of rule adopted as pending under Docket 16-0101-1101, in this same Bulletin.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the [July 6, 2011, Idaho Administrative Bulletin, Vol. 11-7, pages 87 through 112.](#)

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

This rulemaking has no fiscal impact to the state general fund. The Emergency Medical Services (EMS) program is funded through dedicated funds.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Wayne Denny at (208) 334-4000.

DATED this 17th day of November, 2011.

Tamara Prisock  
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DOCKET NO. 16-0203-1101 - 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 11-7, July 6, 2011, pages 87 through 112.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0203-1101

***100. Statewide EMS Advisory Committee.***

*The Director will appoint a Statewide EMS Advisory Committee to provide counsel to the Department in administering the EMS Act. The Committee members will have a normal tenure of three (3) years after which time they may be excused or reappointed. However, in order to afford continuity, initial appointments will be made to one-third (1/3) of the membership for two (2) years, one-third (1/3) for three (3) years, and one-third (1/3) of the membership for four (4) years. The Committee chairman will be selected by the State Health Officer. (7-1-97)*

- 01. Committee Membership.*** *The Statewide EMS Advisory Committee will be constituted as follows: (7-1-80)*
- a.*** *One (1) representative recommended by the State Board of Medicine; and (4-8-94)*
  - b.*** *One (1) representative recommended by the Idaho Chapter of ACEP; and (4-8-94)*
  - c.*** *One (1) representative recommended by the Committee on Trauma of the Idaho Chapter of the American College of Surgeons; and (4-8-94)*
  - d.*** *One (1) representative recommended by the State Board of Nursing; and (4-8-94)*
  - e.*** *One (1) representative recommended by the Idaho Medical Association; and (4-8-94)*
  - f.*** *One (1) representative recommended by the Idaho Hospital Association; and (4-8-94)*
  - g.*** *One (1) representative of local government recommended by the Idaho Association of Counties; and (4-8-94)*
  - h.*** *One (1) representative of a career third service EMS/Ambulance organization; and (4-8-94)*
  - i.*** *One (1) representative of a volunteer third service EMS/Ambulance organization; and (4-8-94)*
  - j.*** *One (1) representative of a third service nontransport EMS organization; and (4-8-94)*
  - k.*** *One (1) representative of a fire department based EMS/Ambulance recommended by the Idaho Fire Chiefs Association; and (4-8-94)*

- ~~l.~~ *One (1) representative of a fire department-based nontransport EMS organization; and* (4-8-94)
- ~~m.~~ *One (1) representative of an air medical EMS organization; and* (7-1-97)
- ~~n.~~ *One (1) Emergency Medical Technician Basic who represents the interests of Idaho providers certified at that level; and* (4-8-94)
- ~~o.~~ *One (1) Advanced Emergency Medical Technician Ambulance who represents the interests of Idaho providers certified at that level; and* (7-1-97)
- ~~p.~~ *One (1) Emergency Medical Technician Intermediate who represents the interests of Idaho providers certified at that level; and* (4-6-05)
- ~~q.~~ *One (1) Emergency Medical Technician Paramedic who represents the interests of Idaho providers certified at that level; and* (4-8-94)
- ~~r.~~ *One (1) representative who is an administrative county EMS director; and* (4-8-94)
- ~~s.~~ *One (1) EMS instructor who represents the interests of Idaho EMS educators and evaluators; and* (4-8-94)
- ~~t.~~ *One (1) consumer; and* (4-5-00)
- ~~u.~~ *One (1) representative of a private EMS transport organization; and* (4-5-00)
- ~~v.~~ *One (1) pediatrician who represents the interests of children in the EMS system recommended by the Idaho Chapter of the American Academy of Pediatrics; and* (3-30-01)
- ~~w.~~ *One (1) board certified or equivalent pediatric emergency medicine physician.* (3-30-01)
- ~~02.~~ **~~Responsibilities of Committee.~~** *The EMS Advisory Committee will meet at least annually or as needed for the purposes of:* (7-1-80)
  - ~~a.~~ *Reviewing policies and procedures for provision of emergency medical services and recommending same to the Division;* (11-19-76)
  - ~~b.~~ *Reviewing EMS training curricula, training standards, and examination processes and recommending same to the Division;* (4-8-94)
  - ~~c.~~ *Reviewing EMS candidate selection policy and candidate performance requirements and recommending to the Division certification of standards for EMS personnel;* (7-1-97)
  - ~~d.~~ *Reviewing and making recommendations for disciplinary action regarding EMS personnel who have not complied with EMS policies;* (11-19-76)
  - ~~e.~~ *Reviewing and making recommendations on the licensing of ambulance services in Idaho.* (11-19-76)
  - ~~f.~~ *Reviewing and making recommendations on the licensing of nontransport services in Idaho.* (7-1-97)

~~101077.~~ -- 199. (RESERVED)

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.01 - ELIGIBILITY FOR HEALTH CARE ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0301-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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, 56-209, 56-236, 56-237, 56-238, 56-239, 56-240, 56-242, 56-250, 56-253, 56-255, and 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 Department is aligning the Eligibility for Health Care Assistance for Families and Children rules with other Department eligibility assistance program rules regarding business processes. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 346 and 347](#).

**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, contact Kathy McGill at (208) 334-4934.

DATED this 18th day of November, 2011.

Tamara Prisock  
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e-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

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#### DOCKET NO. 16-0301-1101 - 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 11-10, October 5, 2011, pages 346 through 347.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**



## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO

DOCKET NO. 16-0304-1101

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

**EFFECTIVE DATE:** The effective date of the amendments to the temporary rule is February 1, 2011. This pending rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 56-203, Idaho Code, and 7 CFR Part 273.

**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:

Rule changes were made in this chapter to allow households to conduct business with the Department electronically, and allow the Department to e-mail notices to participants. Rule changes were also made to streamline the process for determining student eligibility, as well as the recertification process for simplified reporting households. Finally, rule changes were made to add a Job Search Assistance Program (JSAP) exemption for women who are in their third trimester of pregnancy, to refine the definition of prohibited participation, and to ensure that Idaho is in compliance with federal food stamp regulations.

Amendments are being made to the temporary and pending rule in response to feedback from the federal Food and Nutrition Service (FNS). Some of the previously proposed changes have been removed as they would have inadvertently imposed additional requirements that would necessitate costly automation and a need for increased staffing resources in order to implement.

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 those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 348 through 364](#).

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

There is no anticipated fiscal impact due to these rule changes.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule and the amendments to temporary rule, contact Rosie Andueza at (208) 334-5553.

DATED this 21st day of November, 2011.

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DOCKET NO. 16-0304-1101 - 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 11-10, October 5, 2011, pages 348 through 364.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEMPORARY RULE AND THE AMENDED  
PENDING RULE TEXT FOR DOCKET NO. 16-0304-1101

*[Subsection 010.14]*

**010. DEFINITIONS A THROUGH D.**

For the Food Stamp Program, the following definitions apply:

(4-11-06)

**14. Contact (Six-Month).** ~~A six-month or twelve-month contact is a mid-certification update recertification that may or may not include an interview with requirement, allowing for written contact and verification of the participant's circumstances in lieu of the interview.~~ ~~(2-1-11)F(2-1-11)T~~

*[Section 576 - Entire Section]*

**576. CERTIFICATION PERIODS.**

A certification period must be assigned for each household. Households must be assigned a certification period based on household circumstances at the time of application approval, recertification, **and at the six-month** or twelve-month contact in accordance with 7 CFR 273.10(f) and 273.12. Households are assigned a six ~~(6)~~ **twelve**-month certification period unless they meet the criteria for extended certification, in which case they are assigned a twenty-four (24) month certification period. At the end of each **six-month or twelve-month contact or** certification period, entitlement to Food Stamps ends. Further eligibility starts only upon **successful completion of a six-month or twelve-month contact, or a** recertification based upon a newly completed application, an interview, and verification. The certification period cannot be lengthened nor can benefits be continued beyond the end of a certification period ~~(3-29-10)(2-1-11)F(2-1-11)T~~

[Section 577 - Entire Section]

577. CHANGING THE CERTIFICATION PERIOD.

~~01. **Twenty Four Month Certification Period.** If a household has ~~an extended~~ a ~~twenty-four-month~~ certification period, and at the twelve-month contact it is determined that they remain eligible but they no longer meet the criteria for extended certification, the current certification will be ended and a six-~~twelve~~-month certification period will be assigned for ongoing benefits.~~ ~~(3-29-10)(2-1-11)T(2-1-11)T~~

~~02. **Twelve Month Certification Period.** If a household has a twelve month certification, and at the six month contact it is determined that they remain eligible and meet the criteria for extended certification, the current certification will be ended and a twenty four month certification will be assigned for ongoing benefits.~~ ~~(2-1-11)T~~

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

**16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED,  
BLIND, AND DISABLED (AABD)**

**DOCKET NO. 16-0305-1102**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any 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 aligning the Eligibility for Aid to the Aged, Blind, and Disabled (AABD) rules with other Department eligibility assistance program rules regarding business processes. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 365 and 366.](#)

**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, contact Callie King at (208) 334-0663.

DATED this 18th day of November, 2011.

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**DOCKET NO. 16-0305-1102 - 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 11-10, October 5, 2011, pages 365 and 366.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.08 - RULES GOVERNING THE TEMPORARY ASSISTANCE FOR**  
**FAMILIES IN IDAHO (TAFI) PROGRAM**

**DOCKET NO. 16-0308-1101**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective July 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. The effective date for this chapter of rules is **July 1, 2012**.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code, and 45 CFR Parts 260 through 265.

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

These rule changes clarify application timelines, individuals included in a TAFI household for income and resource eligibility, provide for collection of overpayments, and allow for electronic notification to clients. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 367 through 374](#).

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

There is no anticipated fiscal impact due to these rule changes.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Rosie Andueza at (208) 334-5553.

DATED this 22nd day of November, 2011.

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**DOCKET NO. 16-0308-1101 - 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 11-10, October 5, 2011, pages 367 and 374](#).**

**This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2012 Idaho State Legislature for final adoption.**

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

**16.03.09 - MEDICAID BASIC PLAN BENEFITS**

**DOCKET NO. 16-0309-1105**

**NOTICE OF RULEMAKING - RESCISSION OF TEMPORARY RULE AND  
VACATION OF PROPOSED RULEMAKING**

**EFFECTIVE DATE FOR RESCISSION OF TEMPORARY RULE:** The effective date of the rescission of the temporary rule is October 1, 2011.

**AUTHORITY:** In compliance with Section 67-5221 and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted and is vacating the proposed rulemaking initiated under this docket. The action is authorized pursuant to Sections 56-202(b), 56-203(g), 56-203(i), 56-250 through 56-257, Idaho Code, and House Bill 260 (2011) codified in Sections 56-255, 56-257, and 56-260 through 56-266, Idaho Code, as amended.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for rescinding the temporary rule and vacating the previously initiated rulemaking:

Due to comments received in public hearings held during the 21-day comment period for this rulemaking, the Department is rescinding the temporary rule, effective October 1, 2011, and vacating the proposed rulemaking.

This rulemaking will not be adopted as a pending rule. The complete text of the proposed rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 375 through 378.](#)

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

There is no anticipated fiscal impact due to these rule changes.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the rescission of temporary rule and vacation of proposed rulemaking, contact Carolyn Burt at (208) 364-1844.

DATED this 8th day of November, 2011.

Tamara Prisock  
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# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1106

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

**EFFECTIVE DATE:** The effective date of this temporary rule is January 1, 2012. The pending rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and is also adopting a temporary. The action is authorized pursuant to Sections 56-202(b), and 56-209p, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule:

Under Section 56-209p, Idaho Code, the Department is required to pay for midwife services provided to eligible participants through the medical assistance program. Because system changes are needed to add this provider group for Licensed Midwife (LM) Services and time is needed to enroll providers, these rules are being adopted as temporary rules effective January 1, 2012. Changes to the proposed rule docket have been made based on comments received and provide for the administration and policies needed to reimburse for LM services.

In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin following this notice and includes changes made to the pending rule. The text of the pending rule has been modified in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 379 through 385](#).

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

These changes are needed to meet statutory requirements that were adopted by the 2011 Legislature under House Bill 165.

**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 anticipated fiscal impact due to this rulemaking is uncertain given the uncertainty of the number of participants who will choose to use Licensed Midwife (LM) services.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rulemaking is in response to 2011 legislation under HB 165.

**INCORPORATION BY REFERENCE:** No materials are being incorporated by reference into these rules.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary and pending rule, contact Jeanne Siroky (208) 364-1897.

DATED this 18th day of November, 2011.

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**DOCKET NO. 16-0309-1106 - ADOPTION OF PENDING RULE AND TEMPORARY 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.*

**The text of the proposed rule was published in the Idaho Administrative Bulletin,**  
**Volume 11-10, October 5, 2011, pages 379 through 385.**

**This rule has been adopted as a pending rule by the Agency and is now pending**  
**review and approval by the 2012 Idaho State Legislature as a final rule.**

**Pursuant to Section 67-5226, Idaho Code, the full text of**  
**the temporary rule is being published in this Bulletin.**

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**THE FOLLOWING IS THE AMENDED TEXT OF THE PENDING RULE**  
**AND TEMPORARY RULE FOR DOCKET NO. 16-0309-1106**

**011. DEFINITIONS: I THROUGH O.**

For the purposes of these rules, the following terms are used as defined below: (3-30-07)

**01. ICF/ID.** Intermediate Care Facility for People with Intellectual Disabilities. An ICF/ID is an entity licensed as an ICF/ID and federally certified to provide care to Medicaid and Medicare participants with developmental disabilities. (3-30-07)

**02. In-Patient Hospital Services.** Services that are ordinarily furnished in a hospital for the care and treatment of an in-patient under the direction of a physician or dentist except for those services provided in mental hospitals. (3-30-07)

**03. Intermediary.** Any organization that administers Title XIX or Title XXI; in this case the Department of Health and Welfare. (3-30-07)

**04. Intermediate Care Facility Services.** Those services furnished in an intermediate care facility as defined in 42 CFR 440.150, but excluding services provided in a Christian Science Sanatorium. (3-30-07)

**05. Legal Representative.** A parent with custody of a minor child, one who holds a legally-executed and effective power of attorney for health decisions, or a court-appointed guardian whose powers include the power to make health care decisions. (3-30-07)



**06. Legend Drug.** A drug that requires, by federal regulation or state rule, the order of a licensed medical practitioner before dispensing or administration to the patient. (3-30-07)

**07. Level of Care.** The classification in which a participant is placed, based on severity of need for institutional care. (3-30-07)

**08. Licensed, Qualified Professionals.** Individuals licensed, registered, or certified by national certification standards in their respective discipline, or otherwise qualified within the state of Idaho. (3-30-07)

**09. Lock-In Program.** An administrative sanction, required of a participant found to have misused the services provided by the Medical Assistance Program. The participant is required to select one (1) provider in the identified area(s) of misuse to serve as the primary provider. (3-30-07)

**10. Locum Tenens/Reciprocal Billing.** The practice of a physician to retain a substitute physician when the regular physician is absent for reasons such as illness, pregnancy, vacation, or continuing medical education. The substitute physician is called the "Locum Tenens" physician. Reimbursement to a Locum Tenens physician will be limited to a period of ninety (90) continuous days. Reciprocal billing occurs when a substitute physician covers the regular physician during an absence or on an on-call basis a period of fourteen (14) continuous days or less. (3-30-07)

**11. Medical Assistance.** Payments for part or all of the cost of services funded by Titles XIX or XXI of the federal Social Security Act, as amended. (3-30-07)

**12. Medicaid.** Idaho's Medical Assistance Program. (3-30-07)

**13. Medicaid-Related Ancillary Costs.** For the purpose of these rules, those services considered to be ancillary by Medicare cost reporting principles. Medicaid-related ancillary costs will be determined by apportioning direct and indirect costs associated with each ancillary service to Medicaid participants by dividing Medicaid charges into total charges for that service. The resulting percentage, when multiplied by the ancillary service cost, will be considered Medicaid-related ancillaries. (3-30-07)

**14. Medical Necessity (Medically Necessary).** A service is medically necessary if: (3-30-07)

**a.** It is reasonably calculated to prevent, diagnose, or treat conditions in the participant that endanger life, cause pain, or cause functionally significant deformity or malfunction; and (3-30-07)

**b.** There is no other equally effective course of treatment available or suitable for the participant requesting the service which is more conservative or substantially less costly. (3-30-07)

**c.** Medical services must be of a quality that meets professionally-recognized standards of health care and must be substantiated by records including evidence of such medical necessity and quality. Those records must be made available to the Department upon request. (3-30-07)

**15. Medical Supplies.** Items excluding drugs, biologicals, and equipment furnished incident to a physician's professional services commonly furnished in a physician's office or items ordered by a physician for the treatment of a specific medical condition. These items are generally not useful to an individual in the absence of an illness and are consumable, nonreusable, disposable, and generally have no salvage value. Surgical dressings, ace bandages, splints and casts, and other devices used for reduction of fractures or dislocations are considered supplies. (3-30-07)

**16. Midwife.** An individual qualified as one of the following: (1-1-12)T

**a. Licensed Midwife.** A person who is licensed by the Idaho Board of Midwifery under Title 54, Chapter 55, Idaho Code, and IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." (1-1-12)T

**b. Nurse Midwife (NM).** An advanced practice professional nurse who is licensed by the Idaho Board

of nursing and who meets all the applicable requirements to practice as a nurse midwife under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (1-1-12)T

**167. Nominal Charges.** A public provider's charges are nominal where aggregate charges amount to less than one-half (1/2) of the reasonable cost of the services provided. (3-30-07)

**178. Nonambulatory.** Unable to walk without assistance. (3-30-07)

**189. Non-Legend Drug.** Any drug the distribution of which is not subject to the ordering, dispensing, or administering by a licensed medical practitioner. (3-30-07)

~~**19. Nurse Midwife (NM).** A licensed professional nurse (RN) who meets all the applicable requirements to practice as nurse midwife under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing."~~ (3-30-07)

**20. Nurse Practitioner (NP).** A licensed professional nurse (RN) who meets all the applicable requirements to practice as nurse practitioner under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (3-30-07)

**21. Nursing Facility (NF).** An institution, or distinct part of an institution, that is primarily engaged in providing skilled nursing care and related services for participants. It is an entity licensed as a nursing facility and federally certified to provide care to Medicaid and Medicare participants. Participants must require medical or nursing care, or rehabilitation services for injuries, disabilities, or sickness. (3-30-07)

**22. Orthotic.** Pertaining to or promoting the support of an impaired joint or limb. (3-30-07)

**23. Outpatient Hospital Services.** Preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a physician or dentist to a patient not in need of inpatient hospital care. (3-30-07)

**24. Out-of-State Care.** Medical service that is not provided in Idaho or bordering counties is considered out-of-state. Bordering counties outside Idaho are considered out-of-state for the purpose of authorizing long term care. (3-30-07)

**25. Oxygen-Related Equipment.** Equipment which is utilized or acquired for the routine administration of oxygen in the home. This includes oxygen tanks, regulators, humidification nebulizers, oxygen concentrators, and related equipment. Equipment which is used solely for the administration of medication into the lungs is excluded from this definition. (3-30-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**399. COVERED SERVICES UNDER BASIC PLAN BENEFITS.**

Individuals who are eligible for Medicaid Basic Plan Benefits are eligible for the following benefits, subject to the coverage limitations contained in these rules. Those individuals eligible for services under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," are also eligible for the services covered under this chapter of rules, unless specifically exempted. (5-8-09)

**01. Hospital Services.** The range of hospital services covered is described in Sections 400 through 449 of these rules. (5-8-09)

**a.** Inpatient Hospital Services are described in Sections 400 through 406. (3-30-07)

**b.** Outpatient Hospital Services are described in Sections 410 through 416. (3-30-07)

- c. Reconstructive Surgery services are described in Sections 420 through 426. (3-30-07)
- d. Surgical procedures for weight loss are described in Sections 430 through 436. (3-30-07)
- e. Investigational procedures or treatments are described in Sections 440 through 446. (3-30-07)
- 02. Ambulatory Surgical Centers.** Ambulatory Surgical Center services are described in Sections 450 through 499 of these rules. (5-8-09)
- 03. Physician Services and Abortion Procedures.** Physician services and abortion procedures are described in Sections 500 through 519 of these rules. (5-8-09)
- a. Physician services are described in Sections 500 through 506. (3-30-07)
- b. Abortion procedures are described in Sections 510 through 516. (3-30-07)
- 04. Other Practitioner Services.** Other practitioner services are described in Sections 520 through 559 of these rules. (5-8-09)
- a. Midlevel practitioner services are described in Sections 520 through 526. (3-30-07)
- b. Chiropractic services are described in Sections 530 through 536. (3-30-07)
- c. Podiatrist services are described in Sections 540 through 546~~5~~. ~~(3-30-07)~~(1-1-12)T
- ~~d.~~ Licensed midwife (LM) services are described in Sections 546 through 552. (1-1-12)T
- ~~e.~~ Optometrist services are described in Sections 550~~3~~ through 556. ~~(3-30-07)~~(1-1-12)T
- 05. Primary Care Case Management.** Primary Care Case Management services are described in Sections 560 through 569 of these rules. (5-8-09)
- 06. Prevention Services.** The range of prevention services covered is described in Sections 570 through 649 of these rules. (5-8-09)
- a. Health Risk Assessment services are described in Sections 570 through 576. (3-30-07)
- b. Child wellness services are described in Sections 580 through 586. (3-30-07)
- c. Adult physical services are described in Sections 590 through 596. (3-30-07)
- d. Screening mammography services are described in Sections 600 through 606. (3-30-07)
- e. Diagnostic Screening Clinic services are described in Sections 610 through 616. (3-30-07)
- f. Preventive Health Assistance benefits are described in Sections 620 through 626. (5-8-09)
- g. Nutritional services are described in Sections 630 through 636. (3-30-07)
- h. Diabetes Education and Training services are described in Sections 640 through 646. (3-30-07)
- 07. Laboratory and Radiology Services.** Laboratory and radiology services are described in Sections 650 through 659 of these rules. (5-8-09)
- 08. Prescription Drugs.** Prescription drug services are described in Sections 660 through 679 of these rules. (5-8-09)

- 09. Family Planning.** Family planning services are described in Sections 680 through 689 of these rules. (5-8-09)
- 10. Substance Abuse Treatment Services.** Services for substance abuse treatment are described in Sections 690 through 699 of these rules. (5-8-09)
- 11. Mental Health Services.** The range of covered Mental Health services are described in Sections 700 through 719 of these rules. (5-8-09)
- a.** Inpatient Psychiatric Hospital services are described in Sections 700 through 706. (3-30-07)
- b.** Mental Health Clinic services are described in Sections 707 through 718. (3-30-07)
- 12. Home Health Services.** Home health services are described in Sections 720 through 729 of these rules. (5-8-09)
- 13. Therapy Services.** Occupational therapy, physical therapy, and speech-language pathology services are described in Sections 730 through 739 of these rules. (5-8-09)
- 14. Audiology Services.** Audiology services are described in Sections 740 through 749 of these rules. (5-8-09)
- 15. Durable Medical Equipment and Supplies.** The range of covered durable medical equipment and supplies is described in Sections 750 through 779 of these rules. (5-8-09)
- a.** Durable Medical Equipment and supplies are described in Sections 750 through 756. (3-30-07)
- b.** Oxygen and related equipment and supplies are described in Sections 760 through 766. (3-30-07)
- c.** Prosthetic and orthotic services are described in Sections 770 through 776. (3-30-07)
- 16. Vision Services.** Vision services are described in Sections 780 through 789 of these rules. (5-8-09)
- 17. Dental Services.** The dental services covered under the Basic Plan are covered under a selective contract as described in Section 800 through 819 of these rules. (7-1-11)T
- 18. Essential Providers.** The range of covered essential services is described in Sections 820 through 859 of these rules. (5-8-09)
- a.** Rural health clinic services are described in Sections 820 through 826. (3-30-07)
- b.** Federally Qualified Health Center services are described in Sections 830 through 836. (3-30-07)
- c.** Indian Health Services Clinic services are described in Sections 840 through 846. (3-30-07)
- d.** School-Based services are described in Sections 850 through 856. (3-30-07)
- 19. Transportation.** The range of covered transportation services is described in Sections 860 through 879 of these rules. (5-8-09)
- a.** Emergency transportation services are described in Sections 860 through 866. (3-30-07)
- b.** Non-emergency transportation services are described in Sections 870 through 876. (3-30-07)
- 20. EPSDT Services.** EPSDT services are described in Sections 880 through 889 of these rules. (5-8-09)

21. **Specific Pregnancy-Related Services.** Specific pregnancy-related services are described in Sections 890 through 899 of these rules. (5-8-09)

**(BREAK IN CONTINUITY OF SECTIONS)**

545. ~~553.~~ (RESERVED)

**546. LICENSED MIDWIFE (LM) SERVICES.**

The Department will reimburse licensed midwives for maternal and newborn services performed within the scope of their practice. This section of rules does not include midlevel practitioner services provided by a nurse midwife (NM) which are described in Sections 522 through 525 of these rules. (1-1-12)T

**547. LM SERVICES: DEFINITIONS.**

**01. Licensed Midwife.** An individual who holds a current license issued by the Idaho Board of Midwifery. (1-1-12)T

**02. Board of Midwifery.** The Idaho Board of Midwifery is located within the Idaho Bureau of Occupational Licensing and is the licensing authority for LM providers. (1-1-12)T

**548. LM SERVICES: PARTICIPANT ELIGIBILITY.**

A participant is eligible for LM services if the participant is pregnant, in the six (6) week postpartum period, or is a newborn up to six (6) weeks old. (1-1-12)T

**549. LM SERVICES: COVERAGE AND LIMITATIONS.**

**01. Maternity and Newborn - Coverage.** Antepartem, intrapartum, and up to six (6) weeks of postpartum maternity and newborn care are covered. (1-1-12)T

**02. Maternity and Newborn - Limitations.** Maternal or newborn services provided after the sixth postpartum week are not covered when provided by a CPM. (1-1-12)T

**03. Medication - Coverage and Limitations.** LM providers may administer medication and bill Medicaid if the medication is a Medicaid covered service, and is also listed in the LM formulary in IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." (1-1-12)T

**550. LM SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.**

Each LM provider must: (1-1-12)T

**01. Licensed.** Have a current license as a LM from the Idaho Board of Midwifery or be licensed according to the regulations in the state where the services are provided. (1-1-12)T

**02. Scope of Practice.** Provide only those services that are within the scope of practice under IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." (1-1-12)T

**551. LM SERVICES: PROVIDER REIMBURSEMENT.**

Reimbursement for LM services will be the lesser of the billed amount, or 85% of the Department's physician fee schedule. The physician fee schedule is available from the Central Office for the Division of Medicaid as described in Section 005 of these rules, or online at: <http://www.idmedicaid.com>. (1-1-12)T

**552. LM SERVICES: PROVIDER QUALITY ASSURANCE ACTIVITIES.**

**01. Licensure Required.** Each LM provider must maintain current licensure with the Idaho Board of Midwifery. (1-1-12)T

02. **Informed Consent Form Required.** A signed copy of the participant's informed consent must be kept in the participant's record. (1-1-12)T

03. **Compliance with Board of Midwifery Requirements.** The LM must adhere to all regulations listed in IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." (1-1-12)T

04. **Department Access to Practice Data.** All practice data submitted to the Board of Midwifery according to the provisions in IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery," must be made immediately available to the Department upon request. (1-1-12)T

553. **(RESERVED)**

# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1107

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

**EFFECTIVE DATE:** The effective date of this temporary rule is January 1, 2012. The pending rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and is also adopting this rule as a temporary rule. The action is authorized pursuant to Section 56-202(b) and 56-255, Idaho Code.

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

Under Section 56-255(5)(a)(xi) and (xii), Idaho Code, the Department is directed to limit benefits to eligible participants of the medical assistance program for physical therapy, speech therapy, and occupational therapy services. The changes limiting therapy services and aligning to meet the annual Medicare cap for the same services are effective on January 1, 2012. In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin following this notice. The text of the pending rule is being adopted as proposed. The original text of the proposed rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Vol. 10-10, pages 386 through 388](#).

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

These changes are needed to meet statutory requirements that were adopted by the 2011 Legislature under House Bill 260.

**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 anticipated fiscal impact will result in cost savings of \$150,000 in state general funds for the SFY 2012, and \$300,000 for each subsequent year.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rulemaking is in response to 2011 legislation under HB 260.

**INCORPORATION BY REFERENCE:** No materials are being incorporated by reference into these rules.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary and pending rule, contact Jeanne Siroky (208) 364-1897.

DATED this 18th day of November, 2011.

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**DOCKET NO. 16-0309-1107 - ADOPTION OF PENDING RULE AND TEMPORARY RULE**

No substantive changes have been made to the pending rule.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin,  
[Volume 11-10, October 5, 2011, pages 368 through 388.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

Pursuant to Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin.

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**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0309-1107**

**732. THERAPY SERVICES: COVERAGE AND LIMITATIONS.**

Therapy services are covered under these rules when provided by the following providers: outpatient hospitals, outpatient rehabilitation facilities, comprehensive outpatient rehabilitative facilities, nursing facilities, developmental disability agencies, school-based services, independent practitioners, and home health agencies. (4-2-08)

**01. Service Description: Occupational Therapy and Physical Therapy.** Modalities, therapeutic procedures, tests, and measurements as described in the Physical Medicine and Rehabilitation Subsection and the Neurology and Neuromuscular Procedures Subsection of the Physician's Current Procedural Terminology (CPT Manual) are covered with the following limitations: (4-2-08)

**a.** Any evaluation or re-evaluation may only be performed by the therapist. Any changes in the participant's condition not consistent with planned progress or treatment goals necessitate a documented re-evaluation by the therapist before further treatment is carried out. (4-2-08)

**b.** Any CPT procedure code that falls under the heading of either, "Active Wound Care Management," or "Tests and Measurements," requires the therapist to have direct, one-to-one, patient contact. (4-2-08)

**c.** The therapist may be reimbursed for the technical component of muscle testing, joint range of motion, electromyography, or nerve velocity determinations as described in the CPT Manual when ordered by a physician, nurse practitioner, or physician assistant. (4-2-08)

**d.** Any assessment provided under the heading "Orthotic Management and Prosthetic Management" must be completed by the therapist. (4-2-08)

**e.** Any modality that is defined as "unlisted" in the CPT Manual requires prior authorization by the Department. In this case, the therapist and the physician, nurse practitioner, or physician assistant must provide information in writing to the Department that documents the medical necessity of the modality requested. (4-2-08)

**f.** The services of therapy assistants used when providing covered therapy benefits are included as part of the covered service. These services are billed by the supervising therapist. Therapy assistants may not provide evaluation services, make clinical judgments or decisions, or take responsibility for the service. Therapy assistants act at the direction and under the supervision of the treating therapist and in accordance with state licensure rules. (4-2-08)



**02. Service Description: Speech-Language Pathology.** Speech-language pathology services must be provided as defined in Section 730 of these rules. Services provided by speech-language pathology assistants are considered unskilled services, and will be denied as not medically necessary if they are billed as speech-language pathology services. (4-2-08)

**03. Non-Covered Services: Occupational Therapy, Physical Therapy, and Speech-Language Pathology.** (4-2-08)

**a.** Continuing services for participants who do not exhibit the capability to achieve measurable improvement. (4-2-08)

**b.** Services that address developmentally acceptable error patterns. (4-2-08)

**c.** Services that do not require the skills of a therapist or therapy assistant. (4-2-08)

**d.** Services provided by unlicensed aides or technicians, even if under the supervision of a therapist, except as provided under Section 854 of these rules. (4-2-08)

**e.** Massage, work hardening, and conditioning. (4-2-08)

**f.** Services that are not medically necessary, as defined in Section 011 of these rules. (4-2-08)

**g.** Maintenance programs, as defined under Section 730 of these rules. (4-2-08)

**h.** Duplicate services, as defined under Section 730 of these rules. (4-2-08)

**i.** Group therapy in settings other than school-based services and developmental disability agencies. (4-2-08)

**04. Service Limitations.** (4-2-08)

**a.** Physical therapy (PT) and Occupational Therapy. ~~Each participant is limited to twenty five (25) outpatient physical therapy visits and twenty five (25) outpatient occupational therapy visits during any calendar year.~~ speech-language pathology (SLP) services are limited to a combined annual dollar amount for all PT and SLP services. The Department will set the total amount based on the annual Medicare caps. The Department may ~~prior~~ authorize additional ~~visits if additional physical therapy or occupational therapy services, or both,~~ when the services are determined to be medically necessary and supporting documentation is provided to the Department. (4-2-08)(1-1-12)T

**b.** ~~Speech-Language Pathology Services. Each participant is limited to forty (40) outpatient speech-language pathology visits during any calendar year.~~ Occupational therapy services are limited to an annual dollar amount set by the Department based on the annual Medicare caps. The Department may ~~prior~~ authorize additional ~~visits if additional speech-language pathology therapy services,~~ when the services are determined to be medically necessary and supporting documentation is provided to the Department. (4-2-08)(1-1-12)T

**c.** Exceptions to ~~visit~~ service limitations. (4-2-08)(1-1-12)T

**i.** Therapy provided by home health agencies is subject to the limitations on home health ~~visits~~ services contained in Section 722 of these rules. (4-2-08)(1-1-12)T

**ii.** Therapy provided through school-based services is not included in the ~~visit~~ service limitations under Subsection 732.04 of this rule. (4-2-08)(1-1-12)T

**iii.** Therapy provided to EPSDT participants under the age of twenty-one (21) in accordance with the EPSDT requirements contained in Sections 881 through 883 of these rules, and in Section 1905(r) of the Social Security Act, will be authorized by the Department when additional therapy services are medically necessary. (1-1-12)T

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.09 - MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-1108

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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(7), 56-203(9), 56-250 through 56-257, 56-260 through 56-266, 56-1504, 56-1505, and 56-1511, and 56-1601 through 56-1610, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any 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 adopting rules clarifying Medicaid reimbursement policies for third party payor (insurance company) reimbursement of services. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 389 through 391](#).

**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, contact Robert Kellerman at (208) 364-1994.

DATED this 18th day of November, 2011.

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#### DOCKET NO. 16-0309-1108 - 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 11-10, October 5, 2011, pages 389 through 391](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.18 - MEDICAID COST-SHARING

#### DOCKET NO. 16-0318-1101 (FEE RULE)

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

**EFFECTIVE DATE:** The effective dates for the amendments to these temporary rules are November 1, 2011, and January 1, 2012. This pending rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule and amended a temporary rule. The action is authorized pursuant to Sections 56-202(b), and 56-257, Idaho Code.

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

The Department amended these rules based on comments received concerning copayments to providers for certain services. Clarification was made for participants exempt from co-payments and for services subject to co-pays. The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending fee rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 392 through 397](#).

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-257, Idaho Code:

These temporary rules are needed to assist Medicaid in meeting budgetary constraints and to meet statutory changes effective July 1, 2011, for the implementation of copayments for Medicaid health care assistance.

**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:

Implementation of these copayments is estimated to be an annual cost savings to the Trustee and Benefits (T&B) of \$750,000 in state general funds which was included in the Department's SFY 2012 appropriation.

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

DATED this 22nd day of November, 2011.

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DOCKET NO. 16-0318-1101 - ADOPTION OF PENDING FEE RULE  
AND AMENDMENT TO TEMPORARY RULE

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

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

The text of the temporary/proposed rule was published in the Idaho Administrative Bulletin, Volume 11-10, October 5, 2011, pages 392 through 397.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF THE TEMPORARY  
AND PENDING FEE RULE FOR DOCKET NO. 16-0318-1101

*[Section 000 - transcription error correction]*

**000. LEGAL AUTHORITY.**

Under Section 56-202(b), Idaho Code, the Legislature has delegated to the Department of Health and Welfare the responsibility to establish and enforce such rules as may be necessary or proper to administer public assistance programs within the state of Idaho. Under Sections ~~56-239 and 56-240~~ **56-253 and 56-257**, Idaho Code, ~~the Idaho Legislature has authorized the Department of Health and Welfare to define program requirements and eligibility conditions for federal financial assistance in medical assistance programs~~ **is to establish enforceable cost-sharing requirements within the limits of federal medicaid law and regulations**. Furthermore, the Idaho Department of Health and Welfare is the designated agency to administer programs under Title XIX and Title XXI of the Social Security Act. ~~(3-19-07)(11-1-11)T(11-1-11)T~~

*[Renumbered Subsection 300.01]*

**300. PARTICIPANTS EXEMPT FROM COPAYMENTS FOR MEDICAID SERVICES.**

~~Medicaid participants are responsible for making copayments for the following services under the following circumstances in Subsections 300.01 and 300.02 of this rule.~~ ~~(3-26-08)~~

~~**021. Accessing Emergency Transportation Services for Non-Emergency Medical Conditions.** A participant who accesses emergency transportation services for a condition that is determined by the Department to be a non-emergency medical condition may be required to pay a copayment to the provider of the service. The amount of the copayment is provided in Section 310 of these rules. Certain participants are exempt from this copayment. **Exempt Participants.** Certain participants are exempt from copayments for services described in Section 320.023 through 320.10 of these rules.~~ Exempt participants ~~are~~ **include:** ~~(3-26-08)(11-1-11)T(11-1-11)T~~

*[Paragraph 300.01.e.]*

**e.** An adult participant who ~~qualifies for~~ receives services provided under a waiver of Section 1915c of the Social Security Act (SSA); ~~(11-1-11)F~~(11-1-11)T

*[Subsection 310.02]*

**310. COPAYMENT FEE AMOUNTS.**

**02. Fee Amount.** Beginning on ~~February 1, 2007~~ November 1, 2011, the nominal fee amount required to be paid by the participant as a copayment is three dollars and sixty-five cents (\$3.65). This copayment amount will be adjusted annually as determined by the Secretary of Health and Human Services. ~~(3-26-08)~~~~(11-1-11)F~~(11-1-11)T

*[Section 320 and Subsections 320.09 through 320.09.b.]*

**320. MEDICAID OUTPATIENT SERVICES SUBJECT TO COPAYMENTS.**

Medicaid participants are responsible for making copayments for the *outpatient* services described in Subsections 320.01 through 320.10 of this rule, unless exempted. The amount of the copayment is provided in Section 310 of these rules. ~~(11-1-11)F~~(11-1-11)T

- 09. Physician Office Visit.** Each physician office visit, unless: ~~(1-1-12)T~~
- a.** ~~The visit is for a preventive wellness exam, immunizations, or family planning.~~ ~~(1-1-12)F~~(1-1-12)T
- b.** The visit is for urgent care provided at a clinic billing as an urgent care facility. ~~(1-1-12)T~~

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.19 - CERTIFIED FAMILY HOMES

#### DOCKET NO. 16-0319-1101 (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 2012 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 56-264,(6),(f), Idaho Code, as adopted in HB 260 by the 2011 Legislature.

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

The Department, as required in HB 260 adopted by the 2011 Legislature, implemented licensing fees to cover the application and certification costs for certified family homes. These rule changes adopted fees to cover the costs of application and certification of certified family homes, provided enforcement actions for nonpayment of the certification fees, and added references to statutes.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the [July 6, 2011, Idaho Administrative Bulletin, Vol. 11-7, pages 113 through 116](#).

**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 56-264 and 56-1007, Idaho Code, that implemented applicant and licensing fees for application and certification costs for certified family homes.

**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:

Total projected income from collections for SFY2012 is anticipated to be \$660,000. The Department's projected cost for ongoing operation is \$599,400. The remainder of the collections will be used for indirect service costs. The collections are to be used to offset Personnel and Operating expenditures. This Certified Family Home Fund for fees will shift and reduce state general and federal funds by \$299,700 each, and will increase the Department's dedicated fund receipts by \$599,400.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending fee rule, contact Karen Vasterling at (208) 239-6260.

DATED this 17th day of November, 2011.

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DOCKET NO. 16-0319-1101 - ADOPTION OF PENDING FEE RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 11-7, July 6, 2011, pages 113 through 116.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEXT OF PENDING FEE DOCKET NO. 16-0319-1101

*[Section 000 - Entire Section]*

**000. LEGAL AUTHORITY.**

The ~~State of~~ Idaho Board of Health and Welfare is authorized under Sections 56-1005 and 39-350~~4~~5, Idaho Code, to adopt and enforce rules and standards for Certified Family Homes. The Department is authorized under Sections 56-264 and 56-1007, Idaho Code, to adopt and develop application and certification criteria, and to charge and collect application and certification fees. ~~(4-11-06)( )~~

*[Section 101 and Subsection 101.09]*

**101. APPLICATION FOR CERTIFICATION.**

The applicant must apply for certification on forms provided by the Department, pay the application fee, and ~~must~~ provide information required by the Department. ~~(4-11-06)( )~~

**09. Payment of Application Fee.** Payment of the application fee required in Section 109 of these rules. ~~( )~~

*[Section 109 - Entire Section]*

**109. APPLICATION AND CERTIFICATION FEES FOR CERTIFIED FAMILY HOMES.**

**01. Application Fee Amount.** A provider is required to pay to the Department at the time of application a one-time non-refundable application fee of one hundred fifty (\$150) dollars. ~~( )~~

**02. Certification Fees.** A provider is required to pay to the Department a certification fee of twenty-five (\$25) dollars per month. This amount will be billed to the provider quarterly, and is due and payable within thirty

(30) days of date of the invoice. Failure of the provider to pay certification fees when due may cause the Department to take enforcement action described in Section 913 of these rules. ( )

*[Paragraph 913.02.n. (proposed text has been deleted)]*

**913. ENFORCEMENT REMEDY OF REVOCATION OF CERTIFICATE.**

**02. Causes for Revocation of the Certificate.** The Department may revoke any certificate to include the following causes: (4-11-06)

**n.** The provider fails to pay the certification fee as specified in Subsection 109.02 of these rules. The certification fee is considered delinquent if not paid within thirty (30) days of due date on the invoice. ( )



## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.04.14 - RULES GOVERNING LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

DOCKET NO. 16-0414-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-202, Idaho Code, and 42 U.S.C. Sections 8621 to 8629, Low Income Home Energy Assistance Act of 1981.

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

The Department is aligning the Low Income Home Energy Assistance Program (LIHEAP) rules with other Department eligibility assistance program rules. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Vol.11-10, pages 398 through 404.](#)

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

There is no anticipated fiscal impact to the state general fund related to this rulemaking. This program is 100% federally funded by a fixed block grant award.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Garland Draper (208) 334-5686.

DATED this 21st day of November, 2011.

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

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#### DOCKET NO. 16-0414-1101 - 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 11-10, October 5, 2011, pages 398 through 404.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.04.17 - RESIDENTIAL HABILITATION AGENCIES

DOCKET NO. 16-0417-1101

### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 Title 39, Chapter 46, and Sections 56-202, 56-203(7), 56-203(9), 56-250 through 56-257, and 56-260 through 56-266, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any 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 eliminated the provider support services known as affiliation and implemented a selective contract for a waiver administrative function that will be referred to as Residential Habilitation Program Coordination for Certified Family Home (CFH) Providers. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 7, 2011, Idaho Administrative Bulletin, Vol. 11-9, pages 44 through 56](#).

**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 estimated fiscal impact of moving to a selective contract will be a total annual savings of \$3.7 million of which \$800,000 will be to the state general fund.

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

DATED this 17th day of November, 2011.

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

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### DOCKET NO. 16-0417-1101 - 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 11-9, September 7, 2011, pages 44 through 56](#).

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.05.01 - USE AND DISCLOSURE OF DEPARTMENT RECORDS

DOCKET NO. 16-0501-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-242, 39-5403, 56-221, 56-222, 56-1003, and 56-1004, Idaho Code; and 42 USC Section 5106a Child Abuse Prevention and Treatment and Adoption Reform (CAPTA).

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any 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 updated these rules to meet federal requirements for the Child Abuse Prevention and Treatment and Adoption Reform Act (CAPTA). The Department amended these rules for law enforcement investigations to be inclusive of child abuse, neglect, or abandonment. 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 7, 2011, Idaho Administrative Bulletin, Vol. 11-9, pages 57 through 59.](#)

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

There is no anticipated fiscal impact due to this rule change.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Tamara Prisock at (208) 334-5719.

DATED this 17th day of November, 2011.

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

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DOCKET NO. 16-0501-1101 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 11-9, September 7, 2011, pages 57 through 59.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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FOLLOWING IS THE AMENDED TEXT OF THE PENDING RULE FOR DOCKET NO. 16-0501-1101

*[Subsection 100.13]*

**100. EXCEPTIONS TO REQUIREMENT FOR AUTHORIZATION.**

Confidential information will be released without an authorization to individuals and entities in compliance with a court order, or if they are legally authorized to receive it. The following are exceptions to the requirement for an authorization: (3-20-04)

**13. Law Enforcement.** Any federal, state, or local law enforcement agency, or any agent of such agency, may be permitted access to information as needed in order to carry out its responsibilities under law to protect children from abuse, neglect, or abandonment. ( )

**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. 16-0504-1101**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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- 5209, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any 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 accordance with input from stakeholders and legislative intent, Section I.B.4. of the document entitled: "Minimum Standards for the Domestic Violence Offender Intervention Programs," is being revised so as to prohibit conjoint treatment (couples counseling) as an alternative intervention. This revision reflects changes to language in the standards document negotiated with stakeholders during the 2011 legislative session. To review the standards document showing the negotiated revisions, go to <http://www.icdv.idaho.gov>.

In the Incorporations by Reference section of the chapter, a new volume number is being added to the citation for the revised standards document.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [July 6, 2011, Idaho Administrative Bulletin, Vol. 11-7, pages 117 and 118.](#)

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Luann Dettman at (208) 332-1540.

DATED this 18th day of November, 2011.

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

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

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**DOCKET NO. 16-0504-1101 - 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 11-7, July 6, 2011, pages 117 and 118.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2012 Idaho State Legislature for final adoption.

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.05.06 - CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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, 2012.

**AUTHORITY:** In compliance 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(2), 56-204A, 56-1004A, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520 and 39-5604, Idaho Code.

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

Based on comments received during the public comment period, the Department is amending the Pending rule to include the following:

1. Add a "just cause" exemption to timelines to provide for the availability of employees who are not able to get fingerprinted within timelines specified in rule due to reasons beyond their control;
2. Clarify that there is no requirement for recurrent background checks if an applicant's continuous employment is verifiable; and
3. Formalize the requirement for employers to review background check results.

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 7, 2011, Idaho Administrative Bulletin, Vol. 11-9, pages 60 through 69](#).

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

There is no anticipated fiscal impact due to these rule changes.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Fernando Castro, at (208) 332-7999.

DATED this 17th day of November, 2011.

Tamara Prisock  
DHW - Administrative Procedures Section  
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Boise, ID 83720-0036  
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fax: (208) 334-6558  
e-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

DOCKET NO. 16-0506-1101 - ADOPTION OF PENDING RULE

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 11-9, September 7, 2011, pages 60 through 69.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0506-1101

*[Section 130 - Entire Section]*

**130. SUBMISSION OF APPLICATION.**

An application for a criminal history and background check must be submitted initiated on the Department's website and received by the Department before a criminal history and background check can be initiated processed. ~~Once the Department has received the notarized application and signed fingerprint card, the~~ application is pending until the Department issues a clearance or denial, or the individual withdraws the application. ~~An application must be submitted and received by the Department within twenty-one (21) days of it being completed and notarized. The applicant has two options for processing the application:~~ (3-26-08)( )

**01. Submitting an On-Line Application On-Line Process.** An individual may submit the application ~~may be submitted~~ through the Criminal History Unit's website at <https://chu.dhw.idaho.gov>. Individuals who submit their application through the website may schedule a fingerprinting appointment at a Department location. At the fingerprinting appointment, the Department will print the application and notarize the individual's signature. (3-26-08)( )

**02. Submitting an Mail-in Application by-Mail Process.** An individual may complete the application provided on the Department's website, print the application, have it notarized, and mail it to the Criminal History Unit with the signed fingerprint card and applicable fee. The application must be mailed to: the nearest fingerprint location as found on the Department's website or contact the Criminal History Unit as described in Section 005 of these rules Criminal History Unit, P. O. Drawer B, Lewiston, ID 83501. (3-26-08)( )

*[Subsection 140.02]*

**140. SUBMISSION OF FINGERPRINTS.**

The Department's criminal history and background check is a fingerprint-based check. Ten (10) rolled fingerprints must be collected from the individual and submitted to the Department within the time frame for submitting applications as provided in Section 150 of these rules in order for a criminal history and background check request to be processed. The Department must obtain fingerprints electronically at one of its fingerprint locations, or the Department's fingerprint card must be used. A Department fingerprint card can be obtained by contacting the

Criminal History Unit, described in Section 005 of these rules.

~~(3-26-08)~~( )

**02. Submitting Fingerprints by Mail.** An individual may elect to have fingerprints collected by a local law enforcement agency or by the applicant's employer. The fingerprint card must be completed in accordance with the instructions provided, signed, and mailed along with the completed notarized application and applicable fee to the nearest fingerprinting location: Criminal History Unit, P. O. Drawer B, Lewiston, ID 83501. ~~(3-26-08)~~( )

**[Section 150]**

**150. TIME FRAME FOR SUBMITTING APPLICATION AND FINGERPRINTS.**

The completed notarized application and fingerprints must be ~~submitted and~~ received by the Department within twenty-one (21) days from the date of notarization. ( )

**[Section 300]**

**300. UPDATING CRIMINAL HISTORY AND BACKGROUND CHECKS.**

The employer is responsible for confirming that the applicant has completed a criminal history and background check as provided in Section 190 of these rules. Once a clearance is issued by the Department, verifiable continuous employment of the applicant with the same employer eliminates the requirement for a new background check. The provisions stipulated on Subsections 300.03 and 300.04 of this rule still apply. ~~(3-26-08)~~( )



# IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

## 16.06.01 - CHILD AND FAMILY SERVICES

### DOCKET NO. 16-0601-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended, or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 16-1629, 16-2102, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, and 56-1004A, Idaho Code; and 25 U.S.C. Sections 1901-1963 (Indian Child Welfare Act).

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any 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 change is needed to streamline the "Notice of Pending Proceedings" to any and all tribes regarding children who may be subject to the federal Indian Child Welfare Act (ICWA). This rule change removes errors, inconsistencies, and redundancies from the current chapter of rules in Sections regarding compliance with ICWA.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 7, 2011, Idaho Administrative Bulletin, Vol. 11-9, pages 70 through 84.](#)

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Kathy Morris at (208) 334-5706.

DATED this 17th day of November, 2011.

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

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

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#### DOCKET NO. 16-0601-1101 - 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 11-9, September 7, 2011, pages 70 through 84.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.06.01 - CHILD AND FAMILY SERVICES

#### DOCKET NO. 16-0601-1102 (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 2012 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 16-1629, 16-2102, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code; also Section 16-1506(3), Idaho Code, regarding certified adoption professionals.

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

Section 16-1506(3), Idaho Code, mandates Department oversight of the certified adoption professional program and specifies the fees charged for review of the program's work product. During the 2011 legislative session, the Department proposed statute changes to eliminate the certified adoption professional program. The Senate Health and Welfare Committee declined to proceed with the legislation and asked the Department to consider changes to the current program to increase the quality of services it provides. In response, a stakeholder meeting was held in June 2011, at which time significant changes in this chapter of rules were identified as necessary to increase certification and practice requirements for certified adoption professionals.

This docket makes the identified rule changes to this chapter. In addition to addressing issues regarding certified adoption professionals, the proposed changes will positively impact the Department's child welfare program by bringing adoption home study and placement rules into alignment with the Department's rules regarding requirements for foster care licensing, as well as describe the Department's process for selecting adoptive placements for children in foster care.

#### Summary of proposed changes:

1. Outline the specific information needed from an applicant interested in becoming an adoptive parent (through the Department or a certified adoption professional), condense the information currently found elsewhere in adoption rules and document requirements that bring the process into alignment with foster care licensing rules as well as clarify the re-application process.
2. Clarify the responsibilities of the Department or certified adoption professional and the adoptive applicant during the completion of the adoption home study and specify mandatory elements of the home study. These changes bring home study requirements into alignment with foster care home study requirements.
3. Clarify the length of time an adoption home study is valid for use by an adoptive family, and the process for updating the home study.
4. Update the Department's process for selecting adoptive placements for children in foster care so that the rule will be consistent with practice.
5. Make wording changes consistent with the Department's shift in oversight responsibilities for the certified adoption professional program from regional offices to the Department's Division of Family and Community Services.
6. Add additional requirements for Department approval of a certified adoption professional.

7. Give the Department the ability to limit a certified adoption professional's scope of work, and increase the Department's ability to make changes to an individual's certification, based on his compliance with the rules.
8. Clarify the minimum standards of practice required of certified adoption professionals.
9. Specify the responsibility of the Department in providing oversight services to certified adoption professionals; and
10. Make other minor, non-substantive clerical corrections to this chapter of rules, as needed.

In addition, Section 000, regarding the legal (statutory) authority for this chapter, is being amended at the recommendation of the Legislative Services Office (LSO). A citation to Section 56-1007, Idaho Code, is being added. This statute provides the general statutory authority for the Department to charge reasonable fees for its services and thereby provides the statutory authority for the new fees being added to this chapter for Certified Adoption Professionals.

The text of the pending fee 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 7, 2011, Idaho Administrative Bulletin, Vol. 11-9, pages 85 through 99.](#)

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

Under the proposed rule, Certified Adoption Professionals must apply for renewal of their certificate every two (2) years at a cost of \$100. If the application is denied, the applicant will be reimbursed \$75, and a \$25 processing fee will be charged.

**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 proposed rule changes are projected to result in a total increase of approximately \$1500 (per year) in fees collected through the certified adoption professional program, once fully implemented. Full implementation will take three (3) years since there is currently a three-year relicensing cycle. Income received through fee increases will help offset the costs incurred by Department oversight of the program.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending fee rule, contact Stephanie Miller at (208) 334-5697.

DATED this 17th day of November, 2011.

Tamara Prisock  
DHW - Administrative Procedures Section  
450 W. State Street - 10th Floor  
P.O. Box 83720  
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phone: (208) 334-5564; fax: (208) 334-6558  
e-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

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**DOCKET NO. 16-0601-1102 - ADOPTION OF PENDING FEE RULE**

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 11-9, September 7, 2011, pages 85 through 99.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF THE PENDING FEE RULE  
FOR DOCKET NO. 16-0601-1102

*[Section 000 - this section was not part of the proposed rule]*

**000. LEGAL AUTHORITY.**

The Idaho Legislature has delegated to the Department, or the Board of Health and Welfare, or both jointly, the responsibility to establish and enforce such rules and methods of administration as may be necessary or proper to administer social services to people who are in need, under the following Sections: 16-1629, 16-2102, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, ~~and~~ 56-1004A, and 56-1007,  
Idaho Code. ~~(5-8-09)~~ ( )

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING**  
**DOCKET NO. 16-0602-1101 (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 2012 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005, Idaho Code, and House Bill (HB)129a.

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

The 2011 Legislature adopted HB129a that increased the maximum fee amount that could be assessed for daycare centers in Section 39-1107, Idaho Code. Under Section 39-1109, Idaho Code, the safety standards and staff child ratios were also amended. This rule docket made changes to the Child Care Licensing rules to meet statutory requirements for daycare licensing. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [July 6, 2011, Idaho Administrative Bulletin, Vol. 11-7, pages 119 through 126](#).

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 39-1107, Idaho Code, that established a maximum licensing fee for a basic daycare license not to exceed \$325 for daycare centers with more than 25 children, \$250 for daycare centers with 13 - 25 children, and \$100 for group daycare facilities and family daycare homes who choose to be voluntarily licensed.

**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 projected income from fees is \$60,630. The Department estimates the health and safety inspections will cost \$102,660. The total fiscal impact of these rules is (\$42,030), which will be covered by the Federal Child Care Development Fund that is 100% federally funded.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending fee rule, contact Valerie Burgess (208) 334-5648.

DATED this 17th day of November, 2011.

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

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

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**DOCKET NO. 16-0602-1101 - 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 11-7, July 6, 2011, pages 119 through 126.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.06.12 - RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)**  
**DOCKET NO. 16-0612-1201**  
**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is December 1, 2011.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 18, 2012.

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

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

The Department is aligning the Idaho Child Care Program rules with other Department eligibility assistance program rules regarding business processes. These changes streamline and improve the outcomes for individuals in need of assistance by defining excluded income, amending how activity hours are calculated for part-time or full-time assistance, and amending when and how changes are to be reported.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate to comply with conferring a benefit for those in need of assistance.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact to state general funds. This program is 100% federally funded.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because these changes are being made to improve outcomes for individuals in need of assistance and improve efficiencies in the Department's business process.

**INCORPORATION BY REFERENCE:** No materials are being incorporated by reference into these rules.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 25, 2012.

DATED this 23rd day of November, 2011

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

Boise, ID 83720-0036  
phone: (208) 334-5564  
fax: (208) 334-6558  
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**THE FOLLOWING IS THE TEMPORARY RULE & PROPOSED TEXT OF DOCKET NO. 16-0612-1201**

**010. DEFINITIONS AND ABBREVIATIONS -- A THROUGH L.**

The following definitions and abbreviations apply to this chapter: (4-2-08)

- 01. AABD.** Aid to the Aged, Blind, and Disabled. (4-2-08)
- 02. Abuse or Abusive.** Provider practices that are inconsistent with sound fiscal, business, or child care practices and result in an unnecessary cost to the Idaho Child Care Program, in reimbursement that is not necessary, or that fail to meet professional recognized standards for child care, or result in physical harm, pain, or mental anguish to children. (7-1-09)
- 03. Child.** Any person under age eighteen (18) under the care of a parent, or a person eighteen (18) years of age or older who is claimed on tax returns as a dependent. (4-2-08)
- 04. Child Care.** Care, control, supervision, or maintenance of a child provided for compensation by an individual, other than a parent, for less than twenty-four (24) hours in a day. (4-2-08)
- 05. Claim.** Any request or demand for payment, or document submitted to initiate payment, for items or services provided under the Idaho Child Care Program. (7-1-09)
- 06. Department.** The Idaho Department of Health and Welfare or its designee. (7-1-09)
- 07. Earned Income.** Income received by a person as wages, tips, or self-employment income before deductions for taxes or any other purposes. (4-2-08)
- 08. Employment.** A job paying wages or salary at federal or state minimum wage, whichever is applicable, including work paid by commission or in-kind compensation. Full or part-time participation in a VISTA or AmeriCorps program is also employment. (4-2-08)
- 09. Foster Care.** The twenty-four (24) hour substitute care of children provided in a state licensed foster home by persons who may or may not be related to a child. Foster care is provided in lieu of parental care and is arranged through a private or public agency. ~~(4-2-08)~~(12-1-11)T
- 10. Foster Child.** A child placed for twenty-four (24) hour substitute care by a private or public agency. (4-2-08)
- 11. Foster Home.** The private home of an individual or family licensed ~~or approved as meeting the standards for foster care~~ by the state and providing twenty-four (24) hour substitute care to six (6) or fewer children. ~~(4-2-08)~~(12-1-11)T
- 12. Fraud or Fraudulent.** An intentional deception or misrepresentation made by a person with knowledge that the deception could result in some unauthorized benefit to himself or some other person. (7-1-09)
- 13. Good Cause.** The conduct of a reasonably prudent person in the same or similar circumstances, unless otherwise defined in these rules. (7-1-99)
- 14. In Loco Parentis.** Acting "in loco parentis" means a person who acts in place of a parent, assuming care and custody of a child by a formal or informal agreement with the child's parent. (4-2-08)
- 15. Intentional Program Violation (IPV).** An intentional false or misleading action, omission, or statement made in order to qualify as a provider or recipient in the Idaho Child Care program or to receive program benefits or reimbursement. (7-1-09)

**16. Job Training and Education Program.** A program designed to provide job training or education. Programs may include high school, junior college, community college, college or university, general equivalency diploma (GED), technical school, and vocational programs. To qualify as a Job Training and Education Program, the program must prepare the trainee for employment. (4-2-08)

**17. Knowingly, Known, or With Knowledge.** With respect to information or an action about which a person has actual knowledge of the information or action; acts in deliberate ignorance of the truth or falsity of the information or the correctness or incorrectness of the action; or acts in reckless disregard of the truth or falsity of the information or the correctness or incorrectness of the action. (7-1-09)

**18. Licensed Practitioner of the Healing Arts.** A licensed physician, physician assistant, nurse practitioner, or clinical nurse specialist. (4-2-08)

**(BREAK IN CONTINUITY OF SECTIONS)**

**070. INCOME LIMITS.**

~~01. Maximum Income Limits for ICCP Benefits.~~ A family's income must be less than the published 2007 federal poverty guidelines for one hundred thirty-five percent (135%) of poverty for a family of the same size. The Federal Poverty Guidelines (FPG) are available on the U.S. Health and Human Services website at <http://aspe.hhs.gov/poverty>. ~~(5-1-11)~~(12-1-11)T

~~a. One thousand five hundred forty dollars (\$1,540) for a household of two (2); (4-2-08)~~

~~b. One thousand nine hundred thirty-two dollars (\$1,932) for a household of three (3); (4-2-08)~~

~~c. Two thousand three hundred twenty-three dollars (\$2,323) for a household of four (4); (4-2-08)~~

~~d. Two thousand seven hundred fifteen dollars (\$2,715) for a household of five (5); (4-2-08)~~

~~e. Three thousand one hundred six dollars (\$3,106) for a household of six (6); (4-2-08)~~

~~f. Three thousand four hundred ninety-eight dollars (\$3,498) for a household of seven (7); (4-2-08)~~

~~g. Three thousand eight hundred eighty-nine dollars (\$3,889) for a household of eight (8); (4-2-08)~~

~~h. Four thousand two hundred eighty-one dollars (\$4,281) for a household of nine; and (4-2-08)~~

~~i. Four thousand six hundred seventy-two dollars (\$4,672) for a household of 10. (4-2-08)~~

~~02. Additional Household Member.~~ Three hundred ninety-two dollars (\$392) is added to the maximum income limit for each additional family member. (4-2-08)

**(BREAK IN CONTINUITY OF SECTIONS)**

**072. EXCLUDED INCOME.**

The following sources of income are not counted as family income. (4-2-08)

**01. Earned Income of a Dependent Child.** Income earned by a dependent child under age eighteen (18) is not counted, unless the child is a parent who is seeking or receiving child care benefits. (4-2-08)

**02. Income Received for Person Not Residing With the Family.** Income received on behalf of a



person who is not living in the home. (4-2-08)

**03. Educational Funds.** All educational funds including grants, scholarships, an AmeriCorps Education Award, and federal and state work-study income. (4-2-08)

**04. Assistance.** Assistance to meet a specific need from other organizations and agencies. (4-2-08)

**05. Lump Sum Income.** Non-recurring or lump sum income is excluded as income if it is used to pay medical bills resulting from accident or injury, or used to pay funeral or burial costs. When lump sum income, minus exclusions, exceeds current income limits for a family of the same size, the family is not eligible to receive child care benefits. The period of ineligibility is computed by dividing the lump sum payment by the family's monthly income limit. In no case will the period of ineligibility exceed twelve (12) months. (4-2-08)

**06. Loans.** Loans with written, signed repayment agreements. (4-2-08)

**07. TAFI and AABD Benefits.** ~~TAFI and AABD benefits.~~ ~~(4-2-08)~~(12-1-11)T

**08. Foster Care Payments.** ~~Foster care payments.~~ ~~(4-2-08)~~(12-1-11)T

**09. AmeriCorps/VISTA Volunteers.** Living allowances, wages and stipends paid to AmeriCorps or VISTA volunteers under 42 U.C.S. 5044, P.L. 93-113, Title IV, Section 404(g) are excluded as income. (4-2-08)

**10. Income Tax Refunds and Earned Income Tax Credits.** Income tax refunds and earned income tax credits are excluded as income. (4-2-08)

**11. Travel Reimbursements.** Reimbursements from employers for work-related travel. (4-2-08)

**12. Tribal Income.** Income received from a tribe for any purpose other than direct wages. (4-2-08)

**13. Foster Parents' Income.** Income of licensed foster parents is excluded when determining eligibility for a foster child. Income is counted when determining eligibility for the foster parent's own child(ren). (4-2-08)

**14. Adoption Assistance.** Adoption assistance payments are excluded from income. (4-2-08)

**15. Child Support Payments.** Court-ordered child support payments made by the parent(s) who receive the child care benefits are deducted from income used to determine eligibility. Both the legal obligation to pay child support and the actual amount paid must be verified. (4-2-08)

**16. Temporary Census Income.** All wages paid by the Census Bureau for temporary employment related to U.S. Census activities are excluded for a time period not to exceed six (6) months during the regularly scheduled ten-year U.S. Census. (4-7-11)

**17. Office of Refugee Resettlement Assistance.** (12-1-11)T

**18. Workforce Investment Act Benefits.** (12-1-11)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. QUALIFYING ACTIVITIES FOR CHILD CARE BENEFITS.**

To be eligible for child care benefits, each parent included in the household must need child care because they are engaged in one (1) of the qualifying activities listed in Subsections 200.01 through 200.05 of this rule. (5-1-11)

**01. Employment.** The parent is currently employed. (4-2-08)

**02. Self-Employment.** The parent is currently self-employed in a business that is a sole proprietorship. A sole proprietorship is a business owned by one (1) person. Restrictions apply for self-employment as follows:

(5-8-09)

**a.** For the first six (6) months of self-employment benefits, actual activity hours are used. (5-1-11)

**b.** After receiving six (6) months of self-employment child care benefits, the number of activity hours will be limited. To calculate the activity hours, the gross monthly self-employment income is divided by the current federal minimum wage. The qualifying activity hours are the lesser of the calculated activity hours or actual activity hours. (5-1-11)

**03. Training or Education.** The parent is attending an accredited education or training program. The following restrictions apply to training or education activities: (4-2-08)

**a.** On-line classes cannot be counted as a qualifying activity for child care. (4-2-08)

**b.** Persons with baccalaureate degrees or who are attending post-baccalaureate classes do not qualify for child care benefits. (4-2-08)

**c.** More than forty (40) months of post-secondary education has been used as a qualifying activity. (4-2-08)

**04. Preventive Services.** The parent is receiving preventive services as defined in Section 011 of these rules. The Department will verify the continued need for preventive services at least every three (3) months. (4-2-08)

**05. Personal Responsibility Contract (PRC) or Other Negotiated Agreement.** The parent is completing Personal Responsibility Contract (PRC) or other self-sufficiency activities negotiated between the Department and the parent ~~as described in IDAPA 16.03.08, "Rules Governing Temporary Assistance for Families (TAFI) in Idaho."~~ (4-2-08)(12-1-11)T

## **201. PROJECTING QUALIFYING ACTIVITY HOURS.**

**01. Activity Hours.** Activity ~~is~~ hours are projected for each month to determine if payment is made on a full-time or part-time basis. Past activity hours may be used to project future activity hours if the employer and number of hours worked are the same and are expected to remain the same throughout the certification period. ~~For students, a new class schedule must be submitted at the beginning of each semester or change in schedule.~~ Hours for each qualifying activity must be projected individually and converted to a monthly amount. (5-1-11)(12-1-11)T

**01. Weekly Hours.** Multiply weekly amounts by four point three (4.3). (5-1-11)

**02. Bi-weekly Hours.** Multiplying bi-weekly amounts by two point one five (2.15). (5-1-11)

**03. Semi-Monthly Hours.** Multiplying semi-monthly amounts by two (2). (5-1-11)

**04. Monthly Hours.** Use the exact monthly hours if it is expected for each month of the certification period. (5-1-11)

### **(BREAK IN CONTINUITY OF SECTIONS)**

## **502. SLIDING FEE SCHEDULES.**

Eligible families, except TAFI families participating in non-employment TAFI activities, must pay part of their child care costs. Providers are responsible for ensuring families pay the determined child care costs and may not waive or defer these costs. (7-1-09)

**01. Poverty Rates.** Poverty rates will be one hundred thirty-five percent (135%) of the 2007 Federal Poverty Guidelines published in the Federal Register (FPG) available on the U.S. Health and Human Services website at <http://aspe.hhs.gov/poverty>. The monthly rate will be calculated by dividing the yearly rate by twelve (12). (4-2-08)(12-1-11)T

**02. Calculating Family Payment.** Family income and activity for the month of the child care will determine the family share of child care costs. The payment made by the Department will be the allowable local market rate or billed costs, whichever is lower, less the co-payment listed in the following table: (5-1-11)(12-1-11)T

**03. ICCP Sliding Fee Schedule.**

ICCP SLIDING FEE SCHEDULE									
Family Size	2	3	4	5	6	7	8	9	10
Percent Co-pay	MONTHLY INCOME LIMITS								
7%	\$499	\$599	\$699	\$799	\$899	\$1,099	\$1,199	\$1,399	\$1,499
11%	\$799	\$1,099	\$1,299	\$1,499	\$1,699	\$1,999	\$2,199	\$2,399	\$2,599
16%	\$949	\$1,249	\$1,449	\$1,699	\$1,999	\$2,299	\$2,549	\$2,799	\$3,049
21%	\$1,099	\$1,399	\$1,599	\$1,899	\$2,299	\$2,599	\$2,899	\$3,199	\$3,499
26%	\$1,165	\$1,465	\$1,731	\$2,031	\$2,399	\$2,731	\$3,031	\$3,365	\$3,665
31%	\$1,231	\$1,531	\$1,863	\$2,163	\$2,499	\$2,863	\$3,163	\$3,531	\$3,831
36%	\$1,299	\$1,599	\$1,999	\$2,299	\$2,599	\$2,999	\$3,299	\$3,699	\$3,999
41%	\$1,308	\$1,616	\$2,008	\$2,316	\$2,625	\$3,016	\$3,325	\$3,716	\$4,025
46%	\$1,317	\$1,633	\$2,017	\$2,333	\$2,651	\$3,033	\$3,351	\$3,733	\$4,051
51%	\$1,326	\$1,650	\$2,026	\$2,350	\$2,677	\$3,050	\$3,377	\$3,750	\$4,077
56%	\$1,335	\$1,667	\$2,035	\$2,367	\$2,703	\$3,067	\$3,403	\$3,767	\$4,103
61%	\$1,344	\$1,684	\$2,044	\$2,384	\$2,729	\$3,084	\$3,429	\$3,784	\$4,129
66%	\$1,356	\$1,706	\$2,056	\$2,406	\$2,756	\$3,106	\$3,456	\$3,806	\$4,156
71%	\$1,386	\$1,743	\$2,100	\$2,457	\$2,814	\$3,171	\$3,528	\$3,885	\$4,242
76%	\$1,416	\$1,780	\$2,144	\$2,508	\$2,872	\$3,236	\$3,600	\$3,964	\$4,328
81%	\$1,446	\$1,817	\$2,188	\$2,559	\$2,930	\$3,301	\$3,672	\$4,043	\$4,414
86%	\$1,476	\$1,854	\$2,232	\$2,610	\$2,988	\$3,366	\$3,744	\$4,122	\$4,500
91%	\$1,506	\$1,891	\$2,276	\$2,661	\$3,046	\$3,431	\$3,816	\$4,201	\$4,586
96%	\$1,540	\$1,932	\$2,323	\$2,715	\$3,106	\$3,498	\$3,889	\$4,281	\$4,672

(4-2-08)

**(BREAK IN CONTINUITY OF SECTIONS)**

**600. CHANGE REPORTING REQUIREMENTS.**

A family who ~~applies for or~~ receives child care benefits must report the following permanent changes ~~within ten (10) days of the date the change occurs~~ by the tenth day of the month following the month in which the change occurred. ~~(5-1-11)(12-1-11)T~~

- 01.** Change in **Eligible** Activity Hours. ~~(5-1-11)(12-1-11)T~~
- ~~02.~~ ~~Change in Rate of Pay.~~ ~~(5-1-11)~~
- ~~03.~~ Change in Your Permanent Address. (5-1-11)
- ~~04.~~ Change in ~~Number of Household Members~~ **Composition.** ~~(5-1-11)(12-1-11)T~~
- ~~05.~~ Change in **Unearned** Income. When the household's total gross income exceeds one hundred thirty percent (130%) of the Federal Poverty Guideline (FPG) for the household size. ~~(5-1-11)(12-1-11)T~~
- ~~06.~~ Change in Child Care Provider. (5-1-11)

**(BREAK IN CONTINUITY OF SECTIONS)**

**602. REDETERMINATION OF ELIGIBILITY FOR CHILD CARE BENEFITS.**

The Department must redetermine eligibility for child care benefits at least every six (6) months. Eligibility must be redetermined ~~more often than every six (6) months for the following qualifying activities:~~ ~~(4-2-08)~~

- ~~01.~~ ~~Preventive Services.~~ ~~The Department must redetermine eligibility~~ every three (3) months for each family in which child care is needed for preventive services. ~~(4-2-08)(12-1-11)T~~
- ~~02.~~ ~~Education Activities.~~ ~~The Department must redetermine eligibility at the end of each semester or term for parents engaged in educational activities.~~ ~~(4-2-08)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**810. DOCUMENTATION OF SERVICES AND ACCESS TO RECORDS.**

**01. Documentation of Services.** Providers must generate documentation at the time of service sufficient to support the reimbursement for child care services. Documentation must be legible and must be retained for a period of three (3) years from the date the child care was provided. Documentation to support child care services includes: (7-1-09)

- a.** Records of attendance; (7-1-09)
- b.** Immunization records, conditional admittance form, or exemption form according to IDAPA 16.02.11, "Immunization Requirements for Children Attending Licensed Daycare Facilities in Idaho." (12-1-11)T
- ~~b.c.~~ Billing records and receipts; (7-1-09)
- ~~e.d.~~ Policies regarding sign-in procedures, and others as applicable; and (7-1-09)
- ~~e.e.~~ Sign-in records, electronic or manual, or the Child and Adult Food Care Program records. (7-1-09)

**02. Immediate Access to Records.** Providers must grant to the Department and its agents, immediate

access to records for review and copying during normal business hours. These records are defined in Subsection 810.01 of this rule. (7-1-09)

**03. Copying Records.** The Department and its authorized agents may copy any record as defined in Subsection 810.01 of this rule. The Department may request in writing to have copies of records supplied by the provider. The requested copies must be furnished within twenty (20) working days after the date of the written request, unless an extension of time is granted by the Department for good cause. Failure to timely provide requested copies will be a refusal to provide access to records. (7-1-09)

**04. Removal of Records From Provider's Premises.** The Department and its authorized agents may remove from the provider's premises copies of any records defined in Subsection 810.01 of this rule. (7-1-09)

## IDAPA 20 - DEPARTMENT OF LANDS

### 20.03.15 - RULES GOVERNING GEOTHERMAL LEASING ON IDAHO STATE LANDS

#### DOCKET NO. 20-0315-1102 (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 2012 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 58-104(6) and 58-105, Idaho Code, and Section 47-1603, Idaho Code.

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

Rule format is revised to conform with Section 67-52, Idaho Code and IDAPA 44.01.01. Definitions are changed for consistency and clarity. Most leases would be initially offered at auction instead of on a first-come basis. Lease term is extended up to 49 years in conformance with Section 47-1601 and 58-307, Idaho Code. Timely exploration and development of the lease is required or the lease may be cancelled. In addition, exploration and development requirements are reorganized for clarity. Geothermal rents and royalties would be determined through bidding or set by the board according to market rates in conformance with Section 47-1605, Idaho Code. The size of a lease is not restricted and will be determined by the Land Board in conformance with Section 47-1604, Idaho Code. Reinjection of surplus geothermal water is required to recharge the geothermal aquifer. The confidentiality of well logs is limited to one year in conformance with Section 42-4010(b), Idaho Code. Bond amounts are to be determined based on the costs of reclamation in conformance with Section 47-1608, Idaho Code. Application fees are increased to the amount needed to cover administrative costs.

In response to comments received on the Proposed Rule, two changes were made to the Pending Rule. Subsection 056.04 was amended to specify that the Department will consult with the Lessee regarding whether or not by-products may be produced. Subsection 085.04 was amended to correct a reference that was in error.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 431 through 453](#).

**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 58-127 and 47-1603, Idaho Code.

Application fees are raised from \$25 to \$250. Assignment fees are raised from \$20 to \$150. The increased fees are needed to cover the administrative costs of processing these requests, and are consistent with other applications on state lands.

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

This is not a general fund program, and the changes are expected to increase endowment revenues.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending fee rule, contact Eric Wilson, Minerals Program Manager, at (208) 334-0261 or [ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov).

DATED this 18th day of November, 2011.

Eric Wilson, Minerals Program Manager  
Idaho Department of Lands  
300 N 6th Street, Suite 103  
Boise, ID 83720  
(208) 334-0261

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**DOCKET NO. 20-0315-1102 - 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 11-10, October 5, 2011, pages 431 through 453.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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**THE FOLLOWING IS THE AMENDED PENDING TEXT OF FEE DOCKET NO. 20-0315-1102**

***[Subsection 056.04]***

**056. WASTE PREVENTION, DRILLING AND PRODUCTION OBLIGATIONS.**

**04. By-Products.** Subject to lessee's right to surrender the lease, where the ~~director~~ Department determines that production, use or conversion of geothermal resources under a geothermal lease is susceptible capable of producing a valuable by-product or by-products, including commercially demineralized or mineralized water contained in or derived from such geothermal resources for beneficial use in accordance with applicable state water laws, ~~the shall~~ Department may require substantial beneficial production or use thereof, except where ~~the Department, in consultation with the lessee,~~ determines that: (9-3-91)( )

***[Subsection 085.04]***

**085. UNIT OR COOPERATIVE PLANS OF DEVELOPMENT OR OPERATION.**

~~054.~~ **Lease Modification.** Any modification of an approved agreement will require approval of the ~~director~~ Department under procedures similar to those cited in Subsection 085.012 ~~above,~~ of ~~this~~ these rules. (9-3-91)( )

## IDAPA 20 - DEPARTMENT OF LANDS

### 20.07.02 - CONSERVATION OF CRUDE OIL AND NATURAL GAS IN THE STATE OF IDAHO

DOCKET NO. 20-0702-1101

#### NOTICE OF RULEMAKING - RESCISSION OF TEMPORARY RULE

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. This action is authorized pursuant to Section 47-317(b), Idaho Code.

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

This temporary rule is being replaced with a temporary rule that is much more comprehensive in scope and more fully protects the public health, safety, and welfare. The original text of the temporary rule was published in the [June 1, 2011 Idaho Administrative Bulletin, Vol. 11-6, pages 30 through 34.](#)

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the rescission of this temporary rule, contact Eric Wilson, Minerals Program manager at (208) 334-0261 or [ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov).

DATED this 21st day of December, 2011.

Eric Wilson  
Minerals Program Manager  
Idaho Department of Lands  
PO Box 83720  
Boise, Idaho 83720-0050  
(208) 334-0261  
Fax (208) 334-3698  
[ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov)



## IDAPA 20 - DEPARTMENT OF LANDS

### 20.07.02 - CONSERVATION OF CRUDE OIL AND NATURAL GAS IN THE STATE OF IDAHO

#### DOCKET NO. 20-0702-1102

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

**EFFECTIVE DATE:** The effective date of the temporary rule is December 21, 2011. This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 is also adopting a temporary rule. The action is authorized pursuant to Section 47-317(b), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule.

The existing rules are almost twenty years old, and industry practices and expectations have changed considerably. The rule changes are needed to ensure that oil and gas development in Idaho is conducted in a manner that prevents waste of oil and gas, protects correlative rights, and protects Idaho's fresh water supplies as required by Section 47-3, Idaho Code. The temporary rule is needed to protect the public health, safety, and welfare.

Rule format is revised to conform with Title 67, Chapter 52, Idaho Code, and IDAPA 44.01.01, "Rules of the Administrative Rules Coordinator." Definitions are changed for consistency and clarity. Well drilling permit requirements are expanded to ensure that the department has the information needed to properly review them. A public comment period on applications is added. Application, operating, and reporting requirements for well treatments, including hydraulic fracturing, are added. Bond amounts are increased and additional bonding requirements are added to decrease the potential well plugging liabilities present in other states. Basic surface owner protections are added, and geophysical exploration requirements are expanded, to reduce conflicts between surface and mineral owners and thereby enhance orderly development of oil and gas resources. Well drilling and plugging rules are modified to better prevent waste and protect fresh waters. Comprehensive pit requirements and surface reclamation standards are added to protect fresh waters. Well completion and well log reporting is clarified to improve the flow of information and stimulate additional exploration. Active and inactive wells are defined to reduce the potential liability of abandoned wells. The periodic testing of well integrity is added to prevent waste and protect fresh waters. Class II injection wells are no longer permitted under this rule as the Idaho Department of Water Resources currently prohibits their use in IDAPA 37.03.03 and they will pursue permitting authority with the Environmental Protection Agency. Basic emergency response requirements were added to ensure that accidents and fires are handled appropriately and public safety issues are addressed. Other sections of the rules addressing wellhead equipment, tools with radioactive material, the pulling of casing, gas-oil ratios, and multiple zone completions were upgraded or added based on the existing standards used in other states to prevent waste, protect correlative rights, and protect fresh water supplies. Responsibilities of the department and the Oil and Gas Conservation Commission are clarified. Multiple documents are incorporated by reference to allow the industry standards to be adopted in Idaho.

A few changes were made to the proposed rule in response to comments received. As part of the public notification process, an electronic copy of certain applications will be forwarded to the local county. The fresh water protections for well treatments were clarified by prohibiting fractures within five hundred (500) vertical feet below all fresh water aquifers. The prohibition on the use of volatile organic compounds or BTEX compounds for hydraulic fracturing was clarified, and some reference errors were corrected. Bonding and pit reclamation requirements were clarified. Surface equipment and the measurement of gas were consolidated and reorganized. Lastly, some well plugging requirements were clarified.

In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule is being published in this Bulletin following this notice and includes changes made to the pending rule. The text of the pending rule has been modified in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the

October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 454 through 497.

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

**FISCAL IMPACT:** The following is a specific 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 Eric Wilson, Minerals Program Manager, at (208) 334-0261 or [ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov).

DATED this 21st day of December, 2011.

Eric Wilson  
Minerals Program Manager  
Idaho Department of Lands  
PO Box 83720  
Boise, Idaho 83720-0050  
(208) 334-0261  
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[ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov)

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**DOCKET NO. 20-0702-1102 - ADOPTION OF PENDING RULE  
AND ADOPTION OF TEMPORARY RULE**

**Substantive changes have been made to the pending rule.**

**Language That Has Been Deleted From The Original Proposed Rule  
Has Been Removed And *Italicized* text that is underscored is new text that is being added.**

**This is also an amendment to the pending rule text.**

**The text of the proposed rule was published in the Idaho Administrative Bulletin,  
Volume 11-10, October 5, 2011, pages 95 through 98.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2012 Idaho State Legislature for final adoption.**

**Pursuant to Section 67-5226, Idaho Code, the full text of  
the temporary rule is being published in this Bulletin.**

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**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE AND THE  
PENDING RULE TEXT FOR DOCKET NO. 20-0702-1102**

**000. ~~(RESERVED)~~ LEGAL AUTHORITY.**

This Chapter is adopted under the legal authorities of Title 58, Chapter 1, Sections 58-104(6), 58-105, and 58-127, Idaho Code; Title 47, Chapter 3, Idaho Code; and Title 67, Chapter 52, Idaho Code. (12-21-11)T

**001. TITLE AND SCOPE.**

~~General rules shall be statewide in application unless otherwise specifically stated. These rules set forth the policy and procedures for the conservation of crude oil and gas.~~ (10-21-92)

**01. Title.** These rules shall be cited as IDAPA 20.07.02, "Rules Governing Oil and Gas Conservation in the State of Idaho." (12-21-11)T

**02. Scope.** These rules apply to the exploration and extraction of any and all crude oil and natural gas resources in the state of Idaho, not including biogas, manufactured gas, or landfill gas, regardless of ownership. (12-21-11)T

**03. Other Laws.** Owners or operators engaged in the exploration and extraction of crude oil and natural gas resources shall comply with all applicable laws and rules of the state of Idaho including, but not limited to the following: (12-21-11)T

**a.** Idaho water quality standards and waste water treatment requirements established in Title 39, Chapter 1, Idaho Code; IDAPA 58.01.02, "Water Quality Standards"; IDAPA 58.01.16, "Wastewater Rules"; and IDAPA 58.01.11, "Ground Water Quality Rule," administered by the IDEQ. (12-21-11)T

**b.** Idaho air quality standards established in Title 39, Chapter 1, Idaho Code and IDAPA 58.01.01 "Rules for the Control of Air Pollution in Idaho," administered by the IDEQ. (12-21-11)T

**c.** Requirements and procedures for hazardous and solid waste management, as established in Title 39, Chapter 44, Idaho Code, and rules promulgated thereunder including IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; IDAPA 58.01.06, "Solid Waste Management Rules"; and IDAPA 58.01.10, "Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, As Amended," administered by the IDEQ. (12-21-11)T

**d.** Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and rules promulgated thereunder including IDAPA 37.03.07, "Stream Channel Alteration Rules," administered by the IDWR. (12-21-11)T

**e.** Injection Well Act, Title 42, Chapter 39, Idaho Code and rules promulgated thereunder including IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells," administered by the IDWR. (12-21-11)T

**f.** Department of Water Resources – Water Resource Board Act, Title 42, Chapter 17, Idaho Code and rules promulgated thereunder including IDAPA 37.03.06, "Safety of Dams Rules," administered by the IDWR. (12-21-11)T

**002. WRITTEN INTERPRETATIONS.**

The Idaho Department of Lands maintains written interpretations of its rules which may include, but may not be limited to, written procedures manuals and operations manuals and other written guidance which pertain to the interpretation of the rules of this chapter. Copies of the procedures manuals and operations manuals and other written interpretations, if applicable, are available for public inspection and copying at the director's office of the Idaho Department of Lands, 300 North 6th Street, Suite 103, Boise, Idaho. (12-21-11)T

**003. ADMINISTRATIVE APPEALS.**

Any person aggrieved by any final decision or order of the Commission shall be entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, IDAPA 20.01.01, Title 47, Chapter 3, Idaho Code, and IDAPA 20.07.01, "Rules of Practice and Procedure before the Idaho Oil and Gas Conservation Commission." (12-21-11)T

**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated by reference into these rules: (12-21-11)T

**01. API Bulletin E3, Well Abandonment and Inactive Well Practices for U.S. Exploration and Production Operations, Environmental Guidance Document.** 1st Edition, January 1993 and Reaffirmed June 2000 available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. (12-21-11)T

**02. API SPEC 5CT, Specifications for Casing and Tubing.** The 8th edition dated July, 1, 2005 and the amendments dated March, 31, 2006 and April, 7, 2006 are available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. (12-21-11)T

**03. API SPEC 10a, Specification for Cements and Materials for Well Cementing.** The 24th Edition dated December, 2010 is available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. (12-21-11)T

**04. ASTM D698-07e1, Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Standard Effort (12,400 ft-lbf/ft<sup>3</sup> (600 kN-m/m<sup>3</sup>)).** 2007 revision. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. (12-21-11)T

**05. ASTM D1250-08, Standard Guide for Use of the Petroleum Measurement Tables.** 2008 revision. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. (12-21-11)T

**06. ASTM D1557-09, Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbf/ft<sup>3</sup> (2,700 kN-m/m<sup>3</sup>)).** 2009 revision. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. (12-21-11)T

**07. EPA SW-846 Method 9090A, Compatibility Test for Wastes and Membrane Liners.** Revision 1, July 1992. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103 and this website: <http://www.epa.gov/osw/hazard/testmethods/sw846/pdfs/9090a.pdf>. (12-21-11)T

**08. OSHA Standard 1910.1200 (Hazard Communication).** Last revised 1996. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103 and this website: [http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=standards&p\\_id=10099](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=standards&p_id=10099). (12-21-11)T

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**  
The principal place of business of the Idaho Department of Lands is 300 North 6th Street, Suite 103, Boise, Idaho and it is open from 8 a.m. To 5 p.m., Monday through Friday, except legal holidays. The mailing address is: Idaho Department of Lands, P.O. Box 83720, Boise, Idaho 83720-0050. The telephone number of the office is (208) 334-0200 and the fax number is (208) 334-2339. (12-21-11)T

**006. PUBLIC RECORDS ACT COMPLIANCE.**

**01. Promulgation.** The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. (12-21-11)T

**02. Confidentiality.** Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 9, Chapter 3, Idaho Code. Upon request in any application or material submitted to the Department, confidentiality protection shall be provided for trade secrets consistent with Section 9-340D(1), Idaho Code, and for "[a]rchaeological and geologic records concerning exploratory drilling, logging, mining and other excavation" consistent with Section 9-340E(2), Idaho Code. Only those parts of an application or other materials that fall under these provisions of Section 9-340, Idaho Code, can be held as confidential. The owner or operator shall not unreasonably designate other parts of their application or other materials as confidential. (12-21-11)T

**0027. -- 009. (RESERVED)**

**010. DEFINITIONS.**  
*Unless the context otherwise requires, the words defined shall have the following meaning when found in these rules:*

- ~~(10-21-92)~~
01. Act. The Idaho Oil and Gas Conservation Act, Title 47, Chapter 3, Idaho Code. (10-21-92)
02. Active Well. A permitted well used for production, disposal, or injection that is not idled for more than twenty-four (24) continuous months. (12-21-11)T
023. Barrel. Forty-two (42) U. S. gallons at sixty (60) Degrees F at atmospheric pressure. (10-21-92)
034. Blowout. An unplanned sudden or violent escape of ~~oil or natural gas, as~~ fluids from a drilling well ~~when high formational pressure is encountered.~~ (10-21-92)(12-21-11)T
045. Blowout Preventer. A heavy casinghead control equipped with special gates or rams that can be closed around the drill pipe, or that completely closes the top of the casing. (10-21-92)(12-21-11)T
056. Casing Pressure. The pressure built up within the casing or between the casing, and tubing, ~~when the casing and tubing are packed off at the top of the well~~ or drill pipe. (10-21-92)(12-21-11)T
07. Casinghead. A metal flange attached to the top of the conductor pipe that is the primary interface for the diverter system during drilling out for surface casing. (12-21-11)T
068. Casinghead Gas. Any gas or vapor, or both ~~gas and vapor~~, indigenous to an oil stratum and produced from such stratum with oil. (10-21-92)(12-21-11)T
079. Commission. The Oil and Gas Conservation Commission of the state of Idaho. (10-21-92)
0810. Common Source of Supply. Synonymous with pool. The geographical area or horizon definitely separated from any other such area or horizon and which contains, or from competent evidence appears to contain, a common accumulation of oil or gas or both. Any oil or gas field or part thereof which comprises and includes any area which is underlaid, or which from geological or other scientific data or experiments or from drilling operations or other evidence appears to be underlaid by a common pool or accumulation of oil or gas or both oil and gas. (10-21-92)
09. ~~Condensate.~~ Liquid hydrocarbons that were originally in the gaseous phase in the reservoir. (10-21-92)
11. Completion. An oil well shall be considered completed when the first new oil is produced through wellhead equipment into lease tanks from the ultimate producing interval after the production casing has been run. A gas well shall be considered completed when the well is capable of producing gas through wellhead equipment from the ultimate producing zone after the production casing has been run. (12-21-11)T
12. Conductor Pipe. The first and largest diameter string of casing to be installed in a well. This casing extends from land surface to a depth great enough to keep surface waters from entering and loose earth from falling in the hole and to provide anchorage for the diverter system prior to setting surface casing. (12-21-11)T
103. Cubic Foot of Gas. The volume of gas contained in one (1) cubic foot of space at a standard pressure base and a standard temperature base. The standard pressure base shall be fourteen ~~point~~ and seventy-three hundredths (14.73) pounds per square inch absolute and the standard temperature base shall be sixty (60) Degrees F. (10-21-92)(12-21-11)T
14. Day. A period of twenty-four (24) consecutive hours from 8 a.m. one day to 8 a.m. the following day. (10-21-92)(12-21-11)T
15. Department. The Idaho Department of Lands or its designee. (12-21-11)T
126. Development. Any work which actively promotes bringing in production. (10-21-92)

~~13. **Developed Area.** A spacing unit on which a well has been completed that is capable of producing oil or gas, or the acreage that is otherwise attributed to a well by the Commission. (10-21-92)~~

**147. Director.** The Director head of the Idaho Department of Lands and secretary to the Oil and Gas Conservation Commission, or his designee. (10-21-92)(12-21-11)T

**18. Drilling Logs.** The recorded description of the lithologic sequence encountered in drilling a well, and any electric, gamma ray, geophysical, or other logging done in the hole. (12-21-11)T

**159. Field.** The general area underlaid by one (1) or more pools. (10-21-92)

~~16. **Gas.** All natural gas and all other fluid hydrocarbons not herein below defined as oil, including condensate because it originally was in the gaseous phase in the reservoir. (10-21-92)~~

**20. Fresh Water.** All surface waters and those ground waters that are used, or may be used in the future, for drinking water, agriculture, aquaculture, or industrial purposes other than oil and gas development. The possibility of future use is based on hydrogeologic conditions, water quality, future land use activities, and social/economic considerations. (12-21-11)T

~~1721. **Gas-Oil Ratio.** The volume of gas produced in standard cubic feet to each stock tank barrel of oil or condensate produced concurrently during any stated period. (10-21-92)(12-21-11)T~~

~~1822. **Gas Well.** (10-21-92)~~

- a. A well which produces primarily natural gas only; (10-21-92)(12-21-11)T
- b. Any well capable of producing gas in commercial quantities and also producing oil from the same common source of supply but not in commercial quantities; or (10-21-92)
- c. Any well classed as a gas well by the Commission for any reason. (10-21-92)

~~19. **Just and Equitable Share of the Production.** As to each person, that part of the production from the pool that is substantially in the proportion that the amount of recoverable oil or gas or both in the developed area of the person's tract(s) in the pool bears to the recoverable oil or gas or both in the total of the developed areas in the pool. (10-21-92)~~

**23. Geophysical or Seismic Operations.** Any geophysical method performed on the surface of the land utilizing certain instruments operating under the laws of physics respecting vibration or sound to determine conditions below the surface of the earth that may contain oil or gas and is inclusive of, but not limited to, the preliminary line survey, the acquisition of necessary permits, the selection and marking of shot-hole locations, necessary clearing of vegetation, shot-hole drilling, implantation of charge, placement of geophones, detonation and backfill of shot-holes, and vibroseis. (12-21-11)T

**24. Hydraulic Fracturing, or Fracing.** A method of stimulating or increasing the recovery of hydrocarbons by perforating the production casing and injecting fluids or gels into the potential target reservoir at pressures greater than the existing fracture gradient in the target reservoir. (12-21-11)T

**25. Inactive Well.** An unplugged well that has no reported production, disposal, injection, or other permitted activity for a period of greater than twenty-four (24) continuous months, and for which no extension has been granted. (12-21-11)T

**26. Intermediate Casing.** The casing installed within the well to seal intermediate zones above the anticipated bottom hole depth. The casing is generally set in place after the surface casing and before the production casing. (12-21-11)T

**27. Junk.** Debris in a hole that impedes drilling or completion. (12-21-11)T

~~208.~~ **Lease.** A tract(s) of land which by virtue of an oil and gas lease, fee or mineral ownership, a drilling, pooling or other agreement, a rule, regulation or order of a governmental authority, or otherwise constitutes a single tract or leasehold estate for the purpose of the development or operation thereof for oil or gas or both.

(10-21-92)

~~21. **Oil.** Crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods but does not include liquid hydrocarbons that were originally in a gaseous phase in the reservoir.~~

~~(10-21-92)~~

~~29. **Mechanical Integrity Test.** A test designed to determine if there is a significant leak in the casing, tubing, or packer of a well.~~

~~(12-21-11)T~~

~~2230. **Oil and Gas.** Oil or gas or both.~~

(10-21-92)

~~231. **Oil Well.** Any well capable of primarily producing oil in paying quantities, but not a gas well.~~

~~(10-21-92)(12-21-11)T~~

~~2432. **Operator.** Any duly authorized person who is in charge of the development of a lease or the operation of a producing well.~~

(10-21-92)

~~2533. **Owner.** The person who has the right to drill into and produce from a pool and to appropriate the oil or gas that produces there from either for himself and/or others.~~

(10-21-92)

~~2634. **Person.** Any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any government or any political subdivision or any agency thereof. The masculine gender, in referring to a person, includes the feminine and the neuter gender.~~

(10-21-92)

~~35. **Pit.** Any excavated or constructed depression or reservoir used to contain reserve, drilling, well treatment, produced water, or other fluids at the drill site. This does not include enclosed, mobile, or portable tanks used to contain fluids.~~

~~(12-21-11)T~~

~~36. **Pollution.** Constituents of oil, gas, salt water, or other materials used in oil and gas extraction, occurring in fresh water supplies at levels that exceed the standards in IDAPA 58.01.02, "Water Quality Standards," and IDAPA 58.01.11, "Ground Water Quality Rules," as the result of the drilling, casing, treating, operation or plugging of wells.~~

~~(12-21-11)T~~

~~237. **Pool or Reservoir.** An underground reservoir containing a common accumulation of oil or gas or both; each zone of a structure that is completely separated from any other zone in the same structure is a pool.~~

~~(10-21-92)(12-21-11)T~~

~~238. **Pressure Maintenance.** The injection of gas, water, or other fluids into oil or gas reservoirs to maintain pressure or retard pressure decline in the reservoir for the purpose of increasing the recovery of oil or other hydrocarbons therefrom.~~

(10-21-92)

~~39. **Produced Water.** Water that is produced along with oil or gas.~~

~~(12-21-11)T~~

~~2940. **Producer.** The owner of a well(s) capable of producing oil or gas or both.~~

(10-21-92)

~~41. **Production Casing.** The casing set across the reservoir interval and within which the primary completion components are installed.~~

~~(12-21-11)T~~

~~30. **Protect Correlative Rights.** The action or regulation by the Commission should afford a reasonable opportunity to each person entitled thereto to recover or receive the oil or gas in such person's tract(s) or the equivalent thereof, without being required to drill unnecessary wells or to incur other unnecessary expense to recover or receive such oil or gas or its equivalent.~~

~~(10-21-92)~~

- 42. Proppant.** Sand or other materials used in hydraulic fracturing to prop open fractures. (12-21-11)T
- 43. Release.** Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (12-21-11)T
- 44. Surface Casing.** The first casing which is run after the conductor pipe to anchor blow out prevention equipment and to seal out fresh water zones. (12-21-11)T
- 45. Tubing.** Pipe used inside the production casing to convey oil or gas from the producing interval to the surface. (12-21-11)T
- 46. Volatile Organic Compound.** Organic chemical compounds whose composition makes it possible for them to evaporate under normal indoor atmospheric conditions of sixty-eight (68) degrees F and an absolute pressure of fourteen point seven (14.7) psi atmospheric. (12-21-11)T
- 347. Waterflooding.** The injection into a reservoir through one (1) or ~~several more~~ wells of with volumes of water for the purpose of increasing the recovery of oil therefrom. (10-21-92)(12-21-11)T
- 348. Waste as Applied to Oil.** Underground waste; inefficient, excessive, improper use, or dissipation of reservoir energy, including gas energy and water drive; surface waste, open-pit storage, and waste incident to the production of oil in excess of the producer's above-ground storage facilities and lease and contractual requirements, but excluding storage (other than open-pit storage) reasonably necessary for building up and maintaining crude stocks and products thereof for consumption, use, and sale; the locating, drilling, equipping, operating, or producing of any well in a manner that causes, or tends to cause, reduction of the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations. (10-21-92)
- 349. Waste as Applied to Gas.** The escape, blowing or releasing, directly or indirectly, into the open air of gas from wells productive of gas only, or gas in an excessive or unreasonable amount from wells producing oil or both oil and gas; and the production of gas in quantities or in such manner as will unreasonably reduce reservoir pressure or unreasonably diminish the quantity of oil or gas that might ultimately be produced; excepting gas that is reasonably necessary in the drilling, completing, and testing of wells and in furnishing power for the production of wells (10-21-92)
- 350. Well Log Report.** The written record progressively describing the strata, water, oil, or gas encountered in drilling a well with such additional information as to give volumes, pressures, rate of fill-up, water depths, casing strata, casing record, etc., as is usually recorded in normal procedure of drilling; also, it includes electrical radioactivity, or other similar logs run, lithologic description of all cores, and all drill-stem tests, including depth-tested, cushion-used, time tool open, flowing and shut-in pressures and recoveries. (10-21-92)(12-21-11)T
- 51. Well Treatment.** Actions performed on a well to acidize, fracture, or stimulate the target reservoir. (12-21-11)T
- 352. Wildcat Well.** An exploratory well drilled ~~to discover a previously unknown pool~~ in an area of unknown subsurface conditions. (10-21-92)(12-21-11)T
- 011. ABBREVIATIONS.**
- 01. API.** American Petroleum Institute. (12-21-11)T
- 02. ASTM.** American Society for Testing and Materials. (12-21-11)T
- 03. BOP.** Blowout Preventer. (12-21-11)T
- 04. CAS.** Chemical Abstracts Service. (12-21-11)T
- 05. EPA.** United States Environmental Protection Agency. (12-21-11)T



06. F. Fahrenheit. (12-21-11)T
07. GPS. Global Positioning System. (12-21-11)T
08. HDPE. High Density Polyethylene. (12-21-11)T
09. IDAPA. Idaho Administrative Procedure Act. (12-21-11)T
10. IDEQ. Idaho Department of Environmental Quality. (12-21-11)T
11. IDWR. Idaho Department of Water Resources. (12-21-11)T
12. MSDS. Material Safety Data Sheet. (12-21-11)T
13. OSHA. Occupational Safety & Health Administration. (12-21-11)T
14. PSI. Pounds per Square Inch. (12-21-11)T

~~014.~~ -- 014. (RESERVED)

**015. SPECIAL RULES PROTECTION OF CORRELATIVE RIGHTS.**

~~Special rules will be issued when required and shall prevail as against general rules if in conflict therewith. The Commission and the Department should afford a reasonable opportunity to each person entitled thereto to recover or receive the oil or gas in such person's tract(s) or the equivalent thereof, without being required to drill unnecessary wells or to incur other unnecessary expense to recover or receive such oil or gas or its equivalent.~~

~~(10-21-92)~~(12-21-11)T

016. -- ~~0319.~~ (RESERVED)

**020. APPLICABILITY.**

**01. Oil and Gas Development.** These rules apply to oil and gas development and carry out the Commission's duty to prevent waste, protect correlative rights, and prevent pollution of fresh water supplies through activities authorized by these rules. (12-21-11)T

**02. Exclusions.** These rules do not apply to the exploration and development of other mineral resources covered by Title 47, Chapter 13, Idaho Code; Title 47, Chapter 15, Idaho Code; or Title 42, Chapter 40, Idaho Code. (12-21-11)T

~~021.~~ -- ~~039.~~ (RESERVED)

**040. NOTICES - GENERAL.**

**01. Written Authorization Required.** Any written notice of intention to do work or to change plans previously approved must be filed with the ~~director~~ Department, unless otherwise directed, and must ~~reach the director and receive his approval~~ be approved before the work is begun. Such approval may be given orally and, if so given, shall thereafter be confirmed by the ~~director~~ Department in writing. ~~(10-21-92)~~(12-21-11)T

**02. Emergency Authorization.** In case of emergency, or a situation where operations might be unduly delayed, any written notice required by these rules and regulations to be given the ~~director~~ Department may be given orally or by wire and if approval is obtained, the transaction shall be confirmed in writing, as a matter of record. ~~(10-21-92)~~(12-21-11)T

041. -- 049. (RESERVED)

**050. PERMIT TO DRILL, DEEPEN, OR PLUG BACK.**

**01. Permits Required.** Prior to the commencement of operations to drill, deepen, or plug back to any source of supply other than the existing producing horizon, application shall be delivered to the Commission Department of intention to drill, deepen, or plug back any well for oil or gas, and approval obtained.

~~(10-21-92)~~(12-21-11)T

**02. Fees.** An one hundred dollar (\$100) service application fee must accompany each application for permit to drill, deepen, or plug back ~~for any well on which the service fee has not been paid~~. No service fee is required for a permit to deepen or plug back in a well for which the fee has been paid for permit to drill unless the drilling permit has expired.

~~(10-21-92)~~(12-21-11)T

**03. Time Required to Commence Operations; Term of Permit.** On the first anniversary of the date of issuance of a permit to drill, deepen, or plug back, said permit ~~shall terminate~~ will expire and be of no further force or effect, unless the work for which the permit was issued has been started. Prior to the anniversary date, the owner or operator may apply for a one-time, six-month extension if work has not started. If conditions have not changed and no changes to the permit are requested, the extension may be approved by the Department. If a permit expires due to the failure to commence operations, then reapplication is required prior to commencing operations.

~~(10-21-92)~~(12-21-11)T

**04. Plat Application.** The Application for Permit to Drill shall ~~be accompanied by an~~ include a Department approved form and the following:

(12-21-11)T

**a.** An accurate plat showing the location of the proposed well with reference to the nearest lines of an established public survey.

(12-21-11)T

**b.** The location of the nearest structure with a water supply, or the nearest water well as shown on the IDWR registry of water rights or well log database.

(12-21-11)T

**c.** Information ~~to be included in such notice shall be~~ on the type of tools to be used; and the proposed logging program.

(12-21-11)T

**d.** ~~p~~Proposed total depth to which the well will be drilled, estimated depth to the top of the important geologic markers, and the estimated depth to the top of ~~objective horizons;~~ the target formations.

(12-21-11)T

**e.** ~~†~~The proposed casing program, including size and weight thereof, the depth at which each casing string type is to be set; ~~and~~

(12-21-11)T

**f.** ~~†~~The type and amount of cement to be used, and the intervals cemented.

(12-21-11)T

**g.** Information ~~shall also be given relative to~~ on the drilling plan; ~~together with~~

(12-21-11)T

**h.** Best management practices to be used for erosion and sediment control.

(12-21-11)T

**i.** Plan for interim reclamation of the drill site after the well is completed, and a plan for final reclamation of the drill site following plugging and abandonment of the well. These plans must contain the information needed to implement reclamation as described in Subsection 080.15 and Section 325 of these rules.

(12-21-11)T

**j.** Applications that include the following actions must also provide the information from the respective Section of these rules:

(12-21-11)T

**i.** Well treatments require the submittal of the information in Section 055.

(12-21-11)T

**ii.** Pit construction and use requires the submittal of the information in Section 085.

(12-21-11)T

**iii.** Directional or horizontal drilling requires the submittal of the information in Section 170.

(12-21-11)T

k. ~~Any~~ other information which may be required by the ~~Commission~~ Department based on site specific reasons. ~~(10-21-92)~~(12-21-11)T

05. **Permit Denial.** Applications may be denied for the following reasons: (12-21-11)T

a. Application fee was not submitted. (12-21-11)T

b. Application is incomplete. (12-21-11)T

c. Failure to post required bonds. (12-21-11)T

d. Proposed well will result in a waste of oil or gas, a violation of correlative rights, or the pollution of fresh water supplies. (12-21-11)T

**051. PUBLIC COMMENT.**

Applications submitted under Sections 050, 055, 085, and 170 of these rules will be posted on the Department's website for a fifteen-day (15) written comment period. The Department will also send an electronic copy of the application to the respective county, and city if applicable, where the proposed operation is located. The purpose of the comment period is to receive written comments on whether a proposed application complies with these rules. These comments will be considered by the Department prior to permit approval or denial. Relevant comments will be posted on the Department's website following the comment period. (12-21-11)T

~~0512.~~ -- ~~0594.~~ (RESERVED)

**055. WELL TREATMENTS.**

01. **Application Required.** An Application for Permit to Drill required by Section 050 must include any plans for well treatment if they are known before the well is drilled. If well treatments are not covered in the original drilling permit, then an application to amend the permit must be made to the Department with an application fee. Approval by the Department is required prior to the well treatments being implemented. Actions to clean the casing or perforations not in excess of pressures sufficient to overcome the fracture gradient in the surrounding formation are not considered to be well treatments, but a notice to the Department as described in Section 350 of these rules is still required. Applications for well treatments must include the permit number, well name, well location, as-built description if drilling has been completed, and the following: (12-21-11)T

a. Depth to perforations or the openhole interval; (12-21-11)T

b. The source of water or type of base fluid; (12-21-11)T

c. Additives, meaning any substance or any combination of substances including proppant, having a specified purpose that is combined with base treatment fluid by trade name, if available, and MSDS for each additive; (12-21-11)T

d. Type of proppant(s); (12-21-11)T

e. Anticipated percentages by volume and total volumes of base treatment fluid, individual additives, and proppant(s); (12-21-11)T

f. Estimated pump pressures; (12-21-11)T

g. Method and timeline for the management, storage, and disposal of well treatment fluids, including anticipated disposal site of treatment fluids or plans for reuse; (12-21-11)T

h. Size and design of storage pits, if proposed, in conformance with Section 085 of these rules; (12-21-11)T

i. Information specific to hydraulic fracturing as described in Section 056 of these rules; (12-21-11)T

- i. Summary identifying all water bearing zones from the surface down to the bottom of the well; (12-21-11)T
- k. Fresh water protection plan that describes the proposed site specific measures to protect water quality from activities associated with well treatments. The Department will review this plan in consultation with the IDEQ. The Fresh Water Protection Plan shall include the following information: (12-21-11)T
- i. Ground water and storm water best management practices; (12-21-11)T
- ii. Statement certifying that the owner or operator is complying with Spill Prevention, Control, and Countermeasures (SPCC) requirements administered by the EPA; (12-21-11)T
- iii. A preconstruction topographic site map or aerial photos identifying all habitable structures, wells, perennial and intermittent springs, surface waters, and irrigation ditches within one-quarter (1/4) mile of the oil or gas well. The distance or location may be changed based on site specific factors such as horizontal drilling, the expected length of fractures, or lack of suitable water sample locations within one-quarter (1/4) mile; (12-21-11)T
- iv. A brief description of the structural geology that may influence ground water flow and direction;  
and (12-21-11)T
- v. The general hydrogeological characteristics of the treatment area and surrounding land. (12-21-11)T
- l. Certification by the owner or operator that all aspects of the well construction, including the suitability and integrity of the cement used to seal the well, are designed to meet the requirements of proposed well treatments; (12-21-11)T
- m. Affidavit signed by the owner or operator stating that all home owners and water well owners within one-quarter (1/4) mile of the oil or gas well, and all owners of a public drinking water system that have a IDEQ recognized source water assessment or protection area within one-quarter (1/4) mile of the oil or gas well, have been notified of the proposed treatment. If a well deviates from the vertical, these surface distances will be from the entire length of the wellbore from the surface to total depth. The notification will also offer an opportunity to have the owner or operator sample and test the water, at the owner or operator's cost, prior to and after the oil or gas well being treated. Notification shall be by certified mail to the surface owner as identified by the county assessor's records, or to the well owner as identified on the IDWR registry of water rights or well log database; (12-21-11)T
- n. Proof of publication in a newspaper of general circulation in the county where the well is located of a legal notice briefly describing the well treatment to be performed. Notice shall also advise all water well or public drinking water system owners, as described in paragraph 055.01.m. of these rules, of the opportunity to have their water tested at the owner's or operator's cost before and after the well treatment; and (12-21-11)T
- o. Additional information as required by the Department. (12-21-11)T
- 02. Master Drilling/Treatment Plans.** Where multiple stimulation activities will be undertaken for several wells proposed to be drilled in the same field within an area of geologic similarity, approval may be sought from the Department for a comprehensive master drilling/treatment plan containing the information required. The approved master drilling/treatment plan must then be referenced on each individual well's Application for Permit to Drill. (12-21-11)T
- 03. Application Denial.** The Department may deny well treatment applications for one (1) or more of the following reasons: (12-21-11)T
- a. Application does not contain the information in Subsection 055.01 of these rules; (12-21-11)T
- b. Application fee was not submitted. (12-21-11)T

**c.** Proposed treatment will result in a waste of oil or gas, a violation of correlative rights, or the pollution of fresh water supplies. (12-21-11)T

**04.** **Time Limit.** If a treatment approved in a drilling permit or amended drilling permit is not started within one (1) year of the approval of the well treatment, the well treatment permit will expire and reapplication will be required prior to conducting the well treatment. Prior to the anniversary date, the owner or operator may apply for a six-month (6) extension. If conditions have not changed, and no changes to the permit are requested, the extension may be approved by the Department. (12-21-11)T

**05.** **Inspections.** The Department may conduct inspections prior, during, and after well treatments. (12-21-11)T

**06.** **Reporting Requirements.** A report on the well treatment must be submitted within thirty (30) days of the treatment. The report shall present a detailed account of the work done and the manner in which such work was performed, including: (12-21-11)T

**a.** The daily production of oil, gas, and water both prior to and after the operation. (12-21-11)T

**b.** The size and depth of perforations. (12-21-11)T

**c.** Percentages by volume and total volumes of base treatment fluid, individual additives, and proppant(s). This requirement can be met by the submittal of well completion field tickets if they contain this information. (12-21-11)T

**d.** Information specific to hydraulic fracturing, as described in Section 056 of these rules. (12-21-11)T

**e.** Static pressure testing results before and after the well treatment. (12-21-11)T

**f.** The amounts, handling, and if necessary, disposal at an identified appropriate disposal facility, or reuse of the well stimulation fluid load recovered during flow back, swabbing, and/or recovery from production facility vessels. Reporting of recovered fluids shall be included with other monthly production reports required by the Department. Storage of such fluid shall be protective of ground water as demonstrated by the use of either tanks or authorized lined pits as described in Section 085 of these rules. (12-21-11)T

**g.** Any other information related to operations which alter the performance or characteristics of the well. (12-21-11)T

**07.** **Fresh Water Protections for Well Treatments.** (12-21-11)T

**a.** The Department will not authorize pits, lagoons, ponds, or other methods of subsurface storage for treatment fluids within IDEQ recognized source water assessment or protection areas for public drinking water systems. Owners or operators must store and transport treatment fluids using above ground storage facilities and tanker trucks for well treatments in these locations. (12-21-11)T

**b.** The Department will not authorize well treatments to create fractures within five hundred (500) vertical feet below fresh water aquifers. (12-21-11)T

**c.** The Department shall require the owner or operator to complete fresh water monitoring at the owner's or operator's cost before and after a well treatment unless the Department, in consultation with the IDEQ, determines that the proposed treatment does not pose a threat of pollution to fresh waters. The Department will review and approve all monitoring proposals with the IDEQ. The monitoring will be done using representative existing water wells or surface waters within one-quarter (1/4) horizontal mile of the treated well. For wells that deviate from the vertical, sampling may be required within one-quarter (1/4) horizontal mile of the wellbore's projected location on the surface. If no water wells or surface waters are present in this area, the sampling area may be enlarged as needed with approval by the Department. If the Department determines that existing water wells are not representative of the ground waters that could be impacted, then the Department may require the owner or operator to

install one (1) or more ground water monitoring wells at the owner's or operator's cost. The owner or operator must obtain consent from appropriate property owners to gain access prior to any sampling or well construction. When monitoring is required by the Department, the operator will prepare a monitoring plan that includes the following:

(12-21-11)T

i. Location of proposed monitoring sites; (12-21-11)T

ii. Construction details of any sampled or constructed wells including total well depth, depth of screened interval(s), screen size, and drilling log. For existing wells, the operator must make every reasonable attempt to locate this information; (12-21-11)T

iii. When possible, data from the existing wells collected within the last five (5) years and analyzed in a state or EPA certified drinking water lab; (12-21-11)T

iv. List of proposed analytes, testing methods, and their detection limits; (12-21-11)T

v. Additional tests such as stable isotopic analysis; and (12-21-11)T

vi. Pre-treatment sampling and analysis when no relevant data exists, and a schedule for post-treatment sampling and analysis. (12-21-11)T

d. The owner or operator will provide the Department with copies of any analysis or reports within thirty (30) days of samples being taken. All samples must be analyzed in a state or EPA certified drinking water lab. (12-21-11)T

e. Pollution of fresh water supplies due to a well treatment is a violation of these rules and Title 47, Chapter 3, Idaho Code. (12-21-11)T

## **056. HYDRAULIC FRACTURING.**

**01. Application Requirements.** In addition to the information required by Subsection 055.01 of this rule, the owner or operator shall provide the following application information regarding hydraulic fracturing: (12-21-11)T

a. The geological names and descriptions of the formation into which well stimulation fluids are to be injected; (12-21-11)T

b. Detailed information on the base stimulation fluid source. For each stage of the well stimulation program, provide the chemical additives and proppants and concentrations or rates proposed to be mixed and injected, including: (12-21-11)T

i. Stimulation fluid identified by additive type (such as but not limited to acid, biocide, breaker, brine, corrosion inhibitor, crosslinker, demulsifier, friction reducer, gel, iron control, oxygen scavenger, pH adjusting agent, proppant, scale inhibitor, surfactant); (12-21-11)T

ii. The chemical compound name and Chemical Abstracts Service (CAS) number as found on the previously submitted MSDS shall be identified (such as the additive biocide is glutaraldehyde, or the additive breaker is ammonium persulfate, or the proppant is silica or quartz sand, and so on for each additive used); (12-21-11)T

iii. The proposed rate or concentration for each additive and the total volume of each shall be provided (such as gel as pounds per thousand gallons, or biocide at gallons per thousand gallons, or proppant at pounds per gallon, or expressed as percent by weight or percent by volume, or parts per million, or parts per billion); and (12-21-11)T

iv. The formulary disclosure of the chemical compounds used in the well stimulation(s) for the purpose of protecting public health and safety. (12-21-11)T

- c. A detailed description of the proposed well stimulation design that shall include: (12-21-11)T
- i. The anticipated surface treating pressure range; (12-21-11)T
- ii. The maximum injection treating pressure, which shall be within accepted safety limits. Accepted safety limits are generally 80% of the maximum pressure rating of the pressurized system; (12-21-11)T
- iii. The estimated or calculated fracture height in both the horizontal and vertical directions. (12-21-11)T

02. **Volatile Organic Compounds and Petroleum Distillates.** The injection of volatile organic compounds, such as benzene, toluene, ethyl benzene and xylene, also known as BTEX compounds, or any petroleum distillates into ground water in excess of the applicable ground water quality standards is prohibited. Volatile organic compounds or petroleum distillates may be appropriate as additives, but they are not appropriate for use as the base fluids. The proposed use of volatile organic compounds or any petroleum distillates for well stimulation into hydrocarbon bearing zones may be authorized with prior approval of the director. Water that is produced with oil and gas, and which may contain small amounts of naturally occurring volatile organic compounds or petroleum distillates, may be used as well stimulation fluid in hydrocarbon bearing zones. (12-21-11)T

03. **Well Integrity.** Prior to the well stimulation, the owner or operator will perform a suitable mechanical integrity test of the casing or of the casing-tubing annulus or other mechanical integrity test methods and submit an affidavit certifying that the well was tested in anticipation of proposed treatment pressures. The owner or operator will notify the Department of this test twelve (12) to twenty-four (24) hours in advance. (12-21-11)T

04. **Pressure Monitoring.** During the well stimulation operation, the owner or operator shall monitor and record the annulus pressure at the casinghead. If intermediate casing has been set on the well being stimulated, the pressure in the annulus between the intermediate casing and the production casing shall also be monitored and recorded. If the annulus pressure increases by more than five hundred (500) psi gauge as compared to the pressure immediately preceding the stimulation, the owner or operator shall verbally notify the Department as soon as practicable but no later than twenty-four (24) hours following the incident. (12-21-11)T

05. **Post Treatment Report.** In addition to the information required by Subsection 055.06 of this rule, the owner or operator shall provide the following post-treatment reporting: (12-21-11)T

- a. The actual total well stimulation treatment volume pumped; (12-21-11)T
- b. The actual surface pressure and rate at the end of each fluid stage and the actual flush volume, rate and final pump pressure; (12-21-11)T
- c. The instantaneous shut-in pressure, and the actual fifteen (15) minute and thirty (30) minute shut-in pressures when these pressure measurements are available; (12-21-11)T
- d. A continuous record of the annulus pressure during the well stimulation; (12-21-11)T
- e. A copy of the well stimulation service contractor's job log, without any cost/pricing data from the field ticket, in lieu of paragraphs (a) through (d) above. If the job log does not contain all the needed information, it must be supplemented with additional information needed to satisfy paragraphs 056.05.a. through 056.05.d. of this rule. (12-21-11)T
- f. A report containing all details pertaining to any annulus pressure increases of more than five hundred (500) psi gauge as described in Subsection 056.04 of this rule. The report shall include corrective actions taken, if necessary. (12-21-11)T
- g. Results of post treatment fluid analysis used to help determine where the fluid can be disposed. (12-21-11)T

057. -- 059. (RESERVED)

**060. TRANSFER OF DRILLING PERMITS.**

No person to whom a permit has been issued shall transfer the permit to any other location or to any other person until the following requirements have been complied with: (10-21-92)

**01. Prior to Drilling Well.** If, prior to the drilling of a well, the person to whom the permit was originally issued desires to change the location, he shall submit a letter so stating and another application properly filled out showing the new location. ~~No additional fee is necessary, but a~~ Drilling shall not be started until the transfer has been approved and the new permit posted at the new location. ~~(10-21-92)~~(12-21-11)T

**02. During Drilling or After Completion.** If, while a well is drilling being drilled or after it has been completed, the person to whom the permit was originally issued disposes of his interest in the well, he shall submit a written statement to the Commission Department setting forth the facts and requesting that the permit be transferred to the person who has acquired the well. ~~(10-21-92)~~(12-21-11)T

**03. Terms for Acceptance of Transfer ~~by Commission.~~** Before the transfer of a drilling permit shall be recognized, the person who has acquired the well must submit a written statement setting forth that he has acquired such well and assumes full responsibility for its operation and abandonment in conformity with the law, rules, regulations, and orders issued by the Commission. If bond is required to guarantee compliance with the rules and regulations of the Commission, the person acquiring such well shall furnish bond. ~~(10-21-92)~~(12-21-11)T

**061. -- 069. (RESERVED)**

**070. BONDING.**

**01. Individual Bond.** The Commission Department shall, except as hereinafter provided, require from the owner or operator a good and sufficient bond in the sum of not less than ten thousand dollars (\$10,000) plus one dollar (\$1) for each foot of planned well length in favor of the Commission, Department. The bond shall be conditioned upon the performance of the owner's or operator's duty to comply with the requirements of the Idaho Oil and Gas Conservation Act and the rules and regulations of the Commission, with respect to the drilling, maintaining, operating, and plugging of each well drilled for oil and gas and the reclamation of surface disturbance associated with these activities. Said bond shall remain in force and effect until the plugging of said well is approved by the Commission Department and the well site is reclaimed as described in Section 325 of these rules, or the bond is released by the Commission Department. (12-21-11)T

**02. Blanket Bond.** ~~It is provided that~~ In lieu of the bond in Subsection 070.01 of this rule, any owner or operator ~~in lieu of such bond~~ may file with the Commission Department a good and sufficient blanket bond ~~in a sum of not less than twenty five thousand dollars (\$25,000),~~ covering all active wells drilled or to be drilled in the state of Idaho ~~by the principal in said bond, and the acceptance and approval by the Commission of such blanket bond shall be in full compliance with the above provision requiring an individual well bond.~~ The bond(s) herein before referred to shall be by a corporate surety authorized to do business in the state of Idaho or in cash. The amount of the blanket bond will be as follows according to the number of active wells covered by the bond: ~~(10-21-92)~~(12-21-11)T

**a.** Up to ten (10) wells, fifty thousand dollars (\$50,000); (12-21-11)T

**b.** Eleven (11) to thirty (30) wells, one hundred thousand dollars (\$100,000); or (12-21-11)T

**c.** More than thirty (30) wells, one hundred fifty thousand dollars (\$150,000). (12-21-11)T

**03. Inactive Well Bond.** An owner or operator must provide the Department with a bond of at least ten thousand dollars (\$10,000) plus one dollar (\$1) for each foot of planned well length for each inactive well conditioned upon the performance of the duty to comply with the requirements of the Act and the rules of the Commission, with respect to the drilling, maintaining, operating, and plugging of each well drilled for oil and gas. Said bond shall remain in force and effect until the plugging of said well is approved by the Department, or the bond is released by the Department. Inactive wells may not be covered by a blanket bond as provided in Subsection 070.02 of this rule. (12-21-11)T



**04. Additional Bonding.** The Department may impose additional bonding on an owner or operator given sufficient reason, such as non-compliance, unusual conditions, horizontal drilling, or other circumstances that suggest a particular well or group of wells has potential risk or liability in excess of that normally expected. The owner or operator may request a hearing to appeal either the decision to impose an additional bond or the proposed amount of the bond. (12-21-11)T

**071. -- 0794. (RESERVED)**

**075. SURFACE OWNER PROTECTIONS.**

**01. Surface Use Agreement.** If the mineral estate has been severed from the surface estate where an oil or gas well is to be located, the owner or operator shall attempt a good faith negotiation of a surface use agreement with the surface owner. The surface use agreement must address how the surface owner will be compensated for lost agricultural income and lost value of improvements directly caused by oil and gas exploration and production. The owner or operator may rely on the tax records of the respective county assessor to identify the surface owner. (12-21-11)T

**02. Surface Owner Notification.** If a surface use agreement cannot be negotiated, then the owner or operator must notify the surface owner of the intent to drill by certified mail at least sixty (60) days prior to the commencement of surface disturbing activities, unless otherwise agreed to by the surface owner. The notification must include a proposed surface use bond amount, and a copy must be sent to the Department. (12-21-11)T

**03. Surface Owner Objection.** If the surface owner disagrees with the owner's or operator's proposed surface use bond amount, the surface owner must send a written objection to the Department within thirty (30) days of receiving the notification from the owner or operator. The objection must contain the owner's or operator's proposed surface use bond amount. Any objection filed will not delay the owner's or operator's proposed start of surface disturbing activities. (12-21-11)T

**04. Surface Use Bond.** The minimum surface use bond in all instances with no surface use agreement will be five thousand dollars (\$5,000), and will be paid in cash to the Department. If the surface owner objects to the owner's or operator's proposed bond amount, the Department will determine a surface use bond based on the information received from both the owner or operator and the surface owner. The Department will then request that the owner or operator submit this bond. The Department may issue the permit and authorize the commencement of drilling operations after this bond has been received. The purpose of this bond is to safeguard the surface owner's loss of agricultural income and improvement values pending the results of a hearing on the final bond. (12-21-11)T

**05. Hearing to Determine Surface Use Bond.** When the owner, operator, or surface owner objects to the Department's proposed surface use bond, a hearing will be scheduled as soon as possible to determine the final bond amount. The owner, operator, surface owner, and Department may offer testimony to the hearing officer. The hearing officer will recommend a final bond amount to the Commission. After the Commission's final order, the owner or operator and surface owner will have twenty-eight (28) days to file a request for judicial review. (12-21-11)T

**06. Release of Surface Use Bond.** The Department will hold the bond pending either a surface use agreement between the two (2) parties that negates the need for a surface use bond, or reclamation of the surface disturbance. (12-21-11)T

**07. Forfeiture of Surface Use Bond.** The Department may forfeit this bond upon failure of the owner or operator to reclaim the disturbed area in a timely manner, or upon failure of the parties to reach a surface use agreement, upon the completion of drilling operations. (12-21-11)T

**076. -- 079. (RESERVED)**

**080. GENERAL DRILLING RULES.**

*Unless altered, modified, or changed for a particular pool(s), upon hearing before the Commission, the following shall apply to the drilling of all wells.* (10-21-92)

**01. General Design Requirements for Casing and Cementing.** Casing and cementing programs adopted for wells must be so planned as to protect any potential oil- or gas-bearing horizons penetrated during drilling from infiltration of injurious waters from other sources, and to prevent the migration of oil or gas from one horizon to another. Owners and operators shall follow the standards for casing and tubing in API SPEC 5CT and the standards for cementing in API SPEC 10A. (12-21-11)T

**02. Wildcat and High-Pressure Conditions.** When drilling wildcat territory or in any field where high pressures are likely to exist, the owner or operator shall take all necessary precautions to keep the well under control at all times and shall use proper high-pressure fittings and equipment at the time the well is started. Under such conditions all strings of casings must be securely anchored. (12-21-11)T

**03. High Temperature Conditions.** Due to high geothermal gradients in Idaho, the temperature of the return drilling mud shall be monitored daily during the drilling of the surface casing hole and all deeper holes. The owner or operator must use cements appropriate for the temperatures expected or encountered. (12-21-11)T

**04. Wildcat and High-Pressure Conditions; Conductor Pipe or Casing and Well Control Requirements.** When drilling "wildcat" territory or in any field where high pressures are likely to exist, the owner shall take all precautions for keeping the well under control at all times and shall provide at the time the well is started proper high pressure fittings and equipment. Under such conditions the conductor string of casings must be cemented throughout its length, unless other procedure is authorized or prescribed by the director, and all strings of casings must be securely anchored. A minimum of forty (40) feet of conductor pipe shall be installed. If geologic conditions are such that forty (40) feet is not feasible, the owner or operator may request a variance from the Department. The annular space is to be cemented solid to the surface. A twenty-four (24) hour cure period for the grout must be allowed prior to drilling out the shoe unless sufficient additives, as determined by the Department, are used to obtain early strength. (10-21-92)(12-21-11)T

**05. Surface Casing Requirements; Unknown Formation and Pressure Conditions.** In areas where pressure and formations are unknown, sufficient surface casing shall be run to reach a depth below all known or reasonably estimated utilizable domestic freshwater levels and to prevent blowouts or uncontrolled flows and shall be of sufficient size to permit the use of an intermediate string(s) of casing. Surface casing shall be set in or through an impervious formation and shall be cemented by the pump and plug or displacement or other approved method with sufficient cement to fill the annulus to the top of the hole, in accordance with reasonable requirements of the director. (10-21-92)(12-21-11)T

**a.** Surface casing must be set at a minimum depth equal to ten percent (10%) of the proposed total depth of the well. In areas where pressures and formations are unknown, a minimum of two hundred (200) feet of surface casing shall be set. (12-21-11)T

**b.** This casing shall provide for control of formation fluids, protection of fresh water, and for adequate anchorage of blow out prevention equipment. The casing must be seated through a sufficient series of low permeability, competent lithologic units such as claystone, siltstone, basalt, etc., to insure a solid anchor for blow out prevention equipment and to protect usable ground water from contamination. Additional surface casing may be required if the first string has not been cemented through a sufficient series of low permeability, competent lithologic units, or rapidly increasing thermal gradients or formation pressures are encountered. (12-21-11)T

**c.** All surface casing shall be cemented solid to the surface by pump and plug, displacement, or other approved method. When surface samples are cured, additional drilling activities may commence. (12-21-11)T

**03. Surface Casing Requirements; Known Subsurface Conditions.** In wells drilled in areas where subsurface conditions have been established by drilling experience, surface casing, size at the owner's option, shall be set and cemented to the surface by the pump and plug or displacement or other approved method at a depth sufficient to protect all utilizable domestic fresh water and to insure against blowouts or uncontrollable flows. (10-21-92)

**04. Cement Minimum Set Up Time.** Cement shall be allowed to set a minimum of eight (8) hours under pressure before drilling the plug. The term "under pressure" as used herein will be complied with if one (1)

~~float valve is used or if pressure is otherwise held.~~

~~(10-21-92)~~

**056. Requirements for ~~Blowout Prevention~~ BOP Equipment.** Unless altered, modified, or changed for a particular pool(s) upon hearing before the Commission, ~~blowout preventers~~ BOP and related equipment shall be installed and maintained during the drilling of all wells in accordance with the following rules:

~~(10-21-92)~~(12-21-11)T

a. BOP equipment installed on wells in which formation pressures to be encountered are abnormal or unknown shall consist of a double-gate, hydraulically operated preventer with pipe and blind rams or two (2) single-ram-type preventers; one (1) equipped with pipe rams, the other with blind rams and an annular type preventer. In addition, upper and lower kelly cocks, pit level indicators with alarms and/or flow sensors with alarms, and surface facilities to handle pressure kicks shall be installed prior to drilling any formation with known abnormal pressure.

(10-21-92)

i. Accumulators shall maintain a pressure capacity reserve at all times to provide for operation of the hydraulic preventers and valves with no outside source.

(10-21-92)

ii. In all other drilling operations, BOP equipment shall consist of at least one (1) double-gate preventer with pipe and blind rams or two (2) single-ram-type preventers, one (1) equipped with pipe rams, the other with blind rams, and sufficient valving to permit fluid circulation at the surface.

(10-21-92)

b. All blowout preventers, choke lines, and manifolds shall be installed above ground level. Casing heads and optional spools may be installed below ground level provided they are visible and accessible.

~~(10-21-92)~~(12-21-11)T

c. ~~Blowout preventer~~ BOP equipment and related casing heads and spools shall have a vertical bore no smaller than the inside diameter of the casing to which they are attached.

~~(10-21-92)~~(12-21-11)T

d. The working pressure rating of all blowout preventers and related equipment shall equal or exceed the maximum anticipated pressure to be contained at the surface.

(10-21-92)

e. All ram-type blowout preventers and related equipment, including casing, shall be tested to the full working pressure rating of said equipment upon installation, provided that components need not be tested to levels higher than the lowest working pressure rated component. Annular type blowout preventers are to be tested in conformance with the manufacturer's published recommendations. If, for any reason, a pressure seal in the assembly is disassembled, a test to a full working pressure rating of that seal shall be conducted prior to the resumption of any drilling operation. In addition to the initial pressure tests, ram-type preventers shall be checked for physical operation ~~each trip~~ at least once per week and all components, again with exception of the annular-type blowout preventer, tested ~~monthly~~ at least once every twenty-one (21) days to at least fifty percent (50%) of the rated pressure of the BOP equipment and/or to the maximum anticipated pressure to be contained at the surface, whichever is greater.

~~(10-21-92)~~(12-21-11)T

f. The ~~Commission~~ Department may require an affidavit covering the initial pressure tests after installation signed by the ~~owner~~, operator, or contractor attesting to the satisfactory pressure tests. The ~~Commission~~ staff Department is to be advised at least twenty-four (24) hours in advance of all tests.

~~(10-21-92)~~(12-21-11)T

g. A schematic diagram of the BOP and well head assembly shall be submitted to the ~~Commission~~ staff Department upon application for a permit to drill. The schematic diagram should indicate the minimum size and pressure rating of all components of the well head and BOP assembly.

~~(10-21-92)~~(12-21-11)T

h. Studs on all well head and BOP flanges shall be checked for tightness each week. Hand wheels for locking screws shall be installed and operational, and the entire BOP and well head assembly shall be kept clean of mud and ice.

(10-21-92)

i. A drillstem safety valve shall be available on the rig floor at all times ~~with correct thread for the~~ pipe in use.

~~(10-21-92)~~(12-21-11)T

- j.** A drillstem float valve shall be installed in bit sub or as close to bit as reasonably possible. (12-21-11)T
- 07.** Intermediate Casing. (12-21-11)T
- a.** Intermediate casing, if installed, shall be cemented solidly to the surface or to the top of the casing. (12-21-11)T
- b.** Intermediate casing not run to surface will be lapped into at least one hundred (100) feet of the surface casing, or at least one hundred (100) feet of the next larger casing to provide overlap and secure a seal. (12-21-11)T
- c.** Such casing shall be cemented and pressure tested before cement plugs are drilled. (12-21-11)T
- 068.** Production ~~String~~ Casing; Cementing and Testing Requirements. (12-21-11)T
- a.** If and when it becomes necessary to run a production string casing, such string casing shall be cemented ~~by the pump and plug method and shall be properly~~ and pressure tested ~~by the pressure method~~ before cement plugs are drilled. (10-21-92)(12-21-11)T
- a.** When not run to the surface, production casing will be cemented from the bottom of the hole up into at least one hundred (100) feet of the next larger casing to provide overlap and secure a seal. (12-21-11)T
- b.** If the bottom plug will be drilled out, the open hole interval must be completed to protect any potential oil-bearing or gas-bearing horizons penetrated during drilling from infiltration of injurious waters from other sources, and to prevent the migration of oil or gas from one horizon to another. (12-21-11)T
- 079.** Blowout Control (Rotary Tools); ~~Auxiliary~~ Reserve Mud Tanks. When drilling with rotary tools, the owner or operator shall provide, as required by the ~~director~~ Department, ~~an auxiliary~~ a reserve mud pit or tank of suitable capacity for the anticipated depth of the well and maintain ~~therein~~ an on-site supply of mud ~~having the proper characteristics for emergency use~~ additives that can raise the mud weight by one (1) pound per gallon in case of blowouts. (10-21-92)(12-21-11)T
- 0810.** Mud Pits. Before commencing to drill, proper and adequate mud pits shall be constructed for the reception and confinement of mud and cuttings and to facilitate the drilling operation. Special precautions shall be taken, if necessary, to prevent contamination of ~~streams and potable~~ fresh waters. ~~These pits must conform to the standards in Section 085 of these rules. If tanks will be used, then mud pits may not be required.~~ (10-21-92)(12-21-11)T
- 0911.** Well Control (Cable Tools); Fluid Containment and Gas Flaring. Natural gas or oil which may be encountered in a substantial quantity in any section of a cabletool drilled hole above the ultimate objective shall be shut off with reasonable diligence either by mudding or by casing, or other approved method, and confined to its original source to the satisfaction of the ~~director~~ Department. Any gas escaping from the well during drilling operations shall be, as far as practicable, conducted to a safe distance from the well site and burned. (10-21-92)(12-21-11)T
- 12.** Drilling Mud Disposal. Drilling mud will be disposed of at an appropriate facility in compliance with applicable state and federal requirements. (12-21-11)T
- 10.** Casing Programs; General Design Requirements. ~~Casing programs adopted for wells must be so planned as to protect any potential oil- or gas-bearing horizons penetrated during drilling from infiltration of injurious waters from other sources, and to prevent the migration of oil or gas from one horizon to another.~~ (10-21-92)
- 143.** Report of ~~Fresh~~ Waters Encountered; Owner's or Operator's Duties. It shall be the duty of any ~~person, owner or~~ operator ~~or contractor~~ drilling an oil or gas well or drilling a seismic, core or other exploratory hole to report to the ~~Commission~~ Department all ~~freshwater sands~~ potential water bearing zones encountered; such report

shall be in writing and give the location of the well or hole, the depth at which the sands zones were encountered, the thickness of such sands zones, and the rate of flow of water if known. This requirement can be met by the submittal of the logs required in Section 090 of this rule. ~~(10-21-92)~~(12-21-11)T

**14. Spill Prevention, Control, and Countermeasures Plan.** The owner or operator must have a Spill Prevention, Control, and Countermeasures Plan in conformance with the requirements of the EPA. This plan must be updated as needed when facilities or activities change. (12-21-11)T

**15. Interim Drill Site Clean Up.** If a well is completed for production or other purposes, interim reclamation must be completed within six (6) months of the rig being removed. Interim reclamation includes the following activities: (12-21-11)T

**a. Debris and waste materials including, but not limited to, concrete, sack bentonite and other drilling mud additives, sand, plastic, pipe, and cable associated with the drilling, re-entry, or completion operations shall be removed and disposed of properly.** (12-21-11)T

**b. All disturbed areas affected by drilling or subsequent operations, except areas reasonably needed for production operations or for subsequent drilling operations to be commenced within twelve (12) months, shall be reclaimed and revegetated to approximately the pre-drilling condition or to the condition specified in an agreement with the surface owner. The reclamation standards in Subsections 325.04 through 325.07 of these rules, shall apply.** (12-21-11)T

**081. -- 0894. (RESERVED)**

**085. PIT REQUIREMENTS.**

**01. Plans Required.** If pits are proposed to be constructed in connection with another permit application required by these rules, then the owner or operator must include plans for pit construction in the application. If a pit is needed after the other permits have been approved, then an application to amend the permit must be made to the Department with an application fee. Approval by the Department is required prior to the pit being constructed unless the pit is necessary for an emergency action. Pit applications must include the permit number, well name, well location, as-built description if drilling has been completed, proposed pit location, and plans for pit construction, operation, and reclamation. (12-21-11)T

**02. Location.** (12-21-11)T

**a. Pits must be located where they are structurally sound and the liner systems can be adequately protected against factors such as wild fires, floods, landslides, surface and ground water systems, equipment operation, and public access.** (12-21-11)T

**b. Pits located in a one hundred-year floodplain must be in conformance with any applicable floodplain ordinances pertaining to activities within the one hundred-year floodplain.** (12-21-11)T

**c. Pits shall not be located within an IDEQ recognized source water assessment or protection areas for public drinking water systems.** (12-21-11)T

**03. Site Preparation.** All sites must be properly prepared prior to pit construction. Vegetation, roots, brush, large woody debris and other deleterious materials, topsoil, historic foundations and plumbing, or other materials that may adversely affect appropriate construction, must be removed from the footprint of the pit unless approved by the Department. (12-21-11)T

**04. Pit Sizing Criteria.** (12-21-11)T

**a. Pits that have constructed berms ten (10) or more feet in height or hold fifty (50) acre-feet or more of fluid must also comply with the dam safety requirements of IDAPA 37.03.06, "Safety of Dams Rules."** (12-21-11)T

b. Pits must be designed to hold the maximum volume of fluids being used for drilling or well treatment and the volume of water associated with a one hundred-year, twenty-four-hour precipitation event. (12-21-11)T

c. Snowmelt events shall be considered in determining the containment capacity. (12-21-11)T

d. Pits that are left over winter must be able to contain one hundred twenty-five percent (125%) of the average annual precipitation that falls from October through May. (12-21-11)T

e. Pits must be designed to maintain a minimum two (2) foot freeboard at all times. Contingency plans for managing excesses of fluids shall be described in the application. At no time shall fluids in a pit be allowed to escape from the impoundment. (12-21-11)T

**05. Minimum Plans and Specifications for Reserve, Well Treatment, and Other Short Term Pits.** Pits used for one (1) year or less, not including extensions, are short term pits. Construction plans and specifications for short term pits must include the requirements under Subsections 085.02 through 085.04 of this rule and the following: (12-21-11)T

a. A prepared subbase, which shall be free of plus three (3) inch rocks, roots, brush, trash, debris or other deleterious materials, and compacted to ninety-five percent (95%) of Standard Proctor Test ASTM D698-07e1 or ninety-five percent (95%) of Modified Proctor Test ASTM D1557-09; (12-21-11)T

b. Slopes of two (2) feet horizontal to one (1) foot vertical (2H:1V) or flatter for all interior and exterior pit walls. The top of a bermed pit wall must be a minimum of two (2) feet wide; (12-21-11)T

c. A primary liner system consisting of a synthetic liner of at least twenty (20) mils thickness and constructed according to manufacturers' standards with at least four (4) inches of welded seam overlap and complete coverage on the floor and inside walls of the pit. Seams must run parallel to the line of maximum slope so they do not traverse across the slope. The liner edges shall be anchored in a compacted earth filled trench at least eighteen (18) inches in depth. The liner must be protected against cracking, sun damage, ice, frost penetration or heaving, wildlife and wildfires, and damage that may be caused by personnel or equipment operating in or around these facilities. Liner compatibility shall comply with EPA SW-846 method 9090A. Alternative liner systems with similar standards may be proposed by the owner or operator and approved at the Department's discretion; (12-21-11)T

d. Minimum factors of safety, and the logic behind their selection, for the stability of the earthworks and the lining system of the pit; (12-21-11)T

e. Site-specific methods for excluding people, terrestrial animals, and avian wildlife from the pits; (12-21-11)T

f. Segregation and stockpiling of topsoil in a manner that will support reestablishment of the pre-disturbance land use after pit closure; and (12-21-11)T

g. A closure plan including the following; (12-21-11)T

i. Testing of residual fluids and any accumulated solids, if anything other than water based drilling fluid was placed in the pit; (12-21-11)T

ii. Plans for removal and disposal of residual fluids and accumulated solids, with the liner material, at an appropriate facility; (12-21-11)T

iii. Regrading plan, replacement of topsoil, and erosion control measures; and (12-21-11)T

iv. Reseeding and Revegetation. (12-21-11)T

**06. Minimum Plans and Specifications for Long Term Pits.** Pits used for more than one (1) year, not including extensions, are long term pits. Construction plans and specifications for long term pits must include the

requirements under Subsections 085.02 through 085.05 of this rule and the following: (12-21-11)T

a. A quality control/quality assurance construction and installation plan; (12-21-11)T

b. Type of fluids to be contained in the pit; (12-21-11)T

c. Secondary containment synthetic liners, which shall have a minimum thickness of sixty (60) mils consisting of HDPE and a maximum coefficient of permeability of  $10^{-9}$  cm/sec, or comparable liners approved by the Department; (12-21-11)T

d. Leak detection and collection systems. The plans and specifications shall: (12-21-11)T

i. Provide a material between primary and secondary containment synthetic liners to collect, transport and remove all fluids that pass through the primary containment synthetic liner at such a rate as to prevent hydraulic head from developing on the secondary containment synthetic liner to the level at which it may be reasonably expected to result in discharges through the secondary containment synthetic liner; (12-21-11)T

ii. Provide routines and schedules for the evaluation of the efficiency and effectiveness of the removal of fluids from the layer placed between primary and secondary containment synthetic liners. The properly working system shall continually relieve head pressures on the secondary containment synthetic liner; (12-21-11)T

iii. Provide specific triggers for maintenance routines, which shall be initiated in response to inadequate performance of primary or secondary containment synthetic liners; and (12-21-11)T

iv. Specify operation and maintenance procedures, which shall be initiated in response to inadequate performance of primary and secondary containment or leak detection and collection systems. (12-21-11)T

e. All piping, including that contained in the leak detection and collection system, shall have a minimum wall thickness of schedule 80 and be designed to: (12-21-11)T

i. Withstand chemical attack from oil field waste or leachate; (12-21-11)T

ii. Withstand structural loading from stresses and disturbances from cover materials or equipment operation; and (12-21-11)T

iii. Facilitate clean-out and maintenance. (12-21-11)T

f. Protections for the liner from excessive hydrostatic force or mechanical damage at the point of discharge into, or suction from, the pit. External discharge or suction lines shall not penetrate the liner; (12-21-11)T

g. Plans for erosion control during and immediately following construction; and (12-21-11)T

h. Operating and maintenance plans. (12-21-11)T

**07. Time Limits for Short Term Pits.** Reserve, well treatment, and other short term pits must be closed out and reclaimed within one (1) year of being constructed. The owner or operator may request a one-time extension for up to six (6) months. The Department may grant the request if the owner or operator gives sufficient cause and presents a plan for ensuring that the pit is adequately monitored and maintained. (12-21-11)T

a. Fluids may be left in a pit for up to six (6) months after the associated well activities are conducted. The owner or operator may request a one-time extension for up to one (1) year. The Department may grant the request if the owner or operator gives sufficient cause and presents a plan for keeping the fluids in a usable state.(12-21-11)T

b. Notwithstanding the above time limits, the owner or operator may request additional time based upon conditions wholly outside of the owner's or operator's control including, but not limited to, governmental lease requirements and delays related to difficult drilling conditions. The Department may impose additional construction or monitoring requirements prior to granting additional time. (12-21-11)T

**08. Emergency Pits.** Pits constructed during an emergency situation may be approved by an after-the-fact application submitted to the Department. The requirements in Subsections 085.02 through 085.05 of this rule shall apply, and the pit must be closed out and reclaimed within six (6) months of being constructed. The Department must be notified within twenty-four (24) hours of an emergency situation requiring an emergency pit. (12-21-11)T

**09. Operating Requirements.** (12-21-11)T

**a.** Waste oil, hydraulic fluid, transmission fluids, trash, or any other miscellaneous waste products must not be disposed of in a pit. Placement of these materials into a pit may result in the creation of a mixed waste that requires handling and disposal as a hazardous waste. (12-21-11)T

**b.** If a pit liner's integrity is compromised, or if any penetration of the liner occurs above the liquid's surface, then the owner or operator shall notify the appropriate Department area office within forty-eight (48) hours of the discovery and repair the damage or replace the liner. (12-21-11)T

**c.** If a pit or closed-loop system develops a leak, or if any penetration of the pit liner occurs below the liquid's surface, then the owner or operator shall remove all liquid above the damage or leak line within forty-eight (48) hours, notify the appropriate Department area office within forty-eight (48) hours of the discovery, and repair the damage or replace the pit liner. (12-21-11)T

**d.** The owner or operator shall install, or maintain on site, an oil absorbent boom or other device to contain and remove oil from a pit's surface. Visible oil must be removed from short term pits immediately following the cessation of activity for which the pit was constructed. Visible oil must be removed from long term pits as soon as it is discovered. (12-21-11)T

**10. Closure of Pits.** (12-21-11)T

**a.** The owner or operator shall remove all liquids from the pit prior to closure and dispose of them at an appropriate facility or reuse them at a different location. If the nature of the fluids has substantially altered during their use, then the fluids must be sampled and tested to determine which disposal facility can accept them. (12-21-11)T

**b.** Any solids that have been accumulated in the bottom of the pit will be tested to determine which disposal facility can accept the material. The solid material and liner will then be removed and disposed of at an appropriate facility. (12-21-11)T

**c.** The owner or operator must notify the Department at least forty-eight (48) hours prior to removal of the pit liner so an inspection may be conducted. (12-21-11)T

**d.** The pit foundation will be inspected for signs of leakage. If evidence of leakage is observed, the owner or operator must contact the Department and the IDEQ within twenty-four (24) hours and report the type of fluids released and the estimated extent of release. The owner or operator must then remediate the site in conformance with the applicable standards administered by IDEQ in IDAPA 58.01.02, "Water Quality Standards," Sections 850 through 852. (12-21-11)T

**e.** After addressing any pit leakage concerns, the owner or operator shall perform the activities described in Subsections 325.04 through 325.08 of these rules. (12-21-11)T

**11. Condemnation Due to Improper Impoundment.** The Department shall have authority to condemn any pit that does not properly impound fluids and order the disposal of such fluids in conformance with IDAPA 58.01.16, "Wastewater Rules," and other applicable rules. (12-21-11)T

**086. -- 089. (RESERVED)**

**090. WELL COMPLETION/RECOMPLETION REPORT AND WELL LOG REPORT.**

Within thirty (30) days after the completion of a well drilled for oil or gas, or the recompletion of a well into a



different source of supply, or where the producing interval is changed, a completion report shall be filed with the Commission Department, on a form prescribed by the Commission Department. Such report shall include name, number, and exact location of the well; lease name, date of completion and date of first production, if any; name and depth of hydrocarbon reservoir(s), if a multiple completion, from which well is producing; annulus pressure test; initial production test, including oil, gas, and water, if any; a well log report as defined in Section 010; and such other relevant information as the Commission Department may require. ~~(10-21-92)~~(12-21-11)T

**091. DRILLING LOGS.**

**01. Minimum Required Logs.** All wells shall have a lithologic log from the bottom of the hole to the top, to the extent practicable. (12-21-11)T

**02. Bottom Hole Survey.** All wells shall have a bottom hole location survey. (12-21-11)T

**03. Cement Bond Log.** All wells that are cased and cemented shall have a cement bond log run across the casing. (12-21-11)T

**04. Other Logs.** If other logs are run, including, but not limited to, resistivity, gamma-neutron log, sonic log, etc., then the owner or operator shall retain a copy regardless of results. (12-21-11)T

**05. Log Submittal.** The above logs shall be submitted to the Department in paper and digital formats within thirty (30) days of the log being run. If logs were run in color, then the submitted copies shall also be in color. Digital formats must be Tiff and LAS 2.0 or higher. (12-21-11)T

**092. -- 094. (RESERVED)**

**095. ACTIVE WELLS.**

**01. Gas Storage Wells.** Gas storage wells are to be considered active at all times unless physically plugged. (12-21-11)T

**02. Extension of Active Status.** An owner or operator may request an extension of active well status for wells that are idled for more than twenty-four (24) continuous months. The owner or operator shall provide a written request to the Department stating the reason for the extension, the length of extension, the method used to close the well to the atmosphere, and the plans for future operation. The Department shall review the request for approval, modification, or denial, and shall set the duration of the extension if approved. An extension shall not exceed five (5) years and may be renewed upon request. (12-21-11)T

**03. Annual Reports for Active Wells.** The owner or operator shall submit an annual report to the Department describing the current status of the well and the plans for future well operation. Failure to submit the annual report may result in the Department declaring the well inactive. (12-21-11)T

**096. INACTIVE WELLS.**

**01. Determination of Inactive Status.** The Department shall declare a well inactive after twenty-four (24) continuous months of inactivity if the owner or operator has not received approval for an extension of active status, or after an owner or operator fails to submit an annual report for an active well. The Department will immediately notify an owner or operator of this determination by certified mail, and the owner or operator may appeal this determination to the Commission. (12-21-11)T

**02. Owner's or Operator's Responsibility for Inactive Wells.** The owner or operator must plug and abandon an inactive well in accordance with Section 320 of these rules within six (6) months of being notified by the Department unless the owner or operator supplies the following information within the six-month time period: (12-21-11)T

**a.** A written request to extend inactive status; (12-21-11)T

b. An individual bond, as provided for in Subsection 070.03 of these rules, if the well was covered by a blanket bond; and (12-21-11)T

c. A description of how the well is closed to the atmosphere with a swedge and valve, packer, or other approved method, and how the well is to be maintained. (12-21-11)T

03. Inactive Review and Decision. The Department shall review the request for approval, modification, or denial, and shall set the duration of the extension if approved. An extension shall not exceed three (3) years and may be renewed upon request. (12-21-11)T

04. Testing of Inactive Wells. In addition to the requirements of Section 105 of these rules, inactive wells shall have a mechanical integrity test performed within two (2) years after the date of last use in order to retain inactive status. (12-21-11)T

05. Converting Inactive Wells to Active Wells. The owner or operator must apply to the Department to change the status of a well from inactive to active. The Department shall review the request for approval, modification, or denial. A mechanical integrity test may be required by the Department if the well has been worked over or if a test has not been conducted for five (5) years or longer. If approved, the well may again be covered by a blanket bond. (12-21-11)T

~~097.~~ -- 099. (RESERVED)

**(BREAK IN CONTINUITY OF SECTIONS)**

101. -- ~~1094.~~ (RESERVED)

**105. MECHANICAL INTEGRITY TESTING.**

01. Mechanical Integrity Testing. (12-21-11)T

a. The mechanical integrity test shall include one (1) of the following tests to determine whether leaks are present in the casing, tubing, or packer: (12-21-11)T

i. A pressure test with liquid or gas at a pressure of not less than three hundred (300) psi or the minimum injection pressure, whichever is greater, and not more than the maximum injection pressure; or (12-21-11)T

ii. The monitoring and reporting to the Department, on a monthly basis for sixty (60) consecutive months, of the average casing-tubing annulus pressure, following an initial pressure test; or (12-21-11)T

iii. In lieu of Subsections 105.01.a.i. and 105.01.a.ii. of this rule, any equivalent test or combinations of tests approved by the Department. (12-21-11)T

b. The mechanical integrity test shall include one (1) of the following tests to determine whether there are fluid movements in vertical channels adjacent to the well bore: (12-21-11)T

i. Tracer surveys; (12-21-11)T

ii. Cement bond log or other acceptable cement evaluation log; (12-21-11)T

iii. Temperature surveys; or (12-21-11)T

iv. In lieu of Subsections 105.01.b.i. through 105.01.b.iii. of this rule, any other equivalent test or combination of tests approved by the Department. (12-21-11)T

c. Mechanical integrity tests shall be performed at the rate of not less than one (1) test every five (5) years, regardless of well status. The first five-year period shall commence on the date the initial mechanical integrity test is performed. (12-21-11)T

02. Inactive Wells. If, at any time, surface equipment excluding the wellhead is removed or the well becomes incapable of production, a mechanical integrity test shall be performed within thirty (30) days. The mechanical integrity test for an inactive well shall be isolation of the wellbore with a bridge plug or similar approved isolating device set one hundred (100) feet or less above the highest perforations and a pressure test with liquid or gas at a pressure of not less than three hundred (300) psi surface pressure or any equivalent test or combination of tests approved by the Department. (12-21-11)T

03. Prior Notification. Not less than ten (10) days prior to the performance of any mechanical integrity test required by this rule, any person required to perform the test shall notify the Department, in writing, of the scheduled date on which the test will be performed. (12-21-11)T

04. Reporting Requirements. Mechanical integrity test results shall be submitted to the Department within thirty (30) days of testing. (12-21-11)T

05. Mechanical Integrity Required. All wells shall maintain mechanical integrity. All wells that fail a mechanical integrity test, or that are determined through any other means to lack mechanical integrity, shall immediately be investigated by the owner or operator. The well shall be repaired or immediately shut down following the investigation. Repairs shall be completed within six (6) months, or the well shall be plugged and abandoned. If the repair cannot be completed within six (6) months, the owner or operator may request an extension and provide a plan for the repair. (12-21-11)T

106. -- 109. (RESERVED)

**110. DESIGNATION OF AGENT.**

A "Designation of Agent" shall be submitted to the ~~director~~ Department in a manner and form approved by the ~~director~~ Department prior to the commencement of operations. A Designation of Agent(s) will be accepted as authority of agent to fulfill the obligations of the owner and to sign any papers or reports required under these oil and gas operating regulations, and all authorized orders or notices given by the ~~director~~ Department when given in the manner hereinafter provided shall be deemed service of such orders or notices upon the owner and the lessee. All changes of address and any termination of the agent's authority shall be immediately reported in writing to the ~~director~~ Department and, in the latter case, the designation of a new agent(s) shall be immediately made. If the designated agent(s) shall at any time be incapacitated for duty or absent from the address provided, the owner shall designate in writing a substitute to serve in his or their stead, and in the absence of such owner or of notice of appointment of a substitute then, in such case, notices may be given by the ~~director~~ Department by delivering a registered letter to the United States Post Office at Boise, Idaho, directed to the agent(s) at the address shown on the current Designation of Agent on file in the ~~director~~ Department's office, and such notice will be deemed service upon the owner and lessee. (10-21-92)(12-21-11)T

111. -- 119. (RESERVED)

~~120. SURFACE EQUIPMENT.~~

~~Meter fittings of adequate size to measure the gas efficiently for the purpose of obtaining gas oil ratios shall be installed on the gas vent line of every separator or proper connections made for orifice well tester. Well head equipment shall be installed and maintained in excellent condition. Valves shall be installed so that pressures can be readily obtained on both casing and tubing.~~ (10-21-92)

~~121. -- 129. (RESERVED)~~

**125. LOSS OF TOOL WITH RADIOACTIVE MATERIAL.**

01. Recovery or Cementing of Tool. If a gamma ray tool, or some other tool containing radioactive material, becomes lost in a well, the owner or operator shall make every reasonable attempt to retrieve the tool from

the well. If the tool cannot be recovered, the owner or operator must immediately cover the tool with cement sufficient to secure it in place and prevent it from contacting any fluids in the well. A whipstock or other approved deflection device shall be placed on top of the cement plug to prevent accidental or intentional mechanical disintegration of the radioactive source. (12-21-11)T

**02. Sidetracking.** If the hole is later sidetracked above the radioactive material, the sidetracked hole must be at least fifteen (15) feet from the original hole with the lost radioactive material. (12-21-11)T

**03. Reporting.** A report must be sent to the Department and IDEQ within thirty (30) days of cementing the tool. The report must describe the tool that was lost, the depth it was lost at, the specific type and amount of radioactive material in the tool, and an estimate of the length of cement covering the tool. This report may be included in a plugging report if the well will be plugged. (12-21-11)T

**126. -- 129. (RESERVED)**

**130. FIRE HAZARD.**

Any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least one hundred (100) feet from the well location, tanks, and separator. ~~All waste oil shall be burned or disposed of in a manner to avert creating a fire hazard.~~ (10-21-92)(12-21-11)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**160. FIRE PROTECTION.**

Dikes or firewalls shall be required where it is deemed necessary by the ~~Commission~~ Department to protect life, health, or property. Such dikes or firewalls must be erected and continuously maintained in good condition around all permanent oil tanks or batteries that are within the corporate limits of any city, town, or village, or where such tanks are closer than one hundred fifty (150) feet to any highway or inhabited dwelling, or closer than one thousand (1,000) feet to any school or church. The capacity of the dike, or firewall, shall be one and one-half (1 1/2) times the capacity of the tank(s) that it surrounds. The reservoir so formed within the dike shall be kept free from vegetation, water, and oil. (10-21-92)(12-21-11)T

**161. -- 169. (RESERVED)**

**170. WELL DIRECTIONAL CONTROL.**

**01. General Restrictions; Allowable Deviation.** The maximum point at which a well penetrates the producing formation shall not unreasonably vary from the vertical drawn from the center of the hole at the surface. Deviation is permitted without special permission to remedy blowouts and, for short distances, to straighten the hole, sidetrack junk, or correct other mechanical difficulties. (10-21-92)

**02. Controlled Directional Drilling.** Except for the purposes recited in Subsection 170.01, no well hereafter drilled may be intentionally directionally deviated from the vertical unless the owner or operator thereof shall first file application and obtain a permit from the Commission an application and application fee to amend the drilling permit and receive approval from the Department. Such application shall contain the following information: (10-21-92)(12-21-11)T

- a. Name and address of the owner or operator. (10-21-92)(12-21-11)T
- b. Lease name, well number, name of field and reservoir and county. (10-21-92)
- c. Description of surface location and proposed location of the producing interval (footage from lease and section or block and survey lines). (10-21-92)
- d. Reason for intentional deviation. (10-21-92)

e. List of offset operators and statement that each has been furnished a copy of the application by registered mail. (10-21-92)

f. Signature of representative of owner or operator. ~~(10-21-92)~~(12-21-11)T

g. Notification to offset operators that any objection they may have to the proposed intentional deviation of the well must be filed with the Commission Department within fifteen (15) days of receipt of a copy of the application. ~~(10-21-92)~~(12-21-11)T

h. The application shall be accompanied by a neat, accurate plat or sketch of the lease and all offset leases showing the names of all offset operators and the surface and proposed producing interval locations of the well. Plat shall be drawn to a scale which will permit facile observation of all pertinent data. (10-21-92)

**03. Copy of Application to Offset Operators.** At the time the application is filed with the Commission Department, a copy of the application and the plat shall be forwarded by registered mail to all offset operators to the lease on which the well is to be drilled. ~~(10-21-92)~~(12-21-11)T

**04. Commission Department Action.** Upon receipt, the Commission Department will hold the application for fifteen (15) days. If objection from any offset operator to the proposed intentional deviation is received within fifteen (15) days of receipt of the application by said operator, or if the Commission Department is not in agreement with the proposed deviation, the application shall be set down for public hearing. If no objection from either an offset operator or the Commission Department is interposed within the fifteen (15) day period, the application shall be approved and permit issued by the Commission Department. If written consent of the offset operator(s) is filed concurrently with the application to drill directionally, the Commission Department may immediately approve the application without waiting fifteen (15) days. ~~(10-21-92)~~(12-21-11)T

**05. Angular Deviation and Directional Survey.** Upon completion, a complete angular deviation and directional survey of the well obtained by an approved well surveying company shall be filed with the Commission Department, together with other regularly required reports. ~~(10-21-92)~~(12-21-11)T

**06. Application for Exceptions.** In the event the proposed, or final, location of the producing interval of the directionally deviated well is not in agreement with spacing or other rules of the Commission applicable to the reservoir, proper applications shall be made to obtain approval of exceptions to such rules. Such approval shall be granted or denied at the discretion of the Commission Department, and shall be accorded with the same consideration and treatment as if the well had been drilled vertically to the producing interval. ~~(10-21-92)~~(12-21-11)T

**171. -- 179. (RESERVED)**

**180. VACUUM PUMPS PROHIBITED.**

The use of vacuum pumps or other devices for the purpose of placing a vacuum on any gas- or oil-bearing stratum is prohibited; however, the Commission Department may upon application and hearing and for good cause shown permit the use of vacuum pumps. ~~(10-21-92)~~(12-21-11)T

**181. -- 189. (RESERVED)**

**190. PULLING OUTSIDE STRINGS OF CASING.**

Casing shall not be recovered if its recovery will expose any abnormal pressure, lost circulation, oil, gas, or water zone. In pulling outside strings of casing from any oil or gas well, the space outside the casing left in the hole shall be kept and left full of mud-laden fluid of adequate specific gravity to seal off all fresh and saltwater strata and any strata bearing oil or gas which is not producing. Casing may not be pulled without first making application to the Department and receiving approval. The application must describe how fresh waters will be protected. ~~(10-21-92)~~(12-21-11)T

**191. -- 199. (RESERVED)**

**200. ACCIDENTS AND FIRES.**

The owner or operator shall take all reasonable precautions to prevent accidents and fires; ~~shall~~ An emergency response plan will be prepared and available at the well for use or inspection. Coordination with local emergency responders and the Idaho Bureau of Homeland Security is recommended prior to rig set up. The following actions must be taken in event of a release, industrial accident, or fire of major consequence: (12-21-11)T

**01. Provide Information to Emergency Response.** Emergency workers will be given information on all fluids or chemicals involved in a spill or accident as needed according to OSHA Standard 1910.1200 (Hazard Communication). Nothing in this rule shall authorize any person to withhold information that is required by state or federal law to be provided to a health care professional, a doctor, or a nurse. All information required by a health care professional, a doctor, or a nurse shall be supplied, immediately upon request, by the owner or operator, or their contractors, directly to the requesting health care professional, doctor, or nurse, including the percent by volume of the chemical constituents (and associated CAS numbers) in the fluids and the additives; (12-21-11)T

**02. Initiate Spill Response and Corrective Actions.** Owner or operator must comply with the requirements of IDAPA 58.01.02, "Water Quality Standards," Sections 850 through 852; and (12-21-11)T

**03. Notify the Department.** ~~#~~Notify the ~~director~~ Department within twenty-four (24) hours ~~of all accidents (other than personal injuries and deaths) or fires of major consequence,~~ and ~~shall~~ submit a full report thereon within fifteen (15) days. ~~(10-21-92)~~(12-21-11)T

201. -- 209. (RESERVED)

**210. PRODUCING FROM DIFFERENT POOLS THROUGH THE SAME CASING STRING.**

No well shall be permitted to produce either oil or gas from different pools through the same string of casing without first receiving written permission from the ~~director~~ Department. ~~(10-21-92)~~(12-21-11)T

211. -- 219. (RESERVED)

**220. MULTIPLE ZONE COMPLETIONS.**

**01. Requirements of the Owner or Operator; Request for Approval.** A multiple zone completion may be approved by the ~~director~~ Department upon application ~~therefor~~ by the owner or operator and payment of an application fee, as herein provided. The application shall be accompanied by an exhibit showing the location of wells on applicant's lease and all offset wells on leases, and shall set forth all material facts involved and the manner and method of completion proposed, including a diagrammatic sketch of the mechanical installation of the proposed well. The application fee may not exceed that required by Subsection 050.02 of these rules. Notice of the filing of such application shall be given by the applicant by mailing to each ~~owner within one-half (1/2) mile of the affected well(s)~~ offset operator a notice containing a full description of the proposed completion for which approval is requested, and proof of mailing such notice shall be made by affidavit, which shall be attached to the application showing names and addresses of those to whom notice was mailed. ~~(10-21-92)~~(12-21-11)T

**02. Conditions for Approval; Cause for Hearing.** In the event the ~~director~~ Department is in agreement with the application and that no ~~owner~~ offset operator files a written objection to the application with the ~~director~~ Department within fifteen (15) days of the date of the ~~owner's~~ offset operator's receipt of application, the application shall be approved as an amendment to the drilling permit. If any ~~owner~~ offset operator shall file in writing with the ~~director~~ Department an objection to such multiple completion, or if the ~~director~~ Department is not in agreement with the application, the matter shall be immediately set for hearing and Notice of Hearing duly given by the ~~Commission~~ Department. ~~(10-21-92)~~(12-21-11)T

**03. Zone Effectiveness; Requirement for Production Testing.** The ~~director~~ Department may require such tests as ~~he determines~~ necessary to determine the effectiveness of the segregation of the different productive zones. ~~(10-21-92)~~(12-21-11)T

**04. Commingling Production.** The Department may require that oil or gas from multiple zones be produced through different sets of tubing, if needed to protect correlative rights or to prevent waste. (12-21-11)T

(BREAK IN CONTINUITY OF SECTIONS)

231. -- ~~234~~9. (RESERVED)

~~240. DISPOSAL OF BRINE OR SALT WATER.~~

~~01. Conditions for Disposal by Earthen Evaporation Pit; Impervious Floor. Brine or salt water may be disposed of by evaporation when impounded in excavated earthen pits, which may only be used for such purpose when the pit is underlaid by tight soil such as heavy clay or hardpan. (10-21-92)~~

~~02. Conditions for Disposal by Earthen Evaporation Pit; Porous Floor. When the soil under the pit is porous and closely underlaid by a gravel or sand stratum, impounding brine or salt water in such earthen pits is hereby prohibited. When such water is impounded in an earthen pit, it shall be constructed and maintained to prevent escape of such water therefrom. (10-21-92)~~

~~03. Earthen Pits; Condemnation Due to Improper Impoundment. The Commission shall have authority to condemn any pit which does not properly impound such water and order the disposal of such water into an underground formation as herein provided. (10-21-92)~~

~~04. Earthen Pits; General Conditions for Operation. The level of brine or salt water in earthen pits shall at no time be permitted to rise above the lowest point of the ground surface level. All pits shall have a continuous embankment surrounding them sufficiently above the level of the surface to prevent surface water from running into the pit. Such embankment shall not be used to impound brine or salt water. (10-21-92)~~

~~05. Earthen Pits; Prohibition of Adjacent Land or Stream Pollution. At no time shall brine or salt water impounded in earthen pits be allowed to escape over adjacent lands or into streams. (10-21-92)~~

~~06. Disposal Wells; Pollution Prohibited. Disposal wells shall be cased and the casing cemented in such manner that damage will not be caused to oil, gas, or freshwater sources. See Section 250. (10-21-92)~~

~~241. — 249. (RESERVED)~~

250. ~~PROCEDURE FOR UNDERGROUND DISPOSAL OF WATER~~ **CLASS II INJECTION WELLS.**

Class II injection wells, as described in IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells," are currently not authorized under this rule. Permits for Class II injection wells must be obtained through IDAPA 37.03.03. (12-21-11)T

~~01. Approval Required. The underground disposal of salt water, brackish water, or other water unfit for domestic, livestock, irrigation, or other general uses is permitted only upon order of the Commission or upon approval of the director as provided in this rule. (10-21-92)~~

~~02. Procedures for Application. The application for underground disposal of salt water, brackish water, or other water unfit for domestic, livestock, irrigation, or other general uses shall be verified by applicant and filed with the director containing:~~

~~a. A plat showing location of the disposal well(s), including abandoned and drilling wells and dry holes and the names of owners within one-half (1/2) mile of the proposed disposal well(s). (10-21-92)~~

~~b. The names, description, and depth of the formation into which water is to be injected, including a mechanical log of the proposed disposal well(s) if one is available. (10-21-92)~~

~~c. A description of the casing in the disposal well(s) or the proposed casing program and the proposed method for testing casing before use of the disposal well(s). (10-21-92)~~

~~d. A statement specifying the source of water to be injected. (10-21-92)~~

~~e. The estimated minimum and maximum amount of water to be injected daily. (10-21-92)~~

~~f. Notice of the filing of such application shall be given by the applicant by mailing to each owner within one-half (1/2) mile of the affected well(s) a notice containing a full description of the proposed disposal operation for which approval is required, and proof of mailing such notice shall be made by affidavit which shall be attached to the application showing names and addresses of those to whom notice was mailed. (10-21-92)~~

~~g. Conditions for Approval; Cause for Hearing. In the event the director is in agreement with the application and that no owner files a written objection to the application with the director within fifteen (15) days of receipt of the application, the application shall be approved. If any owner shall file in writing with the director an objection to such disposal program, or if the director is not in agreement with the application, the matter shall be immediately set for hearing and notice of hearing duly given by the Commission. (10-21-92)~~

251. -- 259. (RESERVED)

255. SURFACE EQUIPMENT.

01. General Requirements. Meter fittings of adequate size to measure the gas efficiently for the purpose of obtaining gas-oil ratios shall be installed on the gas vent line of every separator or proper connections made for orifice well tester. Well-head equipment shall be installed and maintained in excellent condition. Valves shall be installed so that pressures can be readily obtained on both casing and tubing. (12-21-11)T

02. Meter Calibration. All required meters shall be calibrated at least once per calendar year. The records of such calibration shall be maintained or made available by the owner or operator of the well and shall be available for inspection by the Department. Such records shall be maintained by the owner or operator for a period of at least five (5) years. (12-21-11)T

03. Visibility. All required meters shall be accessible and viewable by the Department for the purpose of monitoring daily, monthly and/or cumulative production volumes from individual wells. (12-21-11)T

256. -- 259. (RESERVED)

260. MEASUREMENT OF OIL.

The volume of production of oil shall be computed in terms of barrels of clean oil on the basis of meter measurements or tank measurements of oil-level difference made and recorded to the nearest quarter-inch (1/4") of one hundred percent (100%) capacity tables, subject to the following corrections: (10-21-92)

**01. Correction for Impurities.** The percentage of impurities (water, sand, and other foreign substances, not constituting a natural component part of the oil) shall be determined to the satisfaction of the ~~director~~ Department, and the observed gross volume of oil shall be corrected to exclude the entire volume of such impurities. ~~(10-21-92)~~(12-21-11)T

**02. Temperature Correction.** The observed volume of oil corrected for impurities shall be further corrected to the standard volume at sixty (60) Degrees F in accordance with ASTM D-1250-08, Table 7, or any revisions thereof and any supplements thereto, or any close approximation thereof approved by the ~~director~~ Department. ~~(10-21-92)~~(12-21-11)T

**03. Gravity Determination.** The gravity of oil at sixty (60) degrees F shall be determined in accordance with ASTM D-1250-08, Table 5, or any revisions thereof and any supplements thereto approved by the ~~director~~ Department. ~~(10-21-92)~~(12-21-11)T

261. -- 269. (RESERVED)

270. MEASUREMENT OF GAS.

~~Gas of all kinds shall be measured by meter unless otherwise authorized by the director.~~

01. Gas Metering. For protection of correlative rights of all parties, the owner or operator of a natural



gas well shall meter or caused to be metered all natural gas produced from a well, utilizing a standard industry meter approved by the American Gas Association and capable of recording accurately the volume of natural gas produced at each well, unless another methodology, approved by the director, is utilized to provide for proper production allocation back to the individual well from a central point production meter or central point sales meter, which ever meter occurs first. (12-21-11)T

**02. Gas Measurement.** For computing volume of gas to be reported to the ~~director~~ Department, the standard of pressure shall be fourteen point seventy-three (14.73) psi ~~atmospheric~~, and the standard of temperature shall be sixty (60) Degrees F. All volumes of gas to be reported to the ~~director~~ Department shall be adjusted by computation to these standards, unless otherwise authorized by the ~~director~~ Department. (10-21-92)(12-21-11)T

271. -- 279. (RESERVED)

**280. GAS-OIL RATIO LIMITATION.**

**01. Waste Prevention; Conditions for Emergency Order.** ~~To further prevent waste resulting from the production of wells with inefficient gas-oil ratios, the Commission may enter an emergency order temporarily prohibiting the production of oil or gas from all wells in a pool producing both oil and gas when the Commission believes that waste may be occurring or is imminent in said pool by reason of the operation of wells with inefficient gas-oil ratios. The order shall specify a date for the hearing described in Subsection 280.02 of these rules. The Commission may use information provided by an offset operator or an owner or operator in a common source of supply to determine if waste is occurring.~~ (12-21-11)T

**02. Notice and Cause for Hearing.** ~~To prevent waste resulting from the operation of wells with inefficient gas-oil ratios, the Commission may upon its own motion, or upon the application of any interested party, if reasonable cause exists, hold a hearing to determine whether waste is occurring or is imminent in a pool by reason of the operation therein of wells with inefficient gas-oil ratios. The Commission will notify all offset operators and owners or operators in the common source of supply of the hearing date. A hearing regarding waste due to inefficient gas-oil ratios will held for any of the following reasons:~~ (10-21-92)(12-21-11)T

~~i. If an emergency order is issued as described in Subsection 280.01 of these rules. The hearing will be scheduled between five (5) and fifteen (15) days after the effective date of the order. (12-21-11)T~~

~~ii. Upon application to the Commission from any person with an ownership interest in the common source of supply who believes that waste is occurring due to inefficient oil and gas ratios. The application must include credible evidence of such waste. The hearing shall be held within thirty (30) days of the Commission receiving the application. (12-21-11)T~~

~~iii. Prior to an emergency situation and upon its own motion with reasonable cause, the Commission may schedule a hearing regarding potential waste due to inefficient gas-oil ratios. (12-21-11)T~~

**03. Determination of Inefficient Ratios; Power to Limit Production.** If the ~~Commission~~ Department after notice and hearing, whether held upon its own motion, upon the application of an interested party, or pursuant to an emergency order entered as hereinafter provided for, shall find that a well(s) in the pool are operating with inefficient gas-oil ratios, and that waste is occurring or is imminent as a result thereof, it shall enter an order limiting the production of oil and gas from said pool to that amount which the pool can produce without waste and in accordance with sound engineering practice. The order shall also limit the amount of oil or gas, or both, that may be produced from any well in the pool, so that each owner ~~or operator~~ is given an opportunity to produce his just and equitable share in the pool in accordance with sound engineering practice. (10-21-92)(12-21-11)T

~~**03. Waste Prevention; Conditions for Emergency Order.** To further prevent waste resulting from the production of wells with inefficient gas-oil ratios, the Commission will enter an emergency order temporarily prohibiting the production of oil or gas from all wells in a pool producing both oil and gas when: (10-21-92)~~

~~**a.** The director believes that waste may be occurring or is imminent in said pool by reason of the operation of wells with inefficient gas-oil ratios; or when (10-21-92)~~

~~b. An application is filed by any interested party alleging that a well(s) completed in the pool is producing therefrom at a gas-oil ratio in excess of two thousand (2,000) cubic feet of gas for each barrel of oil produced and that waste is occurring or is imminent as a result thereof. Any such applicant shall also show the name and address of each owner of a well completed in and capable of producing from said pool. (10-21-92)~~

~~04. **Emergency Order; Requirement for Hearing.** Any emergency order issued under this rule shall provide for a hearing to be held to determine whether waste is occurring or is imminent. The date for the hearing shall be not less than five (5) nor more than fifteen (15) days after the effective date of the emergency order and shall be specified in said order. In addition to any other notice required by the Act, the Commission shall mail a copy of said emergency order to each owner of a well completed in and capable of producing from said pool. (10-21-92)~~

281. -- 289. (RESERVED)

**290. GAS-OIL RATIO SURVEYS AND REPORTS.**

Within thirty (30) days following the completion or recompletion of each well producing oil and gas and thereafter as the Commission Department may require, the owner or operator of such well shall make a gas-oil ratio test of such well and the results of such test shall be reported to the Commission Department within twenty (20) days after the test is made. Certain wells may be excepted from this rule by the director Department upon written request. Entire fields may be excepted from this rule after notice and hearing. (10-21-92)(12-21-11)T

291. -- 299. (RESERVED)

**300. GAS UTILIZATION.**

After the owner or operator has completed and has had a reasonable opportunity to test a gas well, no gas from such well shall be permitted to escape into the air, and all gas produced therefrom shall be utilized without waste. (10-21-92)(12-21-11)T

~~301. -- 309. (RESERVED)~~

~~**310. SECONDARY RECOVERY (INCLUDING WATER FLOODING) AND PRESSURE MAINTENANCE OPERATIONS.**~~

~~01. **Applications for Secondary Recovery Projects.** (10-21-92)~~

~~a. **Applications Required.** Applications for water flooding or other secondary recovery operations, repressuring, or pressure maintenance operations, cycling or recycling operations, including the extraction and separation of liquid hydrocarbons from natural gas in connection therewith, shall be filed by one (1) or more of the parties involved, or the operator of said project with the director. (10-21-92)~~

~~b. **Requirements of the Application.** The application for all permits for pressure maintenance or secondary recovery shall contain the following: (10-21-92)~~

~~i. **Plat showing the unit, lease, or group of leases included within the proposed project. Plat shall also show the location of the proposed intake well(s) and the location of all oil and gas wells, including abandoned and drilling wells and dry holes, and the names of all operators offsetting the area encompassed within the project;** (10-21-92)~~

~~ii. **Formations in which all wells are currently completed;** (10-21-92)~~

~~iii. **Name, description, and depth of the formation (common reservoir or common source of supply) to be affected by injection;** (10-21-92)~~

~~iv. **Log of any existing intake well(s) or such information as is available;** (10-21-92)~~

~~v. **Description of the intake well's casing or the proposed casing program, and proposed method for testing casing before use of the input wells;** (10-21-92)~~

~~vi. Statement as to the injection medium to be used, its source, and the estimated amounts to be injected daily; (10-21-92)~~

~~vii. Tabulations showing recent oil-gas ratios and oil and water production tests for each of the producing oil and gas wells; (10-21-92)~~

~~viii. Statement of the plan of development of the area included within the project; and (10-21-92)~~

~~ix. Names and addresses of the operator(s) of the project. (10-21-92)~~

~~e. Notification of Adjacent Property Owners. In addition to the notice required by law, a copy of such application shall be mailed or delivered by the applicant to each owner within three-fourths (3/4) mile of the project as shown on the application. Such copy of application shall be mailed or delivered on or before the date the application is filed with the Commission. A statement shall be attached to the application showing the parties to whom such copies have been mailed or delivered and their addresses. (10-21-92)~~

~~d. Conditions for Approval; Cause of Hearing. If the application has requested approval of the operation as a pilot project; if director is in agreement with the application; and if no owner within three-fourths (3/4) mile files a written objection to the application with the director within fifteen (15) days of the date of receipt of the application, the application shall be approved as a pilot project without the necessity of a hearing. In all other cases, the matter shall be immediately set for hearing. Notice of the hearing shall be given by the Commission. At any time after the approval of an operation as a pilot project, if the director or the operator of the project believes that sufficient information has been obtained so that the operation is no longer a pilot project, either of them may request a hearing before the Commission for approval of the operation. (10-21-92)~~

~~02. Casing and Cementing of Injection Wells. Wells used for injection of gas, air, or water or other extraneous fluids into the producing formation shall be cased with safe and adequate casing or tubing to prevent leakage or damage to oil, gas, or freshwater sources. (10-21-92)~~

~~03. Notice of Commencement and Discontinuance of Injection Operations. The following provisions shall apply to all injection projects: (10-21-92)~~

~~a. Immediately upon commencement of injection operations, the operator shall notify the director of the injection date. (10-21-92)~~

~~b. Within fifteen (15) days after the discontinuance of injection operations, the operator shall notify the director of the date of such discontinuance and the reasons therefor. (10-21-92)~~

~~c. Before any intake well shall be plugged, notice shall be served to the director by the owner of said well, and the same procedure shall be followed in the plugging of such well as provided for the plugging of oil and gas wells. (10-21-92)~~

~~04. Records and Reports. Each operator of a pressure maintenance or secondary recovery project shall keep accurate records showing oil produced, injected volumes, and injection pressure. Each operator shall file with the director a monthly report which shall show all produced and injected volumes and other data as required by the Commission. (10-21-92)~~

~~3101. -- 319. (RESERVED)~~

## 320. WELL PLUGGING.

**01. Plugging Required.** The operator or owner shall not permit any well drilled for oil, gas, saltwater disposal or any other purpose in connection with the production of oil and gas, to remain unplugged after such well is no longer used for the purpose for which it was drilled or converted. (10-21-92)

**02. Notice of Intention to Abandon Well.** Before beginning abandonment work on ~~any well, whether drilling well, an~~ oil or gas well, ~~injection well, or so-called dry hole,~~ a Notice of Intention to Abandon shall be filed

with the ~~director~~ Department and approval obtained as to the method of abandonment before the work is started. The notice must show the reason for abandonment and must give a detailed statement of the proposed work, including such information as kind, location, and length of plugs (by depths), and plans for mudding, cementing, shooting, testing, and removing casing as well as any other pertinent information. ~~(10-21-92)~~(12-21-11)T

**03. Plugging Dry Holes.** If a nonproductive well, or dry hole, is drilled and not needed for any specific purpose, it must be plugged and abandoned prior to removal of the drill rig. A verbal notification and approval may be used for dry holes in lieu of the written notification referenced in Subsection 320.02 of these rules. The standards in Subsections 320.04 through 320.06 of these rules will still apply. (12-21-11)T

**034. Plugging of Wells.** The owner or operator of any well drilled for oil or gas, or any seismic, core, or other exploratory holes, whether cased or uncased, and regardless of diameter shall be responsible for the plugging of said hole in a manner sufficient to properly protect all freshwater-bearing and possible or probable oil- or gas-bearing formations in agreement with the requirements of the director. The material used in plugging, whether cement, mechanical plug, or some other equivalent method approved in writing by the Director, must be placed in the well in a manner to permanently prevent migration of oil, gas, water, or other substance from the formation or horizon in which it originally occurred. The preferred plugging cement slurry is that recommended in API Bulletin E3. Pozzolan, gel, and other approved extenders may be used if the owner or operator can document to the Department's satisfaction that the slurry design will achieve a minimum compressive strength of three hundred (300) psi after twenty-four (24) hours, and eight hundred (800) psi after seventy-two (72) hours measured at ninety-five (95) degrees F and at eight hundred (800) psi. No substances of any nature or description other than those normally used in plugging operations shall be placed in any well at any time during plugging operations. ~~(10-21-92)~~(12-21-11)T

**05. Plugged Intervals.** The following plugging standards shall be followed for all wells: (12-21-11)T

**a.** Cement must be placed for a length of at least one hundred (100) feet on either side of each casing shoe, or casing bottom if no shoe is present. If the bottom of the hole is less than one hundred (100) feet from the bottom of the lowest casing, then the entire length of the uncased hole below the casing will be cemented. (12-21-11)T

**b.** In the uncased portions of a well, cement plugs must be placed to extend from one hundred (100) feet below the bottom up to one hundred (100) feet above the top of any oil, gas, and abnormally high pressure zones, so as to isolate fluids in the strata in which they are found and to prevent them from escaping into other strata. (12-21-11)T

**c.** A cement plug shall be placed a minimum of one hundred (100) feet above all producing zones in uncased portions of a well. (12-21-11)T

**d.** A cement plug shall be placed a minimum of fifty (50) feet above and below the following intervals: (12-21-11)T

**i.** Where the casing is perforated or ruptured. If no cement is present behind the casing, then cement must also be squeezed out the perforations or ruptures and into the annular space between the casing and the borehole. (12-21-11)T

**ii.** Top and bottom of fresh water zones. If fresh water zone is less than one hundred (100) feet thick, then continuous cement must be placed from fifty (50) feet below the zone upward to fifty (50) feet above the zone. (12-21-11)T

**e.** The top of all cement plugs will be tagged to verify their depth. (12-21-11)T

**f.** The owner or operator shall have the option as to the method of placing cement in the hole by: (12-21-11)T

**i.** Dump bailer; (12-21-11)T

**ii.** Pumping a balanced cement plug through tubing or drill pipe; (12-21-11)T

iii. Pump and plug; or (12-21-11)T

iv. Equivalent method approved by the Director prior to plugging. (12-21-11)T

g. Unless prior approval is given, all wellbores shall have water based drilling muds, high viscosity pills, or other approved fluids between all plugs. (12-21-11)T

h. All abandoned wells shall have a plug or seal placed at the surface of the ground or the bottom of the cellar in the hole in such manner as not to interfere with soil cultivation or other surface use. The top of the pipe must be sealed with either a cement plug and a screw cap, or cement plug and a steel plate welded in place or by other approved method, or in the alternative be marked with a permanent monument which shall consist of a piece of pipe not less than four (4) inches in diameter and not less than ten (10) feet in length, of which four (4) feet shall be above the general ground level, the remainder to be embedded in cement or to be welded to the surface casing. (12-21-11)T

**046. Subsequent Report of Abandonment.** If a well is plugged or abandoned, a subsequent record of work done must be filed with the ~~director~~ Department. This report shall be filed separately within thirty (30) days after the work is done. The report shall give a detailed account of the manner in which the abandonment of plugging work was carried out, including the weight of mud, the nature and quantities of materials used in plugging, the location and extent (by depths) of the plugs of different materials, and the records of any tests or measurements made and of the amount, size, and location (by depths) of casing left in the well. If an attempt was made to part any casing, a complete report of the method used and the results obtained must be included. ~~(10-21-92)~~(12-21-11)T

**057. Wells Used for Fresh Water (Cold Water < 85 degrees Fahrenheit), Low Temperature Geothermal (85 - 212 Degrees Fahrenheit) or Geothermal Wells (>212 Degrees Fahrenheit).** ~~When the well, seismic, core, or other exploratory hole to be plugged may safely be used as a fresh water well, and such utilization is desired by the landowner, the well need not be filled above the required sealing plug set below fresh water; provided that written authority for such use is secured from the landowner and in such written authority, the landowner assumes the responsibility to plug the well upon its abandonment as a water well in agreement with applicable law. Such written authority and assumption of responsibility shall be filed with the director.~~ ~~(10-21-92)~~(12-21-11)T

a. Oil and gas wells, seismic, core or other exploratory holes no longer being used for their original purpose may not be converted into fresh water, low temperature geothermal, or geothermal wells unless the following actions occur: (12-21-11)T

i. Owner, operator, or surface owner files an application with the IDWR describing the conversion and the proposed use for the water or geothermal resource and any modifications necessary to meet the applicable well construction standards; (12-21-11)T

ii. The surface owner provides written documentation assuming responsibility for the converted well including, should it become necessary, decommissioning (plugging) of the converted well in accordance with applicable law; (12-21-11)T

iii. IDWR issues a permit for a geothermal resource well, a water right, or recognizes a domestic exemption authorizing the withdrawal of water from the converted well; and (12-21-11)T

iv. A licensed driller in Idaho inspects and certifies that the converted well meets all well construction standards for its intended purpose. (12-21-11)T

b. The Department's bond may not be released, and the oil and gas permit cancelled, until all requirements in Paragraph 320.07.a. of these rules are met. (12-21-11)T

**321. -- 3294. (RESERVED)**

**325. SURFACE RECLAMATION.**

**01. Timing of Reclamation.** After the plugging and abandonment of a well or closure of other oil and

gas facilities, all reclamation work described in this Section shall be completed within twelve (12) months. The Director may grant an extension where unusual circumstances are encountered, but every reasonable effort shall be made to complete reclamation before the next local growing season. (12-21-11)T

**02. General Clean Up.** All debris, abandoned gathering line risers and flowline risers, surface equipment, supplies, rubbish, and other waste materials shall be removed within three (3) months of plugging a well. The burning or burial of such material on the premises shall be performed in accordance with applicable local, state, or federal solid waste disposal and air quality regulations. In addition, material may be burned or buried on the premises only with the prior written consent of the surface owner. (12-21-11)T

**03. Road Removal.** All access roads to plugged and abandoned wells and associated production facilities shall be ripped, regraded, and recontoured unless otherwise specified in a surface use agreement. Culverts and any other obstructions that were part of the access road(s) shall be removed. Roads to be left will be graded to drain and prepared with rolling dips or other best management practices to minimize erosion. (12-21-11)T

**04. Regrading.** Drill pads, pits, berms, cut and fill slopes, and other disturbed areas will be regraded to approximate the original contour. Where possible, slopes should be reduced to three (3) horizontal feet to one (1) vertical foot (3H:1V) or flatter. (12-21-11)T

**05. Compacted Areas.** All areas compacted by drilling and subsequent oil and gas operations that are no longer needed following completion of such operations shall be cross-ripped. Ripping shall be undertaken to a depth of eighteen (18) inches or bedrock, whichever is reached first. (12-21-11)T

**06. Topsoiling.** Stockpiled topsoil shall be replaced in a manner that will support reestablishment of the pre-disturbance land use and contoured to control erosion and provide long-term stability. If necessary, topsoiled areas shall be tilled adequately in order to establish a proper seedbed. (12-21-11)T

**07. Revegetation.** (12-21-11)T

**a.** The owner or operator shall select and establish plant species that can be expected to result in vegetation comparable to that growing on the affected lands prior to the oil and gas operations. Certified weed free seed should be used in revegetation. The owner or operator may use available technical data and results of field tests for selecting seeding practices and soil amendments that will result in viable revegetation. (12-21-11)T

**b.** The disturbed areas shall be reseeded in the first favorable season following rig demobilization, site regrading, and topsoil replacement. (12-21-11)T

**c.** Unless otherwise specified in the approved permit, the success of revegetation efforts shall be measured against the existing vegetation on site prior to the oil and gas operations, or against an adjacent reference area supporting similar types of vegetation. Reseeding or replanting is required until the following cover standards are met: (12-21-11)T

**i.** The ground cover of living plants on the revegetated area should be comparable to the ground cover of living plants on an adjacent reference area for two (2) full growing seasons after cessation of soil amendment or irrigation, if used; (12-21-11)T

**ii.** Ground cover shall be considered comparable if the planted area has at least seventy percent (70%) of the pre-disturbance, or adjacent reference area, ground cover; (12-21-11)T

**iii.** For locations with an average annual precipitation of more than twenty-six (26) inches, the Department, in approving a drilling permit or a pit, may set a minimum standard for success of revegetation as follows: Vegetative cover of seventy percent (70%) for two (2) full growing seasons in areas planted to herbaceous species only; or fifty percent (50%) vegetative cover for two (2) full growing seasons and six hundred (600) woody plants per acre in areas planted to a mixture of herbaceous and woody species; (12-21-11)T

**iv.** As used in this section, "herbaceous species" means grasses, legumes, and other forbs; "woody plants" means woody shrubs, trees, and vines; and "ground cover" means the area of the ground surface covered by

the combined aerial parts of vegetation and the litter that is produced naturally on-site, expressed as a percentage of the total area measured. Rock surface areas will be excluded from this calculation; and (12-21-11)T

v. In all cases, vegetative cover shall be established to the extent necessary to control erosion. (12-21-11)T

d. Introduced species may be planted if they are known to be comparable to previous vegetation, or if known to be of equal or superior use for the approved post-reclamation land use, or, if necessary, to achieve a quick, temporary cover for soil stabilization purposes. Species classified as poisonous or noxious weed species shall not be used in revegetation. (12-21-11)T

e. By mutual agreement of the Department, the surface owner, and the owner or operator, a site may be converted to a different, more desirable or more economically suitable habitat. (12-21-11)T

f. Planting of grasses and forbs should be done in a manner which promotes rapid stabilization of the soil surface. Wherever terrain permits, grasses and forbs should be drilled or compacted into the ground using agricultural grass planting equipment or other seeders specifically designed for revegetation applications. Broadcast and hydroseeding may be used on areas where other methods are impractical or unavailable. (12-21-11)T

g. The owner or operator should plant shrubs or shrub seed, as required, where shrub communities existed prior to oil and gas operations. Shrub seed may be planted as a portion of a grass seed mix or planted as bare-root transplants after grass seeding. Where the surface owner desires a specific land use such as grazing or cropland, shrubs will not be required in the revegetation species mix. Shrub lands undergoing revegetation with shrubs shall be protected from erosion by vegetation, chemical binders, or other acceptable means during establishment of the shrubs. (12-21-11)T

h. Tree stocking of forestlands should meet the following criteria: (12-21-11)T

i. Trees that are adapted to the site should be planted in a density which can be expected over time to yield a timber stand comparable to pre-disturbance timber stands; (12-21-11)T

ii. Trees shall be established for two (2) full growing seasons after cessation of any soil amendments and irrigation before they are considered to be established; and (12-21-11)T

iii. Forestlands undergoing revegetation with trees should be protected from erosion by vegetation, chemical binders, or other acceptable means during seedling establishment. (12-21-11)T

i. Revegetation is not required on areas that the surface owner wishes to incorporate into an irrigated field and any roads which will be used for other oil and gas operations. (12-21-11)T

i. Mulch should be used on severe sites and may be required by the permit where slopes are steeper than three (3) horizontal feet to one (1) vertical foot (3H:1V) or the mean annual rainfall is less than twelve (12) inches. When used, straw, or hay mulch should be obtained from certified weed free sources. "Mulch" means vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation which will provide a micro-climate more suitable for germination and growth on severe sites. Annual grains such as rye, oats, and wheat may be used as a substitute for mulch where they will provide adequate protection and will be replaced by permanent species within a reasonable length of time. (12-21-11)T

**08. Reclamation Under a Surface Use Agreement.** Notwithstanding the requirements of Subsections 325.03 through 325.07 of this rule, reclamation may be superseded by the conditions of a surface use agreement as long as the site is left in a stable, non-eroding condition that will not impact fresh waters. (12-21-11)T

**326. -- 329. (RESERVED)**

**330. WELL SPACING.**

In the absence of an order by the Commission setting spacing units for a pool, or a unit operation as described in Section 340, the following rules shall apply: ~~(10-21-92)~~(12-21-11)T

**01. Wells Drilled for Oil; Standard Spacing Unit and Well Location.** Every well drilled for oil must be located in the center of a forty (40) acre governmental quarter quarter section, lot or tract, or combination of lots or tracts substantially equivalent thereto as shown by the most recent governmental survey, with a tolerance of two hundred (200) feet in any direction from the center location; provided that no oil well shall be drilled less than nine hundred twenty (920) feet from any other well drilling to or capable of producing oil from the same pool, or no oil well shall be completed in a known pool unless it is located more than nine hundred twenty (920) feet from any other well completed in and capable of producing oil from the same pool. (10-21-92)

**02. Wells Drilled for Gas; Standard Spacing Unit and Well Location.** Every well drilled for gas must be located on a drilling unit consisting of approximately six hundred forty (640) contiguous surface acres, which shall be one governmental section or lot(s) equivalent thereto, upon which there is not located, and of which no part is attributed to, any other well completed in or drilling to the same pool. In areas not covered by United States Public Land Surveys, such drilling unit shall consist of an area which is: 1) bounded by four (4) sides intersecting at angles of not less than eighty five (85) degrees or more than ninety five (95) degrees; 2) the distance between two (2) points farthest apart thereon shall not exceed eight thousand five hundred (8,500) feet; and 3) shall contain at least six hundred (600) contiguous surface acres. In areas covered by United States Public Land Surveys, such drilling unit shall consist of one governmental section containing not less than six hundred (600) surface acres. Each well drilled for gas shall be located within a square, each side of which is one thousand six hundred sixty (1,660) feet in length and parallel to a center line of the section. The center of such square shall coincide with the geometric center of the section. (10-21-92)

**03. Well Locations Adjacent to Spaced Areas.** The Commission shall have the discretion to determine the pattern location of wells adjacent to an area spaced by the Commission, or under application for spacing where there is sufficient evidence to indicate that the pool or reservoir spaced or about to be spaced may extend beyond the boundary of the spacing order or application, and the uniformity of spacing patterns is necessary to insure orderly development of the reservoir pool. (10-21-92)

**04. Exceptions to Location of Wells and Well-Spacing Orders.** Upon proper application therefore, the ~~director~~ Department may approve, as an administrative matter, an exception to Subsections 330.01 and 330.02 or any order of the Commission establishing well spacing for a pool. ~~If for any reason the Commission shall fail or refuse to approve such an exception, the director may, after notice and hearing, grant the exception.~~ The application for an exception shall state fully the reasons why such an exception is necessary or desirable and shall be accompanied by a plat showing: (10-21-92)(12-21-11)T

**a.** The location at which an oil or gas well could be drilled in compliance with Subsections 330.01 or 330.02 or the applicable order; (10-21-92)

**b.** The location at which the applicant requests permission to drill; and (10-21-92)

**c.** The location at which oil or gas wells have been drilled or could be drilled, in agreement with Subsections 330.01 or 330.02 or the applicable order, directly or diagonally offsetting the proposed exception. No exception shall prevent any owner ~~or operator~~ from drilling an oil or gas well on adjacent lands, directly or diagonally offsetting the exception, at locations permitted by Subsections 330.01 or 330.02 or any applicable order of the Commission establishing oil or gas well-spacing units for the pool involved. (10-21-92)(12-21-11)T

**331. -- 339. (RESERVED)**

**340. UNIT OPERATIONS.**

Any person desiring to obtain the benefits of Section 47-323, Idaho Code, relating to any method of unit, cooperative development, or operation of a field or pool or a part of either, shall file an application with the ~~director~~ Department for approval of such agreement which shall have attached a copy of such agreement. Notice of the hearing of such application shall be given by publication of a legal notice in a newspaper of general circulation in Ada County, Idaho, and the county of the unit operation. (10-21-92)(12-21-11)T

**341. -- 349. (RESERVED)**



350. WRITTEN NOTICES, REQUESTS, PERMITS AND REPORTS.

The ~~Commission~~ Department shall adopt such forms of notices, requests, permits, and reports as it may deem advisable or necessary in carrying out the provisions of law and its rules and regulations. ~~(10-21-92)~~(12-21-11)T

351. -- 359. (RESERVED)

360. GEOPHYSICAL OPERATIONS.

~~01. Notice to Inhabitants. Before a geophysical contractor conducts surface shooting operations, he shall give notice to an occupant of every inhabited dwelling within a one-mile radius of each shot point. Such notice shall be given in writing or by in person contact. The notice shall tell the occupant of the nature and approximate time period of the seismic surface shooting activity.~~ (10-21-92)

**021. Permit Required.** Before beginning seismic ~~shot~~ shothole operations in the state of Idaho, a representative of the client company and the seismic contractor shall meet with the staff of the ~~Commission and~~ Department, file an application for a permit to conduct seismic operations, and pay an application fee. No seismic operation shall be conducted without such a permit. The ~~director~~ Department has discretion to waive the requirement of the pre-permit meeting for the client company. The permit for seismic operations may be revoked or suspended or the application for the permit denied by the ~~Commission or director~~ Department for failure to comply with the Commission's rules, statutes, and orders. The ~~director~~ Department may revoke, suspend, or deny the application for a seismic permit without a hearing; provided that the seismic contractor shall be given an opportunity for a hearing at the next regularly scheduled Commission meeting. The fact that a permit is revoked or suspended does not excuse the seismic contractor or client company from properly plugging existing seismic holes but does prohibit the person(s) from drilling any more. The application for a permit for seismic operations must include: ~~(10-21-92)~~(12-21-11)T

**a.** The proposed route of the seismic line on a topographic or recent air photo base map at a sufficient scale to show roads, buildings, surface waters, and Section, Township, and Range lines. The map must also show additional area as needed for any alternative routing. The alternative routing must be within at least one-half (1/2) mile of the proposed route. Reapplication must be made if the final route strays from the proposed route and outside the designated alternative routing areas; and (12-21-11)T

**b.** The energy sources proposed to be used for the seismic operation, such as vibroseis, shot holes, surface shot, or others. (12-21-11)T

**c.** The approximate number, depth, and location of the seismic holes and the size of the explosive charges. The application shall be accompanied by a map with a scale of one inch equaling two (2) miles that shows the depth and location of the shot holes. (10-21-92)

**d.** The name and permanent address of the client company the ~~Commission or director~~ Department may contact about the seismic operation. ~~(10-21-92)~~(12-21-11)T

**e.** The name, permanent address, and phone number of the seismic contractor and his local representative whom the ~~Commission or director~~ Department may contact about the seismic activity. ~~(10-21-92)~~(12-21-11)T

**f.** The name, phone number, and permanent address of the hole plugging contractor, if different from the seismic contractor. (10-21-92)

**g.** A detailed description of the hole plugging procedures, and a description of the surface reclamation procedures, if such reclamation is needed. ~~(10-21-92)~~(12-21-11)T

**h.** The anticipated starting date of seismic ~~and plugging~~ operations. ~~(10-21-92)~~(12-21-11)T

**i.** The anticipated completion date of seismic ~~and plugging~~ operations, and the anticipated date of any required reclamation or hole plugging. ~~(10-21-92)~~(12-21-11)T

**j.** A description of the identifying mark that will be on the hat or nonmetallic plug to be used in the

plugging of the seismic hole.

(10-21-92)

**02. Operating Requirements.** All geophysical operations must comply with the following requirements: (12-21-11)T

**a.** All vehicles utilized by the permit holder, or its agents or contractors, shall be clearly identified by signs or markings utilizing letters or numbers, or a combination thereof, a minimum of three (3) inches in height and one-half (1/2) inch wide, indicating the name of such agent. (12-21-11)T

**b.** No seismic source generation from vibroseis, shot holes, surface shot, or other method shall be conducted within two hundred (200) feet of any residence, water well, oil well, gas well, injection well or other structure without having first secured the express written authority of the owner(s) thereof and the permit holder shall be responsible for any resulting damages. (12-21-11)T

**c.** Written authority from the owner of a residence, water well, oil well, gas well, injection well or other structure must also be obtained from the owner(s) if any explosive charge exceeds the maximum allowable charge within the scaled distance below:

<b>DISTANCE TO STRUCTURE (Feet)*</b>	<b>MAXIMUM ALLOWABLE CHARGE WEIGHTS (Pounds)*</b>
<u>50</u>	<u>0.5</u>
<u>100</u>	<u>2.0</u>
<u>150</u>	<u>4.5</u>
<u>200</u>	<u>8.0</u>
<u>250</u>	<u>12.0</u>
<u>300</u>	<u>18.0</u>
<u>350</u>	<u>25.0</u>

\* Based upon a charge weight of seventy (70) Foot/Pound<sup>1/2</sup>.

(12-21-11)T

**d.** The maximum allowable charge weight is twenty-five (25) pounds, unless the permit holder requests and secures the prior written authorization from the Department. (12-21-11)T

**e.** All seismic sources placed for detonation shall contain additives to accelerate the biodegradation thereof and shall be handled with due care in accordance with industry standards. The cap leads for any seismic sources that fail to detonate shall be buried at least three (3) feet deep. (12-21-11)T

**f.** All vegetation cleared to the ground shall be cleared in a competent and workmanlike manner in the exercise of due care. (12-21-11)T

**g.** Unless otherwise consented to by the surface owner in writing, permit holder shall not cut down any tree measuring six (6) inches or more in diameter, as measured at a height of three (3) feet from the ground surface, unless there are no reasonable alternatives to the removal of such tree(s) available to permit holder. Permit holder shall compensate surface owner the value of all such trees. (12-21-11)T

**h.** All excessive rutting or soil disturbances shall be repaired or restored to the original condition and contour to the extent reasonable, unless otherwise agreed to by the permit holder and the surface owner in writing. (12-21-11)T

**i.** All fences removed shall be replaced, unless otherwise agreed to by the permit holder and the surface owner in writing. (12-21-11)T

**j.** All debris associated with the seismic activity shall be removed and properly disposed.

(12-21-11)T

**03. Bond Required.**

(12-21-11)T

**a.** Before beginning geophysical operations, the geophysical contractor must file and have approved by the ~~director~~ Department a bond in the amount of at least ten thousand dollars (\$10,000). The Department may increase this bonding requirement for geophysical contractors based on the amount of potential damage from the contemplated operation. The condition of such bond shall comply with the ~~Oil and Gas Conservation Law Act~~, the rules and orders of the Commission, and orders of the ~~director and/or his duly authorized representatives~~ Department. The obligation of the bond shall not be discharged until one (1) year from completion of the survey or until the geophysical contractor has complied with the Oil and Gas Conservation Law, the Commission's rules, and the orders of the Commission and ~~director and their agents~~ the Department. ~~Provided, upon verified application, the director may waive or modify this bonding requirement for geophysical contractors based on the amount of potential damage from the contemplated operation.~~ (10-21-92)(12-21-11)T

**#b.** Persons or other entities who engage in the plugging of seismic holes and are not a regular full-time employee of the seismic company, owner, or operator shall have posted with the director a surety bond in favor of the ~~Commission~~ Department. Said bond shall be on a form prescribed by the ~~Commission~~ Department and in the amount of five thousand dollars (\$5,000). The condition of the bond shall comply with the Oil and Gas Conservation Law and the regulations and orders of ~~this~~ the Commission and the ~~director and their duly authorized agents and employees~~ Department. (10-21-92)(12-21-11)T

**04. Newspaper Notice.** Before a geophysical contractor conducts the geophysical operation, the contractor shall publish a legal notice in a newspaper of general circulation in the county where the survey will be conducted. The notice shall state the nature and approximate time period of the seismic operations. These requirements do not apply to operations conducted within a well or conducted by aerial surveys. (12-21-11)T

**05. Owner and Occupant Notification.** No entry shall be made by any person to conduct seismic operations, upon the lands where such seismic operations are to be conducted, without the permit holder having first given notice at least thirty (30) calendar days prior to commencement of field seismic operations. (12-21-11)T

**a.** The notice shall be in writing and given either personally or by certified United States mail to the following persons: (12-21-11)T

**i.** Surface owners reflected in the tax records of the counties where the lands are located, at the mailing addresses identified for such surface owners in such records; (12-21-11)T

**ii.** Occupants residing on the lands who are not the surface owners, if it can be reasonably ascertained that there are such occupants; and (12-21-11)T

**iii.** Owners or operators of oil and gas wells within the seismic survey area, as reflected in Department records. (12-21-11)T

**b.** The notice shall contain the following: (12-21-11)T

**i.** Name of the person or entity that is conducting the seismic operations; (12-21-11)T

**ii.** Proposed location of the seismic operations; and (12-21-11)T

**iii.** Approximate date the person or entity proposes to commence seismic operations. (12-21-11)T

**06. Department Notifications.** (12-21-11)T

**a.** The permit holder shall also notify the Department within five (5) business days of the commencement and completion of each seismic operation. (12-21-11)T

**b.** Before beginning geophysical operations other than seismic operations, the geophysical contractor

shall file a notice of intention to do so with the Department. Said notice shall describe the geophysical method to be used and be accompanied by a map of a scale of one (1) inch equals two (2) miles showing the location of the project.  
(12-21-11)T

**047. Reports and Notices Required.** (10-21-92)

a. Activity Report. Upon completion of the seismic activity or at thirty (30) day intervals after the work has commenced, whichever occurs first, the seismic contractor shall file with the ~~director~~ Department a report of the completion or progress of the seismic project. The final completion report shall be in affidavit form and shall include a seven and one-half (7.5) - or fifteen (15) minute United States Geological Survey topographic quadrangle map (at a scale of one (1) inch equals two thousand (2,000) feet or one (1) inch equals four thousand (4,000) feet that shows section, township, and range) and the location of each ~~shothole~~ survey so that the shotholes and other potential impacts can be easily located. The final completion report shall also include a statement that all work has been performed in compliance with the application for a permit to perform seismic activity, Commission Rule 360, and permit provisions. Said maps, applications, and reports shall be kept confidential by the ~~Commission~~ Department for a period of ~~five one (51)~~ years from the date of receipt, subject to the needs of the ~~director~~ Department to use them to enforce these regulations, the ~~Oil and Gas Conservation Law Act~~, and the orders of the Commission or ~~director~~ the Department. Also, the owner of the surface of the land may be advised of the location of seismic lines or seismic holes on his land and of the exploration method used.  
(10-21-92)(12-21-11)T

b. Plugging Notice. Seismic contractors shall give the ~~Commission or director~~ Department at least twenty-four (24) hours advance notice of shothole plugging operations, provided that notice of plugging operations planned for Sunday or Monday may be given on the previous Friday.  
(10-21-92)(12-21-11)T

~~e. Other Notices. Before beginning geophysical operations other than seismic operations, the geophysical contractor shall file a notice of intention to do so with the Commission. Said notice shall describe the geophysical method to be used and be accompanied by a map of a scale of one inch equals two (2) miles showing the location of the project.~~  
(10-21-92)

**058. Client-Contractor Responsibility.** The client company may be held responsible along with the seismic contractor for conducting the operation in compliance with the Commission's rules and orders, the ~~director's~~ Department's orders, and the ~~Idaho Oil and Gas Conservation Law Act~~ for the seismic contractor's failure to comply with such rules, statutes, and orders. The hats used in the plugging of seismic holes shall be imprinted with the name of the contractor responsible for the plugging of the hole.  
(10-21-92)(12-21-11)T

**069. Plugging.** Unless the seismic contractor can prove to the satisfaction of the ~~director~~ Department that another method will provide better protection to ground water and long-term land stability, seismic shothole operations shall be conducted in the following manner:  
(10-21-92)(12-21-11)T

a. When water is used in conjunction with the drilling of seismic shotholes and artesian flow is not encountered at the surface, seismic holes are to be filled with a high grade bentonite/water slurry mixture. Said slurry shall have a density that is at least four percent (4%) greater than the density of fresh water; said slurry shall also have a Marsh funnel viscosity of at least sixty (60) seconds per quart. Density and viscosity are to be measured prior to adding cuttings to the slurry. Cuttings not added to the slurry are to be disposed of in accordance with Subsections 360.069.f. of this rule. Any other suitable plugging material commonly used in the industry may be substituted for the bentonite/water slurry as long as the physical characteristics of said substitute are at least comparable to those of the bentonite/water slurry. Between November 1 and May 1, coarse ground bentonite approved by the ~~director~~ Department shall be used as a plugging material.  
(10-21-92)(12-21-11)T

b. The hole will be filled with the slurry from the bottom up to a depth of three (3) feet (three (3) feet below ground level). A nonmetallic plug will be set at this depth of three (3) feet, and the remaining hole will be filled and tamped to the surface with cuttings and native soil.  
(10-21-92)

c. When drilling with air and nonartesian water is encountered, the hole shall be plugged with the slurry mixture, or coarse ground bentonite, as specified in Subsections 360.069.a., supra. (10-21-92)(12-21-11)T

d. When drilling with air only and in completely dry holes, plugging may be accomplished by

returning the cuttings to the hole, tamping the returned cuttings to the above-referenced depth of three (3) feet, and setting the permaplug topped with more cuttings and soil as per Subsection 360.069.b. above. A small mound will be left over the hole for settling allowance. Auger holes twenty (20) feet or less in depth may be plugged in this same manner. ~~(10-21-92)~~(12-21-11)T

**e.** The foregoing seismic holes shall be properly plugged and abandoned as soon as practical after the shot has been fired; however, a shot hole shall not be left unplugged for more than thirty (30) days without approval of the ~~director~~ Department. ~~(10-21-92)~~(12-21-11)T

**f.** Any slurry, drilling fluid, or cuttings which are deposited on the surface around the seismic hole will be raked or otherwise spread out to at least within one (1) inch of the surface, so that the growth of the natural grasses or foliage will not be impaired. (10-21-92)

~~**g.** Seismic shothole operations will not be conducted within one quarter (1/4) mile of any building or water well, flowing spring, or stockwater pipeline.~~ (10-21-92)

~~**h.g.** Guidelines. Subsections The requirements of Paragraphs 360.069.a. through 360.069.g.f. above of this rule~~ may be modified by any reasonable written agreement between the seismic company and the surface owner. ~~(10-21-92)~~(12-21-11)T

~~**h.** If artesian flow (water flowing at the surface) is encountered in the drilling of any seismic hole, cement will be used to seal off the water flow thereby preventing cross-flow, erosion, and/or contamination of freshwater supplies. Said holes shall be cemented immediately, unless severe weather conditions prevent access. Landowners may assume liability for seismic holes that are capable of conversion to water wells by sending a letter assuming such liability to the director and filing an application for appropriation of underground water with the Department of Water Resources.~~ (10-21-92)(12-21-11)T

~~**ji.** After completing the plugging of seismic shot holes and spreading the cuttings as required by this rule, the seismic contractor shall mark record the exact GPS location of the seismic hole, with a wooden stake that extends approximately two (2) inches above ground. This requirement may be waived by the director if the landowner consents to it and the contractor shall provide the location data to the Department.~~ (10-21-92)(12-21-11)T

**10. Forfeiture of Geophysical Exploration Bond.** The Department may forfeit the bond submitted under Subsection 360.03 of this rule upon failure of the owner or operator to conduct the seismic survey and complete reclamation in conformance with Section 360 of this rule. The owner or operator will be given an opportunity to address compliance issues prior to the Department taking action against the bond. (12-21-11)T

**361. -- 99369. (RESERVED)**

**370. ENFORCEMENT.**

The Department shall enforce these rules pursuant to Section 47-325, Idaho Code. (12-21-11)T

**371. -- 999. (RESERVED)**

## IDAPA 27 - BOARD OF PHARMACY

### 27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

#### DOCKET NO. 27-0101-1101 (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 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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

It is necessary to repeal the Board's existing rules and promulgate an updated and more comprehensive set of rules governing the practice of pharmacy in Idaho.

The pending rule is being adopted as proposed. The notice of proposed rulemaking repealing this chapter was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, page 558](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mark Johnston, R.Ph., Executive Director. (208) 334-2356.

DATED this 29<sup>th</sup> day of November, 2011.

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

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#### DOCKET NO. 27-0101-1101 - 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 11-10, October 5, 2011, page 558.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

## IDAPA 27 - BOARD OF PHARMACY

### 27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

#### DOCKET NO. 27-0101-1102 (CHAPTER REWRITE - 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 2012 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 37-2702, 37-2715, 54-1717, 54-1753, 54-1755 and 54-1763, Idaho Code.

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

It is necessary to repeal the Board's existing rules and to promulgate new and reorganized rules to provide Board licensees and registrants, subject to regulation under the Idaho Pharmacy Act and the Uniform Controlled Substances Act, the Out-of-State Mail Service Pharmacy Act, and the Wholesale Drug Distribution Act, an updated and more comprehensive set of rules governing the practice of pharmacy in Idaho. The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the [October 5, 2011 Idaho Administrative Bulletin, Vol. 11-10, pages 559 through 631](#).

In addition to non-substantive changes, such as adding clarifying and removing excessive language and correcting terminology, grammar, and formatting, the following substantive changes are made in the transition from proposed to pending rules. Within the definition of flavoring agent, the five percent (5%) limit is struck to allow for a greater dilution for individual doses, and the GRAS requirement is struck, as the FDA does not categorize flavoring agents as such. The definition of pharmaceutical care services is clarified to not include certain activities, and a pharmacist's assessment of the patient's health status is defined by example. If a required license or registration is cancelled or otherwise invalidated by the issuing agency, the Idaho controlled substance registration will be correspondingly cancelled. The ceiling for an overpayment processing fee is struck, as excessive and unneeded. The Board sale of a controlled substance inventory book is struck, as it is no longer required by rule. The electronic record keeping downtime rule is updated to require assurance that the maximum number refills is not exceeded before dispensing controlled substances only, and a requirement of data entry within ninety-six (96) hours of system restoration is added. The term pharmacist is replaced by individual in the electronic recordkeeping requirements, as pharmacist was used erroneously. A requirement to retain original prescription drug orders in a readily retrievable manner is added. An allowance for pharmacists to add flavoring agents at their discretion is added. A required warning is added to prescription drug labels. The unit dose labeling exception is limited to hospitals instead of institutional facilities. The positive identification rule is clarified to pertain to prescriber drug outlets in addition to pharmacies. Administration is re-added into the controlled substance for oneself restrictions, as in current rule. Mandates for nurse training and information availability during investigational drug trials are struck, as these mandates are required by the Board of Nursing or the FDA. An exception for sterile product preparation for immediate use is added. A controlled substance disposal rule is added. A provision for and regulation of access to ADS for maintenance or repair is added. The independent practice of pharmacy is clarified to pertain to MTM and Idaho licensed pharmacists across state lines. An allowance for non-controlled substance, prescription delivery to the patient's licensed or registered healthcare provider is added. Pharmacist absence is changed from temporary to brief and is restricted to within the business establishment. The retail telepharmacy with remote dispensing site's policy and procedure exemption is struck.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-1720, Idaho Code.

The pending rules would eliminate the Board of Pharmacy's responsibility for tracking extern hours, as this

tracking is a duplicate state responsibility with Idaho State University. Without Board tracking of extern hours, the need to register preceptor sites is also eliminated. Thus, the pending rule will strike the \$25 preceptor site registration fee.

The pending rule would expand the fee for a clinic to all prescriber drug outlets. The \$35 fee is necessary to recoup some of the administrative cost of issuing a registration.

The pending rule would allow for a \$10 fee to be charged for reissuance of a lost registration card. This fee is necessary to recoup the administrative cost associated with printing and mailing duplicate registrations cards, as well as creating a disincentive for requesting a duplicate. Without a fee it is easier to request a duplicate, rather than completing an extensive search for the original.

The pending rule would allow a reasonable fee to be charged for a dishonored payment, such as a bounced check. The fee is necessary to recoup the administrative costs associated with dishonored payments. The fee would also act as a disincentive for bouncing a check, just to create additional time to pay past an administrative deadline.

The pending rule would allow a reasonable fee to be charged when issuing a refund. The fee is necessary to recoup the administrative costs associated with the printing of a refund 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 Board of Pharmacy is a self-governing agency, funded mainly by license and registration fees, that utilizes no general fund appropriation. Increases or changes to fees will therefore not affect the general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the pending rule, contact Mark Johnston, R.Ph., Executive Director. (208) 334-2356.

DATED this 25th day of November, 2011.

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

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**DOCKET NO. 27-0101-1102 - ADOPTION OF PENDING RULE**

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

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 11-10, October 5, 2011, pages 559 through 631.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**



THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 27-0101-1102

*[Subsection 010.24, 010.28, and 010.31]*

**010. DEFINITIONS AND ABBREVIATIONS (A -- I).**

**24. DTM -- Drug Therapy Management.** Selecting, initiating, or modifying drug treatment pursuant to a collaborative practice agreement. ( )

**28. Flavoring Agent.** An additive used in food or drugs when the additive is used in accordance with the principles of good pharmacy practices and in the minimum quantity required to produce its intended effect. ( )

*(Proposed text in Paragraphs 010.28.a. through 010.28.c. has been deleted)*

**31. Hospital System.** A hospital or hospitals and at least one (1) on-site institutional pharmacy under common ownership. A hospital system may also include one (1) or more COE pharmacies under common ownership. ( )

*[Subsection 011.09]*

**011. DEFINITIONS AND ABBREVIATIONS (J -- R).**

**09. Pharmaceutical Care Services.** A broad range of pharmacist-provided cognitive services, activities and responsibilities intended to optimize drug-related therapeutic outcomes for patients. Pharmaceutical care services may be performed independent of, or concurrently with, the dispensing or administration of a drug or device and encompasses services provided by way of DTM under a collaborative practice agreement, pharmacotherapy, clinical pharmacy practice, pharmacist independent practice, and MTM. Nothing in these rules allows a pharmacist, beyond what is statutorily allowed or allowed by a collaborative practice agreement, to diagnose, prescribe, order lab tests, or conduct complete physical exams. Pharmaceutical care services are not limited to, but may include one (1) or more of the following, according to the individual needs of the patient: ( )

**a.** Performing or obtaining necessary assessments of the patient's health status, including the performance of health screening activities that may include, but are not limited to, obtaining finger-stick blood samples; ( )

**b.** Reviewing, analyzing, evaluating, formulating or providing a drug utilization plan; ( )

**c.** Monitoring and evaluating the patient's response to drug therapy, including safety and effectiveness; ( )

**d.** Performing a comprehensive drug review to identify, resolve, and prevent drug-related problems, including adverse drug events; ( )

**e.** Documenting the care delivered; ( )

**f.** Communicating essential information or referring the patient when necessary or appropriate;

- ( )
- g.** Providing counseling education, information, support services, and resources applicable to a drug, disease state, or a related condition or designed to enhance patient compliance with therapeutic regimens; ( )
  - h.** Conducting a drug therapy review consultation with the patient or caregiver; ( )
  - i.** Preparing or providing information as part of a personal health record; ( )
  - j.** Identifying processes to improve continuity of care and patient outcomes; ( )
  - k.** Providing consultative drug-related intervention and referral services; ( )
  - l.** Coordinating and integrating pharmaceutical care services within the broader health care management services being provided to the patient; and ( )
  - m.** Other services as allowed by law. ( )

**[Subsection 013.05]**

**013. WAIVERS OR VARIANCES.**

**05.** ***Prohibited Requests.*** A waiver or variance request that *is contrary to federal law or Idaho Code or that seeks to* delay or cancel an administrative deadline will not be *considered or* granted by the Board. ( )

**[Paragraph 016.02.a.]**

**016. BOARD OF PHARMACY LICENSURE AND REGISTRATION.**

The Board is responsible for the control and regulation of the practice of pharmacy in or into the state of Idaho, which includes the licensure or registration of professional, supportive, and ancillary personnel who engage in or support the practice. The Board is also responsible for the control, regulation, and registration of persons or drug outlets that manufacture, distribute, or dispense controlled substances within or into the state. Licenses or registrations required by state or federal law, or both, must be obtained prior to engaging in these practices or their supportive functions. ( )

**02. Idaho Controlled Substances Act Registrations.** The Board will issue or renew controlled substance registrations upon application and determination that the applicant has satisfied the requirements of the Idaho Controlled Substances Act and any additional criteria specified by state or federal law applicable to applicants that manufacture, distribute, or dispense, or conduct research with, controlled substances. Registrations issued pursuant to Title 37, Chapter 27, Idaho Code, expire annually on June 30 for pharmacists and on December 31 for all other registrants. ( )

**a.** Unless a wholesaler, an applicant for an Idaho controlled substance registration must hold a valid, unrestricted Idaho license to prescribe, dispense, or administer controlled substances and, unless a pharmacist or certified euthanasia technician, a valid federal DEA registration. *If a required license or registration is cancelled or otherwise invalidated by the issuing agency, the Idaho controlled substance registration will be correspondingly cancelled.* ( )

**[Subsections 020.03 and 020.04]**

**020. BOARD FEES.**

**03. Fee For Dishonored Payment.** A reasonable administrative fee may be charged for a dishonored check or other form of payment. If a license or registration application has been approved or renewed by the Board and payment is subsequently dishonored, the approval or renewal is immediately *cancelled* on the basis of the submission of an incomplete application. The board may require subsequent payments to be made by cashier's check, money order, or other form of guaranteed funds. ( )

**04. Overpayment of Fees.** "Overpayment" refers to the payment of any fee in excess of the required amount. Refunds issued will be reduced by a reasonable processing fee. ( )

**[Subparagraph 021.03.h.i. and Subsection 021.05 ]**

**021. FEE SCHEDULE.**

- 03. Certificates of Registration and Licensure - Facilities.** ( )
  - h.** Limited service outlet - registration or annual renewal. ( )
  - i.** Limited service *outlet, if not listed*: one hundred dollars (\$100). ( )
  
- 05. Administrative Services and Publications.** ( )
  - a.** Experiential hours certification: twenty-five dollars (\$25). ( )
  - b.** Duplicate pharmacist certificate of licensure: thirty-five dollars (\$35). ( )
  - c.** Duplicate registration or license card: ten dollars (\$10). ( )
  - d.** Commercial lists. ( )
    - i.** Pharmacy list: fifty dollars (\$50). ( )
    - ii.** Pharmacist list: fifty dollars (\$50). ( )
    - iii.** Controlled Substances Act ("CSA") registrant list: one hundred fifty dollars (\$150). ( )
  - e.** Official Idaho Register: fifteen dollars (\$15). ( )
  - f.** Idaho Pharmacy Laws and Rules book: thirty-five dollars (\$35). ( )
  - g.** Hearing transcript: five dollars (\$5) per page. ( )

**[Section 030]**

**030. PHARMACIST LICENSURE BY EXAMINATION -- ACCREDITED SCHOOL OR COLLEGE OF PHARMACY GRADUATES.**

To be considered for licensure, a graduate of an accredited school or college of pharmacy within the United States must satisfy the requirements of Section 54-1722(1)(a) through (e), Idaho Code, and submit to the Board an application for licensure by examination. ( )

**[Section 040]**

**040. CERTIFIED PHARMACY TECHNICIAN REGISTRATION.**

To be approved for registration as a certified pharmacy technician, a person must satisfy the following requirements: ( )

**[Section 042]**

**042. PHARMACY TECHNICIAN CERTIFICATION -- CONTINUOUS EMPLOYMENT EXEMPTION.**

A technician registered with the Board and employed as a technician on June 30, 2009, is not required to obtain or maintain certification as a condition of registration renewal after June 30, 2009, as long as the registrant remains continuously employed as a technician by the same employer. If a registrant that qualifies for this exemption disrupts continuous employment as a technician with one employer, the technician registration will correspondingly terminate on the date of employment termination. The person must thereafter satisfy the certified pharmacy technician registration requirements of these rules to be lawfully employed as, or otherwise perform the duties of, a technician. ( )

**[Subsection 100.05]**

**100. ELECTRONIC RECORDKEEPING SYSTEM.**

Unless specifically exempted by these rules, an electronic recordkeeping system must be used to establish and store patient medication records and prescription drug order, refill, and transfer information. ( )

**05. System Downtime.** Pharmacies may use handwritten records or another auxiliary procedure for documentation of refills of prescription drug orders in the event the system becomes inoperative while the pharmacy is open that ensures: ( )

- a. Refills are authorized by the original prescription drug order; ( )
- b. If a controlled substance, the maximum number of refills is not exceeded; and ( )
- c. The required data is retained for entry into the system within ninety-six (96) hours after the electronic recordkeeping system is restored. ( )
- d. Nothing in Subsection 100.05 precludes a pharmacist from exercising professional judgment in the issuance of an emergency prescription refill, pursuant to these rules, for the benefit of a patient's health or safety. ( )

**[Paragraph 102.01.d.]**

**102. ELECTRONIC RECORDKEEPING SYSTEM -- PRESCRIPTION DRUG ORDER INFORMATION.**

**01. Original Prescription Drug Order Information.** For each original prescription drug order, the information entered into the electronic recordkeeping system must include at least the following: ( )

**d.** The identity of each *individual* involved in or, alternatively, the pharmacist ultimately responsible for its processing, filling, or dispensing; ( )

**[Section 119 and Subsection 119.01]**

**119. PRESCRIPTION DRUG ORDER -- RETENTION, INSPECTION, AND COPYING.**

**01. Prescription Retention.** A prescription drug order must be *retained in a readily retrievable manner, in the paper or electronic form issued, and must be* made available for inspection by the issuing prescriber upon request. ( )

**[Section 135]**

**135. DRUG PRODUCT FLAVORING.**

A flavoring agent may be added to a drug product *at the discretion of a pharmacist or upon* request by the prescriber, the patient, or the patient's agent. ( )

**[Subsections 140.10.d., 140.11, and 140.12]**

**140. STANDARD PRESCRIPTION DRUG LABELING.**

Unless otherwise directed by these rules, a prescription drug must be dispensed in an appropriate container that bears the following information: ( )

**10. Expiration.** An expiration date that is the lesser of: ( )

**d.** A shorter period if warranted; ( )

**11. Refills.** The number of refills remaining, if any, or the last date through which the prescription is refillable; *and* ( )

**12. Warning.** *The warning: "Caution: State or federal law, or both, prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."* ( )

**[Subsection 141.01]**

**141. INSTITUTIONAL FACILITY -- DRUG LABELING.**

**01. Labeling for Patient Use While in the Facility.** Except if dispensed in unit dose packaging, a drug dispensed for patient use while in *a hospital* must be dispensed in an appropriate container that bears at least the following information: ( )

*[Section 200, Subsections 200.01.a, 200.01.b, 200.02.b, 200.02.c, and 200.04]*

**200. CONTROLLED SUBSTANCES -- POSITIVE IDENTIFICATION REQUIRED.**

A potential recipient of a controlled substance must first be positively identified or the controlled substance must not be dispensed. ( )

**01. Positive Identification Presumed.** Positive identification is presumed and presentation of identification is not required if dispensing directly to the patient and if: ( )

a. The *controlled substance* will be paid for, in whole or in part, by an insurer; or ( )

b. The *dispenser* is part of the institutional facility where the patient is being treated. ( )

**02. Personal Identification.** Presentation of identification is also not required if the individual receiving the controlled substance is personally and positively known by a pharmacy or prescriber drug outlet staff member who is present and identifies the individual and the personal identification is documented by recording: ( )

b. A notation indicating that the recipient was known to the staff *member*; and ( )

c. The identity of the staff member making the personal identification. ( )

**04. Identification Documentation.** Documentation of the recipient's identification must be permanently linked to the record of the dispensed *controlled substance* and must include: ( )

*[Section 203]*

**203. CONTROLLED SUBSTANCES -- PRESCRIBER RESTRICTIONS.**

Prescribing, *administering*, dispensing, or delivering a controlled substance for oneself or *when contrary to the prescriber's scope of practice or prescriptive authority*, to an immediate family member is prohibited. ( )

*[Section 230 - Proposed Subsections 230.01 and 230.02 have been deleted]*

**230. INVESTIGATIONAL DRUGS.**

Investigational drugs must be properly labeled and administered only under the supervision of a principal physician-investigator or an authorized clinician. ( )

*[Subsection 240.01]*

**240. STERILE PRODUCT PREPARATION.**

**01. Environmental Controls.** *Except when prepared for immediate administration*, the environment for the preparation of sterile products *in a drug outlet* must be in an isolated area, designed to avoid unnecessary traffic and airflow disturbances, and equipped to accommodate aseptic techniques and conditions. ( )

**[Section 263 - New Section]**

**263. CONTROLLED SUBSTANCE DISPOSAL.**

A controlled substance registrant must dispose of expired, excess, or unwanted controlled substances through the services of a DEA-registered reverse distributor or by another method permitted by federal law. ( )

264. (RESERVED)

**[Subsection 290.03]**

**290. ADS SYSTEM -- MINIMUM STANDARDS.**

This rule establishes the minimum standards for the use of an ADS system to dispense and store drugs and devices. ( )

**03. System Access, Monitoring, and Control.** Access to the ADS system must be monitored and controlled as follows: ( )

**a.** Proper identification controls, including electronic passwords or other coded identification, must be utilized and access control must be limited and authorized by the prescriber, PIC, or director; ( )

**b.** The prescriber, PIC, or director must be able to stop or change access at any time; ( )

**c.** The prescriber, PIC, or director must maintain a current and immediately retrievable list of persons who have access and the limits of that access; ( )

**d.** Review of user access reports must be conducted periodically to ensure that access by persons no longer employed has been appropriately disabled; and ( )

**e.** Access for maintenance or repair must be pre-approved by the prescriber, PIC, or director and must be performed under the continuous supervision of a person with appropriate access authorization. ( )

**[Section 320]**

**320. PHARMACIST INDEPENDENT PRACTICE.**

An Idaho-licensed pharmacist may provide pharmaceutical care services and MTM outside of a pharmacy or institutional facility, including across state lines, if the following conditions are met: ( )

**[Section 503]**

**503. PRESCRIPTION DELIVERY RESTRICTIONS.**

A pharmacist must not participate in any arrangement or agreement whereby filled prescriptions may be left at, picked up from, accepted by, or delivered to any place of business not registered as a pharmacy except that a pharmacist or a pharmacy, by means of its agent, may deliver filled prescriptions to the patient, the patient's residence, the hospital or other institutional facility in which the patient is convalescing, or if a non-controlled substance, to the patient's licensed or registered healthcare provider. ( )

**[Subsection 605.02]**

**605. PHARMACY SECURITY.**

**02. Non-Institutional Pharmacy Security During Pharmacist Absence.** A non-institutional pharmacy must be closed for business and secured during all times a pharmacist is not present except for *brief* pharmacist absences *within the business establishment* or to perform professional services in the peripheral areas immediately outside of the pharmacy. ( )

**[Section 712]**

**712. RETAIL TELEPHARMACY WITH REMOTE DISPENSING SITES -- POLICIES AND PROCEDURES.**

A supervising pharmacy commencing telepharmacy operations with a remote dispensing site must adopt policies and procedures that address each of the following areas prior to engaging in the practice of telepharmacy. ( )



## IDAPA 34 - SECRETARY OF STATE

### 34.04.02 - CORPORATE NAME AVAILABILITY

DOCKET NO. 34-0402-1101

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

**EFFECTIVE DATE:** The effective date of the amendment to the temporary rule is October 6, 2011. This pending rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Section 67-903(9), 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:

A definition of business entity has been included to clarify that a business entity is one created pursuant to state or federal law and is not limited to corporate business entities. With the proliferation of Internet businesses, it is necessary to include rules addressing the use of Internet prefixes and suffixes in business entity names and to clarify that the use of an Internet prefix or suffix makes a name distinguishable on the records of the Secretary of State. Also, a technical correction is being made to add "Registered Limited Liability Partnership (R.L.L.P.)" to the definition of business entity identifiers. Finally, under the section related to "General Information," the subsection concerning "False Implication of Government Affiliation" should remain in these 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 Secretary of State amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the [November 2, 2011 Idaho Administrative Bulletin, Vol. 11-11, pages 30 through 38](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Jeff Harvey, UCC Supervisor, at (208) 332-2849.

DATED this 25th day of November, 2011.

Jeff Harvey, UCC Supervisor  
Office of the Secretary of State  
450 N. 4th St.  
P. O. Box 83720  
Boise, ID 83720-0080  
Phone: (208) 332-2849  
Facsimile: (208) 334-2847

DOCKET NO. 34-0402-1101 - 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 11-11, November 2, 2011, pages 30 through 38.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

THE FOLLOWING IS THE AMENDED TEMPORARY RULE AND THE AMENDED  
PENDING RULE TEXT FOR DOCKET NO. 34-0402-1101

*[Section 010 - Entire Section]*

**010. DEFINITIONS.**

- 01. Arabic Numerals.** 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9. (10-6-11)T
- 02. Business Entity.** *A formally organized or registered entity created pursuant to state or federal law and usually designated through the use of a business entity identifier.* (10-6-11)T
- 023. Business Entity Identifiers.** *Company, Corporation, Incorporated, Limited, Chartered, Professional Association, Professional Company, Limited Liability Company, Limited Liability Partnership, Professional Limited Liability Company, Limited Partnership, Limited Liability Limited Partnership, Registered Limited Liability Partnership, and the abbreviations, Co., Corp., Inc., Ltd., P.A., P.C., Chtd., L.L.C., L.L.P., P.L.L.C., L.P., R.L.L.P., and L.L.L.P.* ~~(10-6-11)T~~(10-6-11)T
- 034. English Alphabet.** Letters A through Z. (10-6-11)T
- 05. Internet Prefix.** *Internet prefixes include "www" and any other Internet prefix used to identify a website.* (10-6-11)T
- 06. Internet Suffix.** *Internet suffixes include .com, .org, .net, .gov, .edu, .coop, and any other Internet suffixes approved by the Internet Corporation for Assigned Names and Numbers (ICANN).* (10-6-11)T
- 047. Key Word.** Any word that is not an article, preposition, conjunction, or Business Entity Identifier. (10-6-11)T
- 058. Special Characters.** Any special characters, such as ! " \$ % ( ) \* @ ? +, and -, that are readily

available on a standard English language keyboard.

(10-6-11)T

**[New Subsections 100.07 and 100.08]**

**0100. GENERAL INFORMATION.**

07. **Internet Prefixes and Suffixes.** Internet prefixes and suffixes shall not give any special weight or inference to the business entity name, nor shall they be interpreted for meaning or intent. (10-6-11)T

08. **False Implication of Government Affiliation.** The corporate name may not be one that might falsely imply governmental affiliation. (10-6-11)T

**[Subsection 200.05]**

**200. NOT DISTINGUISHABLE ON THE RECORD.**

05. **Punctuation.** Differences in punctuation shall not make a name distinguishable.

EXAMPLE: U.S.A. STEEL, LLC is not distinguishable from USA STEEL, LLC.

EXAMPLE: PROWIDGETS.COM is not distinguishable from PRO.WIDGETS.COM.

~~(10-6-11)T~~(10-6-11)T

**[Subsections 300.03 and 300.05]**

**300. DISTINGUISHABLE ON THE RECORD.**

03. **Key Word Addition or Deletion.** The addition or deletion of one (1) or more Key Words shall make a name distinguishable.

EXAMPLE: AMAZING WONDER WIDGET, INC. is distinguishable from WONDER WIDGET, INC.

~~(10-6-11)T~~(10-6-11)T

05. **Internet Prefix and Suffix Addition or Deletion.** The addition or deletion of an Internet prefix or suffix shall make a name distinguishable.

EXAMPLE: PRECISE WIDGETS, LLC is distinguishable from PRECISEWIDGETS.COM, LLC which is distinguishable from PRECISEWIDGETS.NET.

EXAMPLE: WWW.PROWIDGETS.COM is distinguishable from PRO.WIDGETS.COM.

(10-6-11)T

**IDAPA 35 - IDAHO STATE TAX COMMISSION**

**35.01.01 - IDAHO INCOME TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0101-1101**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and are now pending review by the 2012 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 rule is approved, amended, or modified by concurrent resolution, the rule becomes final 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 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 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 [June 1, 2011, Idaho Administrative Bulletin, Volume 11-6, pages 49 through 51.](#)

**FISCAL IMPACT:** The following is a specific 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 Cynthia Adrian at (208) 334-7670.

DATED this 25<sup>th</sup> day of November, 2011.

Cynthia Adrian  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36  
Boise, ID 83722-0410

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**DOCKET NO. 35-0101-1101 - 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 11-6, June 1, 2011, pages 49 through 51.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 35 - IDAHO STATE TAX COMMISSION**  
**35.01.01 - IDAHO INCOME TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0101-1102**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 2012 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 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 rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Volume 11-10, pages 637 through 686.](#)

The Tax Commission finds that the proposed version of Rule 582 is a clarification more clearly identifying which entities the Tax Commission currently views to be “financial institutions.” Therefore, the Tax Commission declines to include any sort of “effective date” language in the proposed rule, as has been requested in the public comment. If a scenario happens to arise where an entity is classified as a “financial institution” under the new version of the rule, but would not have been so classified under the old version; the Tax Commission does not intend to apply the rule to taxable years preceding 2012 in such a scenario.

**FISCAL IMPACT:** The following is a specific 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 Cynthia Adrian at (208) 334-7670.

DATED this 25<sup>th</sup> day of November, 2011.

Cynthia Adrian  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36, Boise, ID 83722-0410

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**DOCKET NO. 35-0101-1102 - 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 11-10, October 5, 2011, pages 637 through 686.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 35 - IDAHO STATE TAX COMMISSION**

**35.01.02 - SALES TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0102-1101**

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

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 2012 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 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 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 687 through 699](#).

Proposed Subsection 109.01 will revert back to codified text.

**FISCAL IMPACT:** The following is a specific 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 McLean Russell (208) 334-7531.

DATED this 25<sup>th</sup> day of November, 2011.

McLean Russell  
Tax Policy Specialist  
State Tax Commission  
P.O. Box 36  
Boise, ID, 83722-0410  
(208) 334-7531

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**DOCKET NO. 35-0102-1101 - ADOPTION OF PENDING RULE**

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

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

The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 11-10, October 5, 2011, pages 687 through 699.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 35-0102-1101

*[Subsection 109.01 (proposed text has been removed)]*

**109. AMUSEMENT DEVICES (RULE 109).**

**01. Currency Operated Amusement Devices.** “Amusement device” means all currency or token operated machines and devices used for amusement or entertainment. This definition includes, but is not limited to, game machines; pool tables; jukeboxes; electronic games; video or cinematic viewing devices; crane, rotary, and pusher machines; and similar devices. It does not include vending machines that are used to sell tangible personal property or noncurrency operated machines or games described in Subsection 109.03 of this rule. [\(6-30-95\)](#)

**IDAPA 35 - IDAHO STATE TAX COMMISSION**

**35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0103-1101**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and are now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended, or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105 and 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 rule is being adopted as proposed. The complete text of the proposed rule was published in the [June 1, 2011, Idaho Administrative Bulletin, Volume 11-6, page 52 and 53.](#)

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alan Dornfest (208) 334-7544.

DATED this 25<sup>th</sup> day of November, 2011.

Alan Dornfest  
Tax Policy Specialist  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7544

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**DOCKET NO. 35-0103-1101 - 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 11-6, June 1, 2011, pages 52 and 53.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**



**IDAPA 35 - IDAHO STATE TAX COMMISSION**

**35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0103-1104**

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

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 2012 Idaho State Legislature for final approval. The pending rules become final and effective at the conclusion of the legislative session, unless the rules are approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved, amended, or modified by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Section(s) 63-105 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 rule is being adopted as proposed. The complete text of the proposed rule was published in the [September 7, 2011, Idaho Administrative Bulletin, Volume 11-9, pages 114 through 145.](#)

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alan Dornfest (208) 334-7544.

DATED this 25<sup>th</sup> day of November, 2011.

Alan Dornfest  
Tax Policy Specialist  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7544

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**DOCKET NO. 35-0103-1104 - 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 11-9, September 7, 2011, pages 114 through 145.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 35 - IDAHO STATE TAX COMMISSION**  
**35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0105-1101**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rules become final 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 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Volume 11-10, pages 700 through 702.](#)

**FISCAL IMPACT:** The following is a specific 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 25<sup>th</sup> day of November, 2011.

Randy Nilson  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36  
Boise, ID 83722-0410

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**DOCKET NO. 35-0105-1101 - 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 11-10, October 5, 2011, pages 700 through 702.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 35 - IDAHO STATE TAX COMMISSION**  
**35.01.07 - KILOWATT HOUR TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0107-1101**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 63-105 and 63-2701, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any 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 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 703 and 704.](#)

**FISCAL IMPACT:** The following is a specific 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 Cynthia Adrian at (208) 334-7670

DATED this 25<sup>th</sup> day of November, 2011.

Cynthia Adrian  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36  
Boise, ID 83722-0410

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**DOCKET NO. 35-0107-1101 - 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 11-10, October 5, 2011, pages 703 and 704.](#)**

**This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 35 - IDAHO STATE TAX COMMISSION**

**35.01.08 - MINE LICENSE TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0108-1101**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 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 pending rule is being adopted as proposed. The complete text of the proposed rule was published in the [October 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 705 and 706.](#)

**FISCAL IMPACT:** The following is a specific 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 Cynthia Adrian at (208) 334-7670.

DATED this 25<sup>th</sup> day of November, 2011.

Cynthia Adrian  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36  
Boise, ID 83722-0410

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**DOCKET NO. 35-0108-1101 - 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 11-10, October 5, 2011, pages 705 and 706.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

## IDAPA 35 - IDAHO STATE TAX COMMISSION

### 35.02.01 - IDAHO TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-1101

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

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 2012 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 5, 2011, Idaho Administrative Bulletin, Volume 11-10, pages 707 through 709.](#)

**FISCAL IMPACT:** The following is a specific 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 Cynthia Adrian at (208) 334-7670.

DATED this 25<sup>th</sup> day of November, 2011.

Cynthia Adrian  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7670

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#### DOCKET NO. 35-0201-1101 - 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 11-10, October 5, 2011, pages 707 through 709.](#)

This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.

## IDAPA 37 - DEPARTMENT OF WATER RESOURCES

### 37.03.02 - BENEFICIAL USE EXAMINATION RULES

DOCKET NO. 37-0302-1101

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 42-1805(8), Idaho Code, and Section 42-217a, Idaho Code.

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

Pursuant to Sections 42-217 through 42-219, Idaho Code, the Department of Water Resources (IDWR) processes proofs of beneficial use and issues water right licenses confirming new water rights. Section 42-217, Idaho Code, requires an examination before a license can be issued. Depending on the water right permit holder's choice, examinations may be conducted by IDWR staff members or by Certified Water Right Examiners (CWREs) from the private sector. The Beneficial Use Examination Rules (IDAPA 37.03.02) establish acceptable standards for conducting examinations and reporting beneficial use. Some of the rules contain ambiguous language that causes confusion about the information to be provided. The pending rule changes would alter or clarify certain examination requirements to make it easier for CWREs to complete reports. Complete, accurate reports result in water right licenses being issued more quickly. The proposed changes are important at this time because IDWR has a water right licensing backlog of about 3500 permits, and IDWR anticipates more examinations being conducted by CWREs to help address the backlog. The most significant among the proposed changes are:

1. Clarifying that examinations for some water rights may be conducted without an "on-site" inspection.
2. Clarifying when the examiner must report an annual diversion volume and clarifying how annual diversion volumes are to be determined.
3. Establishing that an aerial photograph must be submitted with all field reports.
4. Removing the water measurement exemption for diversion systems where IDWR did not require the permit holder to install a measuring device or access port.
5. Clarifying that IDWR employees are not CWREs, but they may be authorized by the Director to conduct beneficial use examinations.
6. Conforming the descriptions of large tracts of irrigated land to the provisions of Section 42-219, Idaho Code.
7. Establishing that irrigated acreage shall be reported to the tenth of an acre for parcels of land covering less than 10 acres.

The text of the pending rule differs from the text of the proposed rule in four places:

1. To be consistent throughout the Beneficial Use Examination Rules, the last sentence of Subsection 010.05 was changed to say that department employees are authorized to *conduct* water right examinations rather than to *complete* them.
2. To be consistent with the use of the word *authorize* elsewhere in the Beneficial Use Examination Rules, the first sentence of Subsection 030.08 was changed to say that the Director may *authorize* department employees to conduct water right examinations.
3. So that the rules apply equitably to CWREs and department employees, Subsection 030.10 was changed to indicate that the IDWR will not accept a field examination report from a CWRE *or a department employee* who may have a conflict of interest.
4. For clarification, an additional sentence was added to Subsection 050.01.b. to affirm that the department will not charge an examination fee for a supplemental examination conducted on its own initiative.

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 5, 2011, Idaho Administrative Bulletin, Vol. 11-10, pages 711 through 722](#).

**FISCAL IMPACT:** The following is a specific 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 Shelley Keen at 208-287-4947 or [shelley.keen@idwr.idaho.gov](mailto:shelley.keen@idwr.idaho.gov).

DATED this 25th day of November, 2011.

Shelley Keen  
Water Rights Section Manager  
Idaho Department of Water Resources  
322 East Front Street  
P.O. Box 83720  
Boise, Idaho 83720-0098  
Phone 208-287-4947 / FAX 208-287-6700

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**DOCKET NO. 37-0302-1101 - ADOPTION OF PENDING RULE**

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

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

**The text of the proposed rule was published in the Idaho Administrative Bulletin, [Volume 11-10, October 5, 2011, pages 711 through 722](#).**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

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**THE FOLLOWING IS THE AMENDED TEXT FOR DOCKET NO. 37-0302-1101**

***[Subsection 010.05]***

**010. DEFINITIONS (RULE 10).**

Unless the context otherwise requires, the following definitions govern these rules.

(7-1-93)

05. **Certified Water Right Examiner.** ~~An employee of the Department, or a representative of the permit holder who is a~~ professional engineer or professional geologist, qualified and registered in the state of Idaho who has the knowledge and experience necessary to satisfactorily complete water right field examinations as determined by the Director, and who has been appointed by the Director, Idaho Department of Water Resources as a certified water right examiner. A certified water right examiner is commonly termed a field examiner, water right examiner or examiner. A certified water right examiner is an impartial investigator and reporter of the information required by the Director to determine the extent of beneficial use established in compliance with a permit. Department employees are authorized to conduct water right examinations at the discretion of the Director. (7-1-93)( )

**[Subsections 030.08 and 030.10]**

**030. QUALIFICATION, EXAMINATION AND APPOINTMENT OF CERTIFIED WATER RIGHT EXAMINER (RULE 30).**

08. **Examinations.** The Director may, at his discretion, authorize sufficiently knowledgeable and experienced ~~D~~department employees ~~who have the knowledge and experience necessary to satisfactorily complete water right field examinations, as determined by the director, may be appointed as water right examiners for the purpose of completing~~ to conduct water right examinations during the course and scope of their employment with the department. Upon termination of employment with the department, such examiners, unless reappointed as a non-department certified examiner under provisions of these rules, are not authorized to conduct field examinations. The fee provisions of these rules ~~are waived for appointments of~~ do not apply to department employees. (7-1-93)( )

10. **Reports.** The Director will not accept a field examination report prepared by a certified water right examiner ~~or a department employee~~ who has any past or present interest, direct or indirect, in either the water right permit, the land or any enterprise benefiting, or likely to benefit, from the water right. Among those that the Director will presume to have an actual or potential conflict of interest and from whom he will not accept a field examination report are the following: (7-1-93)( )

**[Subsection 050.01.b.]**

**050. LICENSE EXAMINATION FEE (RULE 50).**

01. **Examinations Conducted by Department** ~~Certified Water Right Examiners~~ **Staff.** (7-1-93)( )

b. The department will not conduct an examination for which the fee has not been paid to the department unless exempted in Rule Subsection 0049.04, except that for any prior examination, whether conducted by a certified water right examiner or by department staff, the department may conduct a supplemental examination on its own initiative at any time. No examination fee shall be charged for a supplemental examination conducted by the department on its own initiative. (7-1-93)( )



**IDAPA 38 - DEPARTMENT OF ADMINISTRATION**

**38.03.01 - RULES GOVERNING GROUP INSURANCE**

**DOCKET NO. 38-0301-1101**

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

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2012 Idaho State Legislature for final approval. The pending rule becomes final 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 67-5226, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance 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 67-5701, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any 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 7, 2011 Idaho Administrative Bulletin, Vol. 11-9, page 146 through 150.](#)

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Cynthia Ness, Program Manager, 208-332-1865.

DATED this 20th day of November, 2011.

Cynthia Ness, Program Manager  
Department of Administration/Office of Group Insurance  
304 N.8th Street, Room 432  
Boise, Idaho 83720  
PO Box 83720  
Boise, Idaho 83720-0035  
Phone 332-1865, fax 332-1888

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**DOCKET NO. 38-0301-1101 - 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 11-9, September 7, 2011, pages 146 through 150.**

**This rule has been adopted as a pending rule by the Agency and is now awaiting review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 38 - DEPARTMENT OF ADMINISTRATION**  
**38.04.06 - RULES GOVERNING PREQUALIFICATION OF CONTRACTORS**  
**ON CAPITOL BUILDING PROJECTS**

**DOCKET NO. 38-0406-1101 (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 (2012) Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-5221(1), and 67-5507, Idaho Code.

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

This chapter is being repealed because the restoration project on the State Capitol has been completed.

The pending rule is being adopted as proposed. The notice of proposed rulemaking repealing this chapter was published in the [September 7, 2011 Idaho Administrative Bulletin, Vol. 11-9, page 151](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Tim Mason, Administrator, 208-332-1900.

DATED this 20th day of November, 2011.

Tim Mason, Administrator  
Department of Administration/Public Works  
502 N. Forth Street  
PO Box 83720  
Boise, Idaho 83720-0072  
Phone 332-1900, fax334-4031

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**DOCKET NO. 38-0406-1101 - 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 11-9, September 7, 2011, page 151](#).**

**This rule has been adopted as a pending rule by the Agency and is now awaiting  
review and approval by the 2012 Idaho State Legislature for final adoption.**

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**THE CASCADE RESERVOIR TRIBUTARY TMDL ADDENDUM (HUC 17050123)**  
**DOCKET NO. 58-0000-1201**  
**NOTICE OF FINAL DECISION**

**AUTHORITY:** In compliance with Section 39-3611, Idaho Code, notice is hereby given that this agency has issued a final decision on the Cascade Reservoir Tributary Total Maximum Daily Load (TMDL) Addendum.

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) hereby gives notice of the final decision on the Cascade Reservoir Tributary TMDL Addendum. The final decision may be appealed to the Board of Environmental Quality by initiating a contested case in accordance with Sections 39-107(5), 67-5240 et seq., Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The petition initiating a contested case must be filed with the undersigned hearing coordinator within thirty-five (35) days of the publication date of this notice in the Idaho Administrative Bulletin.

The area covered by the Cascade Reservoir Tributary TMDL Addendum (Hydrologic Unit Code 17050123) addresses three (3) assessment units (AU)/pollutant combinations listed as impaired on Idaho's 2010 § 303(d) list and one (1) unlisted but impaired AU/pollutant combination. DEQ completed TMDLs for all AU/pollutant combinations deemed water quality impaired. DEQ has submitted this TMDL document to the U.S. Environmental Protection Agency for approval under the Clean Water Act.

**AVAILABILITY OF THE TMDL:** Electronic copy of the TMDL can be obtained at [www.deq.idaho.gov/cascade-reservoir](http://www.deq.idaho.gov/cascade-reservoir) or by contacting Ms. Marti Bridges, TMDL Program Manager, (208)373-0382, [marti.bridges@deq.idaho.gov](mailto:marti.bridges@deq.idaho.gov).

Dated this 28<sup>th</sup> day of November, 2011.

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](mailto:paula.wilson@deq.idaho.gov)

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# LEGAL NOTICE

## Summary of Proposed Rulemakings

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### PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the latest publication of the state Administrative Bulletin.

#### **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE P.O. Box 83720, Boise, ID 83720-0036**

**16-0612-1201, Rules Governing the Idaho Child Care Program (ICCP).** (Temporary & Proposed) Streamlines and improves processes for determining eligibility by defining excluded income, amending the process for calculating activity hours for part-time or full-time assistance, and by amending when and how changes are to be reported. Comment by January 25, 2012.

#### **NOTICE OF ADOPTION OF TEMPORARY RULE**

##### **Idaho State Police**

**11-0301-1201,** Rules Governing Alcohol Testing (eff. 11-1-11)

##### **Department of Health and Welfare**

**16-0309-1106,** Medicaid Basic Plan Benefits (eff. 1-1-12)

**16-0309-1107,** Medicaid Basic Plan Benefits (eff. 1-1-12)

##### **Department of Lands**

**20-0702-1102,** Conservation of Crude Oil and Natural Gas in the State of Idaho (eff. 12-21-11)

#### **NOTICE OF RESCISSION OF TEMPORARY RULE**

##### **Department of Lands**

**20-0702-1101,** Conservation of Crude Oil and Natural Gas in the State of Idaho (eff. 12-21-11)

##### **Department of Health and Welfare**

**16-0309-1105,** Medicaid Basic Plan Benefits (eff. 10-1-11) (Proposed rulemaking has been vacated)

Please refer to the Idaho Administrative Bulletin, [January 4, 2012, Volume 12-1](#), for notices and text of all rulemakings, public hearings and negotiated meeting schedules, Governor's executive orders, and agency contact information.

*Issues of the Idaho Administrative Bulletin can be viewed at [adminrules.idaho.gov](http://adminrules.idaho.gov).*

Office of the Administrative Rules Coordinator, Dept. of Administration, PO Box 83720, Boise, ID 83720-0306  
Phone: 208-332-1820; Fax: 332-1896; Email: [rulescoordinator@adm.idaho.gov](mailto:rulescoordinator@adm.idaho.gov)

# **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.*

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# **ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

*Idaho Department of Administration  
Office of the Administrative Rules Coordinator*

*April 7, 2011 -- January 4, 2012*

*(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 April 7, 2011 that have not been  
adopted as final rules and all rulemakings being promulgated after April 7, 2011 - Sine Die.)*

***IDAPA 02 -- DEPARTMENT OF AGRICULTURE******02.01.04, Rules Governing the Idaho Preferred™ Promotion Program***

- 02-0104-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**02-0104-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***02.02.14, Rules for Weights and Measures***

- 02-0214-1101** Proposed Rulemaking, Bulletin Vol. 11-8  
**02-0214-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***02.03.03, Rules Governing Pesticide and Chemigation Use and Application***

- 02-0303-1101** Proposed Rulemaking, Bulletin Vol. 11-8  
**02-0303-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***02.04.09, Rules Governing Milk and Cream Procurement and Testing***

- 02-0433-1101\*** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-7  
*\*Chapter number has been changed (02.04.09) to keep it numerically aligned with the Department's other milk rules*  
**02-0409-1101** Proposed Rulemaking (New Chapter - Fee Rule), Bulletin Vol. 11-10  
**02-0409-1101** Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***02.04.14, Rules Governing Dairy Waste***

- 02-0414-0902** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 09-10

***02.04.18, Rules Governing CAFO Site Advisory Team***

- 02-0418-1101** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-7  
**02-0418-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**02-0418-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***02.04.20, Rules Governing Brucellosis***

- 02-0420-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-6 (eff. 5-1-11)T  
**02-0420-1101** Adoption of Pending and Amendment to Temporary Rule, Bulletin Vol. 11-12 (eff. (10-1-11)T, \*PLR 2012)

***02.04.26, Rules Governing Livestock Marketing***

- 02-0426-1101** Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-10  
**02-0426-1101** Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***02.04.30, Rules Governing Nutrient Management***

- 02-0430-1101** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-7  
**02-0430-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**02-0430-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***02.04.32, Rules Governing Poultry Operations***

- 02-0432-1101** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-7  
**02-0432-1101** Proposed Rulemaking (New Chapter - Fee Rule), Bulletin Vol. 11-10  
**02-0432-1101** Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***02.04.33, Rules Governing Milk and Cream Procurement and Testing***

- 02-0433-1101\*** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-7  
*\*Chapter number has been changed (02.04.09) to keep it numerically aligned with the Department's other milk rules*

***02.06.02, Rules Pertaining to the Idaho Commercial Feed Law***

- 02-0602-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**02-0602-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***02.06.12, Rules Pertaining to the Idaho Fertilizer Law***

- 02-0612-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**02-0612-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***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 - Negotiated Rulemaking, Bulletin Vol. 08-9  
**02-0613-0801** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 08-10  
**02-0613-0801** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 08-11

***02.06.20, Rules Governing Grape Planting Stock***

- 02-0620-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**02-0620-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***02.06.30, Rules Under the Idaho Bee Inspection Law***

- 02-0630-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**02-0630-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***02.06.33, Organic Food Products Rules***

- 02-0633-1101** Proposed Rulemaking, Bulletin Vol. 11-9  
**02-0633-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***02.06.41, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001***

- 02-0641-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**02-0641-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***IDAPA 03 -- STATE ATHLETIC COMMISSION******03.01.01, Rules of the State Athletic Commission***

- 03-0101-1101** Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-10  
**03-0101-1101** Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***IDAPA 05 -- DEPARTMENT OF JUVENILE CORRECTIONS******05.01.02, Rules and Standards for Secure Juvenile Detention Facilities***

- 05-0102-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**05-0102-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

***IDAPA 06 -- STATE BOARD OF CORRECTION***

***(Pursuant to Section 20-212, Idaho Code, all rules adopted by Proclamation by the Board of Correction become final and effective 30 days after publication in the Administrative Bulletin unless made effective sooner by an emergency proclamation signed by the Governor)***

***06.01.01, Rules of the Board of Correction***

- 06-0101-1101** Notice of Proclamation of Rulemaking, Bulletin Vol. 11-10 (eff. 11-4-11)

***IDAPA 07 -- DIVISION OF BUILDING SAFETY******07.01.03, Rules of Electrical Licensing and Registration - General***

- 07-0103-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**07-0103-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***07.01.04, Rules Governing Electrical Specialty Licensing***

- 07-0104-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 07-0104-1102** Proposed Rulemaking, Bulletin Vol. 11-10
- 07-0104-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)
- 07-0104-1102** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***07.01.05, Rules Governing Examinations***

- 07-0105-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 07-0105-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***07.01.06, Rules Governing the Use of National Electrical Code***

- 07-0106-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 07-0106-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***07.01.07, Rules Governing Continuing Education Requirements***

- 07-0107-1101** Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-10
- 07-0107-1101** Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***07.02.05, Rules Governing Plumbing Safety Licensing***

- 07-0205-1101** Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-10
- 07-0205-1102** Proposed Rulemaking, Bulletin Vol. 11-10
- 07-0205-1103** Proposed Rulemaking, Bulletin Vol. 11-10
- 07-0205-1101** Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)
- 07-0205-1102** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)
- 07-0205-1103** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***07.02.07, Rules Governing Civil Penalties***

- 07-0207-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 07-0207-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***07.04.02, Safety Rules for Elevators, Escalators, and Moving Walks***

- 07-0402-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 07-0402-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***07.05.01, Rules of the Public Contractors License Board***

- 07-0501-1101** Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-10
- 07-0501-1101** Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***07.07.01, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems***

- 07-0701-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 07-0701-1102** Proposed Rulemaking, Bulletin Vol. 11-10
- 07-0701-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)
- 07-0701-1102** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***IDAPA 08 -- IDAHO STATE BOARD OF EDUCATION AND  
STATE DEPARTMENT OF EDUCATION***

***08.01.04, Rules Governing Residency Classification***

- 08-0104-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 08-0104-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

***08.01.09, Rules Governing the GEAR UP Idaho Scholarship Program***

- 08-0109-1101** Temporary and Proposed Rulemaking (New Chapter), Bulletin Vol. 11-10 (eff. 6-24-11)T

**08-0109-1101** Adoption of Pending and Amendment to Temporary Rule, Bulletin Vol. 12-1 (eff. (11-3-11)T, \*PLR 2012)

***08.01.11, Registration of Postsecondary Educational Institutions and Proprietary Schools***

**08-0111-1101** Temporary Rulemaking, Bulletin Vol. 11-10 (eff. 6-24-11)T  
**08-0111-1102** Proposed Rulemaking, Bulletin Vol. 11-10  
**08-0111-1102** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

***08.01.14, Idaho Rural Physician Incentive Program***

**08-0114-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-10 (eff. 6-24-11)T  
**08-0114-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

***08.02.01, Rules Governing Administration***

**08-0201-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**08-0201-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

***08.02.02, Rules Governing Uniformity***

**08-0202-1101** Proposed Rulemaking, Bulletin Vol. 11-8  
**08-0202-1102** Proposed Rulemaking, Bulletin Vol. 11-10  
**08-0202-1103** Proposed Rulemaking, Bulletin Vol. 11-10  
**08-0202-1104** Proposed Rulemaking, Bulletin Vol. 11-10  
**08-0202-1105** Proposed Rulemaking, Bulletin Vol. 11-10  
**08-0202-1106** Proposed Rulemaking, Bulletin Vol. 11-10  
**08-0202-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)  
**08-0202-1102** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)  
**08-0202-1103** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)  
**08-0202-1104** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)  
**08-0202-1105** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)  
**08-0202-1106** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

***08.02.03, Rules Governing Thoroughness***

**08-0203-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-7 (eff. 5-18-11)T  
**08-0203-1102** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-8  
**08-0202-1102** Proposed Rulemaking, Bulletin Vol. 11-10  
**08-0203-1103** Proposed Rulemaking, Bulletin Vol. 11-10  
**08-0203-1104** Temporary and Proposed Rulemaking, Bulletin Vol. 11-10 (eff. 8-11-11)T  
**08-0203-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)  
**08-0203-1102** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)  
**08-0203-1103** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)  
**08-0203-1104** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

***IDAPA 09 -- IDAHO DEPARTMENT OF LABOR***

***09.01.30, Unemployment Insurance Benefits Administration Rules***

**09-0130-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. 7-1-11)T  
**09-0130-1101** Adoption of Pending Rule, Bulletin Vol. 11-10 (eff. \*PLR 2012)

***09.01.35, Unemployment Insurance Tax Administration Rules***

**09-0135-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. 7-1-11)T  
**09-0135-1101** Adoption of Pending Rule, Bulletin Vol. 11-10 (eff. \*PLR 2012)

***IDAPA 10 -- IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS  
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***10.01.01, Rules of Procedure***

- 10-0101-1101** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-5
- 10-0101-1101** Proposed Rulemaking, Bulletin Vol. 11-7
- 10-0101-1101** Adoption of Pending Rule, Bulletin Vol. 11-9 (eff. \*PLR 2012)

***10.01.02, Rules of Professional Responsibility***

- 10-0102-1101** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-5
- 10-0102-1101** Proposed Rulemaking, Bulletin Vol. 11-7
- 10-0102-1101** Adoption of Pending Rule, Bulletin Vol. 11-11 (eff. \*PLR 2012)

***10.01.04, Rules of Continuing Professional Development***

- 10-0104-1101** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-5
- 10-0104-1101** Proposed Rulemaking, Bulletin Vol. 11-7
- 10-0104-1101** Adoption of Pending Rule, Bulletin Vol. 11-9 (eff. \*PLR 2012)

***IDAPA 11 -- IDAHO STATE POLICE******11.03.01, Rules Governing Alcohol Testing, Idaho State Forensic Laboratory***

- 11-0301-1101** Temporary Rulemaking, Bulletin Vol. 12-1 (eff. 12-28-11)T

***11.05.01, Rules Governing Alcohol Beverage Control***

- 11-0501-1101** Temporary Rulemaking, Bulletin Vol. 11-7 (eff. 7-6-11)T

***11.10.02, Rules Establishing Fees for Services - Idaho Criminal Justice Information System***

- 11-1002-1101** Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-10
- 11-1002-1101** Adoption of Pending Fee Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

***11.10.03, Rules Governing the Sex Offender Registry***

- 11-1003-1101** Proposed Rulemaking, Bulletin Vol. 11-11
- 11-1003-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

***11.11.01, Rules of the Idaho Peace Officer Standards and Training Council***

- 11-1101-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 11-1101-1102** Proposed Rulemaking, Bulletin Vol. 11-10
- 11-1101-1103** Proposed Rulemaking, Bulletin Vol. 11-10
- 11-1101-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)
- 11-1101-1102** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)
- 11-1101-1103** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

***11.11.02, Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers***

- 11-1102-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 11-1102-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

***11.11.06, Rules of the Idaho Peace Officer Standards and Training Council for Misdemeanor Probation Officers***

- 11-1106-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 11-1106-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

***IDAPA 12 -- DEPARTMENT OF FINANCE******12.01.10, Rules Pursuant to the Idaho Residential Mortgage Practices Act***

- 12-0110-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 12-0110-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)



**IDAPA 13 -- IDAHO FISH AND GAME COMMISSION****13.01.02, Rules Governing Public Safety - Idaho Fish and Game Commission**

- 13-0102-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-10 (eff. 6-23-11)T  
**13-0102-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**13.01.04, Rules Governing Licensing**

- 13-0104-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-10 (eff. 8-1-11)T  
**13-0104-1102** Proposed Rulemaking, Bulletin Vol. 11-10  
**13-0104-1103** Temporary Rulemaking, Bulletin Vol. 11-10 (eff. 8-24-11)T (*Expires Sine Die 2012*)  
**13-0104-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)  
**13-0104-1102** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)  
**13-0104-1103** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**13.01.05, Rules Governing Fishing Contests**

- 13-0105-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**13-0105-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**13.01.06, Rules Governing Classification and Protection of Wildlife**

- 13-0106-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**13-0106-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**13.01.08, Rules Governing the Taking of Big Game Animals in the State of Idaho**

- 13-0108-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-10 (eff. 8-1-11)T  
**13-0108-1102** Notice of Proclamation, Bulletin Vol. 11-10  
**13-0108-1103** Notice of Proclamation, Bulletin Vol. 11-10  
**13-0108-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**13.01.09, Rules Governing the Taking of Game Birds in the State of Idaho**

- 13-0109-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-10 (eff. 8-1-11)T  
**13-0109-1102** Notice of Proclamation, Bulletin Vol. 11-10  
**13-0109-1103** Notice of Proclamation, Bulletin Vol. 11-10  
**13-0109-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**13.01.10, Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife**

- 13-0110-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**13-0110-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**13.01.11, Rules Governing Fish**

- 13-0111-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-10 (eff. 8-1-11)T  
**13-0111-1102** Notice of Proclamation, Bulletin Vol. 11-10  
**13-0111-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**13.01.12, Rules Governing Commercial Fishing**

- 13-0112-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**13-0112-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**13.01.16, The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals**

- 13-0116-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-10 (eff. 8-1-11)T  
**13-0116-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

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**Executive Orders of the Governor**

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Executive Order No. <b>2011-07</b>	Bulletin Vol. 11-9	Executive Order No. <b>2011-08</b>	Bulletin Vol. 11-9
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**Idaho Commission For The Blind And Visually Impaired****15.02.02, Vocational Rehabilitation Services**

<b>15-0202-1101</b>	Proposed Rulemaking, Bulletin Vol. 11-10
<b>15-0202-1101</b>	Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. *PLR 2012)

**Division Of Human Resources And Personnel Commission****15.04.01, Rules of the Division of Human Resources and Personnel Commission**

<b>15-0401-1101</b>	Temporary and Proposed Rulemaking, Bulletin Vol. 11-10 (eff. 7-1-11)T
<b>15-0401-1101</b>	Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. *PLR 2012)

**Idaho State Liquor Division****15.10.01, Rules of the Idaho State Liquor Division**

<b>15-1001-1101</b>	Proposed Rulemaking, Bulletin Vol. 11-10
<b>15-1001-1101</b>	Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. *PLR 2012)

**IDAPA 16 -- DEPARTMENT OF HEALTH AND WELFARE****16.01.01, Emergency Medical Services (EMS) -- Advisory Committee (EMSAC)**

<b>16-0101-1101</b>	Proposed Rulemaking (New Chapter), Bulletin Vol. 11-7
<b>16-0101-1101</b>	Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. *PLR 2012)

**16.01.07, Emergency Medical Services (EMS) -- Personnel Licensing Requirements**

<b>16-0107-1101</b>	Temporary and Proposed Rulemaking (New Chapter), Bulletin Vol. 11-7 (eff. 7-1-11)T
<b>16-0107-1102</b>	Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-7 (eff. 7-1-11)T
<b>16-0107-1101</b>	Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. *PLR 2012)
<b>16-0107-1102</b>	Adoption of Pending Fee Rule, Bulletin Vol. 12-1 (eff. *PLR 2012)

**16.01.12, Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions**

<b>16-0112-1101</b>	Temporary and Proposed Rulemaking (New Chapter), Bulletin Vol. 11-7 (eff. 7-1-11)T
<b>16-0112-1101</b>	Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. *PLR 2012)

**16.02.02, Rules of the Idaho Emergency Medical Services (EMS) Physician Commission**

<b>16-0202-1101</b>	Proposed Rulemaking, Bulletin Vol. 11-8
<b>16-0202-1101</b>	Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. *PLR 2012)

**16.02.03, Rules Governing Emergency Medical Services**

<b>16-0203-0901</b>	Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 09-5
<b>16-0203-0901</b>	Temporary and Proposed Rulemaking, Bulletin Vol. 09-10 (eff. 7-1-09)T
<b>16-0203-0901</b>	OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 126, Bulletin Vol. 10-5
<b>16-0203-1101</b>	Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-3
<b>16-0203-0901</b>	Rescission and Vacation of Rulemaking, Bulletin Vol. 11-7 (eff. 7-1-11)
<b>16-0203-1101*</b>	Temporary and Proposed Rulemaking, Bulletin Vol. 11-7 (eff. 7-1-11)T
<b>16-0203-1101*</b>	Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. *PLR 2012)

\*Changes chapter name to: "Emergency Medical Services" from: "Rules Governing Emergency Medical Services"

**16.02.25, Fees Charged by the State Laboratory**

- 16-0225-1101 Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-8
- 16-0225-1101 Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

**16.03.01, Eligibility for Health Care Assistance for Families and Children**

- 16-0301-1003 Temporary and Proposed Rulemaking, Bulletin Vol. 10-12 (eff. (1-1-11)T)
- 16-0301-1003 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 108, Bulletin Vol. 11-5
- 16-0301-1003 Adoption of Pending Rule, Bulletin Vol. 11-5 (eff. \*PLR 2012)
- 16-0301-1101 Proposed Rulemaking, Bulletin Vol. 11-10
- 16-0301-1101 Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**16.03.03, Rules Governing Child Support Services**

- 16-0303-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 10-12 (eff. (1-1-11)T)
- 16-0303-1001 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 108, Bulletin Vol. 11-5
- 16-0303-1001 Adoption of Pending Rule, Bulletin Vol. 11-5 (eff. \*PLR 2012)

**16.03.04, Rules Governing the Food Stamp Program in Idaho**

- 16-0304-1004 Temporary and Proposed Rulemaking, Bulletin Vol. 10-12 (eff. (1-1-11)T)
- 16-0304-1004 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 108, Bulletin Vol. 11-5
- 16-0304-1004 Adoption of Pending Rule, Bulletin Vol. 11-5 (eff. \*PLR 2012)
- 16-0304-1101 Temporary and Proposed Rulemaking, Bulletin Vol. 11-10 (eff. 2-1-11)T - (3-1-11)T - (11-1-11)T)
- 16-0304-1101 Adoption of Pending and Amendment to Temporary Rule, Bulletin Vol. 12-1 (eff. (2-1-11)T, \*PLR 2012)

**16.03.05, Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)**

- 16-0305-1003 Temporary and Proposed Rulemaking, Bulletin Vol. 10-12 (eff. (1-1-11)T)
- 16-0305-1003 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 108, Bulletin Vol. 11-5
- 16-0305-1003 Adoption of Pending Rule, Bulletin Vol. 11-5 (eff. \*PLR 2012)
- 16-0305-1101 Temporary and Proposed Rulemaking, Bulletin Vol. 11-6 (eff. (7-1-11)T)
- 16-0305-1101 Rescission of Temporary Rule/Vacation of Proposed Rulemaking, Bulletin Vol. 11-8 (eff. 7-1-11)
- 16-0305-1102 Proposed Rulemaking, Bulletin Vol. 11-10
- 16-0305-1102 Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**16.03.08, Rules Governing Temporary Assistance for Families in Idaho**

- 16-0308-1002 Temporary and Proposed Rulemaking, Bulletin Vol. 10-12 (eff. (1-1-11)T)
- 16-0308-1002 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 108, Bulletin Vol. 11-5
- 16-0308-1002 Adoption of Pending Rule, Bulletin Vol. 11-5 (eff. \*PLR 2012)
- 16-0308-1101 Proposed Rulemaking, Bulletin Vol. 11-10
- 16-0308-1101 Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**16.03.09, Medicaid Basic Plan Benefits**

- 16-0309-1101 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-5
- 16-0309-1102 Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. (7-1-11)T)
- 16-0309-1103 Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. (7-1-11)T)
- 16-0309-1104 Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. (7-1-11)T)
- 16-0309-1105 Temporary and Proposed Rulemaking, Bulletin Vol. 11-10 (eff. 11-1-11)T)
- 16-0309-1106 Proposed Rulemaking, Bulletin Vol. 11-10
- 16-0309-1107 Proposed Rulemaking, Bulletin Vol. 11-10
- 16-0309-1108 Proposed Rulemaking, Bulletin Vol. 11-10
- 16-0309-1102 Adoption of Pending Rule, Bulletin Vol. 11-11 (eff. \*PLR 2012)
- 16-0309-1103 Adoption of Pending Rule, Bulletin Vol. 11-11 (eff. \*PLR 2012)
- 16-0309-1101 Temporary and Proposed Rulemaking, Bulletin Vol. 11-12 (eff. 9-28-11)T)
- 16-0309-1104 Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)
- 16-0309-1105 Rescission of Temporary Rule/Vacation of Proposed Rulemaking, Bulletin Vol. 12-1.
- 16-0309-1106 Adoption of Pending and Temporary Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012) - (1-1-12)T)
- 16-0309-1107 Adoption of Pending and Temporary Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012) - (1-1-12)T)

16-0309-1108 Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

### ***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  
16-0310-1004 Temporary Rulemaking, Bulletin Vol. 10-9 (eff. 7-1-10)T (Expires June 30, 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  
16-0310-1101 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*  
16-0310-1101 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 108, Bulletin Vol. 11-5  
16-0310-1102 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 108, Bulletin Vol. 11-5  
16-0310-0902 Rescission/Vacation of Rulemaking, Bulletin Vol. 11-6 (eff. 7-1-11)  
16-0310-1005 Adoption of Pending Rule and Amendment to Temporary Rule, Bulletin Vol. 11-6 (eff. 11-1-10)T  
16-0310-1007 Rescission of Temporary Rule/Vacation of Proposed Rulemaking, Bulletin Vol. 11-8 (eff. 7-1-11)  
16-0310-1101 Notice of Rescission of Temporary Rule, Bulletin Vol. 11-8 (eff. 7-1-11)  
16-0310-1103 Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. (7-1-11)T  
16-0310-1104 Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. (7-1-11)T  
16-0310-1105 Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. (7-1-11)T  
16-0310-1104 Notice of Public Hearings and Extension of Comment Period, Bulletin Vol. 11-9  
16-0310-1103 Adoption of Pending Rule, Bulletin Vol. 11-11 (eff. \*PLR 2012)  
16-0310-1104 Adoption of Pending and Amendment to Temporary Rule, Bulletin Vol. 11-12 (eff. (7-1-11)T, \*PLR 2012)  
16-0310-1105 Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

### ***16.03.13, Consumer-Directed Services***

16-0313-1101 Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. 7-1-11)T  
16-0313-1101 Adoption of Pending and Amendment to Temporary Rule, Bulletin Vol. 11-12 (eff. (7-1-11)T, \*PLR 2012)

### ***16.03.18, Medicaid Cost-Sharing***

16-0318-1101 Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-10, eff. (11-1-11)T and (1-1-12)T  
16-0318-1101 Adoption of Pending Fee and Amendment to Temporary Rule, Bulletin Vol. 12-1, (eff. (11-1-11)T and (1-1-12)T, \*PLR 2012)

### ***16.03.19, Rules Governing Certified Family Homes***

16-0319-1101 Notice of Public Meetings, Bulletin Vol. 11-5  
16-0319-1101 Temporary and Proposed (Fee Rule) Rulemaking, Bulletin Vol. 11-7 (eff. 7-1-11)T  
16-0319-1101 Notice of Public Hearings and Extension of Comment Period, Bulletin Vol. 11-9  
16-0319-1101 Adoption of Pending Fee Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

### ***16.04.11, Developmental Disabilities Agencies (DDA)***

16-0411-1101 Adoption of Temporary Rule, Bulletin Vol. 11-1 (eff. 1-1-11)T (*Expires 6-30-11*)  
16-0411-1101 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 108, Bulletin Vol. 11-5

### ***16.04.14, Rules Governing the Low Income Home Energy Assistance Program***

16-0414-1101 Proposed Rulemaking, Bulletin Vol. 11-10  
16-0414-1101 Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

### ***16.04.17, Rules Governing Residential Habilitation Agencies***

16-0417-1101 Temporary and Proposed Rulemaking, Bulletin Vol. 11-9 (8-5-11)T  
16-0417-1101 Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

### ***16.05.01, Use and Disclosure of Department Records***

16-0501-1101 Proposed Rulemaking, Bulletin Vol. 11-9

16-0501-1101 Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**16.05.04, Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding**

16-0504-1101 Temporary and Proposed Rulemaking, Bulletin Vol. 11-7 (eff. 7-1-11)T

16-0504-1101 Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**16.05.06, Criminal History and Background Checks**

16-0506-1101 Proposed Rulemaking, Bulletin Vol. 11-9

16-0506-1101 Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**16.06.01, Child and Family Services**

16-0601-1101 Proposed Rulemaking, Bulletin Vol. 11-9

16-0601-1102 Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-9

16-0601-1101 Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

16-0601-1102 Adoption of Pending Fee Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**16.06.02, Rules Governing Standards for Child Care Licensing**

16-0602-1101 Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-7 (eff. 7-1-11)T

16-0602-1101 Adoption of Pending Fee Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**16.06.12, Rules Governing the Idaho Child Care Program (ICCP)**

16-0612-1003 Temporary and Proposed Rulemaking, Bulletin Vol. 10-12 (eff. 1-1-11)T

16-0612-1003 OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 108, Bulletin Vol. 11-5

16-0612-1003 Adoption of Pending Rule, Bulletin Vol. 11-5 (eff. \*PLR 2012)

16-0612-1201 Temporary and Proposed Rulemaking, Bulletin Vol. 12-1 (eff. 12-1-11)T

**IDAPA 17 -- INDUSTRIAL COMMISSION**

**17.02.09, Medical Fees**

17-0209-1101 Temporary Rulemaking, Bulletin Vol. 11-4 (eff. (4-7-11)T (*Expires under own terms on 12-31-2011*))

17-0209-1102 Proposed Rulemaking, Bulletin Vol. 11-10

17-0209-1102 Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

**17.02.11, Administrative Rules of the Industrial Commission Under the Workers' Compensation Law -- Security for Compensation -- Self-Insured Employers**

17-0211-1102 Proposed Rulemaking, Bulletin Vol. 11-10

17-0211-1102 Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

**IDAPA 18 -- DEPARTMENT OF INSURANCE**

**18.01.05, Health Carrier External Review**

18-0105-1101 Temporary and Proposed Rulemaking, Bulletin Vol. 11-9 (eff. 7-1-11)T

18-0105-1101 Adoption of Pending Rule, Bulletin Vol. 11-11 (eff. \*PLR 2012)

**18.01.46, Recognition of New Mortality Tables for Use in Determining the Minimum Standard of Valuation for Annuities and Pure Endowment Contracts**

18-0146-1101 Proposed Rulemaking, Bulletin Vol. 11-10

18-0146-1101 Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

**18.01.50, Adoption of the International Fire Code**

18-0150-1101 Proposed Rulemaking, Bulletin Vol. 11-10

18-0150-1101 Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***IDAPA 19 -- BOARD OF DENTISTRY***

***19.01.01, Rules of the Idaho State Board of Dentistry***

- 19-0101-1101** Proposed Rulemaking, Bulletin Vol. 11-8
- 19-0101-1102** Proposed Rulemaking, Bulletin Vol. 11-10
- 19-0101-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)
- 19-0101-1102** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***IDAPA 20 -- DEPARTMENT OF LANDS***

***20.03.15, The Issuance of Geothermal Resource Leases***

- 20-0315-1101** Temporary Rulemaking, Bulletin Vol. 11-7 (eff. 7-1-11)T
- 20-0315-1102** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-7
- 20-0315-1102** Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-10
- 20-0315-1102** Adoption of Pending Fee Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

***20.07.02, Conservation Of Crude Oil and Natural Gas in the State of Idaho***

- 20-0702-1101** Temporary Rulemaking, Bulletin Vol. 11-6 (eff. 4-19-11)T
- 20-0702-1102** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-7
- 20-0702-1102** Proposed Rulemaking, Bulletin Vol. 11-10
- 20-0702-1101** Rescission of Temporary Rule, Bulletin Vol. 12-1
- 20-0702-1102** Adoption of Pending and Temporary Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012) - (12-21-11)T

***IDAPA 21 -- DIVISION OF VETERANS SERVICES***

***21.01.07, Rules for Education and Training Programs for Veterans***

- 21-0107-1101** Temporary and Proposed Rulemaking (New Chapter), Bulletin Vol. 11-10 (eff. 8-1-11)T
- 21-0107-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***IDAPA 23 -- BOARD OF NURSING***

***23.01.01, Rules of the Idaho Board of Nursing***

- 23-0101-1002** Adoption of Temporary Rule, Bulletin Vol. 10-12 (eff. 11-5-10)T
- 23-0101-1002** OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 108, Bulletin Vol. 11-5
- 23-0101-1002** Proposed Rulemaking, Bulletin Vol. 11-6
- 23-0101-1002** Adoption of Pending Rule, Bulletin Vol. 11-8 (eff. \*PLR 2012)

***IDAPA 24 -- BUREAU OF OCCUPATIONAL LICENSES***

***24.01.01, Rules of the Board of Architectural Examiners***

- 24-0101-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 24-0101-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***24.04.01, Rules of the Idaho Board of Cosmetology***

- 24-0401-1101** Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-8
- 24-0401-1101** Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***24.05.01, Rules of the Board of Drinking Water and Wastewater Professionals***

- 24-0501-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 24-0501-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***24.10.01, Rules of the State Board of Optometry***

- 24-1001-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. (7-1-11)T)  
**24-1001-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***24.11.01, Rules of the State Board of Podiatry***

- 24-1101-1101** Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-10  
**24-1101-1101** Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***24.13.01, Rules Governing the Physical Therapy Licensure Board***

- 24-1301-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**24-1301-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***24.14.01, Rules of the State Board of Social Work Examiners***

- 24-1401-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**24-1401-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***24.15.01, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists***

- 24-1501-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**24-1501-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***24.16.01, Rules of the State Board of Dentistry***

- 24-1601-1101** Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-8  
**24-1601-1101** Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***24.17.01, Rules of the State Board of Acupuncture***

- 24-1701-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-10 (eff. (8-5-11)T)  
**24-1701-1101** Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***24.18.01, Rules of the Real Estate Appraiser Board***

- 24-1801-1101** Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-10  
**24-1801-1101** Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***24.19.01, Rules of the Board of Residential Care Facility Administrators***

- 24-1901-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. (7-1-11)T)  
**24-1901-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***24.22.01, Rules of the Idaho State Liquefied Petroleum Gas Safety Board***

- 24-2201-1101** Proposed Rulemaking, Bulletin Vol. 11-8  
**24-2201-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***24.23.01, Rules of the Speech and Hearing Services Licensure Board***

- 24-2301-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. (7-1-11)T)  
**24-2301-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***24.25.01, Rules of the Idaho Driving Businesses Licensure Board***

- 24-2501-1101** Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-8  
**24-2501-1101** Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

***IDAPA 26 -- DEPARTMENT OF PARKS AND RECREATION******26.01.36, Rules Governing the Winter Recreational Parking Permit Program***

- 26-0136-1101** Temporary Rulemaking, Bulletin Vol. 11-11 (eff. 1-1-12)T

### ***IDAPA 27 -- BOARD OF PHARMACY***

#### ***27.01.01, Rules of the Idaho State Board of Pharmacy***

- 27-0101-1101** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-5
- 27-0101-1101** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-6 (Second Notice)
- 27-0101-1101** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-8 (Third Notice)
- 27-0101-1101** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 11-10
- 27-0101-1102** Proposed Rulemaking (Chapter Rewrite - Fee Rule), Bulletin Vol. 11-10
- 27-0101-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)
- 27-0101-1102** Adoption of Pending Fee Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

### ***IDAPA 30 -- IDAHO COMMISSION FOR LIBRARIES***

#### ***30.01.01, Rules of the Idaho Commission for Libraries Governing the Use of Commission Services***

- 30-0101-1101** Temporary Rulemaking, Bulletin Vol. 11-2 (eff. 12-3-10)T
- 30-0101-1101** OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 108, Bulletin Vol. 11-5
- 30-0101-1101** Proposed Rulemaking, Bulletin Vol. 11-6
- 30-0101-1101** Adoption of Pending Rule, Bulletin Vol. 11-8 (eff. \*PLR 2012)

### ***IDAPA 31 -- PUBLIC UTILITIES COMMISSION***

#### ***31.11.01, Safety and Accident Reporting Rules for Utilities Regulated by Idaho Public Utilities Commission***

- 31-1101-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 31-1101-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

#### ***31.71.03, Railroad Safety and Accident Reporting Rules***

- 31-7103-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 31-7103-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

### ***IDAPA 34 -- SECRETARY OF STATE***

#### ***34.04.02, Rules Governing Business Entity Names***

- 34-0402-1101\*** Temporary and Proposed Rulemaking, Bulletin Vol. 11-11 (eff. 10-6-11)T
- 34-0402-1101\*** Adoption of Pending and Amendment to Temporary Rule, Bulletin Vol. 12-1 (eff. (10-6-11)T, \*PLR 2012)  
*\*Changes chapter name to: "Rules Governing Business Entity Names" from: "Corporate Name Availability"*

#### ***34.05.01, Rules Governing Farm Products Central Filing System***

- 34-0501-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-6 (eff. 4-7-11)T
- 35-0501-1101** Adoption of Pending Rule, Bulletin Vol. 11-8 (eff. \*PLR 2012)

### ***IDAPA 35 -- STATE TAX COMMISSION***

#### ***35.01.01, Income Tax Administrative Rules***

- 35-0101-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-6 (eff. 1-1-11)T
- 35-0101-1102** Proposed Rulemaking, Bulletin Vol. 11-10
- 35-0101-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)
- 35-0101-1102** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

#### ***35.01.02, Idaho Sales and Use Tax Administrative Rules***

- 35-0102-1101** Proposed Rulemaking, Bulletin Vol. 11-10



**35-0102-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**35.01.03, Property Tax Administrative Rules**

- 35-0103-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-6 (eff. 1-1-11)T
- 35-0103-1102** Temporary Rulemaking, Bulletin Vol. 11-6 (eff. 1-1-11)T (*Expires Sine Die 2012*)
- 35-0103-1103** Temporary Rulemaking, Bulletin Vol. 11-9 (eff. 7-1-11)T
- 35-0103-1104** Proposed Rulemaking, Bulletin Vol. 11-9
- 35-0103-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)
- 35-0103-1104** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**35.01.05, Motor Fuels Tax Administrative Rules**

- 35-0105-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 35-0105-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**35.01.07, Idaho Kilowatt Hour Tax Administrative Rules**

- 35-0107-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 35-0107-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**35.01.08, Idaho Mine License Tax Administrative Rules**

- 35-0108-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 35-0108-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**35.02.01, Tax Commission Administration and Enforcement Rules**

- 35-0201-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 35-0201-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**IDAPA 37 -- DEPARTMENT OF WATER RESOURCES**

**37.03.02, Beneficial Use Examination Rules**

- 37-0302-1101** Proposed Rulemaking, Bulletin Vol. 11-10
- 37-0302-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**37.03.11, Rules for Conjunctive Management of Surface and Ground Water Resources**

- 37-0311-1101** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-2

**37.03.13, The Water Management Rules**

- 37-0313-9701** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 97-12
- 37-0313-9701** Proposed Rulemaking, Bulletin Vol. 98-10
- 37-0313-9701** Notice of Intent to Promulgate Rules - Negotiated Rulemaking (2nd Notice), Bulletin Vol. 00-11

**37.03.14, Transfers**

- 37-0314-9801** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 98-5

**37.03.15, Water Management Rules - Eastern Snake Plain Aquifer**

- 37-0315-0001** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 00-12

**IDAPA 38 -- IDAHO DEPARTMENT OF ADMINISTRATION**

**38.03.01, Rules Governing Group Insurance**

- 38-0301-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-9 (eff. 7-1-11)T
- 38-0301-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

**38.04.06, Rules Governing Prequalification of Contractors on Capitol Building Projects**

- 38-0406-1101** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 11-9  
**38-0406-1101** Adoption of Pending Rule, Bulletin Vol. 12-1 (eff. \*PLR 2012)

### ***IDAPA 39 -- IDAHO TRANSPORTATION DEPARTMENT***

#### ***39.02.03, Rules Governing Vehicle Dealer's Principle Place of Business***

- 39-0203-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. 7-1-11)T  
**39-0203-1101** Adoption of Pending Rule, Bulletin Vol. 11-10 (eff. \*PLR 2012)

#### ***39.02.47, Rules Governing Revocation of Vehicle Registration for Failure to Comply With a Motor Vehicle Emission Inspection Ordinance***

- 39-0247-1101** Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 11-8  
**39-0247-1101** Adoption of Pending Rule, Bulletin Vol. 11-10 (eff. \*PLR 2012)

#### ***39.02.70, Rules Governing Restricted Driving Permits***

- 39-0270-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-7 (eff. 7-1-11)T  
**39-0270-1101** Adoption of Pending Rule, Bulletin Vol. 11-10 (eff. \*PLR 2012)

#### ***39.02.72, Rules Governing Administrative License Suspensions***

- 39-0272-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-6 (eff. 5-1-11)T  
**39-0272-1101** Adoption of Pending Rule, Bulletin Vol. 11-10 (eff. \*PLR 2012)

#### ***39.02.75, Rules Governing Names on Driver's Licenses and Identification Cards***

- 39-0275-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. 7-1-11)T  
**39-0275-1101** Adoption of Pending Rule, Bulletin Vol. 11-10 (eff. \*PLR 2012)

#### ***39.02.76, Rules Governing Driver's License Renewal-by-Mail Process***

- 39-0276-1101\*** Proposed Rulemaking, Bulletin Vol. 11-10  
**39-0276-1101\*** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)  
\*Changes chapter name from: "Rules Governing Driver's License Renewal-by-Mail Process"  
to: "Rules Governing Driver's License Renewal-by-Mail and Electronic Renewal Process"

#### ***39.03.01, Rules Governing Definitions Regarding Overlegal Permits***

- 39-0301-1101\*** Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. 7-1-11)T  
**39-0301-1101\*** Adoption of Pending Rule, Bulletin Vol. 11-10 (eff. \*PLR 2012)  
\*Changes chapter name to: "Rules Governing Definitions Regarding Overlegal Permits"  
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- 39-0316-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. 7-1-11)T  
**39-0316-1101** Adoption of Pending Rule, Bulletin Vol. 11-10 (eff. \*PLR 2012)

#### ***39.03.21, Rules Governing Special Permit Fees***

- 39-0321-1101** Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-9  
**39-0321-1101** Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

#### ***39.03.41, Rules Governing Traffic Control Devices***

- 39-0341-1101** Temporary and Proposed Rulemaking, Bulletin Vol. 11-9 (eff. 9-15-11)T  
**39-0341-1101** Adoption of Pending and Amendment to Temporary Rule, Bulletin Vol. 11-12 (eff. (9-15-11)T, \*PLR 2012)

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- 45-0101-1101** Temporary Rulemaking, Bulletin Vol. 11-8 (eff. 5-24-11)T (*Expires Sine Die 2012*)

- 45-0101-1102** Proposed Rulemaking, Bulletin Vol. 11-8  
**45-0101-1102** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

### ***IDAPA 46 -- BOARD OF VETERINARY MEDICAL EXAMINERS***

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- 46-0101-1101** Proposed Rulemaking, Bulletin Vol. 11-10  
**46-0101-1102** Proposed Rulemaking (Fee Rule), Bulletin Vol. 11-10  
**46-0101-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)  
**46-0101-1102** Adoption of Pending Fee Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

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- 52-0103-1101** Proposed Rulemaking, Bulletin Vol. 11-9  
**52-0103-1101** Adoption of Pending Rule, Bulletin Vol. 11-11 (eff. \*PLR 2012)

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- 54-0101-1101** Temporary and Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 11-8 (eff. 7-1-10)T  
**54-0101-1101** Adoption of Pending Rule, Bulletin Vol. 11-10 (eff. \*PLR 2012)

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#### ***57.01.01, Rules of the Sexual Offender Management Board***

- 57-0101-1101\*** Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. 7-1-11)T  
**57-0101-1101\*** Adoption of Pending Rule, Bulletin Vol. 11-11 (eff. \*PLR 2012)  
\*Changes IDAPA name to: *SEXUAL OFFENDER MANAGEMENT BOARD* from: *SEXUAL OFFENDER CLASSIFICATION BOARD*; and changes chapter name to: *"Rules of the Sexual Offender Management Board"* from: *"Rules of the Sexual Offender Classification Board"*

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- 58-0000-1101** Upper Snake Rock Subbasin TMDL (2000 & 2005) City of Twin Falls TSS Revision (HUC ID 17040212), Bulletin Vol. 11-2  
**58-0000-1102** The Black Lake TMDL (HUC 17010303), Bulletin Vol. 11-5  
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**58-0000-1104** The Lolo Creek Tributaries Subbasin Assessment and TMDLs (HUC 17060306), Bulletin Vol. 11-11  
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**58-0000-1106** The Big Lost River TMDL Addendum and Five Year Review (HUC 17040218), Bulletin Vol. 11-12  
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- 58-0101-1001** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-6  
**58-0101-1003** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-11  
**58-0101-1003** Proposed Rulemaking, Bulletin Vol. 11-5  
**58-0101-1001** Temporary and Proposed Rulemaking, Bulletin Vol. 11-6 (eff. 7-1-11)T

- 58-0101-1101 Adoption of Pending Rule and Temporary Rulemaking, Bulletin Vol. 11-6 (eff. 4-26-11)T
- 58-0101-1102 Temporary and Proposed Rulemaking, Bulletin Vol. 11-6 (eff. 4-26-11)T
- 58-0101-1003 Adoption of Pending Rule, Bulletin Vol. 11-8 (eff. \*PLR 2012)
- 58-0101-1103 Proposed Rulemaking, Bulletin Vol. 11-8
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- 58-0101-1102 Adoption of Pending Rule, Bulletin Vol. 11-11 (eff. \*PLR 2012)
- 58-0101-1103 Adoption of Pending Rule, Bulletin Vol. 11-11 (eff. \*PLR 2012)

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- 58-0102-1101 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-5
- 58-0102-1102 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-6
- 58-0102-1103 Proposed Rulemaking, Bulletin Vol. 11-7
- 58-0102-1101 Temporary and Proposed Rulemaking, Bulletin Vol. 11-8 (eff. 6-30-11)T
- 58-0102-1102 Proposed Rulemaking, Bulletin Vol. 11-8
- 58-0102-1101 Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)
- 58-0102-1102 Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)
- 58-0102-1103 Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

#### ***58.01.04, Rules for Administration of Wastewater Treatment Facility Grants***

- 58-0104-1001 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-10
- 58-0104-1001 Temporary and Proposed Rulemaking, Bulletin Vol. 11-6 (eff. 4-26-11)T
- 58-0104-1001 Adoption of Pending Rule, Bulletin Vol. 11-11 (eff. \*PLR 2012)

#### ***58.01.05, Rules and Standards for Hazardous Waste***

- 58-0105-1101 Proposed Rulemaking, Bulletin Vol. 11-8
- 58-0105-1101 Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

#### ***58.01.06, Solid Waste Management Rules***

- 58-0106-1101 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-9
- 58-0106-1101 Negotiated Rulemaking Terminated, Bulletin Vol. 11-12

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- 58-0108-1101 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-10

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- 58-0109-1101\* Proposed Rulemaking, Bulletin Vol. 11-7
  - 58-0109-1101\* Adoption of Pending Rule, Bulletin Vol. 11-11 (eff. \*PLR 2012)
- \*Changes chapter name from: "Rules Regulating Swine and Poultry Facilities" to: "Rules Regulating Swine Facilities"*

#### ***58.01.10, Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, As Amended***

- 58-0110-1101 Proposed Rulemaking, Bulletin Vol. 11-8
- 58-0110-1101 Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

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- 58-0112-1001 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 10-10
- 58-0112-1001 Proposed Rulemaking, Bulletin Vol. 11-6
- 58-0112-1001 Adoption of Pending Rule, Bulletin Vol. 11-11 (eff. \*PLR 2012)

#### ***58.01.20, Rules for Administration of Drinking Water Loan Program***

- 58-0120-1001 Proposed Rulemaking, Bulletin Vol. 11-6
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- 58-0122-1001** Temporary and Proposed Rulemaking, Bulletin Vol. 11-6 (eff. 4-26-11)T  
**58-0122-1001** Adoption of Pending Rule, Bulletin Vol. 11-11 (eff. \*PLR 2012)

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- 58-0124-1101** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 11-6  
**58-0124-1101** Proposed Rulemaking, Bulletin Vol. 11-8  
**58-0124-1101** Adoption of Pending Rule, Bulletin Vol. 11-12 (eff. \*PLR 2012)

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**59-0106-1102** Temporary Rulemaking, Bulletin Vol. 11-3 (eff. 3-1-11)T  
**59-0106-1101** Proposed Rulemaking, Bulletin Vol. 11-5  
**59-0106-1102** Proposed Rulemaking, Bulletin Vol. 11-5  
**59-0106-1101** Adoption of Pending Rule, Bulletin Vol. 11-7 (eff. \*PLR 2012)  
**59-0106-1102** Adoption of Pending Rule, Bulletin Vol. 11-7n(eff. \*PLR 2012)

**IDAPA 60 -- IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION**

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- 60-0504-1001** Temporary Rulemaking (New Chapter), Bulletin Vol. 10-9 (eff. 8-11-10)T  
**60-0504-1001** OAR Omnibus Rulemaking Notice - Extension of Temporary Rule by SCR 108, Bulletin Vol. 11-5  
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**60-0504-1101** Temporary and Proposed Rulemaking (New Chapter), Bulletin Vol. 11-8 (eff. 7-1-11)T  
**60-0504-1101** Adoption of Pending Rule, Bulletin Vol. 11-10 (eff. \*PLR 2012)

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