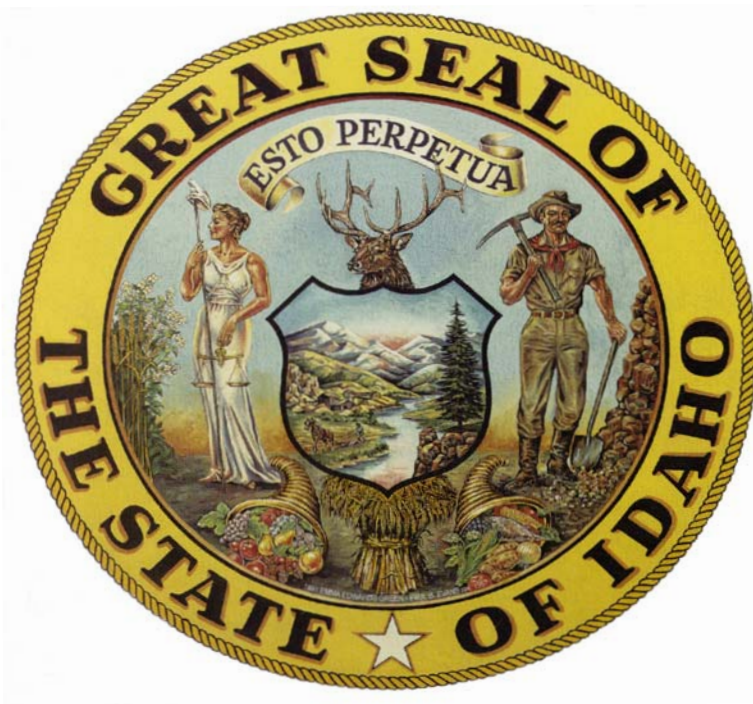


IDAHO ADMINISTRATIVE BULLETIN

August 1, 2012 -- Volume 12-8

Idaho Department of Administration
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IDAHO ADMINISTRATIVE BULLETIN

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Preface

The Idaho Administrative Bulletin is an electronic-only, online monthly publication of the Office of the Administrative Rules Coordinator, Department of Administration, that is published pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all official rulemaking notices, official rule text, executive orders of the Governor, and all legislative documents affecting rules that are statutorily required to be published in the Bulletin. It may also include other rules-related documents an agency may want to make public 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 may 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.

Once the comment period closes, the agency considers fully all comments and information submitted regarding the proposed rule. Changes may be made to the proposed rule at this stage of the rulemaking, but changes must be based on comments received and must be a “logical outgrowth” of the proposed rule. The agency may now adopt and publish the pending rule. A pending rule is “pending” legislative review for final approval. The pending rule is the agency’s final version of the rulemaking that will be forwarded to the legislature for review and final approval. 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 identified by the calendar year and issue number. For example, Bulletin **11-1** refers to the first Bulletin issued in calendar year **2011**; Bulletin **12-1** refers to the first Bulletin issued in calendar year **2012**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **12-1** refers to January 2012; Volume No. **12-2** refers to February 2012; and so forth. Example: The Bulletin published in January 2011 is cited as Volume **11-1**. The December 2011 Bulletin is cited as Volume **11-12**.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

The **Idaho Administrative Code** is an electronic-only, online compilation of all final and enforceable administrative rules of the state of Idaho that are of full force and effect. Any temporary rule that is adopted by an agency and is of force and effect is codified into the Administrative Code upon becoming effective. All pending rules that have been approved by the legislature during the legislative session as final rules and any temporary rules that are extended supplement the Administrative Code. These rules are codified into the Administrative Code upon becoming effective. Because proposed and pending rules are not enforceable, they are published in the Administrative Bulletin only and cannot be codified into the Administrative Code.

To determine if a particular rule remains in effect or whether any amendments have been made to the rule, refer to the **Cumulative Rulemaking Index**. Link to it on the Administrative Rules homepage at 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 distinct rulemaking actions: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings incorporate or require all 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 rule and the initiation of formal rulemaking procedures. One result, however, 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 Legislative Services Office 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 adopt the pending rule. Because a proposed rule is not enforceable, it has no effective date, even when published in conjunction with a temporary rule that is of full force and effect. 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 determines that it is necessary that a rule become effective prior to receiving legislative authorization and without allowing for any public input, the agency may proceed and adopt a temporary rule. The law allows an 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.

The statute that regulates rulemaking in Idaho requires that the text of all proposed rulemakings publish in the Bulletin in order for the rulemaking to be valid. This is true for all temporary rules as well. In most cases, the agency wants the temporary rule to also become a final rule and in most of these cases, the temporary rule and the proposed rule text is identical. In this event, both rulemakings may be promulgated concurrently yet they remain separate rulemaking actions. The rulemaking is published in the Bulletin as a temporary/proposed rule. Combining the rulemaking allows for a single publication of the text in the Bulletin.

An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. The agency must publish a notice of rescission to effectively rescind the temporary rule. 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 pending 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 sections or their subparts 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 Rulemaking - Adoption of Pending Rule" is published.

FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is of full force and effect.

No pending rule adopted by an agency becomes final and effective until it has been submitted to the legislature for review and approval. Where the legislature finds that an agency has violated the legislative intent of the authorizing statute, a concurrent resolution may be adopted to reject the rulemaking in whole or in part. A "Notice of Rulemaking - Final Rule" and the final codified text must be published in the Bulletin for any rule that is wholly or partially rejected by concurrent resolution of the legislature. Unless rejected by concurrent resolution, a pending rule that is reviewed by the legislature becomes final and effective at the end of the session in which it is reviewed without any further legislative action. All pending rules that are approved by concurrent resolution become final and effective upon adoption of the concurrent resolution unless otherwise stated. In no event can a pending rule 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

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

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 schematic. 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 that are further subdivided into 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. Each rulemaking that is filed with the Coordinator is assigned a “DOCKET NUMBER.” The docket number is a series of numbers separated by a hyphen “-”, (**38-0501-1201**). Rulemaking dockets are published sequentially by IDAPA number (the two-digit agency code) in the Bulletin. The following example is a breakdown of a typical rule docket number:

“DOCKET NO. 38-0501-1201”

“**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**).

“**1201**” 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 2012**. A subsequent rulemaking on this same rule chapter in calendar year 2012 would be designated as “**1202**”. The docket number in this scenario would be 38-0501-**1202**.

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)

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2012

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
12-1	January 2012	*November 25, 2011	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 26, 2012
12-10	October 2012	**August 31, 2012	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

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2013

Vol. No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
13-1	January 2013	*November 30, 2012	January 2, 2013	January 23, 2013
13-2	February 2013	January 11, 2013	February 6, 2013	February 27, 2013
13-3	March 2013	February 8, 2013	March 6, 2013	March 27, 2013
13-4	April 2013	March 8, 2013	April 3, 2013	April 24, 2013
13-5	May 2013	April 5, 2013	May 1, 2013	May 22, 2013
13-6	June 2013	May 10, 2013	June 5, 2013	June 26, 2013
13-7	July 2013	June 7, 2013	July 3, 2013	July 24, 2013
13-8	August 2013	July 5, 2013	August 7, 2013	August 28, 2013
13-9	September 2013	August 2, 2013	September 4, 2013	September 25, 2013
13-10	October 2013	**August 30, 2013	October 2, 2013	October 23, 2013
13-11	November 2013	October 4, 2013	November 6, 2013	November 27, 2013
13-12	December 2013	November 8, 2013	December 4, 2013	December 25, 2013

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

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

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IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE

DOCKET NO. 02-0419-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 25-3704, Idaho Code.

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

Wednesday -- August 15, 2012 -- 10:00 a.m. (MDT)

**Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, ID 83712**

A draft of the rule change is available on the ISDA Web site at www.agri.idaho.gov. Comments must be received by August 22, 2012.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following: Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho State Department of Agriculture addressed to: Cody Burlile, Program Specialist, Division of Animal Industries. Individuals may also attend the public meeting to be conducted on the above date during which the Idaho State Department of Agriculture will allow oral comments or presentations to be made.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Amend Subsection 011.04. The acronym AZA, defined as the American Zoological Association, is incorrect. The correct definition for AZA is the Association of Zoos and Aquariums.

Amend Subsection 450.01 to allow the Administrator to grant exemptions to the change of ownership tuberculosis (TB) testing requirement for domestic cervidae on a case-by-case basis, based upon individual circumstances. This would allow cervidae farms that maintain their herd to conform to all TB testing requirements to be sold to another producer without losing their test status. The new owner of the herd may then be granted an exemption as the herd test status will not have changed, only the ownership of the animals.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Cody Burlile, Program Specialist at 208-332-8540.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2012.

DATED this 5th day of July, 2012.

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

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.04.21 - RULES GOVERNING THE IMPORTATION OF ANIMALS

DOCKET NO. 02-0421-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 25-221, Idaho Code.

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

Wednesday -- August 15, 2012 -- 11:00 a.m. (MDT)

**Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, ID 83712**

A draft of the rule change is available on the ISDA Web site www.agri.idaho.gov. Comments must be received by August 22, 2012.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to the Idaho State Department of Agriculture addressed to: Dr. Scott Leibsle, Deputy Administrator, Division of Animal Industries.

Individuals may also attend the public meetings to be conducted on the above dates during which the Idaho State Department of Agriculture will allow oral comments or presentations to be made.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Amend Subsection 011.03. The acronym AZA, defined as the American Zoological Association, is incorrect. The correct definition for AZA is the Association of Zoos and Aquariums.

Amend Subsection 601.01. To more clearly define the current brucellosis testing requirement as a single blood sample from which two (2) different diagnostic tests for brucellosis shall be performed. This will clarify that the producers need only work their elk once to collect blood.

Amend Subsection 601.02. To expand the list of testing exemptions for Red Deer Gene Factor (RDGF) to include any state or province that has implemented an approved RDGF prevention program for domestic cervidae. The existing rule identifies Montana as the only state that would qualify for a testing exemption because at the time the original rule was written, Montana was the only state to have implemented an approved RDGF program.

Amend Section 606. To expand the tuberculosis (TB) testing exemptions to include any cervidae moving between the American Association of Zoos and Aquarium accredited facilities and those facilities that have a USDA exhibitor permit. The existing rule requirements are redundant to require TB testing for movement between these facilities which are both federally regulated for TB prevention. The change would prevent a producer from having to re-test an animal that is moving between these types of facilities.

Clarify and condense portions of the rule for purposes of simplification and maintaining consistency.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the

preliminary draft of the text of the proposed rule, contact Dr. Scott Leibsle, Deputy Administrator – Division of Animal Industries at (208) 332-8540.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2012.

DATED this 5th day of July, 2012.

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

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.13 - RULES RELATING TO RAPESEED PRODUCTION AND ESTABLISHMENT OF RAPESEED DISTRICTS IN THE STATE OF IDAHO

DOCKET NO. 02-0613-1201 (2ND NOTICE)

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 22-108, Idaho Code.

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

Thursday -- August 9, 2012 -- 10:30 a.m. (MST)

**Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, ID 83712**

A draft of the proposed rule change will be available on July 27, 2012 on the ISDA Web site at www.agri.idaho.gov. Comments must be received by ISDA by August 15, 2012.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do one of the following:

All written comments must be directed to Mike Cooper and must be delivered on or before August 15, 2012. Comments can be sent via email to Mike.Cooper@agri.idaho.gov, or via mail to: Mike Cooper, Idaho State Department of Agriculture, PO Box 790, Boise, ID 83701.

Interested parties may also attend the negotiated rulemaking meeting at the Idaho State Department of Agriculture on August 9, 2012.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

1. Amending Section 004 to update definitions; and
2. Amending Section 150.01.b. to revise the testing method.

A draft copy will be available after July 27, 2012 from the contact information listed below.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Michael E. Cooper, Bureau Chief, Field Services at (208) 332-8620.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 15, 2012.

DATED this 8th day of June, 2012.

Brian J. Oakey
Deputy Director
Phone: (208) 332-8503
Fax: (208) 334-2170

Idaho State Department of Agriculture
2270 Old Penitentiary Rd
P.O. Box 790
Boise, Idaho 83701

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.16 - RULES GOVERNING HONEY STANDARDS

DOCKET NO. 02-0616-1201 (2ND NOTICE)

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 22-2808, Idaho Code.

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

Thursday -- August 9, 2012 -- 1:30 p.m. (MST)

**Idaho State Department of Agriculture
2270 Old Penitentiary Road
Boise, ID 83712**

A draft of the proposed rule change will be available on July 27, 2012 on the ISDA Web site at www.agri.idaho.gov. Comments must be received by ISDA by August 15, 2012.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do one of the following:

All written comments must be directed to Mike Cooper and must be delivered on or before August 15, 2012. Comments can be sent via email to Mike.Cooper@agri.idaho.gov, or via mail to: Mike Cooper, Idaho State Department of Agriculture, PO Box 790, Boise, ID 83701.

Interested persons may also attend the negotiated rulemaking meeting at the Idaho State Department of Agriculture on August 9, 2012, at 1:30 PM (MST).

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

A rule in its entirety would be developed that would mirror existing standards adopted by other states relative to the identity, quality and labeling of honey. A draft copy will be available after July 27, 2012 from the contact information listed below.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Michael E. Cooper, Bureau Chief, Field Services at (208) 332-8620.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 15, 2012.

DATED this 8th day of June, 2012.

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

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.01 - RULES GOVERNING ADMINISTRATION

DOCKET NO. 08-0201-1201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 21, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 33-105, Idaho Code, Section 33-107, Idaho Code, and Section 33-1612, 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 August 15, 2012.

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

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

Changes to Section 08.02.01.250 of this rule are being proposed consistent with Senate Bill 1184. Senate Bill 1184, passed during the 2011 legislative session, and now enacted as Section 33-1002A, Idaho Code, provides that average daily attendance funding be counted and divided based on the "time" spent in multiple school district or public charter school programs, or online courses in which the content provider is not the student's home school district or public charter school. Since the law does not specify how "time" is to be counted, the administrative rules must be revised to provide specificity. The 2011 Public School Technology Task Force examined this issue in detail, and it was their unanimous recommendation that credits be used as the basis of dividing "time" spent in various programs or online courses. Of the various methodologies considered by the task force, a credit-based methodology was the only one that offered both uniformity of basis and simplicity of implementation.

This rule also includes language allowing the State Department of Education to determine what constitutes an overload class, within the language of the law, and prescribe consistent schedules to govern the timing of fractional average daily attendance (ADA) payments from students' home school districts and public charter schools to other multiple enrollments and non-government online course providers.

There is also new language allowing school districts and/or public charter schools to share ADA in the case of dual enrolled students. This language is temporary, applying only to the 2012-2013 school year. This will allow school districts and public charter schools to be funded according to these mutual agreements while a more permanent, systemic approach is developed to address these situations beginning in the 2013-2014 school year.

TEMPORARY RULE JUSTIFICATION: The temporary adoption of the rule is appropriate because Fractional ADA becomes effective for the 2012-2013 school year.

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

FISCAL IMPACT: No fiscal impact to the state.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is a stop gap until a more permanent solution can be found and based on the 2011 Public School Technology Task Force recommendations.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact: Jason Hancock, State Department of

Education, P. O. 83720, Boise, Idaho, 83720-0027, jhancock@sde.idaho.gov, 208-332-6853.

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 August 22, 2012.

DATED this 21st day of June, 2012.

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

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY AND PROPOSED RULE
FOR DOCKET NO. 08-0201-1201**

250. PUPIL ACCOUNTING AND REQUIRED INSTRUCTIONAL TIME.

(Section 33-512 [and 33-1002A](#), Idaho Code)

~~(4-1-97)~~(6-21-12)T

01. Required Instructional Time. Excluding transportation to and from school, lunch periods, passing times, and recess, schools must schedule at least the following instructional times: kindergarten, four hundred fifty (450) hours per year; grades one through three (1-3), eight hundred ten (810) hours per year; grades four through eight (4-8), nine hundred (900) hours per year; and grades nine through twelve (9-12), nine hundred ninety (990) hours per year. (4-1-97)

02. Required Attendance. All pupils will complete four (4) years of satisfactory attendance in grades nine through twelve (9-12) to graduate from an accredited high school, except those who are approved for early graduation. (4-1-97)

03. Day in Session When Counting Pupils in Attendance. (4-1-97)

a. A school day for grades one through twelve (1-12) may be counted as a "day in session" when the school is open and students are under the guidance and direction of teachers in the teaching process for not less than four (4) hours of instruction per day. Lunch periods, breaks, passing time and recess will not be included in the four (4) hours. For kindergarten, each session will be at least two and one-half (2 1/2) hours per day. (4-1-97)

b. Half-day Session. A half-day in session occurs when the students in grades one through twelve (1-12) are under the guidance and direction of teachers in the teaching process for a minimum of two and one-half (2 1/2) hours of instruction or the teachers are involved in staff development activities for not less than two and one-half (2 1/2) hours. (4-1-97)

c. Teacher In-service Activities. For grades one through twelve (1-12), not more than twenty-two (22) hours may be utilized for teacher in-service activities, based on the district approved calendar. In the event a school district chooses to utilize full days instead of half-days, the attendance reported for these full days will be the average of the attendance for the other days of that same week. (4-1-97)

04. Day of Attendance - Kindergarten. A day of attendance for a kindergarten pupil is one in which a

pupil is physically present for a period of two and one-half (2 1/2) hours under the direction and guidance of a teacher while school is in session or under homebound instruction. A homebound student is one who is unable to attend school for at least ten (10) consecutive days due to illness, accident or an unusual disabling condition. Attendance will be reported in half-day increments. Attendance reports for any day in the school year will reflect only those students physically present. Particularly, enrollment figures are not to be used for the beginning nor closing weeks of school. (Section 33-1001(5), Idaho Code.) (4-1-97)

05. Day of Attendance (ADA) - Grades One Through Twelve (1-12). A day of attendance is one in which a pupil is physically present for the full day under the guidance and direction of a teacher or other authorized school district personnel while school is in session or is a homebound student under the instruction of a teacher employed by the district in which the pupil resides, with the exception as stated in "day in session" above. A homebound student is one who is unable to attend school for at least ten (10) consecutive days due to illness, accident or an unusual disabling condition. Attendance will be reported in full or half-days. Attendance reports for any day in the school year will reflect only those students physically present or under homebound instruction. (Section 33-1001(4), Idaho Code) (4-1-97)

06. Average Daily Attendance. In a given school year, the average daily attendance for a given school is the aggregate days attendance divided by the number of days school was actually in session. (Section 33-1001(2), Idaho Code) (4-1-97)

07. Average Daily Attendance Sharing Agreements. For the 2012-2013 school year only, school districts and/or public charter schools may enter into written agreements to share the average daily attendance (ADA) of dual enrolled students, provided that the percentage shares negotiated are proportional to the number of credits in which students are enrolled in each school district and/or public charter school, and the total equals no more than one (1.00) ADA per student. A copy of each written agreement shall be provided to the State Department of Education as a condition of receiving ADA funding for such students. (6-21-12)T

08. Fractional Average Daily Attendance. The basis of Fractional Average Daily Attendance calculations for period-based courses in grades 6-12 shall be credits, as such term is defined in Subsections 105.01.a. and 105.01.b. Two-thirds (2/3) of the amount owed by school districts and public charter schools shall be paid based on the number of eligible students enrolled, and one-third (1/3) based on the number of students successfully completing courses. The timing of such payments shall be based on a schedule of payments prescribed by the State Department of Education. The State Department of Education shall determine what constitutes an overload course in which school districts and public charter schools are not liable for Fractional Average Daily Attendance payments, pursuant to Section 33-1002A, Idaho Code. (Section 33-1002A, Idaho Code) (6-21-12)T

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.02 - RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-1202

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-1511(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

As part of the Idaho Math Initiative, teachers and administrators must take the Mathematical Thinking for Instruction class (MTI). Section 33-1204, Idaho Code, Idaho Administration Code - IDAPA 08.02.02.016.

The proposed rule would offer a waiver to those educators who are not currently employed or live outside of the state of Idaho. The rule also offers a standard three year interim certificate for those educators who move to the state and haven't taken the MTI course to be certified while they take the course.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the waiver allows time for an out-of-state applicant to meet the requirement or those not currently employed as an educator, an opportunity to waive the certification requirement until such time as they become employed as an educator in Idaho.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact: Luci Willits at the address listed below or by e-mail at lbwillits@sde.idaho.gov or phone 208-332-6814.

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 August 22, 2012.

DATED this 21st day of June, 2012.

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

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 08-0202-1202

016. IDAHO EDUCATOR CREDENTIAL.

The State Board of Education authorizes the State Department of Education to issue certificates and endorsements to those individuals meeting the specific requirements for each area provided herein. (Section 33-1201, Idaho Code) (3-16-04)

01. Renewal Requirement - Mathematics In-Service Program. In order to recertify, the state approved mathematics instruction course titled "Mathematical Thinking for Instruction" shall be required. The "Mathematical Thinking for Instruction" course consists of three (3) credits (or forty-five (45) contact hours of in-service training). Teachers and administrators shall take one (1) of the three (3) courses developed that each teacher deems to be most closely aligned with their current assignment prior to September 1, 2014. Any teacher or administrator successfully completing said course shall be deemed to have met the requirement of Subsection 060.03.c. of this rule, regardless of whether such course is part of any official transcript. Successful completion of state approved mathematics instruction course shall be a one-time requirement for renewal of certification for those currently employed in an Idaho school district and shall be included within current requirements for continuing education for renewal. The following individuals listed in Subsection 016.01.a. through 016.01.e. shall successfully complete the "Mathematical Thinking for Instruction" course in order to recertify: (4-7-11)

- a. Each teacher holding an Early Childhood/Early Childhood Special Education Blended Certificate (Birth - Grade 3) who is employed in an elementary classroom (multi-subject classroom, K-8); (3-29-10)
- b. Each teacher holding a Standard Elementary Certificate (K-8); (3-29-10)
- c. Each teacher holding a Standard Secondary Certificate (6-12) teaching in a math content classroom (grade six (6) through grade twelve (12)) including Title I classrooms; (3-29-10)
- d. Each teacher holding a Standard Exceptional Child Certificate (K-12); and (3-29-10)
- e. Each school administrator holding an Administrator Certificate (Pre K-12), including all school district and charter administrators. ~~(3-29-10)~~ ()

02. Out-of-State Applicants. ()

a. Out-of-state applicants shall take the state approved mathematics instruction course titled "Mathematical Thinking for Instruction" as a certification requirement. The "Mathematical Thinking for Instruction" course consists of three (3) credits (or forty-five (45) contact hours of in-service training). (3-29-10)

b. Those individuals who qualify for an Idaho certificate through state reciprocity shall be granted a three-year, non-renewable, interim certificate to allow time to meet the Idaho Mathematics In-service program requirement. ()

03. Waiver of Mathematics In-Service Program. When applying for certificate renewal, an automatic waiver of the mathematics in-service program requirement shall be granted for any certificated individual who lives outside of the state of Idaho or who is not currently employed as an educator in the state of Idaho. This waiver applies only as long as the individual remains outside the state of Idaho or as long as the individual is not employed as an educator in the state of Idaho. Upon returning to Idaho or employment in an Idaho public school, the educator will need to complete this requirement prior to the next renewal period. ()

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1202

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-105, Idaho Code, Section 33-107, Idaho Code, and Section 33-1612 and 33-118, 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 August 15, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

At the October 19-20, 2011 State Board of Education meeting, the Idaho Coalition Against Sexual and Domestic Violence and the State Department of Education presented local and national data about the critical issue of adolescent relationship abuse and its effects on Idaho students. At that time, the State Department of Education indicated that it would come before the Board at a later meeting with a proposed rule change to address the prevention of and response to adolescent relationship abuse and sexual assault in Idaho schools.

Adolescent relationship abuse and sexual assault is a serious problem receiving national and local attention. According to the Centers for Disease Control and Prevention, "one in five women and nearly one in seven men who experienced rape, physical violence, and/or stalking by an intimate partner, first experienced some form of violence between 11 and 17 years of age" (CDC, 2011). Approximately one in three adolescent girls in the United States is a victim of physical, emotional, or verbal abuse from a dating partner (Davis, 2008). In 2011, 8.7% of Idaho high school students were hit, slapped, or physically hurt on purpose by their boyfriend or girlfriend (CDC, 2011). Almost half of all female victims who have been raped experienced their first rape before age 18 (30% between 11 and 17) (CDC, 2011).

Promoting healthy adolescent relationships can reduce adolescent risk behaviors, relationship abuse and sexual assault, early sexual activity, alcohol and drug abuse, and other forms of violence (Wolfe et al., 2006). Adolescent relationship abuse and sexual assault, along with other risk behaviors, rarely occurs in a vacuum. Rather, these behaviors almost always take place within a relationship. It is critical for communities and schools to promote healthy relationships and teach adolescents the skills they need to negotiate relationship issues, including responding to pressure to participate in risk behaviors (Wolfe et al., 2006).

Over 40 percent of young people who report they are victims of relationship abuse say that the incidents occurred in a school building or on school grounds (Molidor & Tolman, 1998). In addition to becoming involved in other risk behaviors, victims of relationship abuse or sexual assault are more likely to be truant, have lower grades, and drop out of school (Futures Without Violence, 2011). Students who don't feel safe can't learn effectively. It is imperative that school personnel, in concert with parents and the community, have the knowledge and skills to teach healthy adolescent relationship skills and to respond to incidents of abuse.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because:

This is a proposed addition to an already existing rule that ensures schools have a comprehensive set of policies to deal with all student safety issues.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact: Shannon Page, ICASDV Policy Consultant, 300 E. Mallard Dr. Ste 1300, Boise, Idaho, 83706, Slpage208@msn.com, 208-861-1567; or Portia Flynn at pflynn@sde.idaho.gov, 208-332-6812.

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 August 22, 2012.

DATED this 21st day of June, 2012.

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

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 08-0203-1202

160. SAFE ENVIRONMENT AND DISCIPLINE.

Each school district will have a comprehensive district wide policy and procedure encompassing the following:

School Climate
Discipline
Student Health
Violence Prevention
Gun-free Schools
Substance Abuse - Tobacco, Alcohol, and Other Drugs
Suicide Prevention
Student Harassment
Drug-free School Zones
Building Safety including Evacuation Drills
<u>Relationship Abuse and Sexual Assault Prevention and Response</u>

Districts will conduct an annual review of these policies and procedures. (See Section 33-1612) ~~(4-1-97)~~()

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1203

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 21, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 33-105, Idaho Code, Section 33-107, Idaho Code, and Section 33-1612, Idaho Code and 33-118.

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 August 15, 2012.

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

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

This rule addresses two areas of high school graduation requirements that must be addressed in the same section of administrative code.

The first is a requirement for students to take two online courses. At the February 2012 Board meeting the Board approved a temporary rule amending the online learning graduation requirement. The amendments allowed for either an asynchronous or synchronous course to be used to meet the two (2) credit requirement. Due to timing issues related to promulgation of rules during the legislative session only a temporary rule could be promulgated at that time. For the rule change to become permanent the Board approved a new temporary and proposed rule at its June 2012 meeting.

The second is a requirement concerning math graduation requirements. In 2007, the State Board of Education approved a number of revisions to Section 105 that were collectively known as High School Redesign. These revisions, in part, require students to take three years of mathematics. Two of the six credits must be taken in the student's final year of high school.

Recently, during the February 16, 2012 State Board meeting held at Boise State University, the Boise School District brought three appeals forward, requesting that three students be allowed to waive the requirements outlined in Subsection 105.01.d.iv. which require that two credits of the required six credits of mathematics be taken in a student's last year of high school. At that time, the State Board requested that the State Department of Education put together a temporary and proposed rule. This amendment is in response to that request. The revised rule allows students to be exempt from the requirement to take a math course in their last year of high school as outlined in Subsection 105.01.d.iv if they have met the following criteria:

Students who have completed six (6) credits of math prior to the fall of their last year of high school, including at least two (2) semesters of an Advanced Placement or dual credit calculus or higher level course, are exempt from taking math during their last year of high school.

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

The first is a requirement for students to take two online courses and is required for students who are graduating in the 2016 school year. The graduation requirement is currently in place and the temporary rule ensures students are taking the correct classes to graduate.

The class of 2013 is the first class to be required to take additional math and science courses. This rule affects students who are entering their senior year and would be subject to this requirement prior to the Idaho Legislature convening.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the online rule was agreed to in the previous legislative session by the Idaho School Boards Association and the Idaho Association of School Administrators. The math rule was not formally negotiated due to time constraints as this rule applies to students entering their senior year in the fall of 2012.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact: Luci Willits at the address listed below or by e-mail at lwillits@sde.idaho.gov or phone 208-332-6814.

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 August 22, 2012.

DATED this 21st Day of June, 2012.

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

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
FOR DOCKET NO. 08-0203-1203**

007. DEFINITIONS A - G.

01. Achievement Standards. Define “below basic,” “basic,” “proficient,” and “advanced” achievement levels on the Idaho Standards Achievement Tests (ISAT) and “beginning,” “advanced beginning,” “intermediate,” “early fluent” and “fluent” on the Idaho English Language Assessment (IELA) by setting scale score cut points. These cut scores are paired with descriptions of how well students are mastering the material in the content standards. These descriptions are called performance level descriptors or PLDs, and are provided by performance level, by content area, and by grade. (4-2-08)

02. Advanced Opportunities. Are defined as Advanced Placement courses, Dual Credit courses, Tech Prep, or International Baccalaureate programs. (4-11-06)

- 03. Advanced Placement® (AP) - College Board.** The Advanced Placement Program is administered by the College Board at <http://www.collegeboard.com>. AP students may take one (1) or more college level courses in a variety of subjects. AP courses are not tied to a specific college curriculum, but rather follow national College Board curricula. While taking the AP exam is optional, students can earn college credit by scoring well on the national exams. It is up to the discretion of the receiving college to accept the scores from the AP exams to award college credit or advanced standing. (4-11-06)
- 04. All Students.** All students means all public school students, grades K-12. (4-11-06)
- 05. Alternative Assessment (Other Ways of Testing).** Any type of assessment in which students create a response to a question rather than choose a response from a given list, as with multiple-choice or true/false. Alternative assessments can include short-answer questions, essays, oral presentations, exhibitions, and portfolios. (4-5-00)
- 06. Assessment.** The process of quantifying, describing, or gathering information about skills, knowledge or performance. (4-5-00)
- 07. Assessment Standards.** Statements setting forth guidelines for evaluating student work, as in the “Standards for the Assessment of Reading and Writing.” (4-5-00)
- 08. Asynchronous Course.** An online course in which an online platform is used to deliver all curricula. The majority of communication exchanges occur in elapsed time and allow students and teachers to participate according to their schedule. Asynchronous courses do not prohibit the use of a paraprofessional, certificated staff or other staff member being present at the physical location during instructional periods where instruction takes place, such as a school computer lab. ~~(3-29-12)~~(6-21-12)T
- 09. Authentic.** Something that is meaningful because it reflects or engages the real world. An “authentic task” asks students to do something they might really have to do in the course of their lives, or to apply certain knowledge or skills to situations they might really encounter. (4-5-00)
- 10. Basic Educational Skills Training.** Instruction in basic skills toward the completion/attainment of a certificate of mastery, high school diploma, or GED. (4-5-00)
- 11. Blended Course.** A blended course, sometimes called hybrid course, consists of a course having between fifty-one percent (51%) and seventy-nine percent (79%) of the course content delivered through the use of technology, and may include the following models: (3-29-12)
- a. Flex Model.** Features an online platform that delivers most of the curricula. Teachers provide on-site support on a flexible and adaptive, as-needed basis through in-person tutoring sessions and small group sessions. (3-29-12)
 - b. Online Lab Model.** Programs rely on an online platform to deliver the entire course but in a brick-and-mortar lab environment. Paraprofessionals or other staff supervise but offer little content expertise. (3-29-12)
 - c. Rotation Model.** Students rotate on a fixed schedule between learning online in a self-paced environment and sitting in a classroom with a traditional face-to-face teacher. (3-29-12)
- 12. Classic Texts.** Literary or other works (e.g., films, speeches) that have been canonized, either continuously or intermittently, over a period of time beyond that of their initial publication and reception. (4-5-00)
- 13. Content Standards.** Describe the knowledge, concepts, and skills that students are expected to acquire at each grade level in each content area. (4-2-08)
- 14. Context (of a Performance Assessment).** The surrounding circumstances within which the performance is embedded. For example, problem solving can be assessed in the context of a specific subject (such as mathematics) or in the context of a real-life laboratory problem requiring the use of mathematics, scientific, and

communication skills. (4-5-00)

15. Cooperative Work Experience. Classroom learning is integrated with a productive, structured work experience directly related to the goals and objectives of the educational program. Schools and participating businesses cooperatively develop training and evaluation plans to guide and measure the progress of the student. School credit is earned for successful completion, and the work may be paid or unpaid. Cooperative work experiences are also known as co-operative education or co-op. (4-5-00)

16. Criteria. Guidelines, rules or principles by which student responses, products, or performances, are judged. What is valued and expected in the student performance, when written down and used in assessment, become rubrics or scoring guides. (4-5-00)

17. Cues. Various sources of information used by readers to construct meaning. The language cueing systems include the graphophonic (also referred to as graphophonemic) system, which is the relationship between oral and written language (phonics); the syntactic system, which is the relationship among linguistic units such as prefixes, suffixes, words, phrases, and clauses (grammar); and semantic system, which is the study of meaning in language. Reading strategies and language cueing systems are also influenced by pragmatics-the knowledge readers have about the ways in which language is understood by others in their culture. (4-5-00)

18. "C" Average. A combined average of courses taken on a four (4) point scale with "C" equal to two (2) points. (4-11-06)

19. Decode. (4-5-00)

a. To analyze spoken or graphic symbols of a familiar language to ascertain their intended meaning. (4-5-00)

b. To change communication signals into messages, as to decode body language. (4-5-00)

20. Dual Credit. Dual credit allows high school students to simultaneously earn credit toward a high school diploma and a postsecondary degree or certificate. Postsecondary institutions work closely with high schools to deliver college courses that are identical to those offered on the college campus. Credits earned in a dual credit class become part of the student's permanent college record. Students may enroll in dual credit programs taught at the high school or on the college campus. (4-11-06)

21. Emergent Literacy. Development of the association of print with meaning that begins early in a child's life and continues until the child reaches the stage of conventional reading and writing. (4-5-00)

22. Employability Skills. Work habits and social skills desirable to employers, such as responsibility, communication, cooperation, timeliness, organization, and flexibility. (4-5-00)

23. Entry-Level Skills. The minimum education and skill qualifications necessary for obtaining and keeping a specific job; the starting point in a particular occupation or with a certain employer. (4-5-00)

24. Evaluation (Student). Judgment regarding the quality, value, or worth of a response, product, or performance based on established criteria, derived from multiple sources of information. Student evaluation and student assessment are often used interchangeably. (4-5-00)

25. Experiential Education (Application). Experiential education is a process through which a learner constructs knowledge, skill, and value from direct experiences. (4-5-00)

26. Exploratory Experience (Similar to a Job Shadow). An opportunity for a student to observe and participate in a variety of worksite activities to assist in defining career goals. An in-school exploratory experience is a school-based activity that simulates the workplace. (4-5-00)

27. Fluency. The clear, rapid, and easy expression of ideas in writing or speaking; movements that flow smoothly, easily, and readily. (4-5-00)

28. Genre (Types of Literature). A category used to classify literary and other works, usually by form, technique, or content. Categories of fiction such as mystery, science fiction, romance, or adventure are considered genres. (4-5-00)

29. Graphophonic/Graphophonemic. One (1) of three (3) cueing systems readers use to construct texts; the relationships between oral and written language (phonics). (4-5-00)

008. DEFINITIONS H - S.

01. Interdisciplinary or Integrated Assessment. Assessment based on tasks that measures a student's ability to apply concepts, principles, and processes from two (2) or more subject disciplines to a project, issue, or problem. (4-5-00)

02. International Baccalaureate (IB) - Administered by the International Baccalaureate Organization, the IB program provides a comprehensive liberal arts course of study for students in their junior and senior years of high school. IB students take end-of-course exams that may qualify for college credit. Successful completion of the full course of study leads to an IB diploma. (4-11-06)

03. Laboratory. A laboratory science course is defined as one in which at least one (1) class period each week is devoted to providing students with the opportunity to manipulate equipment, materials, specimens or develop skills in observation and analysis and discover, demonstrate, illustrate or test scientific principles or concepts. (4-11-06)

04. Learning Plan. The plan that outlines a student's program of study, which should include a rigorous academic core and a related sequence of electives in academic, professional-technical education (PTE), or humanities aligned with the student's post graduation goals. (4-11-06)

05. Narrative. Text in any form (print, oral, or visual) that recounts events or tells a story. (4-5-00)

06. Norm-Referenced Assessment. Comparing a student's performance or test result to performance of other similar groups of students; (e.g., he typed better than eighty percent (80%) of his classmates.) (4-5-00)

07. On-Demand Assessment. Assessment that takes place at a predetermined time and place. Quizzes, state tests, SATs, and most final exams are examples of on-demand assessment. (4-5-00)

08. Online Course. A course in which at least eighty percent (80%) of the course content is delivered over the Internet or through the use of technology. An online course may be asynchronous or synchronous. Online teachers may perform the course work from an alternate location while a paraprofessional or other school staff member supervises students in a computer lab environment. (3-29-12)

09. Online Learning. Education in which the majority of course content is delivered online or through the use of technology. Courses may be delivered in an asynchronous or synchronous course format and may include blended or hybrid course models or fully online course models. (3-29-12)

a. Online learning does not include printed-based correspondence education, broadcast television or radio, videocassettes, and stand-alone education software programs that do not have a significant internet-based instructional component. (3-29-12)

b. Online learning is not simply computer based instruction, but rather requires that the online teacher and the student have ongoing access to one another for purposes of teaching, evaluating, and providing assistance to the student throughout the duration of the course. All online learning must meet Idaho content standards. ~~(3-29-12)~~(6-21-12)T

~~**c.** All online learning must meet the Idaho content standards. (3-29-12)~~

10. Online Teacher (Instructor). The teacher of record who holds an appropriate Idaho certification

and provides the primary instruction for an online course. (3-29-12)

11. Performance Assessment. Direct observation of student performance or student work and professional judgment of the quality of that performance. Good quality performance assessment has pre-established performance criteria. (4-5-00)

12. Performance-Based Assessment. The measurement of educational achievement by tasks that are similar or identical to those that are required in the instructional environment, as in performance assessment tasks, exhibitions, or projects, or in work that is assembled over time into portfolio collections. (4-5-00)

13. Performance Criteria. A description of the characteristics that will be judged for a task. Performance criteria may be holistic, analytic trait, general or specific. Performance criteria are expressed as a rubric or scoring guide. Anchor points or benchmark performances may be used to identify each level of competency in the rubric or scoring guide. (4-5-00)

14. Phonics. Generally used to refer to the system of sound-letter relationships used in reading and writing. Phonics begins with the understanding that each letter (or grapheme) of the English alphabet stands for one (1) or more sounds (or phonemes). (4-5-00)

15. Portfolio. A collection of materials that documents and demonstrates a student's academic and work-based learning. Although there is no standard format for a portfolio, it typically includes many forms of information that exhibit the student's knowledge, skills, and interests. By building a portfolio, students can recognize their own growth and learn to take increased responsibility for their education. Teachers, mentors, and employers can use portfolios for assessment purposes and to record educational outcomes. (4-5-00)

16. Print Awareness. In emergent literacy, a learner's growing awareness of print as a system of meaning, distinct from speech and visual modes of representation. (4-5-00)

17. Professional-Technical Education. Formal preparation for semi-skilled, skilled, technical, or paraprofessional occupations, usually below the baccalaureate level. (4-11-06)

18. Proficiency. Having or demonstrating a high degree of knowledge or skill in a particular area. (4-5-00)

19. School-to-Work Transition. A restructuring effort that provides multiple learning options and seamless integrated pathways to increase all students' opportunities to pursue their career and educational interests. (4-5-00)

20. Service Learning. Combining service with learning activities to allow students to participate in experiences in the community that meet actual human needs. Service learning activities are integrated into the academic curriculum and provide structured time for a student to think, talk, or write about what was done or seen during the actual service activity. Service learning provides students with opportunities to use newly acquired skills and knowledge in real-life situations in their communities, and helps foster the development of a sense of caring for others. (4-5-00)

21. Skill Certificate. Portable, industry-recognized credential that certifies the holder has demonstrated competency on a core set of performance standards related to an occupational cluster area. Serving as a signal of skill mastery at benchmark levels, skill certificates may assist students in finding work within their community, state, or elsewhere. A National Skills Standards Board is presently charged with issuing skill voluntary standards in selected occupations based on the result of research and development work completed by twenty-two (2) contractors. (4-5-00)

22. Standards. Statements about what is valued in a given field, such as English language arts, and/or descriptions of what is considered quality work. See content standards, assessment standards, and achievement standards. (4-2-08)

23. Standardization. A set of consistent procedures for constructing, administering and scoring an

assessment. The goal of standardization is to ensure that all students are assessed under uniform conditions so the interpretation of performance is comparable and not influenced by differing conditions. Standardization is an important consideration if comparisons are to be made between scores of different individuals or groups. (4-5-00)

24. Standards-Based Education. Schooling based on defined knowledge and skills that students must attain in different subjects, coupled with an assessment system that measures their progress. (4-5-00)

25. Structured Work Experience. A competency-based educational experience that occurs at the worksite but is tied to the classroom by curriculum through the integration of school-based instruction with worksite experiences. Structured work experience involves written training agreements between school and the worksite, and individual learning plans that link the student's worksite learning with classroom course work. Student progress is supervised and evaluated collaboratively by school and worksite personnel. Structured work experience may be paid or unpaid; may occur in a public, private, or non-profit organization; and may or may not result in academic credit and/or outcome verification. It involves no obligation on the part of the worksite employer to offer regular employment to the student subsequent to the experience. (4-5-00)

26. Student Learning Goals (Outcomes). Statements describing the general areas in which students will learn and achieve. Student learning goals typically reflect what students are expected to know by the time they leave high school, such as to read and communicate effectively; think critically and solve problems; develop positive self-concept, respect for others and healthy patterns of behavior; work effectively in groups as well as individually; show appreciation for the arts and creativity; demonstrate civic, global and environmental responsibility; recognize and celebrate multicultural diversity; exhibit technological literacy; have a well developed knowledge base which enhances understanding and decision making, and demonstrate positive problem solving and thinking skills. (4-5-00)

27. Synchronous Course. A course in which the teacher and students interact at the same time. May be applied to both traditional and technology based courses. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

105. HIGH SCHOOL GRADUATION REQUIREMENTS.

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

01. Credit Requirements. The State minimum graduation requirement for all Idaho public high schools is forty-two (42) credits. The forty-two (42) credits must include twenty-five (25) credits in core subjects as identified in Paragraphs 105.01.c. through 105.01.i. All credit-bearing classes must be aligned with state high school standards in the content areas for which standards exist. For all public school students who enter high school at the 9th grade level in Fall 2009 or later, the minimum graduation requirement will be forty-six (46) credits and must include twenty-nine (29) credits in core subjects as identified in Paragraphs 105.01.c. through 105.01.i. (3-29-12)

a. Credits. (Effective for all students who enter the ninth grade in the fall of 2010 or later.) One (1) credit shall equal sixty (60) hours of total instruction. School districts or LEA's may request a waiver from this provision by submitting a letter to the State Department of Education for approval, signed by the superintendent and chair of the board of trustees of the district or LEA. The waiver request shall provide information and documentation that substantiates the school district or LEA's reason for not requiring sixty (60) hours of total instruction per credit. (3-29-10)

b. Mastery. A student may also achieve credits by demonstrating mastery of a subject's content standards as defined and approved by the local school district or LEA. (3-29-10)

c. Secondary Language Arts and Communication. Nine (9) credits are required. Eight (8) credits of instruction in Language Arts. Each year of Language Arts shall consist of language study, composition, and literature and be aligned to the Idaho Content Standards for the appropriate grade level. One (1) credit of instruction in

communications consisting of oral communication and technological applications that includes a course in speech, a course in debate, or a sequence of instructional activities that meet the Idaho Speech Content Standards requirements. (3-29-10)

d. Mathematics. Four (4) credits are required. Secondary mathematics includes Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and reasoning. For all public school students who enter high school at the 9th grade level in Fall 2009 or later, six (6) semester credits are required. For such students, secondary mathematics includes instruction in the following areas: (3-29-10)

i. Two (2) credits of Algebra I or courses that meet the Idaho Algebra I Content Standards as approved by the State Department of Education; (3-29-10)

ii. Two (2) credits of Geometry or courses that meet the Idaho Geometry Content Standards as approved by the State Department of Education; and (3-29-10)

iii. Two (2) credits of mathematics of the student's choice. (3-29-10)

iv. Two (2) credits of the required six (6) credits of mathematics must be taken in the last year of high school. (3-29-10)

v. Students who have completed six (6) credits of math prior to the fall of their last year of high school, including at least two (2) semesters of an Advanced Placement or dual credit calculus or higher level course, are exempt from taking math during their last year of high school. (6-21-12)T

e. Science. Four (4) credits are required, two (2) of which will be laboratory based. Secondary sciences include instruction in applied sciences, earth and space sciences, physical sciences, and life sciences. (3-29-10)

i. Effective for all public school students who enter high school at the 9th grade level in Fall 2009 or later, six (6) credits will be required. (3-29-10)

ii. Secondary sciences include instruction in the following areas: biology, physical science or chemistry, and earth, space, environment, or approved applied science. Four (4) credits of these courses must be laboratory based. (3-29-10)

f. Social Studies. Five (5) credits are required, including government (two (2) credits), United States history (two (2) credits), and economics (one (1) credit). Courses such as geography, sociology, psychology, and world history may be offered as electives, but are not to be counted as a social studies requirement. (3-29-10)

g. Humanities. Two (2) credits are required. Humanities courses include instruction in visual arts, music, theatre, dance, or world language aligned to the Idaho content standards for those subjects. Other courses such as literature, history, philosophy, architecture, or comparative world religions may satisfy the humanities standards if the course is aligned to the Idaho Interdisciplinary Humanities Content Standards. (3-29-10)

h. Health/Wellness. One (1) credit is required. Course must be aligned to the Idaho Health Content Standards. (3-29-10)

i. Online Learning Requirement. (Effective for all students who enter the ninth grade in the fall of 2012 or later.) Students must take ~~two (2)~~ online learning credits. ~~are required: one credit shall be from an asynchronous online course and the second e~~Credits may be any combination of online ~~course~~ or blended courses ~~credit, either asynchronous or synchronous~~ as determined by the local school district or LEA. The local school district or LEA may determine which courses are to be used to fulfill this requirement. ~~(3-29-12)~~(6-21-12)T

i. A student who has taken a one (1) credit ~~asynchronous~~ online course and failed to earn the credit may appeal to the school district or LEA and will be given an opportunity to demonstrate proficiency of the technology content standards through some other locally-established plan. School districts or LEAs shall adopt an

alternate plan and provide notice of that plan to all students who have not earned the credits to meet the online learning requirement prior to the fall semester of the student's junior year. All locally-established alternate plans used to demonstrate proficiency shall be forwarded to the State Board of Education for review and information. Alternate plans must be promptly re-submitted to the Board whenever changes are made in such plans. ~~(3-29-12)~~(6-21-12)T

- (1) ~~Before entering an alternate measure, the student must be~~ Students who: ~~(3-29-12)~~(6-21-12)T
- (a) ~~Are En~~rolled in a special education program and have an Individual Education Plan (IEP); or ~~(3-29-12)~~(6-21-12)T
- (b) ~~Has~~ Have been identified as eligible to receive services under Section 504 of the Federal Rehabilitation Act of 1973; or ~~(3-29-12)~~(6-21-12)T
- (c) Are Enrolled in an Limited English Proficient (LEP) program for three (3) academic years or less, may enter the school district or LEA alternative plan without taking the (1) credit online course. ~~(3-29-12)~~(6-21-12)T

- (2) The alternate plan must: (3-29-12)
 - (a) Contain multiple measures of student achievement; (3-29-12)
 - (b) Be aligned at a minimum to Idaho technology content standards; and (3-29-12)
 - (c) Be valid and reliable. (3-29-12)

02. Content Standards. Each student shall meet locally established subject area standards (using state content standards as minimum requirements) demonstrated through various measures of accountability including examinations or other measures. (3-29-10)

03. College Entrance Examination. (Effective for all public school students who enter high school at the 9th grade level in Fall 2009 or later.) (3-29-12)

a. A student must take one (1) of the following college entrance examinations before the end of the student's eleventh grade year: COMPASS, ACCUPLACER, ACT or SAT. Scores must be included in the Learning Plan. (3-29-12)

b. A student may elect an exemption in their 11th grade year from the college entrance exam requirement if the student is: (3-29-12)

i. Enrolled in a special education program and has an Individual Education Plan (IEP) that specifies accommodations not allowed for a reportable score on the approved tests; or (3-29-12)

ii. Enrolled in a Limited English Proficient (LEP) program for three (3) academic years or less. (3-29-12)

04. Senior Project. (Effective for all public school students who enter high school at the 9th grade level in Fall 2009 or later.) A student must complete a senior project by the end of grade twelve (12). The project must include a written report and an oral presentation. Additional requirements for a senior project are at the discretion of the local school district or LEA. (3-29-10)

05. Middle School. If a student completes any required high school course with a grade of C or higher before entering grade nine (9), and if that course meets the same standards that are required in high school, then the student has met the high school content area requirement for such course. However, the student must complete the required number of credits in all high school core subjects as identified in Subsections 105.01.c. through 105.01.h. in addition to the courses completed in middle school. (3-29-12)

06. Proficiency. Each student must achieve a proficient or advanced score on the Grade 10 Idaho Standards Achievement Test (ISAT) in math, reading and language usage in order to graduate. A student who does

not attain at least a proficient score prior to graduation may appeal to the school district or LEA, and will be given an opportunity to demonstrate proficiency of the content standards through some other locally established plan. School districts or LEAs shall adopt an alternate plan and provide notice of that plan to all students who have not achieved a proficient or advanced score on the Grade 10 Idaho Standards Achievement Test by the fall semester of the student's junior year. All locally established alternate plans used to demonstrate proficiency shall be forwarded to the State Board of Education for review and information. Alternate plans must be promptly re-submitted to the Board whenever changes are made in such plans. (4-7-11)

- a. Before entering an alternate measure, the student must be: (4-2-08)
 - i. Enrolled in a special education program and have an Individual Education Plan (IEP); or (3-20-04)
 - ii. Enrolled in an Limited English Proficient (LEP) program for three (3) academic years or less; or (3-20-04)
 - iii. Enrolled in the fall semester of the senior year. (3-20-04)
 - b. The alternate plan must: (4-7-11)
 - i. Contain multiple measures of student achievement; (4-7-11)
 - ii. Be aligned at a minimum to tenth grade state content standards; (4-7-11)
 - iii. Be aligned to the state content standards for the subject matter in question; (4-7-11)
 - iv. Be valid and reliable; and (4-7-11)
 - v. Ninety percent (90%) of the alternate plan criteria must be based on academic proficiency and performance. (4-7-11)
 - c. A student is not required to achieve a proficient or advanced score on the ISAT if: (5-8-09)
 - i. The student received a proficient or advanced score on an exit exam from another state that requires a standards-based exam for graduation. The state's exit exam must approved by the State Board of Education and must measure skills at the tenth grade level and be in comparable subject areas to the ISAT; (5-8-09)
 - ii. The student completes another measure established by a school district or LEA and received by the Board as outlined in Subsection 105.06; or (3-29-10)
 - iii. The student has an IEP that outlines alternate requirements for graduation or adaptations are recommended on the test; (5-8-09)
 - iv. The student is considered an LEP student through a score determined on a language proficiency test and has been in an LEP program for three (3) academic years or less; (5-8-09)
- 07. Special Education Students.** A student who is eligible for special education services under the Individuals With Disabilities Education Improvement Act must, with the assistance of the student's Individualized Education Program (IEP) team, refer to the current Idaho Special Education Manual for guidance in addressing graduation requirements. (4-11-06)
- 08. Foreign Exchange Students.** A foreign exchange student may be eligible for graduation by completing a comparable program as approved by the school district or LEA. (4-11-06)

IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-1204 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 21, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 33-105, Idaho Code, Section 33-107, Idaho Code, and Section 33-1612, Idaho Code and 33-118.

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 August 15, 2012.

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

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

Changes to Section 08.02.03.128 are being proposed consistent with House Bill 604. House Bill 604, passed during the 2012 legislative session, and now incorporated 33-118, Idaho Code, gave authority to the Idaho State Board of Education to determine the process by which the State Department of Education reviews and approves online courses and providers and charges fees for this work as well as approval and adoption of textbooks. This administrative rule is being revised to reflect this new law.

At present, IDAPA 08.02.03, Section 128, makes no provision for the charging of fees for both textbook review and approval and online course provider review and approval. However, the SDE currently charges, and has done so for a number of years, \$60 per textbook review to defray the costs of the review. While textbook adoption of hard copies has declined, the online course submission and digital content have continued to increase and will become the predominant facet of this curricular and provider review process. The changes to this rule ensure a process for the timely and effective review of all state-approved online courses. The fee will be based on the number of courses the provider offers, and will help defray the cost of completing reviews of the entire provider application and selected courses, including all resources, syllabi, assignments, level of teacher-to-student and student-to-student interactions, assessments, and standards alignment.

Lastly, in the rule, a specific number of participants have been specified. The participation guidelines have been rewritten to both streamline and expedite the process while still keeping a strong external review process in place. Finally, provision has been made for Idaho certified teachers to complete the review of online course providers.

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

To comply with House Bill 604 which passed during the 2012 legislative session, and now enacted as Section 33-118, Idaho Code. The statute gives the Idaho State Board of Education authority to determine the process by which the State Department of Education reviews and approves online courses and providers, fees charges for this review and to approve and adopt textbooks. The temporary rule implements these law changes.

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

The SDE will continue to charge \$60 per textbook or equal to the price of the textbook and will charge per online course submissions and for digital content review.

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

Textbook and curricular review fees typically yield at least \$60,000 in annual dedicated revenue to help defray SDE's cost of review. The reviews associated with reviewing online courses are unknown, since it has never been done before. Any dedicated revenues will be used to defray SDE's cost of review.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because: The rule is temporary.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary and proposed rule, contact: Jason Hancock at the address listed below or by e-mail at jhancock@sde.idaho.gov or phone 208-332-6853.

Anyone may submit written comments regarding this temporary and proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2012.

DATED this 21st Day of June, 2012.

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

**THE FOLLOWING IS THE TEXT OF THE TEMPORARY AND PROPOSED RULE
FOR DOCKET NO. 08-0203-1204**

128. CURRICULAR MATERIALS SELECTION AND ONLINE COURSE APPROVAL (SECTIONS 33-118; 33-118A, IDAHO CODE).

The State Board of Education will appoint a committee to select curriculum materials. Committee appointments will be for a period of five (5) years. ~~The membership of the committee will include one (1) representative from each of the state's institutions of higher education (Boise State University, Idaho State University, Lewis Clark State College, and University of Idaho); two (2) Idaho public school administrators; two (2) Idaho public school elementary classroom teachers; two (2) Idaho public school secondary classroom teachers; one (1) person who is not a public school educator nor a public school trustee, one (1) person (parent, teacher, or administrator) representing Idaho's private/parochial schools, who will not be a public school educator or trustee; one (1) public school trustee; three (3) parents and one (1) curriculum consultant from the Division of Instruction of the State Department of Education and one (1) from the Division of Vocational Education whose appointment will be for one (1) year.~~ Committee appointments shall consist of not less than 10 total members from the following stakeholder groups: certified Idaho classroom teachers, Idaho public school administrators, Idaho higher education officials, parents, trustees, local board of education members, members of the Division of Vocational Education, and State Department of Education personnel from the content group in the 21st Century Classroom Division. The Executive Secretary will be an employee of the State Department of Education and will be a voting member of the committee. The State Department of Education shall charge publishers submission fees of sixty dollars (\$60) or equal to the retail price of each textbook, whichever is

greater, to defray the costs incurred in the curricular material review and adoption process. ~~(3-20-04)~~(6-21-12)T

01. Subject Areas. Curricular materials are adopted by the State Board of Education for a period of six (6) years in the following subject areas: reading, English, spelling, speech, journalism, languages other than English, art, drama, social studies, music, mathematics, business education, career education and counseling, vocational/technical education, science, health, handwriting, literature, driver education, limited English proficiency. (4-11-06)

02. Multiple Adoptions are Made in Each Subject Area. (4-5-00)

03. Bids. Each publisher must deliver, according to the committee schedule, a sealed bid on all curricular materials presented for adoption. (4-5-00)

04. Depository. The State Board will appoint a depository for the state-adopted curricular materials. Resource materials are a local option. (4-5-00)

05. Local Policies. School districts will follow their own policies for adoption in subject areas offered by a school district for which materials are not covered by the state curriculum materials committee. (4-5-00)

06. Online Course Review and Approval Process. The State Department of Education shall administer the review and approval of online course providers and courses. Reviewers shall be certified Idaho classroom teachers. Online course providers are approved for a period of four (4) years. The State Department of Education shall charge online course providers submission fees based on the number of courses offered, not to exceed the actual costs incurred in the online course and course provider review and approval process. (6-21-12)T

IDAPA 09 - DEPARTMENT OF LABOR

09.01.04 - UNEMPLOYMENT INSURANCE BENEFIT FRAUD AND OVERPAYMENT RULES

DOCKET NO. 09-0104-1201

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 72-1333, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

IDAPA 09.01.04.012 is being changed to clarify that all information a claimant is asked to provide to the department is material information used to determine a claimant's eligibility for benefits, and a new rule at IDAPA 09.01.04.013 is being added to clarify that claimants must repay all benefits received as a result of a willful false statement or willful failure to report a material fact.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking was done to comply with existing state law.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michael Johnson 332-3570 ext. 3082.

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 August 22, 2012.

DATED this 2nd of July, 2012.

Michael Johnson, Bureau Chief
Idaho Department of Labor
317 West Main Street
Boise, Idaho 83735
Phone 332-3570 ext. 3082
Fax 334-6125

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 09-0104-1201

012. MATERIALITY, FRAUD DETERMINATIONS.

For purposes of Section 72-1366(12), Idaho Code, a fact is material if it is relevant to a determination of a claimant's right to benefits. All information a claimant is asked to provide when applying for unemployment benefits or when making a continued claim report is material and relevant to a determination of a claimant's right to benefits. To be considered material, the fact need not actually affect the outcome of an eligibility determination. Ref. Section 72-1366, Idaho Code. ~~(3-19-99)~~()

013. FRAUD BENEFIT REPAYMENT.

For purposes of Section 72-1366(12), Idaho Code, "any sums received for any week" means all unemployment benefits received in any week it is determined that the claimant received benefits as a result of a willful false statement or failure to report a material fact in order to obtain benefits. ()

~~0134.~~ -- 039. (RESERVED)

IDAPA 09 - DEPARTMENT OF LABOR

09.01.30 - UNEMPLOYMENT INSURANCE BENEFITS ADMINISTRATION RULES

DOCKET NO. 09-0130-1201

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 72-1333, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking: The proposed rule would amend 09.01.30 to add the same definition for corporate officers for unemployment insurance benefit purposes as it is currently defined for unemployment insurance tax purposes.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking was done to comply with existing state law.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michael Johnson 332-3570 ext. 3082.

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 August 22, 2012.

DATED this 2nd of July, 2012.

Michael Johnson, Bureau Chief
Idaho Department of Labor
317 West Main Street
Boise, Idaho 83735
Phone 332-3570 ext. 3082
Fax 334-6125

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 09-0130-1201

010. DEFINITIONS.

Unless the context clearly requires otherwise, these terms shall have the following meanings when used in these Rules, in interpretations, in forms, and in other official documents issued by the Director of the Department of Labor.
(3-19-99)

- 01. Additional Claim.** An initial claim made after a period of employment subsequent to a new claim in the same benefit year. (3-19-99)
- 02. Administrative Office.** The main office in Boise, Idaho, wherein the administrative functions of the Department of Labor are performed. (3-19-99)
- 03. Appealed Claim.** An interested party's appeal to the Appeals Bureau of a claims examiner's decision on a claim or a request for review by the Industrial Commission of a decision made by an appeals examiner. (3-19-99)
- 04. Average Annual Wage.** For the purpose of determining the taxable wage base, under Section 72-1350(1), Idaho Code, the average annual wage shall be computed by dividing that calendar year's total wages in covered employment, excluding State government and cost reimbursement employers, by the average number of workers in covered employment for that calendar year as derived from data reported to the Department of Labor by covered employers. (3-19-99)
- 05. Average Weekly Wage.** For the purpose of establishing the maximum weekly benefit amount, under Section 72-1367(2)(a), Idaho Code, the average weekly wage shall be computed by dividing the total wages paid in covered employment (including State government and cost reimbursement employers) for the preceding calendar year, as computed from data reported to the Department of Labor by covered employers, by the monthly average number of workers in covered employment for the preceding calendar year and then dividing the resulting figure by fifty-two (52). (4-11-06)
- 06. Benefit Balance.** The unpaid portion of the total benefits payable with respect to a claimant's unemployment during a given benefit year. (3-19-99)
- 07. Chargeability Determination.** A determination issued by the Director or his authorized agent with respect to whether a covered employer's account shall be charged for benefits paid on a claim. (3-19-99)
- 08. Claim.** An application for unemployment insurance or "benefits." (3-19-99)
- 09. Combined Wage Claim.** A claim filed under any interstate agreement whereby an unemployed worker with covered wages in more than one (1) state may combine such wages. (3-19-99)
- 10. Compensable Claim.** An application for benefits which certifies to the completion of a benefit period (one (1) or more weeks). (3-19-99)
- 11. Contested Claim.** A claim in which an interested party disputes the claimant's right to benefits. (3-19-99)
- 12. Continued Claim.** An application for waiting-week credit or for benefits for specific compensable weeks. (3-19-99)
- 13. Corporate Officer.** Any individual empowered in good faith by stockholders or directors in accordance with the corporation's articles of incorporation or bylaws to discharge the duties of a corporate officer. ()
- 134. Employment.** For the purpose of the personal eligibility conditions of Section 72-1366(5), Idaho Code, "employment" means that employment subsequent to which a claimant has not earned fourteen (14) times his weekly benefit amount. (4-11-06)
- 145. Full-Time Employment.** A week of full-time employment for a claimant is one in which he has worked what are customarily considered full-time hours for the industry in which he has been employed that week or in which the earnings are more than one and one-half (1-1/2) times his weekly benefit amount. (4-5-00)
- 156. Initial Claim.** The first claim for benefits made by an unemployed individual during a continuous

period of unemployment. An initial claim may be either new or additional. (3-19-99)

167. Interstate Claim. A claim filed by a worker who resides in a state other than the state (or states) in which he has earned wages in covered employment. (3-19-99)

178. Intrastate Claim. A claim filed by a worker who has earned wages within that state or who has federal wages assigned to that state. (3-19-99)

189. Itinerant Point. A place where claims-taking services are regularly provided for less than four (4) days a week by a local office which carries on its primary operations at another point. (3-19-99)

1920. Liability Determination. A determination issued by the Director or his authorized agent with respect to whether a cost reimbursement employer shall be charged for benefits paid on a claim. (3-19-99)

201. Local Office. A community office of the Department of Labor at which claims are taken and job placement services are provided to applicants and employers. (3-19-99)

212. Mail Claim. A claim filed by mail rather than in person at a local office. (3-19-99)

223. Monetary Determination. A determination of eligibility which lists a claimant's base period employer(s) and wages and establishes, if the claimant is eligible, his benefit year, his weekly benefit amount, and his total benefit amount. (3-19-99)

234. New Claim. The first initial claim made in a benefit year. (3-19-99)

245. Non-Monetary Determination. A determination issued by a claims examiner with respect to the personal eligibility conditions of a claimant. (3-19-99)

256. Personal Identification Number (PIN). A confidential number or other electronic method of verification unique to a claimant or an employer that is required for such persons to perform certain transactions with the Department by electronic or telephonic means. A PIN has the same force and effect as a manual signature. (4-6-05)

267. Regular Claim. A claim based on wages earned during a base period, excluding extended benefit claims. (3-19-99)

278. Signature, Signed. The Personal Identification Number (PIN) is considered the same as a manual signature and has the same force and effect when a claimant or an employer uses Department-approved electronic or telephonic means to submit information to or engage in transactions with the Department. (4-6-05)

289. Telephone Claim. A claim filed by telephone rather than in person at a local office. (3-19-99)

2930. Total Benefit Amount. The full amount of benefits to which a claimant may be entitled during a benefit year on his regular claim. (3-19-99)

301. Unemployment. An individual shall be deemed "unemployed" in any week during which he performs no services and with respect to which no wages are allocable, or in any week in which the total wages payable to him for less than full-time work performed in such week amounted to less than one and one-half (1-1/2) times his weekly benefit amount. (3-19-99)

312. Weekly Benefit Amount. The full amount of benefits to which a claimant may be entitled for one (1) week of total unemployment. (3-19-99)

IDAPA 09 - DEPARTMENT OF LABOR

09.01.35 - UNEMPLOYMENT INSURANCE TAX ADMINISTRATION RULES

DOCKET NO. 09-0135-1201

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 72-1333, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

IDAPA 09.01.35, Section 061, is being changed to make the treatment of members of a limited liability company consistent under both federal income tax law and Idaho's employment security law. IDAPA 09.01.35, Subsection 112.04, is being changed to clarify that one of the factors used in the independently established prong of the independent contractor test only applies to workers with an outside business providing the same type of services the worker provides for the business engaging his services.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking was done to comply with existing state law.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michael Johnson 332-3570 ext. 3082.

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 August 22, 2012.

DATED this 2nd of July, 2012.

Michael Johnson
Bureau Chief
Idaho Department of Labor
317 West Main Street
Boise, Idaho 83735
Phone 332-3570 ext. 3082
Fax 334-6125

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 09-0135-1201

061. DEFINITIONS.

The definitions listed in IDAPA 09.01.35, "Unemployment Insurance Tax Administration Rules," Section 011, and the following are applicable to the UI Compliance Bureau. (3-22-07)

01. Tolerance Amount. A tolerance of four dollars and ninety-nine cents (\$4.99) is established in connection with collection of amounts due; and under normal circumstances, no delinquency or credit will be issued or carried on the books of accounts for this amount or less. Ref. Section 72-1349, Idaho Code. (3-19-99)

02. Wages. The term "wages" includes all remuneration from whatever source, paid or given in exchange for services performed or to be performed, including the cash value of remuneration in any medium other than cash. "Wages" in covered employment, and subject to unemployment insurance reporting, include, but are not limited to: (3-19-99)

a. Commissions, bonuses, draws, distributions, dividends and any other forms or types of payments made by corporations or other similar entities if paid in exchange for services; (4-5-00)

b. Bonuses, prizes, and gifts given to an employee in recognition of services, sales, or production; (3-19-99)

c. Commissions for past services in covered employment; (3-19-99)

d. Remuneration paid to corporate officers which is paid in exchange for services performed or to be performed for or on behalf of the corporation; (4-5-00)

e. Salary advances against commissions; (3-19-99)

f. All forms of profit sharing for services rendered unless specifically exempt under Section 72-1328, Idaho Code; (3-19-99)

g. Excess travel or employer business allowances over actual expense, or over the federal allowance per diem rate for the area of travel, unless returned to the employer; (3-19-99)

h. Vacation or "idle-time" pay, no matter when paid; (3-19-99)

i. Personal expense reimbursement, not gifts, i.e., clothing, family expenses, rent. (3-19-99)

j. The director or his authorized representative shall determine the fair market value of any other remuneration, regardless of its classification, form, or label, which is paid to a worker in exchange for services. In making such determination, consideration will be given to the prevailing wage for similar services. Ref. Section 72-1328, Idaho Code. (3-19-99)

k. Noncash payments for farm work, if such payments would be classified as wages for federal tax purposes. Ref. Section 72-1328, Idaho Code. (3-15-02)

03. Exclusions From Wages. The term "wages" described in Section 72-1328, Idaho Code, does not include the following: (3-19-99)

a. Prizes or gifts for special occasions which are expressions of good will; (3-19-99)

b. Bonuses paid for signing a contract; (3-19-99)

c. Fees paid to participate periodically in meetings of boards of directors unless exceedingly high; i.e.,

- amounts comparable to other employers in the same industry, of relatively the same size; (3-19-99)
- d.** Drawings or advances by partners of a partnership, or by members of a limited liability company treated for federal tax purposes as a partnership or sole proprietorship; (4-5-00)
 - e.** Rental charge for personal equipment provided by the employee on the job: if (3-19-99)
 - i.** There is a rental agreement; and (3-19-99)
 - ii.** The worker has received a reasonable wage for services performed; and (3-19-99)
 - iii.** The fees are held separately on the employer's records. (3-19-99)
 - f.** Stock or membership interests issued for purposes other than services performed or to be performed; (3-19-99)
 - g.** Reimbursement for actual employee expense, or business allowance arrangements with employees that requires them: (3-19-99)
 - i.** To have paid or incurred reasonable job related expenses while performing services as employees; and (3-19-99)
 - ii.** To account adequately to the employer for these expenses; and (3-19-99)
 - iii.** To return any excess reimbursement or allowance. (3-19-99)
 - h.** Payments for employee travel expenses, provided: (3-19-99)
 - i.** Payments are job related expenses while performing services; and (3-19-99)
 - ii.** Payments do not exceed actual expenses or the federal allowance per diem rate for the area of travel; and (3-19-99)
 - iii.** Records for days of travel pertaining to per diem payments are verifiable. (3-19-99)
 - i.** Employee fringe benefits as set forth in Section 132 of the Internal Revenue Code, which are excluded from an employee's gross income and which are not subject to federal unemployment taxes. (3-19-99)
 - j.** Noncash payment to farmworkers. Noncash payments for farm work will be excluded from wages if they are "de minimis" in relation to the amount of cash wages paid to the farmworkers, or are not intended to be treated as the cash equivalent of wages, or as the cash payment of wages. Ref. Section 72-1328, Idaho Code. (3-15-02)

04. Treatment of Limited Liability Companies. For purposes of state unemployment tax coverage, a limited liability company will have the same status as it may have elected for federal tax purposes, or as that status may be determined or required by the federal government, subject to the provisions of Subsections 061.02 and 061.03. Any member of a limited liability company that has elected to be treated as a corporation for federal tax purposes shall be treated as a corporate officer for state Employment Security Law purposes. (4-5-00)()

05. Domestic Employment. Domestic employment is defined as work performed in the operation or maintenance of a private home, local college club, or local chapter of a college fraternity or sorority, as distinguished from services as an employee in pursuit of an employer's trade, occupation, profession, enterprise, or vocation. In general, domestic employment "in the operation or maintenance of a private home, local college club, or local chapter of a college fraternity or sorority" includes, but is not limited to, services rendered by: (3-15-02)

- a.** Cooks; (3-15-02)

- b.** Waiters; (3-15-02)
- c.** Butlers; (3-15-02)
- d.** Maids; (3-15-02)
- e.** Janitors; (3-15-02)
- f.** Laundresses; (3-15-02)
- g.** Furnacemen; (3-15-02)
- h.** Handymen; (3-15-02)
- i.** Gardeners; (3-15-02)
- j.** Housekeepers; (3-15-02)
- k.** Housemothers; and (3-15-02)
- l.** In-home caregivers. Ref. Section 72-1315, Idaho Code. (3-15-02)

06. Casual Labor. Services performed by an individual not in the course of the employer's trade or business who earns less than fifty dollars (\$50) per calendar quarter per service provided and is not regularly employed by that employer to perform such service, are exempt from unemployment insurance coverage. Ref. Section 72-1316A(19), Idaho Code. Domestic employment exempt as casual labor may not be exempt if the employer is covered for such service under Section 72-1315(8), Idaho Code. The term, "services not in the course of the employer's trade or business," refers to services that do not promote or advance the trade or business of the employer. The casual labor exemption found under Section 72-1316A(19), Idaho Code, does not apply to services performed for corporations because all services performed for a corporation are considered to be in the course of the trade or business of the corporation. (4-11-06)

07. Willfully. When applied to the intent with which an act is done or omitted, willfully implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, in the sense of having an evil or corrupt motive or intent. It is more nearly synonymous with "intentionally," "designedly," "without lawful excuse," and therefore not accidental. Ref. Section 72-1372, Idaho Code. (3-22-07)

(BREAK IN CONTINUITY OF SECTIONS)

112. DETERMINING STATUS OF WORKER.

01. Determining if Worker Is an Employee. In making a determination as to whether a worker is performing services in covered employment, it shall be determined whether the worker is an employee. To determine whether a worker is an employee, the following factors may be considered: (3-22-07)

- a.** The way in which the business entity represented its relationship with the worker prior to the investigation or litigation, including representations to the Internal Revenue Service; (3-19-99)
- b.** Statements made to the Department; (3-19-99)
- c.** Method of payment to the worker, in particular whether federal, state, and FICA taxes are withheld from paychecks; and (3-19-99)
- d.** Whether life, health, or other benefits are provided to the worker at the business entity's expense.

(3-19-99)

02. Determining if Worker Is an Independent Contractor. If it cannot be determined that a worker is an employee pursuant to Subsection 112.01 above, then a determination shall be made whether the worker is an “independent contractor” pursuant to the terms of Section 72-1316(4), Idaho Code. For the purposes of that section and these rules, an independent contractor is a worker who meets the requirements of both Sections 72-1316(4)(a) and (b), Idaho Code. (3-19-99)

03. Proving Worker Is Free from Control or Direction in His Work. To meet the requirement of Section 72-1316(4)(a), Idaho Code, the alleged employer must prove that a worker has been and will continue to be free from control or direction in the performance of his work, both under his contract of service and in fact. The following factors may be considered in this determination: (3-22-07)

- a. Whether the alleged employer has control over: (3-19-99)
 - i. The details of the work; (3-19-99)
 - ii. The manner, method or mode of doing the work; and (3-19-99)
 - iii. The means by which the work is to be accomplished, but without reference to having control over the results of the work. (3-19-99)
- b. The freedom from direction and control must exist in theory (under a contract of service) and in fact; and (4-11-06)
- c. The employer must demonstrate that it lacked a right to control the worker. (4-11-06)

04. Proving Worker Is Engaged in Independently Established Business. To meet the requirement of Section 72-1316(4)(b), Idaho Code, it must be proven that a worker is engaged in an independently established trade, occupation, profession or business. The following factors may be considered in this determination: (3-22-07)

- a. Skills, qualifications, and training required for the job; (3-19-99)
- b. Method of payment, benefits, and tax withholding; (3-19-99)
- c. Right to negotiate agreements with other workers; (3-19-99)
- d. Right to choose sales techniques or other business techniques; (3-19-99)
- e. Right to determine hours; (3-19-99)
- f. ~~Existence of outside businesses or occupations~~ Whether a worker is customarily engaged in an outside trade, occupation, profession, or business providing the same type of services the worker provides for the business engaging his services; (3-19-99)()
- g. Special licensing or regulatory requirements for performance of work; (3-19-99)
- h. Whether the work is part of the employer’s general business; (3-19-99)
- i. The nature and extent of the work; (3-19-99)
- j. The term and duration of the relationship; (3-19-99)
- k. The control of the premises; (3-19-99)
- l. Whether the worker has the authority to hire subordinates; (3-19-99)

m. Whether the worker owns or leases major items of equipment or incurs substantial unreimbursed expenses, provided, that in a case where a worker leases major items of equipment from the alleged employer: (3-19-99)

i. The terms of the lease; and (3-19-99)

ii. The actions of the parties pursuant to those terms must be commercially reasonable as measured by applicable industry standards. (3-19-99)

n. Whether either party would be liable to the other party upon peremptory or unilateral termination of the business relationship; and, (3-19-99)

o. Other factors which, viewed fairly in light of all the circumstances in a given case, may indicate the existence or lack of an independently established trade occupation, profession or business. (3-19-99)

05. Meeting Criteria for Covered Employment. A worker who meets one (1), but not both, of the tests in Subsections 112.03 and 112.04 above shall be found to perform services in covered employment. (3-19-99)

06. Evidence of Contractual Liability for Termination. For purposes of making a determination under Section 72-1316(4), Idaho Code, and this regulation, the party alleging that summary termination by either party would result in contractual liability must present some evidence upon which to base such allegation. Ref. Section 72-1316(4), Idaho Code. (3-19-99)

IDAPA 11 - IDAHO STATE POLICE

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

DOCKET NO. 11-1101-1201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 19-5107, 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 August 15, 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:

Identifies the specific conduct that may constitute cause for decertification; requires an officer charged with a felony or misdemeanor to notify his agency head within five business days; requires an agency head to notify POST within fourteen days of learning of the charge; allows an agency head intending to hire a decertified officer to petition the Council, ten years after the date the officer was decertified, for reconsideration for law enforcement officer employment; and defines and streamlines the POST Council's decertification procedures so the Council and officers under investigation can have allegations of unethical behavior or misconduct resolved more quickly while also protecting the officers' due process rights.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that adoption of this temporary rule is appropriate for the following reasons: It is needed to protect the public health, safety, or welfare.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting and approval of the rule.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact William L. Flink at (208) 884-7251.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2012.

DATED this 21st day of June, 2012.

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

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
FOR DOCKET NO. 11-1101-1201**

032. POST COUNCIL.

01. Compensation. Except for the Division Administrator of the POST Council, the members of the Council receive no compensation from POST for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their functions, as prescribed by law. (4-7-11)

02. Council Resignations. Any Council member who ceases to qualify as such shall at once notify the Governor and Chairman in writing. Any Council member who desires to terminate their services shall notify the Governor and Chairman in writing of their intentions. (4-2-08)

03. Contested Cases. Rules of Procedure in contested cases shall be governed by the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, or Section 092, of this rule, as applicable.
~~(4-2-08)~~(7-1-12)T

(BREAK IN CONTINUITY OF SECTIONS)

063. CODE OF ETHICS/STANDARDS OF CONDUCT.

Each applicant shall attest that he has read, understands, and will abide by the POST Council's Code of Ethics as standards of professional conduct and that he has read and understands the conduct that may constitute cause for decertification as found in the POST Council's Code of Ethics and Subsections 091.03 and 091.04.
~~(3-21-12)~~(7-1-12)T

01. Fundamental Duty. 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. (3-21-12)

02. Personal and Official Life. I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or my agency. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret, unless revelation is necessary in the performance of my duty. (3-21-12)

03. Appropriately Enforce the Law. I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and the relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities. (3-21-12)

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. (3-21-12)

05. Professional Performance. I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement. (3-21-12)

(BREAK IN CONTINUITY OF SECTIONS)0

091. INTRODUCTION.

01. **Certificates and Awards.** Certificates and awards may be presented by the Council for the purpose of recognizing or raising the level of competence of law enforcement and to foster cooperation among the Council, agencies, groups, organizations, jurisdictions, and individuals. Any applicant who is the subject of an investigation is not eligible for POST certification of any kind while under investigation by an agency with competent authority and jurisdiction. (3-20-97)(7-1-12)T

02. **Property.** Certificates and awards remain the property of the Council and are only valid as long as the officer has not been decertified and is appointed as an Idaho peace, county detention, juvenile detention, juvenile probation, correction, adult probation and parole, or misdemeanor probation officer, or an Idaho Department of Juvenile Corrections Direct Care Staff member. (3-29-10)

03. **Decertification – Mandatory, Discretionary, Reporting, Eligibility.** (3-30-07)(7-1-12)T

a. The Council shall decertify any officer who is convicted, as defined in Section 19-5109, Idaho Code, of any felony or offense which would be a felony if committed in this state. (7-1-12)T

b. The Council may decertify any officer who is convicted, as defined in Section 19-5109, Idaho Code, of any misdemeanor; willfully or otherwise falsifies or omits any material information to obtain any certified status; or violates for any of the standards of conduct as established by the council's code of conduct or code of ethics, as adopted and amended by the council causes set forth in Subsection 091.04. (7-1-12)T

c. Any officer charged with a felony, a non-traffic misdemeanor, or a misdemeanor that would be a felony if committed in this state, must shall notify the POST Division Administrator his agency head within fourteen five (145) business days. Failure to notify constitutes a violation of the Law Enforcement Code of Ethics and the Law Enforcement Code of Conduct. (3-29-10)(7-1-12)T

d. The agency head of an officer charged with a felony or misdemeanor shall notify the POST Division Administrator within fourteen (14) days of learning of the charge. (7-1-12)T

be. Any officer decertified by the Council is shall not be eligible for POST certification of any kind in the future for ten (10) years following the date of decertification. An agency head intending to hire an officer who has been decertified shall request a waiver from the POST Council. No decertified officer shall exercise any law enforcement authority until recertified by the POST Council. Any officer who is the subject of a POST decertification investigation is shall not be eligible for POST certification of any kind while under investigation. (3-29-10)(7-1-12)T

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 In addition to decertifying officers for violating the POST Council's Code of Ethics, 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 POST Council's Code of Ethics and standards of professional conduct: (7-1-99)(7-1-12)T

a. I shall conduct myself at all times in a manner that does not damage or have the likely result of damaging or bringing the public image, integrity, or reputation of my department or myself into discredit or disrepute Engages in criminal conduct whether charged or not. (7-1-99)(7-1-12)T

b. ~~I shall not possess or~~ Consumes alcoholic beverages on duty ~~or while in uniform on duty or off duty~~, except as ~~expressly required~~ necessary for the lawful performance of my duties. ~~Nor shall I unlawfully possess, sell, consume, use or assist in the use of any illegal or unauthorized drugs or medications on duty or off duty.~~

~~(7-1-99)~~(7-1-12)T

c. ~~I shall not engage in any~~ Illegal or unlawful harassment or intimidation of another, ~~nor shall I permit personal prejudices, political beliefs, animosities, or friendships to influence my decisions.~~

~~(7-1-99)~~(7-1-12)T

d. ~~I shall not lie, give misleading information,~~ Lying or ~~falsify~~ falsifying official written or verbal communications ~~in official reports or in my actions with another person or organization when it is reasonable to expect that such information may be relied upon because of my position or affiliation with my department.~~

~~(3-30-07)~~(7-1-12)T

e. ~~I shall willfully observe and obey the lawful verbal and written rules, duties, policies, procedures, and practices of my department. I shall also subordinate my personal preferences and work priorities to the lawful verbal and written rules, duties, policies, procedures and practices of my department, as well as to the lawful orders and directives of supervisors and superior command personnel of my department. I shall willfully perform all lawful duties and tasks assigned by supervisory and/or superior ranked personnel. Direct, tacit, or constructive refusal to do so is insubordination~~ Engages in inappropriate sexual conduct while on duty.

~~(7-1-99)~~(7-1-12)T

f. ~~I shall obey the constitutional, criminal and civil laws of the city, county, state, and federal government. I will never~~ Engages in an inappropriate relationship, sexual or otherwise, with a person who the officer knows or should have known is a victim, witness, defendant, or informant in an ongoing investigation or adjudication.

~~(7-1-12)T~~

~~g. a~~ Acts of corruption or bribery, nor will I condone such acts by other police officers.

~~(7-1-99)~~(7-1-12)T

~~h. Unauthorized use or unlawful conversion of the property, equipment, or funds of his agency.~~

~~(7-1-12)T~~

~~i. Intentional and unauthorized disclosure of confidential information or information that may compromise an official investigation.~~

~~(7-1-12)T~~

~~j. Failure to report being charged with a felony or misdemeanor within five (5) business days.~~

~~(7-1-12)T~~

~~k. Refusal to respond or failure to respond truthfully to questions asked in relation to an investigation or legal proceeding.~~

~~(7-1-12)T~~

~~05. Law Enforcement Code of Ethics.~~

~~(3-30-07)~~

~~a. 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.~~

~~(3-30-07)~~

~~b. I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.~~

~~(3-30-07)~~

~~e. I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never~~

~~employing unnecessary force or violence and never accepting gratuities. (3-30-07)~~

~~d. 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. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice. (3-30-07)~~

~~e. I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement. (3-30-07)~~

092. DUE PROCESS PROCEDURES.

01. Legal Authority. In accordance with the Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01.050, the POST Council declines to adopt in whole or in part the procedures established in IDAPA 04.11.01 for the resolution of contested cases. The procedures provided within Section 092, Due Process Procedures, are designed and promulgated to specifically meet the unique needs and requirements of the law enforcement profession for expeditious decision-making and handling of petitions for review in order to assure public safety and to secure a just, speedy and economical determination of all contested matters presented to the POST Council. These due process procedures have been designed to meet or exceed minimum Constitutional requirements for due process for the officers involved in contested matters, while providing the Peace Officer Standards and Training Council procedures for fulfillment of its obligations to protect the safety of the public and the integrity of the law enforcement profession. (7-1-12)T

02. Overview. The POST Division Administrator shall oversee and conduct investigations into all trustworthy allegations or information received pertaining to officer conduct which 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. (7-1-12)T

03. Investigations. (7-1-12)T

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). (7-1-12)T

b. Refusal to respond or failure to respond truthfully to questions asked in relation to an investigation under Section 092 shall be cause for decertification. (7-1-12)T

04. 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. (7-1-12)T

a. The order shall include findings of fact and conclusions of law and shall be effective when issued. (7-1-12)T

b. The officer and his agency head shall be provided written notice of the order and a copy of the record. (7-1-12)T

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. (7-1-12)T

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. (7-1-12)T

iii. The notice shall establish a date for an emergency hearing on the matter within seven (7) days of the date of the order. (7-1-12)T

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. (7-1-12)T

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. (7-1-12)T

e. The decision of the POST Division Administrator is a final decision that is subject to review pursuant to Subsection 092.06. (7-1-12)T

f. The agency record need not constitute the exclusive basis for POST action in a summary proceeding or for judicial review thereof. (7-1-12)T

05. 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. (7-1-12)T

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. (7-1-12)T

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. (7-1-12)T

06. 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. (7-1-12)T

07. 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 Subsections 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. (7-1-12)T

a. Process and procedure for the hearing before the hearing board or officer shall be as summary and simple as reasonably may be. (7-1-12)T

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. (7-1-12)T

ii. The officer shall have the right to be represented at the hearing by a person of the officer's own choosing. (7-1-12)T

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. (7-1-12)T

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 Garry v. New Jersey 385 U.S. 493 (1967). (7-1-12)T

v. Refusal to respond or failure to respond truthfully to questions asked in relation to a hearing under this section shall be cause for decertification. (7-1-12)T

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. (7-1-12)T

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. (7-1-12)T

viii. The hearing board or officer to whom the matter has been assigned shall make such inquiry and investigations as shall be deemed necessary. (7-1-12)T

ix. The hearings shall be held at the principle office of the Idaho Peace Officer Standards and Training in Ada County or in such place as the hearing board or officer may designate. (7-1-12)T

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. (7-1-12)T

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. (7-1-12)T

08. 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. (7-1-12)T

09. 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. (7-1-12)T

0923. -- 095. (RESERVED)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.10 - RULES GOVERNING THE COMMUNITY SERVICES BLOCK GRANT PROGRAM

DOCKET NO. 16-0410-1201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 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 rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202 and 56-203, Idaho Code, and 42 USC Chapter 106.

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 August 15, 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:

These rules are being amended to align them with federal regulations. The eligibility level for the community services block grant program is 125% of the Federal Poverty Guideline (FPG). The eligibility level for these services was temporarily increased to 200% of the FPG under the American Recovery and Reinvestment Act (ARRA) of 2009, and is being reduced, as the increase was not meant to be a permanent increase.

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

These rules need to be aligned with 42 USC Chapter 106 for the Federal Poverty Guideline (FPG) level of 125%. The eligibility level was temporarily increased under ARRA, but has been reduced back to the previous eligibility level.

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.

There will be no fiscal impact to state general funds for this rulemaking. The Community Services Block Grant program is 100% federally funded.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is a temporary rule and was not feasible to negotiate this rule change. The Department is required to align this program's rules with the federal regulations in 42 USC Chapter 106.

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 the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2012.

DATED this 12th day of July, 2012.

Tamara Prisock
e-mail: dhwrules@dhw.idaho.gov
phone: (208) 334-5564; fax: (208) 334-6558

DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720, Boise, ID 83720-0036

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
FOR DOCKET NO. 16-0410-1201**

010. DEFINITIONS.

- 01. CSBG.** Community Services Block Grant. (3-29-10)
- 02. Community Action Agency.** A private, non-profit organization serving the low-income population in specified counties of the state with which the Idaho Department of Health and Welfare has contracted for the provision of CSBG services. (3-30-01)
- 03. Department.** The Idaho Department of Health and Welfare. (3-30-01)
- 04. Earned Income.** Cash or in-kind payment derived from employment or self-employment. Receipt of a service, benefit, or durable goods instead of wages is in-kind income. Earned income is gross earnings before deductions for taxes or any other purposes. (3-30-01)
- 05. Eligible Entity.** A private, non-profit organization which is a community action agency or a migrant or seasonal farm worker organization receiving CSBG funding before October 27, 1998, or designated by the Department as an eligible entity for an unserved area after October 27, 1998, and which is governed by a tripartite board, as defined in this rule. (3-29-10)
- 06. Federal Poverty Guidelines (FPG).** The poverty guidelines issued annually by the Department of Health and Human Services (HHS). The federal poverty guidelines are available on the U.S. Health and Human Services at <http://aspe.hhs.gov/poverty>. (3-29-10)
- 07. HHS.** The United States Department of Health and Human Services. (3-29-10)
- 08. Low-Income and Poor Participants.** Those persons receiving or eligible to receive CSBG services who live in households having an income at or below ~~one~~ one hundred twenty-five percent (~~200~~125%) of the federal poverty guidelines. ~~(3-29-10)~~(10-1-11)T
- 09. Tripartite Board.** A board, selected by an eligible entity, which participates in the development, planning, implementation, and evaluation of the community services block grant program, composed as follows: (3-30-01)
- a.** One-third (1/3) of the board members are elected public officials, currently holding office, or their representatives. Appointed public officials or their representatives will meet this requirement if the number of elected officials available and willing to serve is less than one-third (1/3) of the board membership. (3-30-01)
- b.** At least one-third (1/3) of the board members are representatives of low-income individuals and families, living in the neighborhoods they serve, chosen by democratic selection procedures. (3-30-01)
- c.** The remaining board members are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served. (3-30-01)
- 10. Unearned Income.** Income received from sources other than employment or self-employment, such as Social Security, unemployment insurance, and workers' compensation. (3-30-01)

011. -- 126. (RESERVED)

127. INCOME ELIGIBILITY REQUIREMENTS.

Assistance under this program is limited to participant households with countable income at or below ~~two~~ **one** hundred **twenty-five** percent (~~200~~**125**%) of the federal poverty guidelines updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2). ~~(3-29-10)~~**(10-1-11)T**

01. Countable Income. All earned and unearned income is counted in determining eligibility, unless specifically excluded by rule. (3-30-01)

02. Income Not Counted. For eligibility purposes, the following types of income are not counted. (3-30-01)

- a.** Benefit payments from Medicare Insurance. (3-30-01)
- b.** State cash assistance payments. (3-30-01)
- c.** Child care subsidy payments. (3-30-01)
- d.** Private loans made to the participant or the household. (3-30-01)
- e.** Assets withdrawn from a personal bank account. (3-30-01)
- f.** Sale of real property if reinvested within three (3) calendar months. (3-30-01)
- g.** Lump sum payments from an IRA. (3-30-01)
- h.** Income tax refunds. (3-30-01)
- i.** Income from capital gains. (3-30-01)
- j.** Infrequent, irregular or unpredictable income from gifts or lottery winnings of less than one hundred dollars (\$100). (3-30-01)
- k.** Wages or allowances paid to a live-in attendant for care of a disabled person. (3-30-01)
- l.** Interest posted to a bank account. (3-30-01)
- m.** Monies for educational purposes from the federal Perkins/National Direct Student Loan program, college work-study programs, state student incentive grants, Supplemental Education Opportunity Grants, Pell, guaranteed student loans, and supplemental grants funded under Title IV, A-2. (3-29-10)
- n.** Monies from the VA-GI Bill for Education. (3-30-01)
- o.** Department of Health and Welfare adoption subsidies. (3-30-01)
- p.** Compensation to volunteers under the Older Americans Act or Foster Grandparent Program, including Green Thumb and Vista volunteers, and the Title V Senior Employment Program. (3-30-01)
- q.** Payments made by a third party, non-household member for the household, such as for child care, energy assistance, shelter, food and clothing assistance. (3-30-01)
- r.** Value of food stamps or donated food. (3-30-01)
- s.** Utility allowance. (3-30-01)
- t.** Child support income. (3-29-10)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.01 - CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-1201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant Section 56-202(b) and 56-204A, Idaho Code, and Department appropriations under Senate Bill 1414 adopted by the 2012 Legislature.

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 August 15, 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 2012 Legislature adopted the Department appropriations budget under Senate Bill 1414. The legislative intent language specifically increased the foster family reimbursements in those appropriations. The rules are being amended to reflect this increase in the monthly reimbursement for a child in foster care based on the child's age.

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

These rule are being implemented as a temporary rule to reflect the increase in foster care reimbursements for state fiscal year 2013 that begins on July 1, 2012.

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.

DHW appropriations in Senate Bill 1414 added an ongoing increase of \$150,000 in state general funds for foster care reimbursements. This funding increase is the only fiscal impact to the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is a temporary rule, and the determination was made that it was not feasible to negotiate on this rulemaking.

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 Cameron Gilliland at (208) 334-5702.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2012.

DATED this 12th day of July, 2012.

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

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
FOR DOCKET NO. 16-0601-1201**

483. PAYMENT TO FAMILY ALTERNATE CARE PROVIDERS.

Monthly payments for care provided by family alternate care providers are:

Family Alternate Care Payments - Table 483			
Ages	0-5	6-12	13-18
Monthly Room and Board	\$274 301	\$300 339	\$434 453

~~(5-8-09)~~(7-1-12)T

01. Gifts. An additional thirty dollars (\$30) for Christmas gifts and twenty dollars (\$20) for birthday gifts will be paid in the appropriate months. (5-8-09)

02. Clothing. Costs for clothing will be paid, based upon the Department's determination of each child's needs. All clothing purchased for a child in alternate care becomes the property of the child. (5-8-09)

03. School Fees. School fees due upon enrollment will be paid directly to the school or to the alternate care providers, based upon the Department's determination of the child's needs. (5-8-09)

IDAPA 17 - INDUSTRIAL COMMISSION

17.02.04 - ADMINISTRATIVE RULES OF THE INDUSTRIAL COMMISSION UNDER THE WORKERS' COMPENSATION LAW -- BENEFITS

DOCKET NO. 17-0204-1201

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has proposed rulemaking procedures. The action is authorized pursuant to Section(s) 72-508, 72-720, 72-721, 72-722, 72-723, and 72-1104, 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 August 15, 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 a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule coincides with the current language in Section 72-1104, Idaho Code, that broadens access to the Peace Officer and Detention Officer Temporary Disability Fund by including injuries incurred by officers when caused by the actions of another person in the performance of his or her duties.

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

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

No General Fund impact. Future accidents resulting in WC claims are impossible to predict, as are the number of those claims that may potentially be eligible for reimbursement under the new clause (which sunsets in 3 years). However, the funding source is dedicated and if depleted, would not be subsidized from any other funding source. The balance in the Peace Officer and Detention Officer Temporary Disability Reimbursement fund as of June 30, 2012 is \$638K. Utilization in FY12 was down, but may triple in FY13.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the statute was vetted and passed by the 2012 legislature. This rule change incorporates the current language contained in Section 72-1104, Idaho Code, into the rule.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jane McClaran, 334-6042.

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 August 22, 2012.

DATED this 18th day of July, 2012.

Mindy Montgomery, Director
Industrial Commission
700 S. Clearwater Lane
PO Box 83720, Boise, ID 83720-0041
Phone: 334-6059
Fax: 334-5145

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 17-0204-1201

004. RULE GOVERNING APPLICATIONS FOR REIMBURSEMENT FROM THE PEACE OFFICER AND DETENTION OFFICER TEMPORARY DISABILITY FUND.

01. Eligibility. An employer who has paid the full base salary due to a peace officer or detention officer, as defined in Section 72-1103, Idaho Code, may apply for reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund under the provisions of Section 72-1104, Idaho Code, for the amount of that salary not covered by the workers' compensation income benefit payments remitted to the employer during the time that such officer is: (5-8-09)

a. Temporarily incapacitated and unable to perform employment duties; (5-8-09)

b. Is otherwise eligible to receive workers' compensation benefits; and (5-8-09)

c. Is one whose incapacitating injury was incurred in the performance of employment duties on or after July 1, 2008, either: (5-8-09)

i. When responding to an emergency; or (5-8-09)

ii. When in the pursuit of an actual or suspected violator of the law; ~~or~~ ~~(5-8-09)~~ ()

iii. The injury was caused by the actions of another person after July 1, 2012 and before July 1, 2015. ()

02. Application. An employer eligible to seek reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund shall make application on the form provided by the Commission for that purpose. Applications shall be sent to: Idaho Industrial Commission, ATTN: Peace Officer Fund, PO Box 83720, Boise, Idaho 83720-0041. (5-8-09)

03. Payments. Payments to employers requesting reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund shall be made within thirty (30) days of receipt of an approved request for reimbursement, subject to the availability of money in that fund. (5-8-09)

04. Disputes. Disputes regarding eligibility for reimbursement from The Peace Officer and Detention Officer Temporary Disability Fund will be decided by the Commission upon written request by the employer. There is no appeal from the reimbursement dispute decisions of the Commission under this section. Disputes regarding eligibility of an injured peace officer or detention officer for workers' compensation benefits, including the continuation of salary benefit set out in Section 72-1104, Idaho Code, will be decided in accordance with the Commission's current rules and procedures governing disputes in all other workers' compensation claims. (5-8-09)

IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.20 - RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-1201

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 9, 2012.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-4223 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 August 15, 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 has identified changes needed to enhance the governing of the parks through explicit language to carry out enforcement (parking violations and overnight use) and language to encompass additional winter use activities on park trails and clarify the language that involves Reservation Cancellations.

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:

These changes address enforcement issues of existing fee rules that are critical to the parks' coming season enabling parks to provide for the safety and welfare of recreational users. The changes enhance the definition of winter use on park trails to provide safety for all recreational trail users. It clarifies the parameters of Reservation Cancellation.

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

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

It is anticipated that the enforcement of existing rules for parking violations will generate approximately \$15,000 in fee revenue to state dedicated funds. The impact on local jurisdiction may be an increase in activity for the courts and law enforcement agencies (county revenues and expenditures).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the lack of identifiable representatives, the affected interests are varied.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tamara Humiston, IDPR Deputy Director, 208.514.2450.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2012.

DATED this 21st day of June, 2012.

Tamara Humiston
Deputy Director
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue
Boise, ID 83716-8700
PO Box 83720
Boise, ID 83720-0065
C: 208.514.2450; F: 208.334.3741

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
FOR DOCKET NO. 26-0120-1201**

010. DEFINITIONS.

As used in this chapter: (1-1-94)

01. ADA Campsites and Facilities. (3-30-06)

a. ADA Designated Campsites. A reservable ADA campsite may only be reserved and occupied by a party that can provide proof of disability upon arrival. If not reserved after 6:00 p.m. and no other non-ADA designated sites of the same site type are available, the site would be available for one (1) night. (3-30-06)

b. ADA Accessible Facilities. IDPR offers some facilities that provide for ADA accessibility. These facilities are not managed exclusively for ADA use. (3-30-06)

02. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member Board, appointed by the Governor. (3-13-97)

03. Camping Unit. A camping unit is the combined equipment and people capacity that a site or facility will accommodate. (3-30-06)

a. Campsites. Maximum capacity limits on each campsite are subject to each site's design and size. Unless otherwise specified, the maximum capacity will be one (1) family unit or a party of no more than eight (8) persons, ~~one two~~ ~~(+2)~~ ~~motor~~ vehicles or ~~one (1)~~ RV or two (2) motorcycles, and up to two (2) tents, provided the combined equipment and people fit within the designated camping area of the site selected. ~~(4-2-08)~~(5-9-12)T

b. Facilities. Maximum capacity limits on each facility are subject to each facility's design and size. The combined equipment and people occupying a facility must fit within the designated areas of the facility selected. (3-30-06)

04. Camping Day. (3-30-06)

a. For individual and group campsites the period between 2:00 p.m. of one (1) calendar day and 1:00 p.m. of the following calendar day. (3-30-06)

b. For individual and group camping facilities, the period between 3:00 p.m. of one (1) calendar day and 12:00 p.m. (noon) of the following calendar day. (3-30-06)

05. Campsite. (3-30-06)

a. Individual. An area within an IDPR managed campground designated for camping use by an

- individual camping unit or camping party. (3-30-06)
- b.** Group. An area within an IDPR managed campground designated for group camping use or a block of individual campsites designated for group use within a campground primarily managed for individual use. (3-30-06)
- c.** Facility, Individual. A camping structure within an IDPR managed campground or area designated for camping use by an individual camping party. (3-30-06)
- d.** Facility, Group. A camping structure within an IDPR managed campground or area designated for group use. (3-30-06)
- 06.** **Day Use.** Use of any non-camping lands and/or facilities between the hours of 7:00 a.m. and 10:00 p.m. unless otherwise posted. (3-30-06)
- 07.** **Day Use Fee.** A fee charged for entry to a designated area. (3-30-06)
- 08.** **Department.** The Idaho Department of Parks and Recreation. (1-1-94)
- 09.** **Designated Beach.** Waterfront areas designated by the park manager or designee for water-based recreation activities. The length and width of each designated beach shall be visibly identified with signs. (3-30-06)
- 10.** **Designated Roads and Trails.** Facilities recognizable by reasonable formal development, signing, or posted rules. (3-7-03)
- 11.** **Director.** The Director and chief administrator of the Department, or the designee of the Director. (1-1-94)
- 12.** **Dock and Boating Facility.** Floats, piers and mooring buoys owned or operated by the Department. (3-13-97)
- 13.** Encroachments. Non-recreational uses of lands under the control of the Board including any utilization for personal, commercial, or governmental use by a non-Department entity. (5-9-12)T
- 134.** **Extra Vehicle.** An additional motorized vehicle (not in tow at time of entry) without built in sleeping accommodations registered to a camp site. (3-13-97)
- 145.** **Facilities.** (3-30-06)
- a.** Individual. A camping structure within an IDPR managed campground or area designated for camping use by an individual camping party. (3-30-06)
- b.** Group. A camping structure within an IDPR managed campground or area designated for group use. (3-30-06)
- 156.** **Group Use.** Twenty-five (25) or more people, or any group needing special considerations or deviations from normal Department rules or activities. (1-1-94)
- 167.** **Motorized Vehicle.** Every vehicle that is self-propelled except for vehicles moved solely by human power and motorized wheelchairs as defined in Section 49-123(g), Idaho Code. (3-7-03)
- 18.** Overnight Use. Use of any non-camping lands for the parking of motor vehicles or trailers not associated with a campsite between the hours of 10 p.m. and 7 a.m. unless otherwise posted. (5-9-12)T
- 19.** Overnight Use Fee. A fee charged for overnight use of non-camping lands between the hours of 10 p.m. and 7 a.m. (5-9-12)T

- ~~17~~**20.** **Park or Program Manager.** The person, designated by the Director, responsible for administering and supervising particular lands, facilities, and staff that are under the jurisdiction of the Department. (3-7-03)
- ~~18~~**21.** **Standard Amenities.** Campsite with no serviced amenities. (3-30-06)
- ~~19~~**22.** **Serviced Amenities.** Serviced campsite amenities includes water, electricity, or sewer. (3-30-06)
- ~~20~~**3.** **Primary Season.** The time of the year when the majority of use occurs at a park facility. (3-7-03)
- ~~21~~**4.** **Vessel.** Every description of watercraft, including a seaplane on the water, used or capable of being used as a means of transportation on water, but not including float houses, diver's aids operated and designed primarily to propel a diver below the surface of the water, and nonmotorized devices not designed or modified to be used as a means of transportation on the water such as inflatable air mattresses, single inner tubes, and beach and water toys as defined in Section 67-7003(22), Idaho Code. (3-7-03)
- ~~22~~**5.** **Vessel Length.** The distance measured at the centerline at the highest point above the waterline from the fore-part of the outer hull at the bow to the aft-part of the outer hull at the stern, excepting any bowsprits, railings or extraneous or additional equipment. (3-13-97)

(BREAK IN CONTINUITY OF SECTIONS)

151. PARKING VIOLATIONS.

- 01. Land or Facilities Administered by the Department.** No person shall stop, stand, or park a motor vehicle or trailer anywhere within land or facilities administered by the Department unless proof of payment of all required fees or other lawful authorization for entry is plainly visible and properly displayed. (5-9-12)T
- 02. Designated Campgrounds.** No person shall stop, stand, or park a motor vehicle within designated campgrounds unless proof of payment of the applicable campsite fees as set forth in Section 250 of this chapter is plainly visible and properly displayed on either the lower windshield or dashboard of the driver's side of the vehicle. (5-9-12)T
- 03. Designated Overnight Use Area.** Except for authorized campers, no person shall stop, stand, park, or leave a motor vehicle or trailer unattended outside day use hours unless the motor vehicle or trailer is in a designated overnight use area and proof of payment of the overnight-use fee is plainly visible and properly displayed. (5-9-12)T
- 04. Fee Collection Surcharge.** Any person stopping, standing, or parking a motor vehicle or trailer without payment of all required fees is subject to the fee collection surcharge as provided in Subsection 225.06 of this chapter. (5-9-12)T
- 05. Citations for Violations.** Citations for violations of this Section may be issued to the operator of the motor vehicle. If the operator cannot be readily identified, the citation may be issued to the registered owner or lessee of the motor vehicle, subject to the provisions of Section 67-4247, Idaho Code. (5-9-12)T

~~15~~**2. -- 174. (RESERVED)**

(BREAK IN CONTINUITY OF SECTIONS)

202. OVERNIGHT USE.

- 01. Occupancy.** Overnight use shall be permitted only in designated areas. Overnight use is only

allowed after all required fees have been paid, registration information completed, and all permits properly displayed.
(5-9-12)T

02. Overnight Use Fees. Motor vehicles or trailers not associated with campers between 10:00 p.m. and 7:00 a.m. at designated facilities shall be charged an overnight use fee. (5-9-12)T

03. Self Registration. In those areas so posted, overnight users shall register themselves for the use of overnight use areas, paying the appropriate fees as provided for herein and in accordance with all posted instructions. (5-9-12)T

04. Length of Stay. Except as provided herein, no person, party, or organization may be permitted to utilize overnight use areas on any lands administered by the Department for more than fifteen (15) days in any thirty (30) consecutive-day period. This applies to both reservation and "first come first served" customers. The IDPR Director or designee may authorize shorter or longer periods for any individual area. (5-9-12)T

05. Registration Required. All required fees must be paid, registration information completed, and all permits properly displayed prior to occupying an overnight use area. (5-9-12)T

06. Check Out. Overnight users are required to check out by 1 p.m. of the day following the last paid overnight of use. (5-9-12)T

07. Responsible Party. The individual purchasing an overnight use permit or the registered owner of the motor vehicle or trailer is responsible for ensuring compliance with the rules within this chapter. (5-9-12)T

08. Overnight Use Prohibited. Overnight use is prohibited except in areas specifically designated for overnight use or by authorization of the park manager or designee. (5-9-12)T

2023. -- 224. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

250. FEE SCHEDULE: CAMPSITES.

01. Campsites.

CAMPSITE FEE TABLE	
Primitive Campsite No amenities at site, camping area not defined	\$13/day
Standard Campsite Any defined campsite, either tent pad or RV pad/area (may include: table and/or grill)	\$16/day
Serviced Campsite/ W Any defined campsite, either tent pad or RV pad/area, with water at site (may include: table and/or grill)	\$20/day
Serviced Campsite/ E Any defined campsite, either tent pad or RV pad/area, with electricity at site (may include: table and/or grill)	\$20/day

CAMPSITE FEE TABLE	
Serviced Campsite/ W, E Any defined campsite, either tent pad or RV pad/area, with water and electricity at site (may include table and/or grill)	\$24/day
Serviced Campsite/ W, E, SWR Any defined campsite, either tent pad or RV pad/area, with water, electricity, and sewer at site (may include table and/or grill)	\$26/day
Companion Campsite May be any campsite type, regardless of amenities, that has greater equipment/people capacity (may include table and/or grill) Fee determined by actual site type.	Site type multiplied by two (2)
Amenity Fee for Central Water Applies to "Standard" campsites in campgrounds with a central water supply. The Amenity Fee is charged in addition to the Standard Campsite fee.	\$2/night
Amenity Fee for Flush-Toilets/Showers Applies to "Standard" campsites in campgrounds with Flush-Toilets/Showers. The Amenity Fee is charged in addition to the Standard Campsite fee.	\$2/night
Use of Campground Showers by Non-campers	\$3/person
Overnight Use Fee Applies to non-campers leaving a vehicle unattended on park property overnight.	\$10/night
Limited Income Discount - Idaho residents showing proof of limited income (Medicaid card or other evidence approved by the Board) may receive a camping fee discount of:	\$4/day
Resident Disabled Idaho Veterans - Campsite fees are waived for resident Idaho veterans showing proof of a one hundred percent (100%) permanent and total service related disability	
Senior Citizen Discount - Pursuant to Section 67-4223, Idaho Code, and at the discretion of the Director, IDPR may provide, at selected under-utilized locations and times, a senior citizen discount.	Maximum 50% of RV camping fee
Extra Vehicle Charge	\$8/day
Camping Cabins and Yurts	\$150/night
Each additional person above the sleeping capacity of camping cabin or yurt	\$12/night

(4-7-11)

02. Reservation Service Fees, Individual Campsite or Facility. A non-refundable non-transferable (from one (1) party to another) service charge of ten dollars (\$10) may be assessed for each individual campsite or facility reserved. This fee will be waived for campers with a current Idaho RV registration sticker and reimbursed to the Department by the RV Program. A service charge of ten dollars (\$10) or the first night's fee, whichever is less, will be assessed for the cancellation or modification of each individual campsite or facility reserved that involves reducing the planned length of stay or to change the reservation dates where part of the new stay includes part of the original stay booked (rolling window) if notice is received more than twenty-four (24) hours in advance of the scheduled arrival time. Cancellations or modifications made less than twenty-four (24) hours in advance of the scheduled arrival time shall result in assessment of a ten dollar (\$10) service charge and may require the forfeiture of the first night's camping fee. Modifications that change the original stay so that no part of the new stay includes part of the original stay are to be considered a cancellation and a re-book will be required. (3-30-06)

251. (RESERVED)

252. FEE SCHEDULE: DAY USE.

~~03.~~ Day Use Fee.

DAY USE FEE TABLE.	
Daily charge per motorized vehicle - The day use fee expires at 10:00 p.m. on date of purchase or as posted Overnight camping guests are exempt from this fee.	\$5
Daily charge per commercial motor coach (no annual pass available)	\$25
Statewide Annual State Park Passport per motorized vehicle	\$40
Disabled Idaho Resident Veterans - The day use fee is waived for resident Idaho veterans showing proof of a one hundred percent (100%) permanent and total service related disability	
Second Vehicle Annual Passport.	\$15

(4-7-11)

~~04. Special Charges. The cost to the agency for returned checks will be passed on to the issuer of the insufficient funds check.~~ (3-7-03)

253. (RESERVED)

254. FEE SCHEDULE: GROUP FACILITY.

~~05.~~ Group Facility Fees. Reservation service fee, designated group campground or facility. (3-30-06)

~~01.~~ **Non-Refundable, Non-Transferable.** A non-refundable, non-transferable (from one (1) party to another) service charge of twenty-five dollars (\$25) will be assessed per designated group area or facility reserved. This fee will be charged in addition to the usage fees for each group or campsite or facility. (3-30-06)(5-9-12)T

~~02.~~ **Individual Fees.** Groups using overnight facilities shall be charged three dollars (\$3) per person per night camping fees for each individual above the authorized base occupancy rate for the specific site or facility. (3-30-06)(5-9-12)T

~~03.~~ **Cleaning and Damage Deposits.** Cleaning/damage deposits may be required for certain facilities. Where cleaning/damage deposits are required, they shall be paid prior to check-in. Cleaning/damage deposits shall be fully refunded if the facility is left in the same condition in which it was accepted. (3-30-06)(5-9-12)T

~~04.~~ **Day Use.** Group use fees for day use facilities may be negotiated by the park manager or designee and will generally not fall below the cost of providing services. (3-30-06)(5-9-12)T

255. (RESERVED)

256. FEE SCHEDULE: BOATING FACILITIES.

~~06.~~ Boating Facilities.

BOATING FACILITIES FEE TABLE	
Vessel launching (per vessel/per day) (Annual park passport or day use fee apply toward vessel launching fees)	\$5/ day
Overnight moorage - any length of vessel. (Applicable to persons who have paid for a park campsite and are not camping on the vessel)	\$9/night

BOATING FACILITIES FEE TABLE	
Overnight moorage - persons camping on vessel	
Any length vessel	\$10/night
Any length vessel moored at buoy	\$9/night

(4-7-11)

257. (RESERVED)

258. FEE SCHEDULE: SPECIAL FEES.

071. Modification of Fees. Additional fees or deposits may be required for certain uses or for the reservation of certain facilities. The Department reserves the right to waive or reduce fees and charges for Department sponsored promotions. (7-1-93)

082. Sales Tax. Applicable sales tax may be added to all sales excluding the day use fee. (3-30-06)

03. Special Charges. The cost to the agency for returned checks will be passed on to the issuer of the insufficient funds check. (5-9-12)T

094. Length of Stay. Fifteen (15) days in any consecutive thirty (30) day period. (3-30-06)

105. Nordic Ski Grooming Winter Access Program Fee. A fee of four dollars (\$4) per person per day and thirty-five dollars (\$35) per family per season will be required at Board-approved premium *Nordic ski grooming program winter access* locations. These programs may include: maintained parking areas, warming facilities, winter accessible restroom facilities, regularly groomed ~~ski~~ trails, extensive signing, trail mapping and ski patrol services. (3-16-04)(5-9-12)T

2519. -- 274. (RESERVED)

275. CRITERIA FOR INDIVIDUAL CAMPSITE, CAMPING CABIN, AND YURT RESERVATIONS.

01. Confirmation Requirements. (3-30-06)

a. Confirmation of an Individual Campsite or Facility Reservation. Full payment of all appropriate camping and related service fees shall be made before a reservation is confirmed. (3-30-06)

b. Confirmation of a Designated Group Campground or Facility Reservation. (3-30-06)

i. Payment of the first night or daily base rate fee for a group facility and all related service fees shall be made before a reservation is confirmed. (3-30-06)

ii. Payment of all camping and related service fees applicable for each campsite or facility reserved within a group campground must be paid at the time of booking before a reservation is confirmed. (3-30-06)

02. Individual Campsite and Facility Reservations. Reservations for individual campsites, and facilities shall be managed in accordance with rules promulgated by the Idaho Park and Recreation Board. (4-7-11)

03. Reservation Modifications. Individual and group campsite(s) or facilities. A reservation service fee will be assessed for any modification to a previously made reservation that involves reducing the planned length of stay, or to change the reservation dates where part of the new stay includes part of the original stay booked (rolling window). With the exception of the reservation service fees as defined in Subsection 250.02, any overpaid fees will be reimbursed at the time the reservation is modified. (3-30-06)

04. Reservation Cancellations. (3-7-03)

a. Individual Site or Facility. A reservation service fee will be assessed for the cancellation of a reservation. This service fee will be assessed for each campsite or facility involved. If the customer cancels after the scheduled arrival date the customer forfeits all usage fees for the time period already expired. Cancellations received after checkout time will result in the forfeiture of that day's usage fees for the campsite or facility. At no time shall the customer be charged a cancellation fee that exceeds the amount originally paid. The IDPR or its reservation service provider may cancel a customer's reservation for insufficient payment of fees due. With the exception of the reservation service fees, all fees paid will be reimbursed at the time the reservation is cancelled. (3-30-06)

b. Park Board Designated ~~Group Campsite or Facility~~ Special Use Campsites and Facilities. A reservation service fee will be assessed for the cancellation of a reservation. If a cancellation for a group facility occurs ~~fewer than~~ twenty-one (21) or fewer calendar days prior to arrival, the customer forfeits the first night or daily facility usage fees (base rate). If a cancellation for a group facility occurs more than twenty-one (21) calendar days prior to arrival, a cancellation charge of fifty dollars (\$50) will be assessed. If the customer cancels after the arrival date the customer forfeits all usage fees for the time period already expired. Cancellations received after checkout time will result in the forfeiture of that day's usage fees for the campsite or facility. At no time shall the customer be charged a cancellation fee that exceeds the amount originally paid. The IDPR or its reservation service provider may cancel a customer's reservation for insufficient payment of fees due. An individual site cancellation fee applies to each campsite in a group campground. With the exception of the reservation service fees, all fees paid will be reimbursed at the time the reservation is cancelled. ~~(3-30-06)~~(5-9-12)T

IDAPA 27- BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 54-1717, Idaho Code.

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

Wednesday -- August 22, 2012 -- 8:00 a.m.

**Idaho State Capitol
700 West Jefferson St.
Room WW53
Boise, ID 83702**

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

For those planning to attend the open, public meeting, written and oral comments will be accepted by and/or presented before the Board. For all others not planning to attend the meeting, written comments will be accepted by the executive director up to August 13, 2012.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

See the Board's web site for draft language, our web site is <http://bop.idaho.gov/>

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Mark Johnston, Executive Director, at (208)-334-2356 or mark.johnston@bop.idaho.gov.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 13, 2012.

DATED this 7th day of July, 2012.

Mark Johnston, Executive Director
Idaho State Board of Pharmacy
3380 Americana Terrace, Suite #320
PO Box 83720
Boise, Idaho 83720
Phone: (208) 334-2356
Fax: (208) 334-3536

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1205

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 67-5221(1) and 63-105A, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows: TBD

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may do any of the following:

1. Attend the negotiated rulemaking meeting and participate in the negotiation process;
2. Attend through a teleconference;
3. Provide oral or written recommendations, or both, at the negotiated rulemaking meeting; and/or
4. Submit written recommendations and comments to the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Rule 218 needs to be amended to provide assessors standard guidance in preparation of maps. Assessor's Plat Book, the title of the adopted Bureau of Land Management's Survey Instruction Manual changed. Also, Rule 218 is being modernized to permit maps to be produced in digital format and reference to a 1973 edition of a manual is being updated to the most recent 2009 edition.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, if available, contact Alan Dornfest (208) 334-7544.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned.

DATED this 2nd day of July, 2012.

Alan Dornfest
Tax Policy Supervisor
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7544

IDAPA 52 - IDAHO STATE LOTTERY COMMISSION

52.01.03 - RULES GOVERNING OPERATIONS OF THE IDAHO STATE LOTTERY

DOCKET NO. 52-0103-1201

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 67-7408(1)(e), Idaho Code.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to Jeffrey R. Anderson, Executive Director, Idaho State Lottery, 1199 Shoreline Lane, Suite 100, P. O. Box 6537, Boise, Idaho 83707-6537, or via e-mail at janderson@lottery.idaho.gov. Responses must be received by August 10, 2012.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary and made available on the agency website.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The Lottery offers the purchase of tickets in the marketplace via ticket vending machines (PATs - Player Activated Terminals). Players can purchase draw game tickets (like Powerball) and instant scratch game tickets from the Player Activated Terminals using cash. Electronic payments now account for 55% of all consumer purchases, up from 43% in 1999. The Player Activated Terminals could also provide the convenience and benefit to the customer to choose to purchase tickets using a PIN-protected debit card. However, in order to provide this electronic convenience, and remain fiscally responsible, the Lottery must charge a minimal cost recovery fee to those customers who choose to take advantage of this convenience to purchase Lottery tickets using this vending machine. This is a user fee for those customers who choose not to use cash. In order to encourage responsible play, the Lottery will limit electronic transactions to fifty dollars (\$50) in these Player Activated Terminals.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Jeffrey R. Anderson, Executive Director, (208) 334-2600. An electronic copy of the preliminary draft of the proposed rule text is also available on the agency website listed below.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 10, 2012.

DATED this 12th day of July, 2012.

Jeffrey R. Anderson, Executive Director
Idaho State Lottery
1199 Shoreline Lane, Suite 100
P. O. Box 6537

Boise, ID 83707-6537
Phone: (208) 334-2600
Fax: (208) 344-2610
www.idaholottery.com

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-1203

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

Wednesday -- September 5, 2012 -- 3:30 p.m.

**Department of Environmental Quality
Conference Room A
1410 N. Hilton, Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: This rulemaking is necessary to ensure that the Rules for the Control of Air Pollution in Idaho are consistent with federal regulations. This proposed rule updates citations to federal regulations incorporated by reference at Section 107 to include those revised as of July 1, 2012.

During 2010-2011 rulemaking, Federal Register publications announcing the promulgation of final federal regulations were incorporated by reference into the Rules for the Control of Air Pollution in Idaho at Subsections 107.03.o. through 107.03.q. The Federal Register publications incorporated by reference are proposed to be deleted because the federal regulations included in those publications are now incorporated by reference and listed in Subsection 107.03. This proposed rule also includes the addition of 40 CFR Part 70 to the list of documents incorporated by reference, making the definition of Part 70 found at Subsection 008.11 unnecessary.

In addition, this proposed rule updates the definition of Major Facility (Subsection 008.10) by adding the threshold for greenhouse gases for consistency with the Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, which was incorporated by reference into the Rules for the Control of Air Pollution in Idaho during 2010-2011 rulemaking under Docket No. 58-0101-1002.

Members of the regulated community who may be subject to Idaho's air quality rules, special interest groups, public officials, and members of the public who have an interest in the regulation of air emissions from sources in Idaho may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2012 for adoption of a pending rule. The rule is expected to be final and effective upon adjournment of the 2013 legislative session if adopted by the Board and approved by the Legislature.

DEQ will submit the final rule to the United States Environmental Protection Agency to be included in the State Implementation Plan as required by Section 110 of the Clean Air Act.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Incorporation by reference is necessary to ensure that the state rules are consistent with federal regulations. Information for obtaining a copy of the federal regulations is included in the rule.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking was not feasible due to the simple nature of this rulemaking.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

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

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at martin.bauer@deq.idaho.gov or (208) 373-0440.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 5, 2012.

DATED this 6th day of July, 2012.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 58-0101-1203

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

- 01. Affected States.** All States: (5-1-94)
- a.** Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)
- b.** That are within fifty (50) miles of the Tier I source. (5-1-94)
- 02. Allowance.** An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)
- 03. Applicable Requirement.** All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)
- a.** Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)

b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (4-5-00)

c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)

d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)

e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)

f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)

g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)

h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)

i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

04. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

05. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

06. Emergency. For the purposes of Section 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (4-5-00)

07. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

08. General Permit. A Tier I permit issued pursuant to Section 335. (3-23-98)

09. Insignificant Activity. Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)

10. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

a. For hazardous air pollutants: (3-23-98)

i. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

ii. The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. For non-attainment areas: (3-23-98)

i. The facility is located in a “serious” particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

ii. The facility is located in a “serious” carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is “marginal” or “moderate,” one hundred (100) tpy or more, if the area is “serious,” fifty (50) tpy or more, if the area is “severe,” twenty-five (25) tpy or more, and if the area is “extreme,” ten (10) tpy or more. (3-23-98)

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (4-11-06)

i. Designated facilities. (3-23-98)

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-5-00)

d. For greenhouse gases: As of July 1, 2011, any facility that emits or has the potential to emit one hundred thousand (100,000) tpy or more of any of the aggregate group of six (6) greenhouse gases (carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride on a carbon dioxide equivalent basis) and one hundred (100) tpy or more of carbon dioxide on a mass basis, pursuant to 40 CFR 70.2, incorporated by reference into these rules at Section 107. ()

~~**H.** Part 70. Unless specified otherwise in this chapter, all definitions adopted under 40 CFR Part 70, revised as of July 1, 2011, are hereby incorporated by reference. (3-29-12)~~

(BREAK IN CONTINUITY OF SECTIONS)

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term “documents” includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

- a. All federal publications: U.S. Government Printing Office at www.gpoaccess.gov/ecfr; and (4-7-11)
- b. All documents herein incorporated by reference: (7-1-97)
- i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255 at (208) 373-0502. (7-1-97)
- ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-1-94)

a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, 40 CFR Part 51 revised as of July 1, 201~~2~~. The following portions of 40 CFR Part 51 are expressly excluded from any incorporation by reference into these rules: ~~(3-29-12)~~()

i. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, except that 40 CFR 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules; and (3-30-07)

ii. Appendix Y to Part 51, Guidelines for BART Determinations Under the Regional Haze Rule. (3-30-07)

b. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 201~~2~~. ~~(3-29-12)~~()

c. Approval and Promulgation of Implementation Plans, 40 CFR Part 52 revised as of July 1, 201~~2~~. ~~(3-29-12)~~()

d. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 201~~2~~. ~~(3-29-12)~~()

e. Ambient Air Quality Surveillance, 40 CFR Part 58, revised as of July 1, 201~~2~~. ~~(3-29-12)~~()

f. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 201~~2~~. ~~(3-29-12)~~()

g. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 201~~2~~. ~~(3-29-12)~~()

h. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 201~~2~~. ~~(3-29-12)~~()

i. Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 201~~2~~. ~~(3-29-12)~~()

i. State Operating Permit Programs, 40 CFR Part 70, revised as of July 1, 2012. ()

- ~~j.k.~~ Permits, 40 CFR Part 72, revised as of July 1, 2011~~2~~. (3-29-12)()
- ~~k.l.~~ Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 2011~~2~~. (3-29-12)()
- ~~l.m.~~ Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 2011~~2~~. (3-29-12)()
- ~~m.n.~~ Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)
- ~~n.o.~~ Determining Conformity of Federal Actions to State or Federal Implementation Plans: Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, 40 CFR Part 93, Subpart A, Sections 93.100 through 93.129, revised as of July 1, 2011~~2~~, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. (3-29-12)()
- ~~o.~~ *The final rule for Primary National Ambient Air Quality Standards for Sulfur Dioxide, 75 Fed. Reg. 35,520 through 35,603 (June 22, 2010) to be codified at 40 CFR Part 50 (National Primary and Secondary Ambient Air Quality Standards), 40 CFR Part 53 (Ambient Air Monitoring Reference and Equivalent Methods), and 40 CFR Part 58 (Ambient Air Quality Surveillance). This final rule is effective on August 23, 2010. (4-7-11)*
- ~~p.~~ *The final rule for Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, 75 Fed. Reg. 31,514 through 31,608 (June 3, 2010) to be codified at 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans), 40 CFR Part 52 (Approval and Promulgation of Implementation Plans), and 40 CFR Part 70 (State Operating Permit Programs). This final rule is effective on August 2, 2010. (4-7-11)*
- ~~q.~~ *The final rule for Prevention of Significant Deterioration (PSD) for Particulate Matter Less than 2.5 Micrometers (PM_{2.5})—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC), 75 Fed. Reg. 64,864 through 64,907 (October 20, 2010) to be codified at 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) and 40 CFR Part 52 (Approval and Promulgation of Implementation Plans). This final rule is effective on December 20, 2010. (3-29-12)*

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-1201

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 15, 2012. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: Idaho's Rules and Standards for Hazardous Waste are updated annually to maintain consistency with the U.S. Environmental Protection Agency's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). This proposed rule updates the federal regulations incorporated by reference to include those revised as of July 1, 2012.

Groups interested in hazardous waste and handlers of hazardous waste including generators, transporters, and treatment, storage, and disposal facilities may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2012 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2013 legislative session if adopted by the Board and approved by the Legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Idaho has historically adopted both required and optional federal regulations so that Idaho's hazardous waste rules are the same as federal requirements. Optional federal regulations usually allow more flexibility to the regulated community; required federal regulations are necessary to maintain program primacy. Adoption by reference allows the DEQ to keep its rules up to date with federal regulation changes and minimizes the EPA Region 10 effort needed to keep Idaho's authorization current. Adoption by reference also simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking was not feasible due to the simple nature of this rulemaking.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact John Brueck at john.brueck@deq.idaho.gov or (208)373-0458.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before August 29, 2012.

Dated this 6th day of July, 2012.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 58-0105-1201

002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260 - 268, 270, 273, 278, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 201~~1~~², including any notes and appendices therein, unless expressly provided otherwise in these rules. (~~3-29-12~~)()

01. Exceptions. Nothing in 40 CFR Parts 260 - 268, 270, 273, 278, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (5-8-09)

02. Availability of Referenced Material. The federal regulations adopted by reference throughout these rules are maintained at the following locations: (7-2-97)

- a. U.S. Government Printing Office, <http://www.gpoaccess.gov/ecfr/index.html>; and (4-7-11)
- b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208)334-3316; and (7-2-97)
- c. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. (7-2-97)

(BREAK IN CONTINUITY OF SECTIONS)

004. HAZARDOUS WASTE MANAGEMENT SYSTEM.

40 CFR Part 260 and all Subparts, except 40 CFR 260.2, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 201~~1~~². For purposes of 40 CFR 260.10, in the definition of hazardous waste constituent, "Administrator" shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 260.20, "Federal Register" shall be defined as the Idaho Administrative Bulletin. (~~3-29-12~~)()

005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.

40 CFR Part 261 and all Subparts, except the language "in the Region where the sample is collected" in 40 CFR 261.4(e)(3)(iii), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 201~~1~~². For purposes of 40 CFR 261.10 and 40 CFR 261.11, "Administrator" shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 261.41(a), Regional Administrator shall be defined as U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification required under this section should also be sent to the Director. For purposes of 40 CFR 261.4(b)(11)(ii), 40 CFR 261.39(a)(5), and 40

CFR 261 Appendix IX, "EPA" shall be defined as the U.S. Environmental Protection Agency. ~~(3-29-12)~~()

01. Excluded Wastes. Chemically Stabilized Electric Arc Furnace Dust (CSEAFD) generated by EnviroSAFE Services of Idaho, Inc. (ESII) at ESII's facility in Grand View, Idaho using the Super Detox(R) treatment process as modified by ESII and that is disposed of in a Subtitle D or Subtitle C landfill is excluded from the lists of hazardous waste provided ESII implements a program that meets the following conditions: (3-16-96)

a. Verification Testing Requirements. Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.01.b. and 005.01.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (3-16-96)

b. Initial Verification Testing. (3-16-96)

i. For purposes of Subsections 005.01.b., "new source" shall mean any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Department of Environmental Quality Hazardous Waste No. KO61, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Subsection 005.01.d. (3-16-96)

ii. Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in writing. The written notification shall include: (3-16-96)

(1) The waste profile information; and (3-16-96)

(2) The name and address of the generator. (3-16-96)

iii. The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.01.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iv. If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Subsection 005.01.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Subsection 005.01.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (3-16-96)

v. CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: (3-16-96)

(1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d.; and (3-16-96)

(2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.01.b.iv. (3-16-96)

vi. For purposes of Subsections 005.01.b. and 005.01.c., "batch" shall mean the CSEAFD which results from a single treatment episode in a full scale mixing vessel. (3-16-96)

c. Subsequent Verification Testing. (3-16-96)

i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.01.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. (3-16-96)

ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. (3-16-96)

iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.01.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.01.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (3-16-96)

v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.01.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final analytical results, and any CSEAFD which contributed to the sample must be: (3-16-96)

(1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.01.d.; or (3-16-96)

(2) Managed and disposed of in accordance with Subtitle C of RCRA. (3-16-96)

vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

d. Delisting Levels. (3-16-96)

i. All leachable concentrations for these metals must not exceed the following levels (mg/l):

antimony	0.06	mercury	0.009
arsenic	0.50	nickel	1
barium	7.60	selenium	0.16
beryllium	0.010	silver	0.30
cadmium	0.050	thallium	0.020
chromium	0.33	vanadium	2
lead	0.15	zinc	70

(3-16-96)

ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (3-16-96)

e. Modification of Treatment Process. (3-16-96)

i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. (3-16-96)

ii. After ESII's receipt of written approval from the Department, and subject to any conditions included with the approval, ESII may implement the proposed modification. (3-16-96)

iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the process was modified. (3-16-96)

iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the

Department on July 14, 1995 is available at the Department of Environmental Quality, Waste Management and Remediation Division, 1410 N. Hilton, Boise, Idaho 83706. (3-29-12)

- f. Records and Data Retention and Submittal. (3-16-96)
 - i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (3-16-96)
 - ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (3-16-96)
 - iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (3-16-96)
 - iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (3-16-96)
- g. Facility Merger and Name Change. On May 4, 2001, the Department was notified of a stock transfer that resulted in ESII's facility merging with American Ecology. This created a name change from EnviroSAFE Services of Idaho, Inc. (ESII) to US Ecology Idaho, Inc. effective May 1, 2001. All references to EnviroSAFE Services of Idaho, Inc. or ESII now refer to US Ecology Idaho, Inc. (3-15-02)

006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.

01. Incorporation by Reference. 40 CFR Part 262 and all Subparts, except for the language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and 40 CFR 262.42(b), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2011². For purposes of 40 CFR 262.55, 262.56, and 262.57(b), "Administrator" shall be defined as the U.S. Environmental Protection Agency Administrator. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director. For purposes of 40 CFR 262.21, 262.51, 262.53, 262.54(e), 262.54(g)(1), 262.55, 262.56, 262.60, and 262.85(g), EPA or Environmental Protection Agency shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR Part 262 Subparts E, F, H, and 40 CFR 262.41(a)(4), "United States or U.S." shall be defined as the United States. (3-29-12)()

02. Generator Emergency Notification. In addition to the emergency notification required by 40 CFR 265.56(d)(2), 262.34(d)(5)(iv)(C), (see 40 CFR 262.34(a)(4)), 263.30(c)(1), and 264.56(d)(2), the emergency coordinator must also immediately notify the State Communications Center by telephone, 1-800-632-8000, to file an identical report. (3-15-02)

007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.

40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2011². For purposes of 40 CFR 263.20(g), 263.20(g)(1), 263.20(g)(4), 263.21(a)(4), and 263.22(d), "United States" shall be defined as the United States. (3-29-12)()

008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 264 and all Subparts (excluding 40 CFR 264.1(f), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f) and 264.1080(g)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 201~~1~~². For purposes of 40 CFR Subsection 264.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 264.71(a)(3) and 264.1082(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency.

~~(3-29-12)~~()

009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 265, and all Subparts (excluding Subpart R, 40 CFR 265.1(c)(4), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g)) and except the language contained in 40 CFR 265.340(b)(2) as replaced with, "The following requirements continue to apply even when the owner or operator has demonstrated compliance with the MACT requirements of part 63, subpart EEE of this chapter: 40 CFR 265.351 (closure) and the applicable requirements of Subparts A through H, BB and CC of this part," are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 201~~1~~². For purposes of 40 CFR Subsection 265.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 265.71(a)(3) and 265.1083(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency.

~~(3-29-12)~~()

010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES.

40 CFR Part 266 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 201~~1~~².

~~(3-29-12)~~()

011. LAND DISPOSAL RESTRICTIONS.

40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 201~~1~~², except for 40 CFR 268.1(e)(3), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g). The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(17) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. For purposes of 40 CFR 268.2(j) "EPA" shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 268.40(b), "Administrator" shall be defined as U.S. Environmental Protection Agency Administrator. In 40 CFR 268.7(a)(9)(iii), "D009" is excluded, (from lab packs as noted in 40 CFR Part 268 Appendix IV.)

~~(3-29-12)~~()

012. HAZARDOUS WASTE PERMIT PROGRAM.

40 CFR Part 270 and all Subparts, except 40 CFR 270.12(a) and 40 CFR 270.14(b)(18), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 201~~1~~². For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(2), 270.10(f)(3), 270.10(g), 270.11(a)(3), 270.32(a), 270.32(b)(2), 270.32(c), 270.51, 270.72(a)(5), and 270.72(b)(5), "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively.

~~(3-29-12)~~()

013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).

40 CFR Part 124, Subparts A, B and G are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 201~~1~~², except that 40 CFR 124.19, the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively.

~~(3-29-12)~~()

014. (RESERVED)

015. STANDARDS FOR THE MANAGEMENT OF USED OIL.

01. Incorporation by Reference. 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 201~~1~~². For purposes of 40 CFR 279.43(c)(3)(ii) "Director" shall be defined as the Director, U.S.DOT Office of Hazardous Materials Regulation. ~~(3-29-12)~~()

02. Used Oil as a Dust Suppressant. 40 CFR Part 279 contains a prohibition on the use of used oil as a dust suppressant at 279.82(a), however, States may petition EPA to allow the use of used oil as a dust suppressant. Members of the public may petition the State to make this application to EPA. This petition to the State must: (2-11-94)

a. Be submitted to the Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255; and (2-11-94)

b. Demonstrate how the requirements of 40 CFR 279.82(b) will be met. (2-11-94)

016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.

40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 201~~1~~². For purposes of 40 CFR 273.32(a)(3), "EPA" shall be defined as the U.S. Environmental Protection Agency. ~~(3-29-12)~~()

017. CRITERIA FOR THE MANAGEMENT OF GRANULAR MINE TAILINGS (CHAT) IN ASPHALT CONCRETE AND PORTLAND CEMENT CONCRETE IN TRANSPORTATION CONSTRUCTION PROJECTS FUNDED IN WHOLE OR IN PART BY FEDERAL FUNDS.

40 CFR Part 278 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 201~~1~~². ~~(3-29-12)~~()

018. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A STANDARDIZED PERMIT.

40 CFR Part 267 and all Subparts, except 40 CFR 267.150, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 201~~1~~². ~~(3-29-12)~~()

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LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the latest publication of the state Administrative Bulletin.

*The written comment submission deadline is August 22, 2012 unless otherwise noted.
(Temp & Prop) indicates the rule is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 08 - STATE BOARD OF EDUCATION P.O. Box 83720, Boise, ID 83720-0037

08-0201-1201, Rules Governing Administration. (Temp & Prop) Implements statutory change to address average daily attendance sharing agreements and fractional average daily attendance for determining funding.

08-0202-1202, Rules Governing Uniformity. Requires teachers and administrators to take the Mathematical Thinking for Instruction class (MTI); provides for a waiver for educators who are not currently employed or live outside of the state of Idaho; provides for a standard 3-year interim certificate for those educators who move to the state and haven't taken the MTI course to be certified while they take the course.

08.02.03 - Rules Governing Thoroughness

08-0203-1202, Addresses the prevention of and response to adolescent relationship abuse and sexual assault in Idaho schools.

08-0203-1203, (Temp & Prop) Changes to the high school graduation requirements include the addition of two online courses (2 credits) that may be asynchronous or synchronous courses; and students may be exempt from the requirement to take a math course in their last year of high school if they have met the required criteria.

08-0203-1204, (Temp & Prop) Authorizes, per state law, the Department of Education to review and approve online courses and providers and charge submission fees to defray costs for this work as well as the approval and adoption of textbooks.

IDAPA 09 - IDAHO DEPARTMENT OF LABOR 317 West Main Street, Boise, ID 83735

09-0104-1201, Unemployment Insurance Benefit Fraud and Overpayment Rules. Clarifies that all information a claimant is asked to provide to the department is material information used to determine a claimants eligibility for benefits; and adds rule to clarify that claimants must repay all benefits received as a result of a willful false statement or willful failure to report a material fact.

09-0130-1201, Unemployment Insurance Benefits Administration Rules. Adds the same definition for corporate officers for unemployment insurance benefit purposes as it is currently defined for unemployment insurance tax purposes.

09-0135-1201, Unemployment Insurance Tax Administration Rules. Makes treatment of members of a limited liability company consistent under both federal income tax law and Idaho's employment security law; clarifies that one of the factors used in the independently established prong of the independent contractor test only applies to workers with an outside business providing the same type of services the worker provides for the business engaging his services.

**IDAPA 11 - IDAHO STATE POLICE
700 S. Stratford Dr., Meridian, ID 83642**

11-1101-1201, Rules of the Idaho Peace Officer Standards and Training Council. (Temp & Prop) Identifies the specific conduct that may constitute cause for decertification; requires an officer charged with a felony or misdemeanor to notify his agency head within 5 business days; requires an agency head to notify POST within 14 days of learning of the charge; allows an agency head intending to hire a decertified officer to petition the Council, 10 years after the date the officer was decertified, for reconsideration for law enforcement officer employment; and defines and streamlines the POST Council's decertification procedures so the Council and officers under investigation can have allegations of unethical behavior or misconduct resolved more quickly while also protecting the officers' due process rights.

**IDAPA 16 - IDAHO DEPARTMENT OF HEALTH AND WELFARE
Box 83720, Boise, ID 83720-0036**

16-0410-1201, Rules Governing Community Services Block Grant Program. (Temp & Prop) Aligns rule with federal regulations that decrease the eligibility level for the community services block grant program to 125% of the Federal Poverty Guideline. The eligibility level for these services was temporarily increased to 200% of the FPG under the American Recovery and Reinvestment Act of 2009.

16-0601-1201, Child and Family Services. (Temp & Prop) Per SB 1414 increases the foster family monthly reimbursement for a child in foster care based on the child's age.

**IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION
Box 83720, Boise, ID 83720-0065**

26-0120-1201, Rules Governing the Administration of Park and Recreation Areas and Facilities. (Temp & Prop) The Department has identified changes needed to enhance the governing of the parks through explicit language to carry out enforcement (parking violations and overnight use) and language to encompass additional winter use activities on park trails and clarify the language that involves Reservation Cancellations.

**IDAPA 17 - INDUSTRIAL COMMISSION
PO Box 83720, Boise, ID 83720-0041**

17-0204-1201, Administrative Rules of the Industrial Commission Under the Workers' Compensation Law - Benefits. Complies with Idaho Code that broadens access to the Peace Officer and Detention Officer Temporary Disability Fund by including injuries incurred by officers when caused by the actions of another person in the performance of his or her duties.

**IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION
PO Box 83720, Boise, ID 83720-0065**

26-0120-1201, Rules Governing the Administration of Park and Recreation Areas and Facilities. Provides for the enforcement of parking and overnight use violations; adds language to encompass additional winter use activities on park trails; clarifies the Reservation Cancellations provision.

**IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
1410 N. Hilton, Boise, Idaho 83706-1255**

**58-0101-1203, Rules for the Control of Air Pollution in Idaho.* (*PH) Updates citations to federal regulations incorporated by reference to include those revised as of July 1, 2012 ensuring consistency with federal regulations; incorporates by reference 40 CFR Part 70; updates the definition section.

58-0105-1201, Rules and Standards for Hazardous Waste. Updates the federal regulations incorporated by reference implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA) to include those revised as of July 1, 2012.

NOTICES OF NEGOTIATED RULEMAKING

Department of Agriculture

02-0419-1201, Rules Governing Domestic Cervidae

02-0421-1201, Rules Governing the Importation of Animals

02-0613-1201, Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts in the State of Idaho
02-0616-1201, Rules Governing Honey Standards (2nd Notice)

Board of Pharmacy

27-0101-1201, Rules of the Idaho Board of Pharmacy (2nd Notice)

State Tax Commission

35-0103-1205, Property Tax Administrative Rules

State Lottery Commission

52-0103-1201, Rules Governing Operations of the Idaho State Lottery

Please refer to the Idaho Administrative Bulletin, [August 1, 2012, Volume 12-8](#), for the notices and text of all rulemakings, public hearings schedules, information on negotiated rulemakings, executive orders of the Governor, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at 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

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*Idaho Department of Administration
Office of the Administrative Rules Coordinator*

July 1, 1993 -- Present

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*This online index provides a history of all agency rulemakings from 1993 to the present.
It tracks all rulemaking activities on each chapter of rules and includes negotiated,
temporary, proposed, pending and final rules, public hearing notices,
vacated rulemaking notices, and executive orders of the Governor.*

ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*Idaho Department of Administration
Office of the Administrative Rules Coordinator*

March 29, 2012 -- August 1, 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 March 29, 2012 that have not been
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08-0203-1202 Proposed Rulemaking, Bulletin Vol. 12-8

08-0203-1203 Temporary and Proposed Rulemaking, Bulletin Vol. 12-8 (eff. 6-21-12)T

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- 11-0201-1201** Temporary Rulemaking (Fee Rule), Bulletin Vol. 12-3 (eff. 2-1-12)T

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- 11-0301-1201** Temporary Rulemaking, Bulletin Vol. 12-1 (eff. 11-1-11)T
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- 35-0102-1201** Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 12-6

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38-0406-1201 Amendment to Temporary Rulemaking, Bulletin Vol. 12-6 (eff. 5-14-12)T

38.04.07, Rules Governing Use of The Interior of State Property in The Capitol Mall and Other State Facilities

38-0407-1201 Temporary Rulemaking, Bulletin Vol. 12-5 (eff. 4-19-12)T

38.04.08, Rules Governing Use of Idaho State Capitol Exterior

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58-0000-1203 The Raft River Subbasin Temperature TMDL Addendum (HUC 17040210), Bulletin Vol. 12-3

58-0000-1204 Coeur d'Alene Lake Tributaries Temperature TMDL Addendum (HUC 17010303), Bulletin Vol. 12-3

58-0000-1205 The South Fork Salmon River Subbasin Temperature TMDL and Revised Sediment Targets Addendum (HUC 17060208), Bulletin Vol. 12-4

- 58-0000-1206** Lochsa River Subbasin Temperature TMDLs (HUC 17060303), Bulletin Vol. 12-6
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- 58-0105-1201** Proposed Rulemaking, Bulletin Vol. 12-8

58.01.08, Idaho Rules for Public Drinking Water Systems

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- 58-0123-1201** Proposed Rulemaking, Bulletin Vol. 12-6

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